

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **Clifford & Diana Duncan**

Owner/Applicant(s) Mailing Address: **P.O. Box 685, Wilmington, VT 05363**

Address of the subject property: **48 Sunny Knoll Drive, Wilmington, VT 05363**

Tax Map #**010-03-031.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2012-037

Description of Case per Public Notice:

Application # 2013-037; owner: Owner; Cliff & Diana Duncan. Application being made for Conditional Use review to allow relocation of a Professional Office; Zoning Ordinance Section 7.B; location: 48 Sunny Knoll Drive.

Notice for a public hearing was published in the Valley News on: **5/10/2013**

Notice was posted in three public places on: **5/10/2013**

A copy of the notice was mailed to the applicant on: **5/10/2013**

A copy of the notice was mailed to the abutters on: **5/10/2013**

The public hearing was held on: **6/3/2013**

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Vermont Environment Court.

Appeal period for this Case expires on: July 18, 2013

In *addition* to the Applicant / Agent the following persons were heard by the Board in connection with this request: (Copies were mailed to those persons listed below as having been heard.)

Alice Herrick, Zoning Administrator

I. The Board FINDS:

The following are the circumstances which give rise to the request, and the following are facts and opinions presented to the Board at the hearing and developed by the Board in independent evaluation.

EXHIBITS:

- Application (five pages)
 - A Detail map of property
 - B. Overall Map
 - C Plot Plan
 - D Floor Plan
 - E E-mail from Cliff Duncan with floor area calculations, May 2, 2013
 - F Abutters List
 - G Permit summary
1. The subject property is in the Residential District of the Town of Wilmington. The property is identified as Tax Map 010-03-031.000.
 2. A business office has been permitted on the property since 2006 (DRB case #957). Presently, the office is located in the dwelling. The Applicant would like to relocate the office to an accessory building that houses both vehicles and equipment for the business as well as and personal vehicles and other belongings. All office employees will work out of the accessory building. However, the Applicant may continue to have an office for personal use in the dwelling.
 3. The relocation of the business office will not alter the exterior of either building.
 4. The normal hours of operation will remain at 8am to 5pm, 6 days a week. There would continue to be limited deliveries to the property. Customers do not usually come to the property and that practice will also continue. There is no signage indicating a business where the property abuts Route 9 or elsewhere at the end of the driveway and neither of the buildings is visible from the road. Applicant stated that he had no intention of erecting signage.
 5. The office will be staffed by two full time employees. The total number of employees for the business will increase to six full time and two part time.

6. There will be four commercial vehicles housed at the site in addition to parking for employee vehicles. This will not cause any increase to the normal business-related activity already ongoing at the property.

II. The Board CONCLUDES:

Professional Office is a Conditional Use in the Residential District and requires Conditional Use review. With regards to the criteria for a conditional use permit, the Board concludes that this proposal **will** conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

- A. **Will the proposed Conditional Use have an undue adverse effect on the capacity of existing or planned community facilities?** *No. The business on this property has been in operation since 1978, and the proposal will not change the current daily operations.*
- B. **Will the proposed Conditional Use have an undue adverse effect on traffic on roads and highways in the vicinity?** *No. There will be no change in the traffic to the site due to this proposal. The parcel is located on a State highway.*
- C. **Will the proposed Conditional Use have an undue adverse effect on the character of the area, as defined by the purpose or purposes of the zoning district within which the project is located?** *No. The character of the area will not be altered by the proposal.*
- D. **Will the proposed Conditional Use comply with specifically stated policies and standards of the Town Plan?** *Yes. The Wilmington Town Plan encourages Home Business and the increase usage of technologies that will benefit the residents of the town.*
- E. **Will the proposed Conditional Use comply with other sections of the Zoning Bylaw?** *Yes.*

III. CONDITIONS:

This is granted subject to the following restrictions, requirements, limitations or specifications.

1. Applicant shall not house more than four commercial vehicles used in its business without further application to the Board.

2. No signage concerning the Applicant's business shall be permitted either at the road entrance or at any place on the property visible from the public way without a permit from the Sign Board of Adjustment.
3. All business uses of the accessory buildings shall be solely related to the professional business presently permitted at the property.
4. The Applicant shall not lease the detached buildings or any portion of them to others without further application to the Board.

Thus, the Development Review Board does **approve** the application for **Conditional Use review to allow relocation of a Professional Office in the Residential District**.

If unused, this Approval expires 1 year from the date of issue. A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit *must* be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval ***does not relieve you***, as applicant, from obtaining any and ALL applicable State and other local permits.

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Gil Oxley
Nicki (Polly) Steel
Andrew Schindel
Frank Sprague

OPPOSED: None

For the Board: Polly Steel, Chairperson

Date: 6/18/2013

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.
