

**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: **Brattleboro Savings & Loan**
Owner/Applicant(s) Mailing Address: **PO Box 1010, Brattleboro, VT 05302-1010**
Address of the subject property: **108 East Main Street, Wilmington, VT, 05363**

Tax Map: **#021-21-092-000**
Application # **2017-077**

A copy of the request is filed in the office of the Board.

Description of Case per Public Notice:

Owner, Brattleboro Savings & Loan (Daniel C. Yates), Agent: Merrill A. Mundell Jr.
Application is being made for a Conditional Use review to allow a Bank. Commercial Residential Zoning District, Sections 450 (E) 4, 710, 721m & 722. Location: 108 East Main Street.

Notice for a public hearing was published in the Valley News on: **November 2 , 2017**

Notice was posted in three public places on: **November 2, 2017**

A copy of the notice was mailed to the applicant on: **November 2, 2017**

A copy of the notice was mailed to the abutters on: **November 2, 2017**

There was no Site Visit.

Public hearings were held on

November 20, 2017 (No testimony taken, case continued)

December 4, 2017

The following presented testimony as agent on behalf of the Applicant:

- **Dan Yates, President Brattleboro Savings Bank**
- **Merrill A. Mundell, Agent**
- **Kenneth Ferrer & Jessie Couture, LineSync Architecture, Agent**

In addition to the Applicant/Agents the following persons, heard by the Board in connection with this request were determined to be "Interested Persons". The decision of the Board on this application may be appealed by anyone identified as an Interested Person, pursuant to Vermont Statutes Annotated. Appeal shall be made to the Vermont Environmental Court. Copies of this decision have been mailed to those persons listed below.

- **Mark and Marie Lavoy, 112 East Main St. abutter**
- **Jerry Osler, Father Ilayaraja, Our Lady of Fatima Parsonage, 96 E Main St, abutter**

Appeal period for this Case expires on: February 2 , 2018

Approval Expires on: January 2 , 2020

In addition to the above Interested Persons, the following attended the hearing, providing no testimony.

- Scott Tucker, Town Manager
- Craig Ohlson, Zoning Administrator
- Chris Mays, Brattleboro Reformer

Exhibits

The following Exhibits were placed by the Applicant:

- 1. Application with abutter list**
- 2. LineSync Cover drawing Nov 30, 2017 A 0.0**
- 3. LineSync Site Plan, Nov30, 2017 A 1.0**
- 4. LineSync Elevations, Nov 30, 2017 A 2.0**
- 5. LineSync Elevations, Nov 30, 2017 A 2.1**
- 6. LineSync Floor Plan, Nov 30, 2017 A 3.0**
- 7. Merrill A. Mundell, Jr., Site Plan, Nov 28, 2017**
- 8. Mark and Marie Lavoy, Interested Person letter dated November 14, 2017**

Synopsis

On October 26th 2017 an application was placed before the Development Review Board (the “Board”) for the approval of: “Demolition of current building, installation of a temporary branch trailer, and construction of a new 1,400 +/- Sq Ft building for use as a branch bank with seven to twelve parking spaces.”

A hearing was held on November 20, 2017, however no testimony was received. At the request of the applicant, to allow time for completion of design plans, the hearing was continued until December 4th at 6 pm in the Town Hall Meeting Room.

On December 4th the applicant testified that they were withdrawing the request for installation of a temporary branch trailer on this property and would be following up with a separate application for a temporary branch at an alternate location. The hearing commenced with temporary services excluded from this application.

On December 4th the applicant further testified that the sign indicated on Exhibit 7 is not included in this application and would be addressed with the Zoning Administrator at a later date. The Board finds that, in the event that the sign meets all of the requirement of the Zoning Ordinance, the sign will not require Development Review Board review.

Applicable District

Finding of Facts: Subject property is identified as Parcel ID# **021-21-092-000**

Conclusions of Law: The proposed land development is in the Commercial/Residential District.

Uses - Section 450 E (4)

Finding of Facts: Most current Use was a Health Care Facility - Dentist Office. However, this Use has been discontinued in excess of 2 years. The building does not have a current Use. Intended Use under this application is a Bank.

Conclusions of Law: Bank is a ‘Conditional Use’ in the Commercial/Residential District. The planned Land Development is subject to Development Review Board review and approval.

