

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND CONCLUSIONS OF LAW
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by:

Owner/Applicant(s) Mailing Address: **Travis Wendel**
Agent Mailing Address: **P.O. Box 1057**
Address of the subject property: **1 East Main Street**

Tax Map: **#021-22-006-000**

A copy of the request is filed in the office of the Board and is referred to as: **Application #2019-003**

Date of Application: **February 26, 2019**

Zoning Ordinance Then in Effect: Adopted October 9, 2017

Description of Case per Public Notice:

Application #2019-003, Owner: Travis Wendel

Application is being made for a Conditional Use Review to allow a Restaurant (Brewery) on the first floor and apartments on the second and third floors. Village zoning district (Historic Review District). Sections 450 B 4, 710, 721, 722, 723 and 730. Location: 1 East Main Street

Notice for a public hearing was published in the Valley News on: **March 7, 2019**

Notice was posted in three public places on: **March 7, 2019**

A copy of the notice was mailed to the applicant on: **March 7, 2019**

A copy of the notice was mailed to the abutters on: **March 7, 2019**

Public hearing was held on: **March 18, 2019, April 1, 2019, April 15, 2019 and May 6, 2019**

There was no Site Visit.

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: June 23, 2019

Approval expires on: May 23, 2021

In addition to the Applicant's agent, Travis Wendel, the following persons heard by the Board in connection with this request: 1) witnesses for the applicant 2) persons who were determined by the Board to be "interested persons":

Witnesses for the applicant: None

Interested Parties:

Susan Haughwout – Representing 10 petitioning individuals: Frances E. Kirchner, Peter Barton, Patricia Johnson, Elizabeth McEwen, Gary Wax, Thomas J. Manton, Jr., Joseph E. Mousseau, Linda M. Brophy, Ben Joyce

There were no appearances by any of the abutters.

Copies of this decision have been mailed to the interested parties listed above.

EXHIBITS

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

1. Application consisting of 4 pages
2. Floor Plans entitled “OO Ware & Deer Leap, 1 E Main St. Wilmington, Vermont Schematic Design” dated 26 March 2019, consisting of 1st, 2nd and 3rd floor plans designated pages A3.10, A3.20 and A3.30 together with a title cover sheet.
3. Photograph of One East Main Street of no date certain but prior to the widespread use of the internal combustion engine.
4. Photograph of One East Main Street circa 1990
5. Abutters List
6. Drawings entitled “ELEVATIONS” by Workshop 48, LLC dated 9/14/15 consisting of pages A-2.00 and A-2.01 and noted “Project, Wilmington Home Center & Professional Building Renovation 1,3, & 5 East Main Street, Wilmington, VT, 05363”
7. Survey entitled “Boundary Survey Prepared for LH Corner, LLC, Lots B Lot C 3 & 5 East Main Street, Wilmington, Vermont” dated July 11, 2018 by Joyce Land Surveying Corp. noted “PRELIMINARY”.
8. Sketch drawing by applicant of “Window/Door pediments”
9. Set of Plans entitled “OO Ware & Deer Leap, 1 E Main St, Wilmington, Vermont, Schematic Design” dated 3 May 13, 2019 consisting of 1st, 2nd and 3rd floor plans designated pages A3.10, A3.20 and A3.30 together with a title cover sheet. These replace Exhibit 2 above.
10. Letter from Chris Lavoy of the Wilmington Water District to Travis Wendel dated 5/3/2019 indicating sufficient water for the project as described.
11. Copy of e-mail correspondence between Gretchen Haverluck and Devin A. Colman, State Architectural Historian dated April 18 and 29, 2019.

SYNOPSIS

The applicant proposes to modify the interior of the first floor of the building to accommodate a craft brewery and tasting area. The second floor will contain an office and two single bedroom apartments; the third floor to contain two single bedroom apartments. The porch/balcony which formerly extended from the second floor will be replaced in substantially the same design as previously existed. The property is the subject to two earlier Zoning Permits being #2014-032 and #2015-074. These permits integrated 1, 3, and 5 East Main Street. The present application concerns only 1 East Main Street now in separate ownership.

APPLICABLE DISTRICT

Finding of Fact: Subject property is identified as Tax Map: 021-22-006-000 and has an address of 1 East Main Street.

