

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: **Susan E. Lawrence**

Owner/Applicant(s) Mailing Address: **1003 Upper Dover Rd. Marlboro, Vt. 05363**

Address of the subject property: **14 South Main Street, Wilmington, Vt. 05363**

Tax Map: **021-22-050**

A copy of the request is filed in the office of the Board and is referred to as: **Case# 2015-008**

Description of Case per Public Notice: Application #2015-008; Susan Lawrence. Application is being made to demolish an existing building and rebuild a new structure in the same footprint. The new building will house a catering kitchen and a Mexican restaurant in the Village Zoning District (Historic Review District); Sections 270B (4), 320 & Article VI; location: 14 South Main Street.

Notice for a public hearing was published in the Valley News on: **February 26, 2015**

Notice was posted in three public places on: **February 26, 2015**

A copy of the notice was mailed to the applicant on: **February 24, 2015**

A copy of the notice was mailed to the abutters on: **February 24, 2015**

The public hearing was held on: **March 16, 2015 and March 30, 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 Environmental Court.

Appeal period for this Case expires on: May 4, 2015

Approval expires on: May 4, 2016

In *addition* to the Applicant/Agent the following persons, heard by the Board in connection with this request, were determined by the Board to be “interested persons”: Copies of this decision have been mailed to those persons listed below.

The following presented testimony on behalf of the Applicant or an Interested Person

John Guminak Designer For Applicant

The following Exhibits were placed in evidence by the Applicant or Interested Person:

- Application 2 Pages
 - Fee Schedule
 - A. Abutter List
 - B. Floor Plans dated July 2, 2014
 - C. Elevations dated July 14, 2014
 - D. Plot Plan - hand drawn
 - E. Elevations dated March 14, 2015
 - F. 1st. Floor Plans dated March 14, 2015
 - G. 2nd Floor and Basement Floor Plans dated March 14, 2015
 - H. Letter from Carolyn Palmer, Chair, Pettee Memorial Library Trustees and Scott Murphy, Wilmington Town Manager dated March 23, 2015.
 - I. Lighting description and photo
 - J. Letter from Leonard Chapman dated March 13, 2015
 - K. Letter from John Guminak
 - L. Letter from Josh Shippee dated March 15, 2015
 - M. Letter from Nicholas Lombardi dated March 16, 2015
 - N. Photo of building from Historical Society circa 1970's
 - O. Site Plan A1.1 dated March 30, 2015
 - P. Elevations A 2.1 dated March 30, 2015
 - Q. 1st. Floor Plans A3.1 dated March 30, 2015
 - R. Floor Plans A3.2 dated March 30, 2015

I. The Board FINDS the following:

1. Subject property is in the Historic District overlay of the Village District of the Town of Wilmington. The property is identified as Tax Map # 021-22-050.

2. The property most recently served as a storage facility for Ponchos Wreck. Previous to acting as storage facility the property was a single family residence. The building was built circa 1800 as a parsonage for the Universalist Church.

3. The Applicant is requesting a permit for the following work.

4. Demolish existing building.

5. Construction a new building on the existing 43 by 96 foot Lot to house a catering operation, a 40 seat restaurant with outdoor seating for 10 and a single bedroom apartment. Days and hours of operation of the restaurant will be seven days per week year round, noon to midnight.

6. The single story portion of the proposed building that will house the restaurant replicates the mass of the historic structure it will replace. The Applicant is proposing wood or composite clapboards painted green to match the Anchor Restaurant. The windows will be energy efficient 2 over 2 evenly spaced and similarly sized per elevation, as shown on Exhibit P. The roof will be asphalt shingled to match the Anchor Restaurant. The roof pitch on the single story portion will be the same as the building to be demolished - 8/12.

7. An outdoor patio in the northwest corner with hardscaping seating 10 and a 7' privacy fence is proposed to be ADA compliant as well as the main entrance on the north side. An additional north side entrance door will lead to the stairs to the upstairs apartment.

8. A path and entrance to building on the South side accessed from South Main Street are proposed as an emergency exit. The applicant testified they are trying to reach agreement with the Pettee Memorial Library Trustees so that this entrance will be a third public access and an opportunity for signage. The applicant testified that the plan dated March 30, 2015 shown as Exhibit P depicts the proposed window and door configurations.

9. The catering kitchen and apartment will be a story and half with a building height of 23' from ridge-line to grade. The story and half building will be

sided with board and batten and will have two faux barn doors on the south wall to break the visual expanse of the elevation. Depicted on Exhibit E.