Dimensional Requirements - Section 450E (5)

Finding of Facts: The dimensional requirements of Section 450 E 5, the Commercial/Residential District, for Commercial are:

Max Lot Coverage: 25%

Structures/Uses per Lot: Unlimited

Min Lot Size: 1 acre

Min Lot Frontage: 150 feet

Min Lot Depth: 150 feet

Height Maximum: 35 feet to eave line from average grade (over 24 feet requires DRB review)

Front Setback: 40 feet

Side & Rear Setback: 20 feet

The dimensions for proposed land development are as follows:

Lot Coverage: 7 %

Structures/Uses: 1/1

Lot Size: ½ acre

Lot Frontage: 90 feet

Lot Depth: 193 feet

Height to the highest ridge line is 18'10"

Front Setback: 54'6" feet

Side Setback: 28.5'

Rear Setback: 39.6'

Conclusions of Law:

Dimensional requirements of lot coverage, building height, and front, side, and rear setbacks are met for the Commercial/Residential District. The Structure conforms to Dimensional Requirements as defined in Section 450E (5).

The Lot meets Minimum Lot Depth requirements. Minimum Lot Size and Minimum Lot Frontage are not met for the zoning ordinance currently in effect. Therefore, the Lot is a Nonconforming Lot.

Legal Nonconformities - Section 430

Section 430 defines a Legal Nonconformity as a Structure or Use that does not conform to current regulations of the Zoning Ordinance "but did conform to the lot restrictions or regulations in existence at the time of the creation of the lot".

Finding of Facts:

The Structure is conforming. (see Section 450E (5) above)

The proposed Use is conforming. (see Section 450E (4) above)

The Lot is Nonconforming. (See Section 450E (5) above). The Lot existed prior to the creation of town's first Zoning Ordinance January 26, 1968.

Conclusions of Law:

The existing Structure conforms to all Dimensional Requirements. The Lot does not conform to Dimensional Requirements. It is a Legal Nonconforming Lot.

Changes to Legal Nonconforming Structures, Lots and Uses – Section 431

Nonconforming Structures, Lots, and Uses shall be allowed to exist indefinitely, in accordance with 24 V.S.A. § 4303(16) and §4412(7).

Section 431 A. Legal Nonconforming Structures

Section 431 B. Legal Nonconforming Uses

Section 431 C. Legal Nonconforming Existing Small Lots

Findings of Facts:

Section 431 A. Legal Nonconforming Structures is not applicable, the Structure is conforming (see Section 450E (5) above). Section 431 B. Legal Nonconforming Uses is not applicable. Uses are conforming (see Section 450E (4) above). Section 431 C. Legal Nonconforming Existing Small Lots is applicable. This is a Legal Nonconforming Lot.

Section 431C addresses “undeveloped” lot(s) in existence on or before the date of adoption of this ordinance. Section 431 is silent on Nonconforming Lots with an existing conforming Structure. The Lot is developed with an existing conforming Structure.

Conclusions of Law: The provisions of Section 431 are not applicable.

Flood Hazard District – Article VI

Section 602: Lands to which these regulations apply

- A. These regulations apply for development in all areas of the Town of Wilmington identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Dept. of Homeland Security (DHS), FEMA and the National Flood Insurance Program, as provided by the Agency of Natural Resources pursuant to 10 VSA 753.
- B. The base flood elevations and floodway limits (zones A1-A30, AE and AH) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations.

Finding of Facts: A portion of this property along the northwestern border is in the 1% Flood Zone of the Flood Hazard Area. However, Tropical Storm Irene did not impact this property but did produce basement flooding in the abutting parsonage property. (Applicant testimony)

Conclusions of Law: Flood Hazard Regulations apply to a portion of this Lot.

Section 610: 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 602, 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.
- 2. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

A.2 Flood Fringe Areas (i.e. special flood hazard areas outside of the floodway)

- a. All Development shall be reasonably safe from flooding and;
- i: designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,
 - ii: constructed of materials resistant to flood damage,
 - iii: constructed by methods and practices that minimize flood damage, and
 - iv: constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Finding of Facts: The Flood Hazard Area will remain undeveloped. A retaining wall is proposed east of the Flood Hazard Area. The retaining wall will rise 3-4" above grade, draining water primarily to the rear of the property. There will be holes in the retaining wall to allow some run-off to flow toward the flood hazard area. Merrill Mundell testified that water run-off through the retaining wall drainage holes will not increase the Base Flood Elevation. No land development or storage will occur within the Flood Hazard Area, creating no impact on the Base Flood Elevation.