Conclusions of Law: The proposed development is located in the **Village District** within the **Historic Design Review District** and in the **Special Flood Hazard District**. The application will be reviewed under Section 450(B) (4) as a Conditional Use, so much of Section 522 (Goals of the Historic Design Review District) as may apply, so much of Article VI (Flood Hazard) as may apply and so much of Article VII (Standards) as may apply.

USES

Finding of Facts: In the past this building has been a hardware store and a carpet store. It has been vacant since the flood in 2011. The proposed uses are a brewery and tasting room serving some food on the ground floor with an office and two apartments on the second and two apartments on the third floor. The apartments are to be single bedroom units. The brewed beer is for on premises consumption only from a “Beer Bar” on a portion of the first floor. (Testimony of the Applicant, Exhibit 9)

Conclusions of Law: The proposal incorporates Manufacturing (brewing of beer), Bar or Lounge (the tasting area) and Dwelling, Multiple family (four apartments). It is a Mixed-Use which is a Conditional Use under Section 450 B 4. The Village District allows an unlimited number of Structures and Uses per Lot. Sections 450 B 4 and 5 a.

Dimensional Requirements:

Findings of Fact: the Applicant seeks a change of use in the interior of building in the Village District and the restoration of a porch and balcony on the front of the building which was removed in 2016. The building is pre-existing on a pre-existing 2925.16 square foot lot. (Exhibit 7)

Conclusions of Law: Not applicable

Article V Design Review Districts

Section 522: Goals of the Historic Design Review District

The Site Plan and Design Goals of the Wilmington Historic Design Review District are as follows:

A. To preserve the historic and cultural heritage of the historic downtown.

B. To support maintenance, change and preservation of building and property in accordance with the design guidelines of this zoning ordinance and consistent with recognized and accepted standards for historic preservation projects.

- C. To promote the Use of buildings and property in a manner that benefits the community and individual property owners, while preserving those features that have architectural or historic merit.
- D. To attract visitors and encourage tourism by enhancing the visual character as a New England village.
- E. To encourage maintenance and preservation of building and property and changes to support a visually attractive village for the pleasure of residents and visitors.
- F. To encourage and support economic growth and prosperity within the community while maintaining the New England Character.
- G. To encourage public and private investments that may result in a positive contribution to visual harmony and economic vitality, and protect these assets for future generations.

The goals of this District shall be considered by the Development Review Board when considering proposed land development for this District.

Findings of Fact: The proposal is to rehabilitate the interior of 1 East Main Street to accommodate a brewery and tasting room on the first floor and an office and four apartments on the upper floors. The front porch will be restored. The “tasting room” is proposed to have 57 seats at tables and along two bars. (Exhibits 1 and 2, Testimony of the Applicant) A cornerstone of the downtown, it dominates the southeast corner of the crossroads at the Village center. Exhibit 7. In the French 2nd Empire style, it was built circa 1880 and is listed on both the National and State Register of Historic Places. (Appendix II.) The applicant will be seeking Historic Tax Credits for the rehabilitation work. (Testimony of the Applicant.) The pediments which formerly were above the doors on the second floor leading to the restored porch will be replaced to match the windows on that floor. (Testimony of the Applicant. See also Exhibit 8.) The use of the ground floor of the building as an observable brewery and tasting area will attract visitors and encourage tourism. Plate glass in the large windows under the porch is historically accurate. (Exhibit 3, See also Findings of Fact in Section 723 B in DRB Case #2019-002 at page 11.) The windows on the westerly side were approved by a prior permit. The proposed exterior rehabilitation will support a visually attractive village and encourage economic growth. It will create a positive contribution to visual harmony and economic vitality, protecting assets for future generations

Conclusion of Law: This section is satisfied.

Article VI Flood Hazard District

Section 602 (A-C): Lands to Which These Regulations Apply

These regulations apply to development in all areas of the town identified as special flood hazard in and on the most current flood insurance studies and maps published by the Dept. of Homeland Security, FEMA, and National Flood Insurance Program (NFIP), as provided by the ANR pursuant to 10 V.S.A. section 753. The base flood elevations and floodway limits (zones A1 – A30, AE and AH) provided by the NFIP shall be used to administer provisions of the regulation. If none is provided by the NFIP then information available from the state or federal agencies or other sources

shall be obtained and reasonably utilized.

