

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: **Clifford Duncan, Windham Housing Trust and the Town of Wilmington**

Agent for Cliff Duncan, Town of Wilmington and Windham and Windsor Housing Trust:
Gretchen Havreduk

Owner/Applicant(s) Mailing Address: **Clifford Duncan, PO Box 685, Wilmington, VT 05363**

Windham Housing Trust, 68 Birge Street, Brattleboro, VT 05301-6462
Town of Wilmington, PO Box 217, Wilmington, VT 05363

Address of the subject property: **36 West Main Street & 29 Shafter Street, Wilmington, VT 05363**

Tax Map **#020-20-074.000 and #020-20-027.000.**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2015-007

Description of Case per Public Notice:

Application # 2015-007; owner: Owners; Windham Housing Trust, Cliff Duncan and the Town of Wilmington. Application is being made for an extension of approval #2014-003 date March 14, 2014 in the Village zoning district (Historic Review District); Section 512 (5); location: 29 Shafter Street and 36 West Main Street.

Notice for a public hearing was posted in three public places and was published in the Valley News on: **2/5/2015**

A copy of the notice was mailed to the applicant and to the abutters on: **2/5/2015.**

The public hearing was held on: **2/23/2015**

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: 4/18/2015 and the Approval expires on 4/18/2016.

In *addition* to the Applicants/Agent the following persons were heard by the Board in connection with this request:

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 (two pages)

A Abutters List

B Fee Schedule

C Authorization letter from Scott Murphy, Town Manager, February 19, 2015

D DRB case 2014-003, signed and dated March 14, 2014

E Letter of review from Southern Vermont Floodplain Manager, Jan. 17, 2014

1. The subject properties are in the Village District of the Town of Wilmington. The properties are identified as Tax Maps 020-20-074.000 and 020-20-027.000.
2. The Duncan property is also in the Historic Review District and the bridge abutments are in the Flood Hazard Area (SFHA AE Zone) The bridge itself arches over the Floodway.
3. Subject property was approved by the Wilmington DRB on March 14, 2014 for use, subject to conditions with a one year expiration date (March 14, 2015)
4. Agent for the applicants, Gretchen Havreluk, testified that the applicants agreed with the requirement by the Southern Vermont Floodplain Manager that the bridge needs to be raised above the Base Flood Elevation (BFE). The project can not be completed by March 14, 2015 due to the contractor's work schedule but will be completed in the spring and summer of 2015. Applicants are requesting an 8 month extension (until December 15, 2015).

II. The Board CONCLUDES:

In accordance with the Zoning Bylaw, Section 270: District Purposes and Descriptions, Section B. Village District, Conditional Use: the Board concludes that pedestrian bridge meets the definition of an Outdoor Recreational Facility.

With regards to the criteria for Conditional Use review, 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. There are no water or sewer connections to be installed and no other facilities are impacted.

B. Will the proposed Conditional Use have an undue adverse effect on traffic on roads and highways in the vicinity?

No. Walking will be encouraged and there is adequate parking in the Municipal lot a short distance from the bridge. The bridge may even serve to lessen local traffic.

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 purpose of the Village District is:

***Purpose:** To retain the character of the existing village, provide for future residential and commercial development through historically appropriate structures and business types at appropriate densities, and promote residential and tourist quality of life by preserving and developing a clustered village reflecting a visibly vibrant and energized community. The village district will encourage development which creates a visible sense of excitement and activity, drawing people to stop and participate. Examples of desired activities include village stroll, street fairs, retail markets, art display, outdoor dining, street-front dining, public seating areas, performance arts venues, street performance and clustered communal areas. Building structures will be reflective of the historic nature of the town. Outdoor spaces will reflect the rural and bucolic nature of the area. The Historic Review District, as defined in Article VI, is included in this district. Some of the parcels in the village are also subject to the Historic Review District Guidelines in Article VI.*

No. In fact, the bridge will serve to enhance the visual character of the Village to attract visitors and encourage tourism.

D. Will the proposed Conditional Use comply with specifically stated policies and standards of the Town Plan?

Yes. For all of the reasons stated above in the Purpose of the Village District.

E. Will the proposed Conditional Use comply with other sections of the Zoning Bylaw?

See below. In addition to Conditional Use review, this application requires approvals based on Historic Review District and Flood Hazard Regulation criteria.

III. CONDITIONS for Conditional Use:

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

As found in case #2014-003

1. No motorized vehicles shall be allowed.
2. Parking on the Duncan property (North side of the bridge) will be delineated to ensure safe pedestrian access to the bridge. Parking shall not be allowed in the delineated area.
3. The permanent easements for access shall remain in effect.
4. Lighting in the vicinity will not disturb the rural and bucolic nature of the adjacent area. It needs to be low intensity and/or down-shielded.

IV. Regarding the Historic Review District criteria, the Board CONCLUDES:

Under Section 610 of Article VI (Historic Review District Site Review Criteria) the Board concludes that the bridge design relates to and is consistent with, the Criteria as follows:

1. The bridge and the WWHT property are not in the Historic Review District. Only the bridge abutment and the access on the Duncan property are in the district. However, the bridge relates to the scale in the neighborhood and preserves the natural environment with attention to the visual landscape.
2. It provides efficient pedestrian circulation with delineating parking and accessibility for the disabled.
3. The part that is in the Historic Review District has minimal impact and the DRB concludes it meets any applicable criteria for the District.
4. Under Section 630, D-6 (Permit Required through DRB approval) the Board concludes that the significant change to the site will not adversely affect the area.

V. CONDITIONS for Historic Review District:

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

1. Parking on the Duncan property will be delineated to ensure safe pedestrian access to the bridge.

VI. Regarding the Flood Hazard Regulations, the Board CONCLUDES:

The subject properties are in the SFHA (AE zone) and require Flood Hazard review. The bridge is over and partially within the Floodway and also requires Flood Hazard Review.

The DRB does approve the extension of the time needed to ensure that the bridge is raised to conform to the requirements of the Southern Vermont Floodplain Manager as noted in his letter of January 17, 2014.

FLOOD HAZARD

Article VIII

SECTION 820: DEVELOPMENT STANDARDS

Before a permit may be granted, the Development Review Board shall require the following standards:

A. Floodway Areas

1. Development within the regulatory floodway, as determined by Section 804, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.

VII. CONDITIONS for Flood Hazard approval:

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

1. The review by Southern Vermont Floodplain Manager found that there was a rise in the BFE and the bridge needs to be raised above the BFE, therefore compliance with that requirement be completed within one year of issuance of this Decision or the Approval shall be null and void. If the work is completed within the year, the Approval shall be considered permanent upon written verification from the Southern Vermont Floodplain Manager to the Zoning Administrator.

Thus, the Development Review Board does **approve** the application for **Conditional Use and HRD review to allow construction of a Pedestrian Bridge in the Village District.**

Thus, the Development Review Board does **approve** the application for **Flood Hazard review to allow a Pedestrian Bridge in the Village 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:

Peter Wallace
Wendy Manners
Adam Lemire
Fred Houston
Margaret Streeter

OPPOSED:

None

For the Board: Peter Wallace, Chairperson

Date: _____

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.