Conclusions of Law: Development Standards of the Flood Hazard District are satisfied.

Section 710: Use Performance Standards

Pursuant to 24 V.S.A. § 4414(5) Performance Standards, the following standards shall apply to all Uses and Land Development in the town.

- A. Vibration: No permanent, ongoing vibration shall be produced which, when transmitted, is discernible at the property line without the aid of instruments. Temporary vibration created during land development should be limited to daylight hours to preserve quality of life in neighboring properties.

Finding of Facts: The proposed Use of this property will create no permanent or ongoing vibration. (Applicant testimony). Vibration created during construction will be limited to daylight hours.

Conclusions of Law: This condition is satisfied.

- B. Noise: continuous, permanent or ongoing noise in excess of that of a normal conversation (in the judgement of the Development Review Board) must not exist at the property boundary line. Recurring periodic or intermittent noises in excess of that of a normal lawn mower (in the judgement of the Development Review Board) at the property line is allowed provided it does not occur between the hours of nine (9) PM and seven (7) AM, and does not significantly detract from or diminish other property's allowed use or land development.

Finding of Facts: The proposed Use of this property will create no continuous, permanent or ongoing noise. (Applicant testimony) Noise created during construction will be limited to daylight hours.

Conclusions of Law: This condition is satisfied

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

1. Which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity.
2. Which can cause contamination of the subject property or beyond the property boundaries.
3. Which is composed of solid or liquid particles in concentrations exceeding current state authority standards.

4. Which causes emission of non-farming, odorous matter in such quantities, as determined to be offensive.

Finding of Facts: The proposed Use of this property will not create emission of dust, ash, smoke or other particulate matter. (Applicant testimony)

Conclusions of Law: This condition is satisfied

D. Injurious or Noxious Practices: No operations or Use shall create electromagnetic, liquid or solid refuse or waste, heat, cold, dampness, explosive, fire, glare, or other hazard which may cause injury or damage to human or animal health, vegetation, or property.

Finding of Facts: The proposed Use of this property will create no electromagnetic, liquid or solid refuse or waste, heat, cold, dampness, explosive, fire, glare, or other hazard which may cause injury or damage to human or animal health, vegetation, or property. (Applicant testimony)

Conclusions of Law: This condition is satisfied

Section 721: Conditional Use – General Standards

In all districts, all Conditional Use development shall protect from undue adverse effects. No Land Development or Use shall result in an undue adverse effect on any of the following:

A. The capacity of existing or planned community, municipal or educational facilities;

Finding of Facts: It is anticipated that 3-4 persons will be employed at the premises. These individuals will come from the local communities. Employee volume is not expected to have an undue adverse impact on local community, municipal or educational facilities. The applicant met with a representative of the Fire Department. No issues of concern were identified. (Applicant testimony) The applicant will meet with the local police force to familiarize the local police staff with new facilities and review police services provided and address any police protection concerns.

Conclusions of Law: Proposed development will have a positive and contributory impact on the community. There will be no undue impact on municipal or educational facilities. This decision will be conditioned on meeting with the Wilmington Police Department and addressing any concerns raised.

B. Impact on traffic, roads, highways, transportation systems, pedestrian walkways in the vicinity;

Finding of Facts: The property is located on a major state highway, Route 9&100, that is capable of handling the added traffic volume. The property lies on the outer perimeter of the downtown area, making traffic volume less impactful on overall downtown traffic flow. The speed limit of 25 MPH on this section of road is enforced regularly by the local police, providing significant traffic calming. There are no pedestrian crosswalks or walkways on this section of Route 9/100.

Route 9/100 access from the property will be moved more centrally on property frontage for improved ingress/egress. The current driveway is found to require too tight of a turn into traffic. Traffic flow onto bank property directs vehicles around the building for traffic calming. Anticipated traffic volume is 75 cars per day with peaks early morning, 11 am – 1 pm and 4:15 pm to 5 pm. The business will be open: 8 am – 5 pm M-F (lobby 9 am), 9 am – 12 pm Saturday. Closed Sunday.

Conclusions of Law: This condition is satisfied

C. By-laws and ordinances in effect at the time;

Finding of Facts: There is no anticipated impact on other town ordinances.

Conclusions of Law: Not applicable

D. Utilization of renewable energy resources;

Finding of Facts: The property will be 100% solar powered through Brattleboro Savings Banks' participation in the Brattleboro Solar Array.