Findings of Fact: One East Main Street is within the Floodway Fringe of the Flood Hazard District as defined by DHS, NFIP or FEMA flood maps. The Base Flood Elevation (BFE) is 24 inches below the first floor. (Testimony of Craig Olson)

Conclusions of Law: The application will be reviewed under Article VI.

Section 610: Development Standards

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

A. 2. Floodway Fringe Areas:

Findings of Fact: The building is pre-existing having been build circa 1880. See Appendix II. It is within the Floodway Fringe. However, the BFE is 24 inches below the first floor level. Testimony of Craig Olson. The heating and electrical services together with all other mechanical services have been moved to the first floor above the BFE. Exhibit 9 Sheet A3.10. The area below the first floor will be vacant and unused. (Testimony of the Applicant)

Conclusions of Law: The requirements of this section have been met.

B. Residential Development

Findings of Fact: The proposed development is not residential. (Application)

Conclusions of Law: Not applicable.

C. Non-Residential Development

Findings of Fact: The proposed development is mixed use with a commercial brewery and tasting room on the first floor with an office a four single bedroom apartments above. There will be no improvements below the BFE beyond the removal of all mechanicals including but not limited to heating and electrical systems to the first floor which is above the BFE. The basement is to remain vacant and unused. (Exhibit 9 and Testimony of the Applicant.)

Conclusions of Law: This condition is satisfied.

D. Subdivisions

Findings of Fact: The proposed development is not a subdivision. (Application)

Conclusions of Law: Not applicable.

E. Enclosed Areas Below the Lowest Floor

Findings of Fact: All areas below the first floor are to be unused. There are windows in the foundation that will permit the flowage of flood waters through the building. (Testimony of the Applicant.)

Conclusions of Law: This condition is satisfied

F. Recreational Vehicles

Findings of Fact: No recreational vehicles are proposed to be placed on site. (Testimony of the

Applicant)

Conclusions of Law: Not applicable

G. Accessory Structures

Findings of Fact: No accessory structures are proposed. (Application)

Conclusions of Law: Not applicable.

H. Water Supply Systems

Findings of Fact: Water is supplied by the municipal system which, purportedly, meets the requirements of this standard. (Testimony of Applicant)

Conclusions of Law: This standard is satisfied.

I. Sanitary Sewage Systems

Findings of Fact: The building is connected to the municipal septic system and has been for some time. No modifications are proposed. (Testimony of the Applicant) There is no certification from the Town of Wilmington that there is sewage capacity for a brewery, tasting room lavatories and four single bedroom apartments.

Conclusions of Law: This permit shall be conditioned upon the filing by the Applicant of a certification from the Town of Wilmington stating that the municipal septic system has the capacity to serve a brewery, tasting room lavatories and four single bedroom apartments..

J. On-Site Waste Disposal Systems

Findings of Fact: Refuse from brewing and tasting operations will be stored above the BFE in secured containers in the interior or removed off-site. (Testimony of Applicant) Refuse from the tenants in the four apartments will be placed in refuse containers in a separate interior room above the BFE. (Testimony of the Applicant and Sheet 3.10 of Exhibit 9)

Conclusions of Law: This condition is satisfied.

K. Watercourse Carrying Capacity

Findings of Fact: No watercourse or floodway is proposed to be altered. (Application)

Conclusions of Law: Not applicable.

L. Securing Floatables

All floatables in any District and in an area which has historically flooded and all Flood Fringe Areas shall be raised above the 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.

Findings of Fact: All floatables will be secured. Refuse containers will be kept inside and above the BFE. There will be no propane tanks. The oil tank in the basement will be secured to prevent its movement in time of flood. Furniture in the tasting room is above the BFE. (Testimony of the Applicant)

Conclusions of Law: The requirements of this section have been met.

Article VII Standards

Section 710: Use Performance Standards

A. Vibration: No continuous, permanent, ongoing, or frequent vibration that is discernible at the property line.

Findings of Fact: There will be no continuous, permanent, ongoing, or frequent vibration on the premises. No machinery is to be utilized such as to create such vibration. (Testimony of the Applicant)

Conclusions of Law: Standard 710 A is met.

B. Noise: Continuous, permanent, ongoing or frequent noise in excess of that of a normal conversation must not exist at the property line. Recurring periodic noise in excess of that of a normal lawn mower at the property line is allowed provided it does not occur between the hours of 9PM and 7AM and does not significantly detract from or diminish other property's allowed use or land development.

