

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: **TK Properties South Main LLC**

Owner/Applicant(s) Mailing Address: **P.O. Box 356 Wilmington, Vt. 05363**

Address of the subject property: **9 South Main Street, Wilmington, Vt. 05363**

Tax Map: **020.22.020.100**

A copy of the request is filed in the office of the Board and is referred to as: **Case: #2015-127**

**Description of Case per Public Notice:** Application #2015-127; Owner: TK Properties South Main, LLC. Todd Gareiss. Application is being made for a Conditional Use review to establish a Retail business in an existing building. Village zoning district: Sections 270 (B) & 320; location: 9 South Main Street.

Notice for a public hearing was published in the Valley News on: **December 17, 2015**

Notice was posted in three public places on: **December 17, 2015**

A copy of the notice was mailed to the applicant on: **December 17, 2015**

A copy of the notice was mailed to the abutters on: **December 17, 2015**

The public hearing was held on: **January 4, 2016**

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: February 7, 2016**

**Approval expires on: February 7, 2017**

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.

Craig Ohlson                      Zoning Administrator

Christina DeMarothy   Retail Business Owner

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

- Application (2 Pages)
- First Floor Unit 3 Design layout - Line Sync Architecture, A1.4

**I. The Board FINDS the following:**

- Subject Property is in the Historic District overlay of the Village District of the Town of Wilmington. The property is identified as Tax Map # 020.22.020.100.
- Unit 3 of subject property before renovation was a single residential studio.
- Applicant is requesting a change of use from a single residential studio to retail.
- Hours of operation will be seven days a week from 10 A.M. until 10 P.M.
- Retail operation will be called “Jasper”
- **The Board CONCLUDES:**
- The Board concludes that a retail operation is a conditional use in the Village 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:

**Section 320: Conditional Uses, Standards and Procedures:**

- A. General Standards for Conditional Use: The development Review Board shall require that the proposed Conditional Use shall not result in an undue adverse effect on any of the following:
  1. The capacity of existing or planned community facilities.

2. The character of the area affected, as defined by the purpose or purposes of the zoning district within the project is located and specifically stated policies and standards of this Ordinance and the Town Plan.

3. Traffic on roads and highways in the vicinity.

4. By-laws and ordinances in effect at the time.

5. Utilization of renewable energy resources.

**Retail is promoted in Village zoning district and we are encouraged by this growth.**

B. Specific Standards for Conditional Uses: The Development Review Board shall require that, where applicable, Conditional Uses shall meet the following standards:

1. General Performance Standards of this Ordinance - See Article 111, Section 340.

2. Flood Hazard Regulations - Article VIII.

**Not Applicable**

C. The area, dimensional, density, and coverage standards for the district in which the proposed Conditional Use will be located shall be considered. The stated purpose of the district in which the Conditional use will be located shall also considered. (see Article II).

**Purposed Application is a welcomed addition to the area.**

D. Provisions shall be made for maximum traffic and parking safety. Particular consideration shall be given to visibility at intersections, pedestrian safety and access in case of emergency. Alternative traffic patterns are preferred to dead-end streets and cul-de-sacs. While not required, interconnecting traffic circulation that does not burden the main arteries of the Town and neighboring developments and towns should be pursued.

**Town parking is adjacent to the subject property.**

E. Provision shall be made for snow removal, the maintenance of parking areas and internal roads.

**Not Applicable.**

F. Landscaping and screening et el.

**Not Applicable**

G. In granting a conditional Use Permit, the Board may attach conditions and/or safeguards that it deems necessary to implement the purpose of these regulations.

**See Conditions.**

H. The Board may require an applicant for Conditional Use review to pay the reasonable cost of an Independent Technical Review of all or part of the application. The Board may recess the Hearing pending receipt of the Independent Technical Review findings.

**Not Applicable**

I. Any substantial alteration, extension or other change to an existing Conditional Use shall require application to the Development Review Board under the requirements of this section. Any substantial alteration, extension or other changes to a Conditional Use is one that will affect one or more of the Conditional Use criteria.

**Not Applicable**

**III. CONDITIONS:**

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

1. Applicant will obtain a sign permit from the Zoning Administrator.

The Development Review Board approves the Conditional Use allowing the establishment of Retail business known as Jasper 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.

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

Debby Dorsett

Alan Taylor

Tim Hall

OPPOSED:

None

ABSTAINING:

None

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For the Board: Peter Wallace, Chairperson

Date: January 7, 2016

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.*