10. Lighting will be LED Carson City as shown on Exhibit I. A single lamp post and LED Carson City light will be on the northeast corner of the patio. A single down cast flood will be near the catering kitchen overhead door on the north side.

11. Testimony was given by John Guminak on window details. Mr. Guminak clarified that the windows in the east dormer are intended as drawn on the elevation and not the floor plan. He also agreed that both bathrooms on the first floor restaurant will have windows on the south side. Bath windows will be evenly spaced and of the same size as those depicted on Exhibit P .

12. All Trash will be deposited in the dumpster located on the adjacent Anchor Restaurant property. The Anchor Restaurant and the subject property are presently in common ownership.

13. The proposed parking for two cars is shown to extend over the northern boundary line. A single loading zone for the catering operation will be accessed on north side. Exhibit O.

14. Applicant testified that an adequate right of way from South Main Street to the subject property exists along the driveway between the Anchor Restaurant and 10 South Main Street, the former Poncho's Restaurant building now owned by Lorista Holdings.

15. Applicant testified that a sign and menu board for the restaurant will be placed on the north elevation as shown on Exhibit P. A sign is proposed for the portico over the emergency exit door on the south elevation also as shown on Exhibit P. All proposed signage is conceptual and will need to be permitted later.

The Board CONCLUDES:

The Board concludes that a restaurant, catering kitchen and apartment is a mixed use, as defined, which is a conditional use in the Village Zoning District (Historic Review District) section 270 B(4)

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:

Will the proposed Conditional Use have an undue adverse effect on the capacity of existing or planned community facilities? No, Municipal water and sewer are available.

Will the proposed Conditional Use have an undue adverse effect on traffic on roads and highways in the vicinity? No. The addition of a 50 seat restaurant will not appreciable increase traffic along South Main Street. Parking in the Historic District is not a factor under Section 340 F. Public parking is also near the property.

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 proposed Conditional Use complies with Section 601 (Purpose) and Section 602 (Goals) which govern the Historic District.

Will the proposed Conditional Use comply with specifically stated policies and standards of the Town Plan? Yes. Page 66 - Village District, Purpose: To maintain Wilmington Village as an area of clustered mixed land use that is in scale with the historic, existing, and desired character of the village, and which serves residents and visitors to Wilmington.

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

Will the proposed Conditional Use have an undue adverse effect on the utilization of renewable energy resources? No.

The Board further concludes that the building located at 8 South Main Street is in the Historic Review District and requires a Site Review and Building Review under Sections 610 and 620. (Section 630 D 1, 2, 3 and 6)

With regards to the criteria for a permit within the Historic Review District, the Board concludes that this proposal *will* conform to the requirements of the Wilmington Zoning Ordinance and the Following Standards:

SECTION 610: Site Review Criteria:

A. RELATE DEVELOPMENT TO ITS ENVIRONMENT. Proposal conformance with established neighborhood building scale;

The proposed project mimics the existing historic building to be demolished in both size and style. The proposed 1 1/2 story addition to the East shadows an existing neighboring building found on Beaver Street.

B. PRESERVE THE LANDSCAPE. If natural features and existing landscape are proposed to be removed, special attention shall be accorded to plans to replace such features and landscaping;

Not applicable. No features exist.

C. PROVIDE EFFICIENT AND EFFECTIVE CIRCULATION. With respect to vehicular and pedestrian circulation, special attention shall be given to the location and number of access points to public streets and sidewalks, to the separation of vehicles and pedestrians, to the arrangement of parking areas and to service and loading areas, and to the location of accessible routes and ramps for the disabled;

The proposed project has a stated right of way between the building known as Ponchos Wreck and the building known as The Anchor Restaurant to South Main Street. A loading area for the catering and restaurant operations is shown on Exhibit O. Applicant is working with the Pettee Memorial Library Trustees to gain permission for a path along the south side of the building accessing South Main Street. ADA compliant ramps are proposed for both entrances on the north side of the building. Deliveries will take place from South Main Street and be hand trucked to the operation.

D. PROVIDE FOR NATURES EVENTS. Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. Attention shall also be accorded to design features which address the effects of the rain, snow and ice at building entrances and to provisions for snow and ice removal from circulation areas;

Water runoff from the south facing roofs will flow over and be absorbed in the lawn of the Pettee Memorial Library. Water runoff from the north facing roofs will be absorbed in the landscaped area or directed easterly towards the gravel parking lot on Church Street. Ice and snow can be shoveled and salted from the hardscape area on the north side as necessary seasonally.