Findings of Fact: There will be no continuous, permanent, ongoing or frequent noise in excess of that of a normal conversation at the property line. The manufacturing system consists of large boiling vats. There is no capacity for bottling sought. Product will be placed in kegs. (Testimony of the Applicant)

Conclusions of Law: Standard 710 B is met.

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

1. Cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity.
2. Contaminate the property or beyond the property boundaries.
3. Have solid or liquid particulates in concentrations exceeding state standards.
4. Cause odorous matter in quantities as to be offensive

Findings of Fact: There will be no venting of the brewing process to the exterior. There shall be no emission of dust, ash, smoke or other particulate matter. (Testimony of the Applicant)

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 will cause injury or damage to human or animal health, vegetation, or property.

Finding of Facts: No injurious or noxious practices, as defined, will be conducted on the premises. (Testimony of the Applicant)

Conclusions of Law: Standard 710 D is met.

Section 720: Applicability of Conditional Use Standards and Site Plan and Design

Guidelines: The Development Review Board shall utilize the Listing of Structures in the State and

Federal Registers of Historic Places (Appendix II) to determine the historical significance of all pre-existing Structures seeking written decision and approval for alteration, renovation or change.

Finding of Facts: The subject parcel is listed in Appendix II as being on the National and State Register of Historic Places. The applicant has been in contact with the office of the State Architectural Historian (Exhibit 11) and is seeking tax credits for the restoration of the building. (Testimony of the Applicant)

Conclusions of Law: The structure has historical significance and is located within the Historic Design Review district. The application has been reviewed under Article 5.

Section 721: General Standards

The proposed use shall protect against adverse effect on:

A: The Capacity of Existing or Planned Community, Municipal or Educational Facilities

Findings of Fact: There will be 1-2 individuals employed in the brewery and an additional 3-4 individuals serving in the tasting areas. (Testimony of the Applicant)

Conclusions of Law: No additional stress will be placed on the Town facilities or educational system.

B. Traffic on Roads and Highways

Findings of Fact: The proposed site is accessed from East Main Street at the crossroads in the heart of the Village. The speed limit through this area is 25 miles per hour. Stoplights at Ray Hill Road and the center of town ensure traffic maintains slow speeds through this area. The proposed interior seating is for 57 customers. Maximum number of daily patrons is presently unknown. (Exhibit 2 page 3.10 and Testimony of the Applicant)

Conclusions of Law: The proposed development will have minimal impact on traffic. Standard 721 B is met.

C: Bylaws and Ordinances in Effect

Finding of Facts: Proposed development has been shown to be conforming to all bylaws and ordinances in effect at the time of this decision including the Zoning Ordinance and the Town Plan.

Conclusions of Law: This application is in conformity with all bylaws and ordinances. Standard 721 C is met.

D. Utilization of Renewable Energy

Findings of Fact: The heating system will be oil and there are no plans for any renewable energy systems. The building will be insulated under the Vermont Building Code. (Testimony of the Applicant)

Conclusions of Law: Standard 721 D is met.

E. Air Quality

Finding of Fact: See Section 710 C above

Conclusion of Law: Standard 721 E is met.

F. Character of the Area

Findings of Fact: The purpose of the Village District is:

“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.

Development and reconstruction shall reflect the character and ambiance of the historic village. Businesses shall promote economic stability and sustainability of the town through contributing substantially to the economic viability of the community. Businesses shall provide a substantially unique retail and service experience to attract visitors and meet the needs of residents. Businesses shall reflect the special character and ambiance of the town. Businesses shall be small in scale consistent with the clustered downtown of the historic village.”

The proposed project is to rehabilitate a pre-existing building which dominates the southeasterly side of the crossroads in the center of the village. The structure is registered on both the national and state registries of historic places and is in the style of the French Second Empire. (Appendix II) There was a porch on the front (north side) of the building extending from the second floor with supporting columns that was damaged in the flood of 2011 and subsequently removed. Exhibit 4 The applicant proposes to replace this removed porch with one similar to that shown in Exhibit 3 with brackets on the tops of the columns. The columns, however, will not be turned. Testimony of the Applicant. The railing on the top of the porch will be 42 inches high as required by State of Vermont Health and Safety regulations. Plate glass will be restored to the front of the building under the porch. The applicant proposes a mixed use of office space and four single bedroom apartments on the upper floors. (Testimony of the Applicant) The restored building will again take its place as a key building in the village.

