

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: **John & Patricia Reagan, owners of Dot's Restaurant**

Agent(s) Mailing Address: **Cory Frehsee, Stevens & Associates, PO Box 1586, Brattleboro VT, 05301**

Owner/Applicant(s) Mailing Address: **PO Box 1415, Wilmington VT, 05363**

Address of the subject property: **5 West Main Street, Wilmington, VT 05363**

Tax Map #**021-20-032.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2012-050 FHR

Description of Case per Public Notice:

Application # 2012-050; owner: John & Patricia Reagan; Agent: T. Cory Frehsee. Application being made for Historic Review District, Flood Hazard, Variance and Conditional Use review to allow re-construction of a Restaurant in a Non-conforming structure; Flood Hazard Area Regulation Sections 804, 811 & 820.B.1 & 3, Historic Review District Section 610 & 620 and the Zoning Ordinance Section 3(e), 7.C & 10.E; location: 5 West Main Street.

Notice for a public hearing was published in the Valley News on: **5/18/2012**

Notice was posted in three public places on: **5/18/2012**

A copy of the notice was mailed to the applicant on: **5/18/2012**

A copy of the notice was mailed to the abutters on: **5/18/2012**

The public hearing was held on: **6/4/2012**

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 11, 2012

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 (10 pages)
 - A Flood-proofing Certificate (6 pages)
 - B Proposed Reconstruction, Building Section for Flood-Proofing, by Stevens & Associates, Section B-B
 - C Letter from Robert Stevens, May 13, 2012, describing the proposed flood-proofing measures
 - D Abutters List
 - E Plan set titled Re-Construction & Flood-Proofing Project by Stevens & Associates (Title page and 12 additional pages)
 - F Site Plans by Stevens & Associates
 - 1. Existing Conditions Plan, C-1, May 11, 2012
 - 2. Layout Plan, C-2, May 11, 2012
 - 3. Grading Drainage & Utilities Plan, C-3, May 11, 2012
 - G "Fee Schedule" with revised floor area calculator
 - H Historic Photos – 3 pages
 - I Letter from Cory Frehsee, Stevens & Associates, June 4, 2012, (Three pages with a revised Layout Plan, C-2)
-
1. The subject property is in the Commercial District of the Town of Wilmington. The property is identified as Tax Map 021-20-032.000. It is also located in the Special Flood Hazard Area (AE Zone) and the Historic Review District of the Town of Wilmington.
 2. On August 28, 2011, Applicant's restaurant, with an unused second story apartment, was almost completely destroyed by the flood waters of Tropical Storm Irene. The building had been erected in the early 1800's and pre-dates Wilmington's zoning ordinance. The first floor will continue as a restaurant and the second floor will be used for an apartment and restaurant storage.
 3. Applicant is applying to rebuild on essentially the same footprint, with some

modifications, and is seeking Flood Hazard, Historic Review and Variance approvals. On June 4, 2012, testimony was given concerning Applicant's plans for rebuilding, with an emphasis on meeting our flood hazard criteria. In the interest of expediting the permit process, the Board decided to separate the flood hazard portion of the application from the rest of the application, issue its findings on the flood hazard aspects, and to recess receiving testimony on the balance of the application until June 18, 2012, at 7:00 p.m.

4. The proposed rebuilt principal structure is located in the floodplain and its 10 foot wide balcony is located in the floodway. The FEMA base flood elevation (BFE) ranges from 1513 to 1514 feet from the front to the back of the building. Although the historic building is exempt from the flood-proof requirements, Applicant proposes to have the entire building in compliance with the regulations. In this regard, the proposed renovation raises the first floor to 1516.35, exceeding the minimum requirement of it being above BFE (Exhibit C).
5. The balcony, previously supported by angle braces, will now be cantilevered, with the bottom of the structure above the BFE and therefore above and out of the floodway (Exhibit C). The basement and building walls will be flood-proofed to an elevation of 1519.35. The basement will be essentially sealed off (accessed only by a first-floor hatch) and will contain only a heavy duty sump pump. It will be designed to allow water to flow in and out.
6. The upstream (north) building wall will be constructed out of reinforced cast-in-place concrete to an elevation of 1524.35 to resist hydrodynamic loads from stream flow and impacts. In addition, the electrical panels and systems will be located 3 feet above the first floor and the boiler will be on the second floor (Exhibit C). The propane tanks will either be buried or anchored against flotation. There will be a backup generator and sewer lines will be equipped with shut off valves.

II. Regarding the Flood Hazard review, the Board CONCLUDES:

With regards to the criteria for Flood Hazard Review, the Board concludes that this proposal *will* conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

FLOOD HAZARD

Article VIII

820.B. Floodway Fringe Areas (i.e., special flood hazard areas outside of the floodway)

- 1. All Development - All development shall be reasonably safe from flooding and:**

(a) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,

(b) constructed with materials resistant to flood damage,

(c) constructed by methods and practices that minimize flood damage, and

(d) constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Non-Residential Development:

(a) New construction and existing buildings to be substantially improved shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(b) A permit for a building proposed to be flood-proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

III. CONDITIONS for Flood Hazard approval:

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

1. All of the flood-proof measures, as outline in Exhibit C, shall be implemented.
2. This approval is only for the flood hazard review portion of the application.

Thus, the Development Review Board *does* **approve** the application for **Flood Hazard Review in the Commercial District to allow reconstruction of a Restaurant with second story apartment.**

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:

Andrew Schindel
Nicki (Polly) Steel
Gil Oxley
David Kuhnert

OPPOSED:

None

ABSENT

Paul Tonon

For the Board: Polly Steel, Chairperson

Date: 6/11/2012

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.