

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: **Todd Gareiss of TK Properties South Main LLC**

Agent(s) Mailing Address: **Joseph Cincotta, Linesync Architecture, 14 Castle Hill, Wilmington VT, 05363**

Owner/Applicant(s) Mailing Address: **PO Box 356, Wilmington VT, 05363**

Address of the subject property: **9 South Main Street, Wilmington, VT 05363**

Tax Map #**020-22-020.100**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2012-083

Description of Case per Public Notice:

Application # 2012-083; owner: TK Properties South Main LLC.; Agent: Joseph Cincotta. Application being made for Historic District, Variance/Waiver and Flood Hazard review to allow construction of an exterior staircase, installation of a recessed entryway and replace siding at an apartment building with pet grooming business; Zoning Ordinance Sections 7, 512, 513, 610, 620, 815 & 820; location: 9 South Main Street.

Notice for a public hearing was published in the Valley News on: **7/27/2012**

Notice was posted in three public places on: **7/27/2012**

A copy of the notice was mailed to the applicant on: **7/27/2012**

A copy of the notice was mailed to the abutters on: **7/27/2012**

The public hearing was held on: **8/6/2012 and recessed to 8/27/2012**

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: October 15, 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
Sybil Idelkope, Agent for the Applicant
Jonathan Saccoccio, Witness for the Applicant

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:

- Historic Review District Application (four pages)
- A Proposal summary (Addendum 1)
- B Exterior Design by Linesync Architecture, 9 July 2012.
- C Plot Plan A1.1 by Linesync Architecture, 9 July 2012.
- D Exterior Stairs, by Linesync Architecture, 9 July 2012.
- E Elevations, A2.1, A2.2, A3.1, A3.2, A4.1, (6 pages), by Linesync Architecture, 9 July 2012.
- Variance Application (3 pages)
- F Proposal summary (Addendum 2)
- Flood Hazard Application (4 pages)
- G Abutters List
- H Case Summary
- I no exhibit
- J Drawing set by Linesync Architecture, 9 South Main Street, 26 July 2012 (4 pages)
 - a. Proposed Perspective, A1.0.
 - b. North Elevation, A2.0.
 - c. South Elevation, A2.1.
 - d. 1st Floor Plan, A3.2.
- K. Window and door proposed dimensions (corrected at meeting)
- L. Double hung windows
- M. Substantial Damage Estimator
- N. Comments from Rebecca Pfeiffer, VT River Management Program, Floodplain Management Section.
- O. Substantial Damage Calculator (2 pages)
- P. Property Assessment Form from the Wilmington Lister's office, November 2011.
- Q. E-mail from Joseph Cincotta, Aug 7, 2112. (2 pages)
- R. E-mail attachment from Brian Johnson, March 7, 2012. (4 pages)

- S. E-mail from Brian Johnson, August 14, 2012
- T. Authorization letter, 8/6/2012.

The Application was heard in two sessions – August 6 and August 27. At the 8/6/12 part of the hearing, Sybil Idelkope spoke for the Application. Her letter of agency is Exhibit T. At the 8/27/12 part of the hearing owner Todd Gareiss and Agent Sybil Idelkope spoke for the Application. The Owner withdrew the application for a Variance/Waiver.

1. The subject property is in the Commercial and Historic Review Districts of the Town of Wilmington. The property is identified as Tax Map 020-22-020.100.
2. **With regards to requests for Historic Design District review:**
 - A. Street side (Exh. E, A2.2, Exh. J, A2.1, A3.2 - South elevation):
 1. Presently the first floor has 3 separate doors leading to a dog groomer business, a first floor apartment and to a staircase to the second floor apartments. These doors open directly on the sidewalk.
 2. The requested changes to the first floor are:
 - a. Replacement of the doorway on the left front with a picture window.
 - b. Replacement of the doorway on the right front with a picture window.
 - c. Renovate the doorway in the center front, with a larger recessed entryway with access doors to the first floor commercial space, the first floor apartment, and the stairway to the second floor apartments.
 - d. The recessed area will include the doors, new windows, and onion lanterns as lighting for safety.
 - e. There will be no external changes to the street side - second floor.
 - B. Side of the building that abuts Town property (Exh. E A3.1, A3.2, Exh J A2.1 – West Elevation)
 1. Presently on the West side there are two exterior stairways, two windows and a doorway at the basement level, and one window, one doorway, and a portion of the wraparound porch at the second floor level.
 2. The basement level's requested changes are removing the right hand window, adding a window to the far left, and centering the doorway between the two windows.
 3. There will be no change to the exterior of the second floor level.
 - C. River side of the building (Exh. E A4.1, A4.2, Exh J A2.0 – North Elevation)
 1. Presently on the basement level there are four windows, the first floor level has three windows, and the second floor level has three windows, one doorway, and a porch.
 2. The requested changes are;
 - a. On the basement level the existing windows will be replaced/upgraded and an additional matching window will be evenly placed to their left.
 - b. At the first floor level, the window on the left side will be replaced with a mulled, three wide, double hung window that will match the style of the existing windows to the right.

