

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: **Zac Caudell of Valley Town Church,
Agent for Deerfield Avenue Realty**

Agent(s) Mailing Address: **P.O. Box 1801, Wilmington, VT 05363**

Owner/Applicant(s) Mailing Address: **P.O. Box 150, Shelburne Falls, MA 01370**

Address of the subject property: **12 South Main Street, Wilmington, VT 05363**

Tax Map #**021-22-023.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2013-001

Description of Case per Public Notice:

Application # 2013-001; owner: Owner; Deerfield Avenue Realty: Agent, Zac Caudell. Application being made for Conditional Use review to allow change of use to Church at an existing Retail location; Zoning Ordinance Section 620; location: 12 South Main Street.

Notice for a public hearing was published in the Valley News on: **1/31/2013**

Notice was posted in three public places on: **1/30/2013**

A copy of the notice was mailed to the applicant on: **1/29/2013**

A copy of the notice was mailed to the abutters on: **1/29/2013**

The public hearing was held on: **2/19/2013**

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: March 27, 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
Diane Cummings, Abutter and Interested Party

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 Abutters List

1. The subject property is in both the Commercial District and the Historic Review District of the Town of Wilmington. The property is identified as Tax Map 021-22-023.000. The Warning stated that the address of the subject property was 10 South Main Street, which was in accordance with the "Town View" computer program used by the Town. A further check of Town records indicates that the correct address is 12 South Main Street. Also, the Warning cited Section 620 of the Ordinance concerning "change of use"; the correct cite should have referenced Section 7. A.
2. The subject property is presently vacant. It was originally constructed as a church and most recently was used as an art gallery. Applicant is seeking a change of use to a church so that it can be leased, on a month to month basis, to Valley Town Church.
3. Applicant's agent testified that church services for approximately 30 to 50 people would be conducted each Sunday from 10:00 to 11:30, with some people gathering before the service. Should the church experience growth a second service might be added. It is expected that occasional social events, perhaps several times a month, would also be held. These social events would usually last until 10:00 in the evening. Amplified sound systems would be used for both the services and social events. At other times, no more than 4 or 5 people would usually be in the building.
4. Applicant's agent stated that he met with Brian Johnson, the State of Vermont's Assistant State Fire Marshal and discussed the occupancy limits of the building. The Agent did not remember the number of persons that could be safely accommodated, but thought the maximum number was approximately one hundred.
5. Diane Cummings, an abutter and interested party, inquired concerning the availability of parking for the proposed church's congregants. She also questioned the correctness

of the street address mentioned in the Warning.

II. The Board CONCLUDES:

Church 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. The building was previously used as a church without having an undue adverse affect on the community. Parking for the expected number of congregants is available on the street and also in the Town parking lot across the street. In additional, the high school parking lot is usually available on weekends and in the evening.
- B. **Will the proposed Conditional Use have an undue adverse effect on traffic on roads and highways in the vicinity?** No. South Main Street will be able to handle the additional traffic associated with the church.
- 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?** The building is in the Commercial District, and several other churches are located nearby.
- 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.

The subject building is also located in the Historic Review District. As Applicant is only applying for change of use, and is not applying for any exterior changes, a Historic Review District review is not necessary.

III. CONDITIONS:

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

1. Applicant shall not allow higher occupancy than is permitted under State Maximum Occupancy regulations for public buildings.
2. In order to limit adverse noise consequences from amplified sound systems,

Applicant's social events with amplified sound shall not last past 11:00 p.m.

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

Andrew Schindel
Nicki (Polly) Steel
Gil Oxley
David Kuhnert

OPPOSED: None

For the Board: Polly Steel, Chairperson

Date: 2/25/2013

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.