

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: **Renée Gallé, Agent for The Wilmington Fund**

Agent Mailing Address: 228 Stowe Hill Road, Wilmington VT 05363

Owner/Applicant(s) Mailing Address: **14 Castle Hill Road, Wilmington VT, 05363**

Address of the subject property: **4 North Main Street, Wilmington, VT 05363**

Tax Map #**021-20-033.000**

A copy of the request is filed in the office of the Board and is referred to as:  
**Case #: 2012-093**

**Description of Case per Public Notice:**

Application # 2012-093; owner: The Wilmington Fund; Agent: Julie Lineburger. Application being made for Conditional Use review to allow establishment of a Restaurant at a Retail (art gallery) and café location; Zoning Ordinance Section 7.C; location: 9 North Main Street.

Notice for a public hearing was published in the Valley News on: **8/7/2012**

Notice was posted in three public places on: **8/10/2012**

A copy of the notice was mailed to the applicant on: **8/10/2012**

A copy of the notice was mailed to the abutters on: **8/10/2012**

The public hearing was held on: **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 10, 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  
Christophe Jalbert, 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:

- Application (three pages)
- A Proposal summary
- B Abutters List
- C Case Summary
- D Letter of Agency for Renee Galle

1. The subject property is in the Commercial District of the Town of Wilmington. The property is identified as Tax Map 021-20-033.000. It is a two-story brick building with a cellar that prior to the 2011 Tropical Storm Irene flood, housed a women's clothing store, and a coffee shop on the main floor and an art gallery and small office on the second floor.
2. Four members of the Development Review Board were present at this hearing. Paul Tonon, the fifth member, was unable to attend.
3. Renée Gallé spoke for the Application.
3. The restaurant will occupy two floors. Entry will be the present entrance way. A second entry/exit will be added prior to the start-up of business. On the main floor, will be seating for about 60 persons and a bar. The kitchen will be in the former Beanhead's Coffee Shop at the north end of the building. The second floor, which will have seating for about 49 persons, will be used mostly for overflow and private parties. The upstairs seating has been approved by the Fire Marshall. The Agent expects at some point to offer live entertainment and amplified music. Amplified sound will be inside the building. The upstairs office will be used by restaurant personnel.
4. There are no exterior changes to building included in this Application. However, prior to start-up a second entry will be installed as per the requirements of Labor and Industry, and at some point, the window in the former Beanheads coffee shop will be

replaced. These may require further application to this Board. The basement will be used for storage of wine, beer and some dry goods. The air conditioner will be replaced. Since the flood, all electrical service has been replaced and the oil tank moved. Although the building is on the bank of the Deerfield River, it sustained only minor damage in the flood.

5. Hours of operation will be 10 a.m. to 2 a.m., seven days a week. The Applicant projected initial employment at 11 employees on one shift, with about 30 employees in total. Sufficient parking is available on the street and in the public parking lots close the building.
6. Sewer allocation has been received.

## II. The Board CONCLUDES:

Restaurant is a Conditional Use in the Commercial 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. Municipal sewer will be used and the allocation has been received. The building has been and will continue to be a public centerpiece in the Wilmington Historic District. No exterior changes to the building are planned at this time.*
- B. **Will the proposed Conditional Use have an undue adverse effect on traffic on roads and highways in the vicinity?** *No. Traffic is unlikely to be impacted as the building is located at the major intersection in the Village. Most restaurant parking will be on the street and in public parking areas.*
- 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 is likely to be enhanced with the addition of a quality restaurant in the Village center.*
- D. **Will the proposed Conditional Use comply with specifically stated policies and standards of the Town Plan?** *Yes.*
- 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. That noise from the live entertainment shall be contained within building and not project onto the street.
2. That the restaurant is in full compliance of all requirements of the Vermont Department of Labor and Industry, including fire safety standards.
3. That a second exit door be applied for and installed prior to the start-up of the restaurant.

Thus, the Development Review Board does **approve** the application for **Conditional Use review to allow commencement of a Restaurant in the Commercial 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:

David Kuhnert  
Nicki (Polly) Steel  
Andrew Schindel  
Gil Oxley

OPPOSED:

None

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For the Board: Polly Steel, Chairperson

Date: 9/10/2012

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.*