Conclusions of Law: The proposed development will have a positive impact on the use of renewable energy resources. This condition is satisfied

E. Air quality – See Findings and Conclusions in Section 710 C above

F. The character, aesthetics, and scenic value of the neighborhood and area affected, as defined by the purpose or purposes of the zoning district within which the project is located and specifically stated policies and standards of this ordinance and the Town Plan.

Finding of Facts: The neighborhood of this property is mixed residential and commercial Use including an automotive service station and a grocery store. The automotive service station is not of a historic nature. While not of a historic style, the grocery store was developed of clapboard siding and style to increase compatibility with the downtown. The proposed development is the Commercial/Residential District, on the perimeter of the historic Downtown, 4/10 of a mile from the beginning of the historic district to the west and 3/10 of a mile from the historic White House Inn to the east. While there are no historic development requirements in this area, the town seeks to enhance the aesthetics and compatibility of this eastern gateway to the historic downtown, complimenting and enhancing the historic character and economic value of the downtown area.

The proposed structure is of a Craftsman style. While not of one of the historic styles characteristic of the town, the structure has features that will complement the historic downtown area. The structure has 3 sections, graduating up in size toward the rear of the property. Sectional additions to structures is typical of New England historic development. The structure will be sided with clapboard siding, consistent with the historic structures of the downtown.

While finish details have not been finalized, the structure will be finished with a color compatible with the historic nature of the downtown area. Windows, doors, and finish feature selections have not been made, however, the applicant will select features consistent with the character, aesthetic, scenic and historic value of the downtown area. (Applicant Testimony).

Conclusions of Law: Structural color, trim and external features shall be conditioned on selections that have no adverse undue impact on the character, aesthetics, and scenic value of the area and the historic downtown area. Structural finish features shall compliment the rural, agricultural and historic character of downtown structures representing the 1830's – early 1900's.

Section 722: Conditional Use – Preserving the Character of the Town

Land Development and Uses in all Districts shall preserve the character of the town consistent with its rural and agricultural heritage, conforming to the following:

A. Preservation of the Town's Character: Business development shall, to the extent reasonable and possible, occur in a manner that preserves the rural and agricultural character and ambiance of the community and the historic downtown.

Finding of Facts: See Section 721 F above.

Conclusions of Law: This decision will be conditioned so as to satisfy this standard.

B. Economic Development Contributing to the Character of the Town: Merchandise or services shall not detract from the historic character and nature of the town as a family destination

for tourists and a family focused residential community.

Finding of Facts: Banking is an age old and historic service that will contribute to the historic value of the town for resident families and tourists alike.

Conclusions of Law: This condition is satisfied.

C. Development Consistent with the Rural, Agricultural and Historic Nature of the Town:

Construction, reconstruction, or land development, whether allowed, Permitted or Conditional shall, to the extent possible, reflect and/or compliment the historic nature of the town and the rural and agricultural appearance of the neighborhood and region.

Finding of Facts: See Section 721 F above.

Conclusions of Law: This decision will be conditioned so as to satisfy this standard.

D. Formula Businesses: The visual appearance of Formula Businesses (see Article X for a complete definition), including signage, shall project an appearance harmonious with the character of the rural, agricultural and historic nature of the town, reflecting the distinctive and unique character of the town, consistent with the Site Plan and Design Guidelines of Appendix I.

Finding of Facts: The project is not a “Formula Business”

Conclusions of Law: Not applicable

E. Maximum Square Footage for Retail: Retail stores exceeding two thousand (2000) square feet may be approved by the Development Review Board in the event that the business:

1. is Consistent with the character and ambiance of the community
2. is found to be in the best interest of the community
3. is the minimum size required to reasonably accommodate the business
4. will enhance or preserve the economic base and economic diversity of the town as a whole
5. will create economic stability and viability for the community.

Finding of Facts: The business is not retail.

Conclusions of Law: Not applicable

F. Building Scale Conformity: Development shall conform to the scale of the established neighborhood.

Finding of Facts: The proposed structure on this Legal Non-conforming Lot will stay within the footprint and scale of the prior structure. It conforms to the scale of the property and the neighborhood.

Conclusions of Law: This standard is satisfied.

G. Utility Placement: to preserve the aesthetics and natural beauty of the area, underground utilities are encouraged where possible, particularly in areas of natural scenic beauty and in the Historic Design Review District.

