

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: **Ann Coleman for the Mount Snow Region Chamber of Commerce**

Agent(s) Mailing Address: **437 Maple Drive, Whitingham VT, 05361**

Owner/Applicant(s) Mailing Address: **PO Box 3, Wilmington VT, 05363**

Address of the subject property: **23 West Main Street, Wilmington, VT 05363**

Tax Map #**020-20-069.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2012-056

Description of Case per Public Notice:

Application # 2012-056; owner: Mount Snow Region Chamber of Commerce; Agent: Ann Coleman. Application being made for a request to extend the one year limit on the reconstruction of a Non-Conforming structure destroyed by a casualty; Zoning Ordinance Section 3.A(e); location: 23 West Main Street.

Notice for a public hearing was published in the Valley News on: **6/14/2012**

Notice was posted in three public places on: **6/14/2012**

A copy of the notice was mailed to the applicant on: **6/14/2012**

A copy of the notice was mailed to the abutters on: **6/14/2012**

The public hearing was held on: **7/2/2012**

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: August 20, 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.)

Interested parties

Joseph Specht

Gretchen Havreluk

Cheryl Rothman, Mount Snow Region Chamber of Commerce

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 (four pages)

A Letter from Ann Coleman & Joseph Specht, May 30, 2012

B Site Map

C Letter from Ann Coleman & Joseph Specht, December 29, 2011

D Abutters List

E Letter from Ann Coleman & Joseph Specht, May 30, 2012 (revised)

F Letter of Agency from the Mount Snow Region Chamber of Commerce

1. The subject property is in the Commercial District of the Town of Wilmington. The property is identified as Tax Map 020-20-069.000.
2. The subject building on the property was totally destroyed by Tropical Storm Irene on August 28, 2011.
3. The building had recently been renovated. (DRB Case 2009-092, approved November 11, 2009).
4. The Applicant had no insurance on the property. However, Applicant has begun the process of determining whether the building can be rebuilt, given financial and zoning restraints. While its future actions are under consideration, in this application Applicant is seeking to extend the one year limit on the reconstruction of a Non-Conforming structure destroyed by a casualty.

II. The Board CONCLUDES:

A twelve month time limit to reconstruct a Non-Conforming building or structure substantially damaged by a fire or other casualty is allowed by the zoning bylaw:

Section 3.A.1

- (d) Any non-conforming **building or structure** which is left vacant for a period of not less than **twelve (12)** months shall be considered as abandoned and the property shall become subject to all of the regulations and requirements of the current Zoning Bylaws;
- (e). However, nothing herein contained shall prevent the substantial restoration within **twelve (12) months** and the continued use of a restored non-conforming building or structure and nonconforming use, damaged by fire or other casualty. Written notification, including a plot plan (to scale) showing structure (with dimensions), setback distances from roads, rights of way, easements or streams prior to the commencement of any construction shall be filed with the Zoning Administrator's office. Failure to notify Zoning Office within **six (6) months** shall constitute abandonment and the property shall become subject to all of the regulations and requirements of the current Zoning Bylaws

The Development Review Board's ability to grant this extension is derived from Article V. Section 512, in which, before listing several specific reviewable functions, states: "The Development Review Board shall perform the following review functions, **including but not limited to** the following:"

The Board finds that it has the authority, in the instant circumstance, to extend the one year limitation on the reconstruction of a Non-Conforming structure destroyed by a flood. It further finds that the Applicant is in conformance with the six month requirement of Section 3.A.1.e. (see Exhibit C). And the Board also finds that good cause has been shown by the evidence submitted which would allow the Board to extend the one year requirement of Section 3.A.1.e.

III. CONDITIONS:

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

1. The extension is for the reconstruction of the building at the location, with accompanying specifications, as approved in DRB Case 2009-092.

2. Should final building plans differ from those previously approved, it will be necessary for Applicant to reapply to the Development Review Board.

Thus, the Development Review Board does **grant** the application for an **extension of the twelve month time limit to reconstruct a non-conforming building or structure substantially damaged by a fire or other casualty in the Commercial District.**

If unused, this Approval expires 2 years 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
Andrew Schindel
Dave Kuhnert
Paul Tonon

OPPOSED:
none

For the Board: Andrew Schindel, Vice-Chairperson

Date: 7/19/2012

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.