- c. At the second floor level, a fourth window, of the same style as the existing windows, will be added to the left of the doorway.
- d. There will be no changes to the doorway or the porch.

D. Side of building facing the Pub (North Elevation)

1. Presently this side has a stairway to, and a window on, the basement level.
2. The requested change for this elevation is to enlarge the window to meet Codes for a second egress.

E. Siding and trim:

1. The structure presently has two colors of vinyl siding with trim.
2. The Applicant proposes to remove all of the existing siding and trim and replace it with traditional wooden clapboards and historically accurate trim work on all sides except the north/river side. The north/river side will be sided with a water, rot-weather resistant fiber cement siding and PVC trim. The decorative trim along the roof eaves will remain.

3. **With regards to the request for Flood Hazard Review:**

A. The building is a contributing historic building in the Historic Review District.

B. The building, especially the basement apartment, sustained damage during Tropical Storm Irene. The following flood mitigation measures have been or will be done:

1. The heating system has been moved to the first floor level.
2. The electrical system has been upgraded with watertight encased wiring and raising of the electrical panel(s).
3. The basement level will be upgraded with a water proofed foundation, drainage in the floor, and removable water resistant walls.
4. All the cabinetry in the basement apartment will be metal construction for easier clean up.

The Board questioned the Applicant about the basement apartment and whether it had ever been permitted by the Town. The Zoning Administrator stated that the apartment had been there at least 15 years and, according to State Statutes, is now considered legal. There was further discussion regarding the safety of the apartment during floods. The Applicant entered Ex. R and S from Brian Johnson, Assistant State Fire Marshal. The basement window on the Pub side will be enlarged to create a second egress. There are ladder-like stairs that go from the area outside this window to the sidewalk. This apartment is also listed with the Wilmington Fire Department as one of the first places notified when there may be flooding.

II. **The Board CONCLUDES:**

The Board concludes that the basement apartment, although never approved by this Board, has been in existence for at least 15 years and is, therefore, legal. With a second

egress on the Pub side, it meets the requirements of Brian Johnson, Assistant State Fire Marshal.

The subject property is also in the Historic Review District and the Flood Hazard zone and requires a permit for Historic Design Review and Flood Hazard.

Vermont Municipal and Regional Planning and Development Act: section 4414(E)
“Within such a designated design review district, no structure may be erected, reconstructed, substantially altered, restored, moved, demolished, or changed in use or type of occupancy without approval of the plans by the appropriate municipal panel.”

With regards to Historic Review District criteria:

The Board concludes that these changes will improve the aesthetics of the building through the emphasis on historic details such as the Greek Revival trim work and the wooden clapboards. The creation of a single recessed area for the three street-side doors will improve the overall look of the façade. These changes will also address previous safety issues that have been in existence for people exiting the building and pedestrian traffic on the sidewalk. The changes in the number, uniformity and style of windows will create a better sense of balance.

III. CONDITIONS for Historic Review District:

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

1. All the renovations shall be carried out as described in the proposal (Exh. A) using materials and placement as laid out on Exhibit J, K, and L.
2. The Applicant shall contact the Vermont Division of Historic Preservation as requested by Rebecca Pfeiffer of the Vermont Agency of Natural Resources (Exh N).

IV. 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 Flood Hazard standards in the Wilmington Zoning Ordinance.

1. The Applicant has mitigated flood damage with the upgrades to the basement level.
2. The structure is an historic building and therefore, does not have to meet the less than 50% cumulative substantial damage/improvement standard.

IV. CONDITIONS for Flood Hazard approval:

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

1. The Applicant shall perform all the mitigation upgrades as described in Sec I.3.B.
2. The window on the Pub side of building shall be able to be accessed by the basement apartment residents and the stairway to sidewalk shall be maintained and kept in good repair.

Thus, the Development Review Board does **approve** the application for installation of a recessed entryway and revisions to the façade in the **Historic Review and Flood Hazard Districts**.

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
Dave Kuhnert

OPPOSED:

None

NOT IN ATTENDANCE

Paul Tonon

For the Board: Andrew Schindel, Vice-Chairperson

Date: 9/14/2012

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.