Finding of Facts: There will be one utility pole on the southwest corner of the property. All other utilities will be placed underground to preserve aesthetics of the property (Applicant testimony)

Conclusions of Law: This standard is satisfied.

Section 730: Conditional Use – Specific Standards

All Land Development and Uses in all Districts and Overlay Districts shall conform to the following:

A. Lighting and Glare: All exterior lighting in all districts shall be shielded and downcast. Interior and exterior lighting, glare or reflection are prohibited if they:

1. Constitute an unreasonable nuisance
2. Are found not to contribute to the aesthetics, scenic value or character of the area and community
3. Are found to impair the vision of pedestrians or the driver of a motor vehicle or an aircraft.

Finding of Facts: The building is approximately 53 feet from Route 9/100 and is located in a heavily developed commercial/residential mixed use area. The lot abuts a residential property to the east and a church parsonage to the west.

Lighting fixture selections have not been made. However, the fixtures will be shielded and downcast. Lighting selections shall contribute positively to the aesthetics, scenic value and character of the area and community including the economic center, the historic downtown. The applicant testified that:

- While Federal Regulations require 24/7 interior lighting of the vault area viewable from the outside, exterior lighting will be turned off at night.
- There will be one 9' tall lighting fixture in the Northwest corner of the parking lot with downcast ambient lighting.
- The front porch will have downcast lighting.
- There will be low, near ground level lighting along the driveway.
- The drive-up window will have red and green lights typical for this type of business, indicating open/closed status. They will be rear facing on the Lot.

Exterior lighting will be conditioned on being shielded and downcast, of the minimum lumens needed for the functional purpose, not constituting an unreasonable nuisance to neighboring properties, and contributing positively to the aesthetics, scenic value, and character of the area, including the historic nature of the downtown area. The lighting shall not impair the vision of pedestrians or drivers. Interior lighting will be shielded from outside glare to the extent possible without reducing inside visibility.

Conclusions of Law: This decision will be conditioned so as to satisfy this standard.

B. Safety: Shall minimize physical hazards where there are potential safety hazards.

Finding of Facts: All OSHA requirements shall be met. The applicant has met with Bill Sperka, Lieutenant of the Wilmington Fire Department and has been found to present no safety issues. The driveway meets the required 6' clearance to the sides of the driveway for clear ingress/egress for firetrucks. The applicant will meet with Wilmington Police Department to ensure there are no safety concerns. The Bank is compliant with all federal banking regulations and safety requirements. (Applicant testimony)

Conclusions of Law: This condition is satisfied.

C. Traffic and Pedestrian Safety: Development shall provide for pedestrian walkways to ensure safe and efficient navigation by foot or bicycle. Special consideration shall be made for children's safety. Traffic patterns will be reviewed for safety, ease of traffic flow and efficiency.

Finding of Facts: Proposed development is in a densely populated commercial/residential area. There are no state pedestrian walkways in the area. Banking customer traffic will be primarily by automobile, however the property provides adequate greenspace to allow pedestrians safe access if arriving by foot. Parking lots pedestrian access will be through the southeast rear entrance. Parking spaces 9 and 10 are most vulnerable to crossing customer traffic and will be designated for

employee parking with employees arriving and departing after customer traffic has ceased. Customer parking will be designated for spaces 1- 8 (See Exhibit 7) Speed bumps will be placed in the driveway seasonally for traffic calming and pedestrian safety, The building will have a safety rail along the eastern side of the building to keep pedestrians out of moving traffic and channel foot traffic to the rear of the building and the customer entrance, where there will be a defined area for pedestrian crossing. There is a second door on the eastern side of the building for trash removal only, not to be used as a customer entrance. The retaining wall to the west will rise 3-4 inches above grade and will be topped by a 4' metal, black, square railing for visibility to traffic and pedestrian safety. The retaining wall will drop off approximately 1 foot to grade on the western side.

Conclusions of Law: Vehicular and pedestrian movement and safety has been adequately addressed. This standard is met.

D. Road Development: New roads, public and private, shall conform to the town's Highway Ordinance.

Finding of Facts: No new roads are proposed.

Conclusions of Law: This standard is not applicable.

