

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: **Carolyn Palmer**

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

Owner/Applicant(s) Mailing Address: **121 Boyd Hill Road, Wilmington, VT 05363**

Address of the subject property: **7 North Main Street, Wilmington, VT 05363**

Tax Map #**021-21-030.000**

A copy of the request is filed in the office of the Board and is referred to as:

Case #: 2013-006-S

Description of Case per Public Notice:

Application # 2013-006-S; owner: Carolyn Palmer; Agent, Ann Coleman. Application being made for variance or additional signage review to allow installation of a Perpendicular sign less the 8 feet above the sidewalk at an existing Retail location; Zoning Ordinance Section 620.C-F; location: 7 North 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: **1/31/2013**

A copy of the notice was mailed to the applicant on: **1/31/2013**

A copy of the notice was mailed to the abutters on: **1/31/2013**

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

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 Permit 2013-005-S

B Abutters List

C Notice of Violation, February 3, 2013

D Sign design for "Sticks and Stones", 2001

E Case Summary

F sign photos, three sheets

1. The subject property is in the Commercial and Historic Review Districts of the Town of Wilmington. The property is identified as Tax Map 021-21-030.000.
2. Owner Carolyn Palmer spoke for the Application.
3. The building is a non-conforming building. In 2001 this Board approved the construction of a porch that extends out from the front of the building to the edge of the sidewalk. The porch has a roof and pillars on the corners. There are two sections of spindles and railings about 3 feet high that "fill in" the area from the building to the corner pillars. (Exhibit F) There are two businesses operating out of this building.
4. There is a double-sided sign of approximately 10 square feet for Roseate Creations hanging perpendicular to the main part of the building above the railing on the northern end of the porch. There have been at least two signs that have hung above the railing on the other end of the porch, also perpendicular to the main part of the building. The most recent sign was for Gallery Wright. There is no documentation that this sign was ever approved but since it replaced a previous sign for Sticks and Stones Gallery that was owned by the same person, the Applicant did not know that a permit was necessary. Lighting for this sign are a downward facing gooseneck fixture on the outer side of the porch and another small spotlight that is under the porch roofline and aimed at the interior side of the sign.
5. Most recently, a 30 inch by 48 inch double-sided sign (approximately 10 square feet) for Ann Coleman Gallery was hung from the porch roof above the railing on the

south side, using the same two lighting fixtures. No permit for this sign was applied for and the Zoning Administrator issued a Notice of Violation (Exhibit C). She also issued a Zoning Permit for a wall or window sign. The Applicant did not want either a wall or window sign and stated that a wall sign would not be visible from the public way and a window sign would not be easy to see. She also stated that any sign hanging from the front edge of the roof would be dangerous for those entering the building and that the proposed sign location is both safe and visible. The Applicant filed an Application for the sign. The Zoning Administrator stated that if the Board approved the Variance she would not pursue any violation.

6. The Applicant does not believe that the sign needs a Variance because it is within the confines of the porch on what she considers the wall of the porch. Therefore, it would be considered a Building or Wall Sign. A Wall Sign is defined by the Ordinance as “Any sign painted on, attached to, erected parallel to the face of, or erected and confined within the limits of, the outside wall of any building and supported by such wall or building and displaying only one sign surface.”
7. The Zoning Administrator considers the sign a Perpendicular (or Projecting) Sign. The definition is “Any sign other than a wall sign affixed to any building or wall whose leading edge extends beyond such building or wall.” If it is a Perpendicular Sign it “shall be at least eight (8) feet above the sidewalk that abuts the building.”

II. The Board CONCLUDES:

The Board concludes that neither of the definitions gives clear guidance with regards to this Application. Both the Applicant and the Zoning Administrator make strong points but the Board concludes that the sign does not fit well under either definition.

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

E. Additional Signage: The Development Review Board may authorize additional signage when:

- 1. More than one business is located in a building, or**
- 2. There are unusual extenuating physical circumstances which support allowing such alteration, or permitting such an alteration would be in the public interest.**

There are two businesses located in the building and each business should be allowed signage. The Board concludes that the proposed location above the railing on the south side of the porch makes the most sense with regards to public safety and visibility. It is not a hazard for pedestrians on the public sidewalk or for patrons entering the building. This location also visually balances the Roseate Creation sign at the other end of the porch.

III. CONDITIONS:

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

1. The sign shall be hung in the location shown in Exhibit D.
2. The sign shall be substantially as presented and shall not exceed approximately 10 square feet. No additional lighting shall be added.
3. Although a different sign would need a permit, the Board approves, without further application to this Board, this location for any future signs of the same or smaller square footage when there are at least two businesses within the building.

Thus, the Development Review Board does **approve** the application for **Variance review to allow installation of a 10 square foot Double-sided Sign in the Historic Review 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:

Nicki (Polly) Steel
Andrew Schindel
Dave Kuhnert
Gil Oxley

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.