E. INTEGRATE UTILITARIAN FEATURES WITH THE DESIGN. Exposed storage areas, machinery and equipment installation, service areas, truck loading areas, utility connections, meters and structures, lighting, and similar accessory structures shall be subject to such setbacks, screen planting or other mitigation or screening methods as shall reasonably be required to prevent their being incongruous with or incompatible with existing or proposed structures and surrounding properties. Utilitarian features which

are essential to a structure's function shall be incorporated into the original structure design, not added as an afterthought;

At the present time, the project incorporates all of the criteria.

F. PROTECT WILMINGTON'S HERITAGE. The removal or disruption of historic, or traditional structures, architectural features or neighborhood patterns of the district shall be minimized insofar as practicable. New structures, additions, and alterations shall be sympathetic to and complement the scale and design of surrounding historic structures;

The proposed building does compliment the scale and design of surrounding historic structures.

G. CONSIDER THE LOCAL ENVIRONS. Any development which proposes new structures, additional lot coverage, or the installation of machinery or equipment which emits heat, vapor, fumes, or noise shall endeavor to minimize, insofar as practicable, any adverse impact on light, air, and water resources, or on the noise and temperature levels of the immediate environment.

The Restaurant will have a commercial exhaust system and make up air to meet fire safety codes as shown on Exhibit P. All exterior lighting will be down cast.

SECTION 620: Building Review Criteria

A. Form Relationships

____1. Style: New construction or renovations should be of similar historic architectural style(s) to that found within the subject building. For new buildings where design compatibility does not exist, it is the intent of the Historic Review District to promote architectural styles found within the Village.

The proposed project is comparable with the historic building to be demolished. The new construction follows both size and architectural styles found in the neighborhood.

2. Proportion: The ratio of height to width of the front elevations of new buildings and additions should be related to existing or adjacent properties.

Visually, the proposed building is seen from the north and south. The west gable end is blocked by the Universalist Church and the east by a public parking lot. The restaurant area is 50 feet long by 22 feet wide with an 18 foot height to the roof peak giving a long, low profile similar to the existing building. The catering section on the east has a north profile similar to the existing building. The catering section on the east has a profile of 31 feet wide by a height of 23 feet. The shed roof on the easterly side gives this a box like appearance. However, when viewed from the north or south, the varied roof lines provide interest and echo the Vermont style of residence to barn. The restaurant section is well below the height of the baiting church to the west. The whole building flows easterly stepping upward without dominating any nearby structures.

3. Roof Type and Pitch: Similarity in roof style, pitch, and materials and roof structural integrity, i.e. snow load, should be considered in the planning and design of new buildings. New roof materials on additions should match existing roof materials.

The proposed project will be built to current building standards and codes. Roof materials will be similar to Anchor Restaurant.

B. Visual Appearance

1. Materials and Textures: Vinyl siding is not recommended in this district but is allowed. Materials for new construction should be compatible to the types and textures of materials used within the District. Renovations, restorations and maintenance work should make every effort to match existing materials and textures. Compatibility of materials and textures within the district or of the existing structures should be considered in the planning and design of new buildings or renovations.

Applicant testified that wood or composite clapboards would be used. The building will be painted green to match the neighboring Anchor Restaurant. The roof shingles will also match the Anchor Restaurant.

2. Architectural Details: For new construction, architectural details characteristic of the particular architectural style proposed should be incorporated into the design. It is the intent to promote architecture of a traditional New England character in areas where design compatibility does not exist. Renovations should retain existing architectural details.

The proposed project does promote architecture of a traditional New England character.

3. Solid to Void proportions: The proportions of solid to voids (doors and windows) in the facade of the building establishes a rhythm that is perceived by a person viewing the building. The harmonious use of windows and door openings designed with consistent intervals so as to respect the original character of the building. Every effort should be made to see that such modifications respect the original character of the building, as well as relate positively with its surroundings.

The proposed building does meet this criteria as shown in Exhibit P.

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

Section 340: General Performance Standards (for Conditional Uses and PUDs)

A: Air Emissions for Commercial Operations: There shall be no emission of dust, ash, smoke or other particulate matter:

The proposed Building will be equipped with a commercial restaurant exhaust system as shown on Exhibit P.

B: Buffer Areas: No industrial or commercial buildings or uses shall be established abutting a residential use (except in the Village District) unless a landscaped buffer strip of at least twenty (20) feet in depth is provided to visually screen the buildings or uses. Where no natural vegetation can be maintained or where necessary due to caring site conditions, the landscaping may consist of fences, wall, tree plantings, hedges or combinations thereof. The buffer areas shall be maintained and vegetation replaced to insure continuous year-round screening.

The proposed building is in the Village District and does not require a buffer area.

C: Landscaping: All landscaping must be in conformance with the standards in Section 320.F.