E. Landscaping, Screening and Buffer Areas: As defined in Section 722(A) development shall "preserve the rural and agricultural character and ambiance of the community". Natural features characteristic of the town's rural and agricultural character shall be used in Landscaping and Screening to preserve and protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties.

a. Landscaping beds, trees, shrubs and plantings shall be required as reasonable and possible to protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties, creating green spaces where possible and shall be maintained for aesthetics and plant health. Plants that do not survive shall be replaced within the growing season.

b. Screening and buffer areas shall maximize aesthetics. Natural features and vistas shall be protected. All screening shall include natural vegetation, plantings, hedges, and/or rock formations. Fences and walls may be used as a supplement to natural vegetation screening as needed to achieve a visual barrier.

Unaesthetic features creating undue adverse impact shall be screened. Where there is undue impact on the aesthetics on residential properties, neighborhoods, public areas, or highways and roads, a buffer area shall be provided, to a minimum depth of 10 feet where reasonable and possible.

For parking having an undue adverse impact on residential properties, neighborhoods, public areas, or highways/roads, screening shall be provided where reasonable and possible.

Finding of Facts:

The front area of the property to the left and right of the driveway will have significant landscaping and/or island plantings for aesthetics and community enjoyment. Landscaping near the road will not impair driver vision or line of sight to the roadway. There will be greenspace in the half-circle at the rear of the building (See Exhibit 7) and a picnic area to northwest rear of the parking area. (Applicant testimony).

Property owners to the East, Mark and Marie Lavoy, testified that they would like to have fencing

to prevent their grandchildren from accidentally crossing over into the traffic area, and requested a privacy fence to the rear of the property to preserve the privacy at their above ground pool. They requested that the fencing in the pool area, on the rear portion of the property, be at least 8 feet in height as their pool has a 3-4 foot high deck around it. A 6' foot fence would not provide adequate privacy to someone standing on a 4' deck. The Board, the applicant and the Lavoys discussed a graduated fence line with low contiguous shrubbery for the first 54' of the easterly property line to prevent children from accidentally crossing over to the Bank traffic area, yet preserving the line-of-sight to the building and roadways (such as contiguous boxwood plants or similar low growing shrubbery), followed by a 6' fence with shrubbery that will fill in at maturity to be contiguous on the eastern side of the fence. The 6' section would run from the contiguous low shrubbery (at approximately 54' back on the easterly property line) to a point on the easterly property line consistent with the rear of the structure, then a minimum of 8' fence with shrubbery that will fill in at maturity to be contiguous on the eastern side of the fence from 6' section of fencing to the rear of the property.

Property owners to the West, Our Lady of Fatima Parsonage, represented by Jerry Osler and Father Ilayaraja, testified that they felt the aesthetics of the Parsonage and church were best preserved through no special screening on the western side.

There will be no external unaesthetic features on the property. (Applicant testimony)

Conclusions of Law: This decision will be conditioned consistent with the above to satisfy this standard. Landscaping on the grounds will include beds, plantings, trees, shrubs, and green spaces to protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties. Plantings shall be maintained for aesthetics and plant health. Plants that do not survive shall be replaced within the growing season.

F. Land and Water Management: Pursuant to 24 V.S.A. Section 4414(1)(G) and 24 V.S.A. Section 4414(9) the development plan shall protect properties, transportation systems and public safety by:

- a. Providing for safe and appropriate water management including but not limited to water supply quality/availability, storm water retention/absorption, and impervious surface runoff management.
- b. Preventing and controlling against water pollution
- c. Making appropriate provision for management of erosion, preservation of rivers & streams, river/stream banks wetlands, waterways, channels, and agricultural lands.
- d. Preserving and promoting scenic or aesthetic features and open spaces

Finding of Facts:

There is stream behind the property. There will be no activity on the Bank property to cause stream erosion. Representing the Parsonage, Jerry Osler requested that, in consideration of the fact that the parsonage has experienced basement flooding in the past, runoff caused by an increase in impermeable surface be managed away from the western side of the property. Representing the applicant, Merrill Mundell Jr. testified that water runoff on the property will be managed with "sheet-flow" run-off toward the rear of the property, into the stream and that such run-off would be absorbed sufficiently so as to not cause stream erosion. There will be holes in the retaining wall on the west that will allow minimal run-off toward the western located flood plain, but will not be sufficient to reach the parsonage property as it will be absorbed in the flood plain. To minimize risk of run-off toward the west the applicant will investigate the use of permeable asphalt and utilize same if found to be reasonably affordable.

Conclusions of Law: This condition is satisfied.

G. Wastewater and Potable Water: Pursuant to 24 V.S.A. Section 4414 (13), the Zoning Administrator may issue an initial Permit conditioned upon receipt of evidence of a wastewater and potable water supply Permit, if none is provided with the submitted application. A final Permit may be issued by the Zoning Administrator after receiving evidence that a Permit has been issued, as applicable, under chapter 64 Title 10. Development Review Board decisions shall instruct the applicant of their responsibility in obtaining state and federal Permits and may condition their decision on obtaining such a Permit if none has been obtained.

Finding of Facts: This property is on the town water/sewer system and will continue to do so. Water/sewer allocations have been made for the proposed development.

Conclusions of Law: This condition is met.

H. Natural Resources and Features: Existing vegetation, native species, native trees, scenic views, river access and other natural features shall be preserved to the extent possible and to the extent that they will enhance and promote the natural assets of the town. Clearing of land to create pastureland and scenic spaces/vistas is allowed provided it does not have an unreasonable impact on natural resources. Development shall blend with the topography, vegetation, and natural land features. It shall not have an undue adverse impact on natural features, natural resources or renewable energy. This includes no adverse impact on forested lands, streams and stream banks, steep slopes, wetlands, watersheds, floodplains, soil unsuitable for development, pervious surfaces essential to storm water detention, agricultural lands, open scenic lands, scenic vistas, scenic features, unique natural or manmade features, and renewable energy sources.

Finding of Facts: There will be no disruption of existing vegetation, native species, native trees, scenic views, river access and other natural features.

Conclusions of Law: This condition is satisfied.

I. Wildlife Protection: No adverse impact on wildlife habitats or corridors

Finding of Facts: The property is in a dense commercial area. There are no wildlife corridors or habitats.

Conclusions of Law: This condition is satisfied.

J. Shoreland Protection: Pursuant to 24 V.S.A. Section 441 (13) all development shall be in conformity with the Shoreland Protection Act (applying to all development within 250 feet of a body of water greater than or equal to 10 acres)

Finding of Facts: The premises are not "shoreline" as defined in 24 V.S.A Section 4414.

Conclusions of Law: Not applicable.

K. Flood Hazard Protection: Development must comply with the provisions of Article VI Flood Hazard District, if applicable. All floatables in any district and in an area which has historically flooded and all Flood Fringe Areas, shall be raised above the estimated Base Flood Elevation (BFE) or firmly secured so as to ensure they are not dislodged in the event of a flood. This includes but is not limited to propane, oil, and gas tanks, chemicals, explosives, flammable liquids, toxic or hazardous materials. (See Flood Hazard Regulations Section 620 (B) (12)). While hay bales and logs are protected Agricultural and Silviculture industries in Vermont, conformity with this provision is encouraged.

Finding of Facts: See Section 602 above.

Conclusions of Law: This condition is met.

L. Technical Review Costs: DRB may require applicant pay reasonable technical review costs.

Finding of Facts: No technical review is required.

Conclusions of Law: This condition is satisfied.

CONDITIONAL USES – OTHER SPECIFIC STANDARDS: SECTION 732

F. Commercial Parking and Loading Areas: Pursuant to 24 V.S.A. Section 4414 (4) All commercial parking and loading areas in all districts in the town shall adhere to the following standards:

2. Size of Parking Spaces: Parking space size shall be a minimum of ten (10) feet by eighteen (18) feet.

3. Minimum Number of Spaces: The minimum number of required spaces are:

Multi Business Center and Offices: One (1) parking space for every 400 square feet of business or office space.

Finding of Facts: It is expected that there will be no more than 3-4 employees on any one shift. The ordinance requires 4 spaces for this 1400 square foot facility. There are a total of 7 to 10 planned spaces. Spaces in Exhibit 7 are 9 x 20. The zoning ordinance requires spaces be at least 10' wide. The applicant and the agent indicated that making 10' spaces would not be a problem. It is anticipated that parking demand may exceed that available during the infrequent event of a large closing. Representatives of Our Lady of Fatima testified that the bank was welcome to use the church lot for overflow parking in that the bank hours of operation did not coincide with church times.

Conclusions of Law: The planned development provides sufficient spaces and will be conditioned on parking spaces being at minimum 10' wide 18' deep to meet the requirements of this standard.