Landscaping has been addressed as shown on Exhibit O.

D: Lighting and Glare: All exterior lighting on the site shall be shielded and downcast. Lighting, glare or reflection which constitutes an unseasonable nuisance to other property owners or tenants or which could impair the driver of a motor vehicle or an aircraft are prohibited. Direct or

indirect illumination shall not exceed 0.5 foot-candles upon abutting residential properties.

All lighting is shown to be downcast and LED as shown in Exhibit's P and I.

E: Parking: With the exception of the Historic Review District, off-street parking must meet the following requirements:

This application for review is within the Historic Review District.

F: Shared Access: The applicant may be required to provide for shared access between adjoining properties or to limit access to the property to a side street or secondary road. Requirements for shared access shall be made either at the time of Conditional Use approval if similar provision has been made on contiguous parcels or contingent upon future development of neighboring properties.

A stated Right of Way exists between the adjoining properties.

G: Setbacks and Screening: Exposed storage areas and areas used for storage shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their impact on other land uses, properties in the area and roads. Where a potential safety hazard exists, either from temporary or permanent activities, provisions shall be undertaken to minimize physical hazards.

Does not apply.

H: Traffic Impacts and Street Access Control: Provision shall be made for traffic circulation in such a manner as to safeguard against hazard to vehicles and pedestrians, both in the street and within the development, to avoid traffic congestion on any street and to provide safe and accessible circulation on public streets.

Historic Review District - Does not apply

I: Road Development: Any new roads, whether Town or private, shall conform with the Town Highway Ordinance 2011, adopted September 27, 2011, as may be amended from time to time (or Town Highway Ordinance then in effect).

Does not apply

J: Vibration: No permanent, ongoing vibration shall be produced which, when transmitted through structures or the ground, is discernible at the property line without the aid of instruments.

Does not apply

K: Noise: Continuous, permanent or ongoing noise in excess of seventy (70) decibels must not exist at the property boundary line.

Does not apply.

L: Water Quality: The development plan shall make appropriate provisions for stormwater management and retention.

Stormwater will be directed either to the gravel parking lot on Church Street to the east, lawn of the Pettee Memorial Library to the south or landscaped areas found on the westerly side.

ARTICLE IV - SIGNS

Section 431: Permitted Signs (Requiring a Zoning Permit)

Signs, other than those defined in Sections 421, 422, 423, and 424, must receive a permit before any construction, erection, alteration, or enlargement. A sign Permit shall be secured from the Zoning Administrator. See Article iv Sections 440, 441, 442, 443, & 444 for Permitting information.

Applicant shall submit a completed sign application to the Wilmington Zoning Administrator for review.

III. CONDITIONS:

The application is granted subject to the following restrictions, requirements, limitations or specifications:

1. All construction will be within property lot lines.
2. Trash pick-up from the Anchor Restaurant trash receptacle will be increased to twice a week or more as seasonally necessary and the trash receptacle lids will be kept closed to minimize odors.
3. In the event that the subject property is sold separately from the Anchor Restaurant, trash will be stored in an enclosed area to the east of the main entrance or on the easterly bound.

4. One emergency exit door on the south elevation is approved, however, all accompanying objects extending beyond the lot line are not approved without express written consent by the Pettee Memorial Library Trustees. This includes: the proposed portico roof, posts, landing, lighting, signage, step(s), railings, path improvements, etc. The applicant must return to the DRB with: a letter of approval, two elevations, and a plan, each page of which must be signed by the Pettee Memorial Library Trustees. The exit door located on the south side of the building is for emergency use only unless the above requirements are met.

5. Restaurant must be in full compliance of all requirements of the Vermont Department of Labor and Industry, including health and fire safety standards.

6. Construction of handicap ramp access is to State of Vermont Code, ADA compliant and approved by the Vermont Department of Public Safety, Division of Fire Safety.

7. The space between the patio and the catering section to the east will be appropriately landscaped to provide an absorbent area for storm water runoff. The two parking spaces are **not approved**.

8. Applicant shall submit a completed sign application to the Zoning Administrator for review and approval

The Development Review Board approves the application to demolish an existing building and rebuild a new structure as conditioned above. The new building will house a restaurant, catering kitchen and single bedroom apartment in the Village Zoning District (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.

Town of Wilmington, Zoning Administrator reserves the right to monitor compliance with this decision and all decisions issued by the Development Review Board.

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Peter Wallace

Fred Houston

Meg Streeter

Adam Lemire

OPPOSED:

None

ABSTAINING:

None

For the Board: Peter Wallace, Chairperson

Date: April 5, 2015

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.