5. Minimize the Visual Impact of Parking & Loading Areas: Break up parking with buildings and human scale landscaping. Utilize landscape islands for plantings without obscuring traffic. Avoid the visual impact of a "sea of parking". Use rear parking/loading areas to minimize the impact on the public view of the property. Screen unaesthetic features where possible to minimize the physical and aesthetic impact land uses, properties in the area, town and public roads.

Finding of Facts: See Section 730E.

Conclusions of Law: See Section 730E.

6. Buffer Area to Parking.

Finding of Facts: Parking is to the side and rear of the building with landscaping, screening and buffering as described in Section 730 F above.

Conclusions of Law: These conditions are satisfied.

7. Public Road Access:

Finding of Facts There is sufficient visibility north and south on Vermont Route 100 & 9. The state highway is straight with good lines of sight. The old drive provided difficult turning into and out of traffic. The driveway will be moved for improved ingress/egress. There will be just one point of ingress/egress to minimize impact on traffic. There is no opportunity for combining road access points with neighboring properties.

Conclusions of Law: This condition is satisfied.

8. Rainwater, Snow and Ice Removal/Storage:

Finding of Facts: Snow will be plowed straight back on the property. Excessive snow accumulation will be removed and taken off sight as needed. (Applicant testimony). Parking lots, driveways, and walkways will be plowed and sanded/salted as needed to ensure customer and

employee safety.

Conclusions of Law: This condition is satisfied.

9. Safety:

Finding of Facts: See Section 721 A and B.

Conclusions of Law: This condition is satisfied.

10. Neighboring Properties:

Finding of Facts: See Section 730 E.

Conclusions of Law: This condition is satisfied.

BOARD FINDS:

The application for development is approved with the following conditions, restrictions, requirements, limitations and specifications:

Conditions

1. Structural color, trim and external features including pillars, windows and lighting fixtures selections shall be consistent with the rural, agricultural and historic character of downtown structures representing the 1830's to early 1900's. Design features shall have no adverse undue impact on the character, aesthetics, and historic scenic value of the downtown area.
2. Except as otherwise required to accommodate the conditions of this decision, development will be executed in accordance with Exhibits. Any changes to the plans will require an administrative approval from the zoning administrator or a review by the Development Review Board, in conformance with the Zoning Ordinance.
3. The applicant will meet with the Wilmington Police Department and address any concerns raised.
4. To minimize night sky illumination, exterior lighting will be shielded and downcast, of the minimum lumens needed for the functional purpose, not constituting an unreasonable nuisance to neighboring properties, and contributing positively to the aesthetics, scenic value, and character of the area, including the historic nature of the downtown area. The lighting shall not impair the vision of pedestrians or drivers. Interior lighting will be shielded from outside glare to the extent possible without reducing inside visibility.
5. Landscape screening and buffering will include a graduated fence line with low contiguous shrubbery for the first 54' of the easterly property line to prevent children from accidentally crossing over to the Bank traffic area, yet preserving the line-of-sight to the building and roadways (such as contiguous boxwood plants or similar low growing shrubbery), followed by a 6' fence with shrubbery that will fill in at maturity to be contiguous on the eastern side of the fence. The 6' section would run from the contiguous low shrubbery (at approximately 54' back on the easterly property line) to a point on the easterly property line consistent with the rear of the structure, then a minimum of 8' fence with shrubbery that will fill in at maturity to be contiguous on the eastern side of the fence from 6' section of fencing to the rear of the property.
6. Parking spaces will be a minimum of 10' wide and 18' deep,
7. All materials or vehicles shall be stored outside of the estimated Base Flood Elevation (BFE), secured so as to ensure that they are not dislodged in the event of a flood.
8. Hours of Operation will be as stated in this decision.
9. During Construction

- There shall be no significant air emissions of dust, ash, smoke or other particulate matter.
- There shall be no permanent or ongoing vibrations created that can be perceived at the property line.
- There shall be no ongoing or permanent noise created that, at the property line, is louder than a normal conversation.
- Construction shall only occur during daylight hours and in no case before 8 AM or after 8 PM.

The applicant is responsible for obtaining all state and federal permits.

If unused, this Approval expires 2 years 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:

Fred Houston
 Paul Lockyear
 Wendy Manners Seaman
 Peter Wallace

OPPOSED:
 None

ABSTAINING:
 None

For the Board: Wendy Manners Seaman, Chairperson

Date: _____

Copies of this decision have been mailed to: _____

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.