Conclusions of Law: The proposed development is consistent with the defined purpose of the Village District and is consistent with the historic nature of the Village. Standard 721 F is met.

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

A. Preserving the Town’s Character: The proposal will revitalize an historic building at the center of the village with a brewery and tasting room on the ground floor and office and residential development on the upper floors. This adds to both the commercial and residential attributes of the village and preserves the multi-use character of the area.

B. Economic Development Contributing to the Character of the Town: The observable brewing of beer and having a tasting area in a pre-existing building does not detract from the historic nature of the town and adds to a family destination for tourists..

C. Development Consistent with the Rural, Agricultural, and Historic Nature of the Town: The proposed development of a brewery with an office and residential apartments in a historic building that was formerly a carpet, paint and hardware store. The multiuse nature of the proposal

is in keeping with the historic nature of the town. The replacement of the porch will restore the exterior of a historic building,

D. Formula Businesses – Not applicable, not a formula business as defined

E. Maximum Square Footage of Retail (2000 square feet) – Not applicable, not retail.

F. Building Scale Conformity – Not applicable, existing building

G. Utility Placement – Not applicable

Findings of Fact: The proposed use is within an existing building in the historic downtown. The addition brewery with tasting facilities on the ground floor with an office and apartments above is in keeping with the mixed use of village buildings.

Conclusions of Law: The proposed use preserves the character of the town consistent with the rural, agricultural, historic nature of the town as a family oriented tourist destination and a residential community. Standard 722 A, B, and C are met. Section 722 D, E, F and G are not applicable.

Section 723: Conditional Use - Preserving the Character of the Town: Historic Preservation (required in the Historic Design Review District (HDRD), recommended in all other districts)

A. Historic Structures: No development shall compromise a certified Structure’s historic status.

Findings of Fact: The building is listed on the National and State Register of Historic Places. Appendix II. The applicant seeks to restore the porch on the front of the building. Testimony from the Zoning Administrator indicates that the State Division of Historic Preservation has no objections to the project. (See Exhibit 11)

Conclusions of Law: This condition is satisfied.

B. Historic Preservation, Rehabilitation and Restoration. Historic features and historic Structures shall, to the extent reasonable and possible, be preserved, rehabilitated, or restored.

Findings of Fact: The historic feature of the porch on the front façade of the building will be restored. It will look as shown on Exhibit 3. The fenestration on the front façade will be as shown on Exhibit 6. The doors onto the second floor porch are to be restored together with the window and door lintels. (Testimony of the Applicant)

Conclusions of Law: This condition is satisfied.

Section 730: Conditional Use – Specific Standards

A. Lighting and Glare: Shall be shielded and downcast. Glare and reflection is prohibited if it is a unreasonable nuisance to other property owners or tenants, does not contribute to aesthetics, scenic value or character of the area, or could impair vision of pedestrians or drivers. In HDRD and Village District exterior lighting must be consistent with historic character of the commercial area of the village

Findings of Fact: There will be recessed lighting under the porch roof. There will be no glare onto East Main Street. (Testimony of the applicant)

Conclusions of Law: Standard 730 A is met.

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

Findings of Fact: All three floors of the building will have a sprinkler system and comply with Vermont Fire and Safety Regulations as to fire doors and other requirements.. The Applicant has met with Wilmington Police and Fire representatives who have not expressed any concern regarding the project. (Testimony of the Applicant)

Conclusions of Law: This condition is satisfied.

C. Traffic and Pedestrian Safety: 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 review for safety, ease of flow and efficiency.

Findings of Fact: Access to the premises is from the sidewalk on the southerly side of East Main Street. There is a traffic light and cross walk on East Main Street within ten yards of the entrance giving pedestrian access from the southerly side of East Main Street. No disruption of present traffic flows is sought or within future plans. (Testimony of Applicant)

Conclusions of Law: Standard 731 C is met.

D. Commercial Parking and Loading: Commercial parking and loading areas in all districts shall:

1. **Provide off-street parking** (except in the Historic Design Review District)
2. **Parking spaces shall be 10 x 18** (smaller allowed only if need for added spaces outweighs the risk and public inconvenience of smaller spaces). Special consideration shall be given to safety, pedestrian and disabled persons concerns when smaller spaces are allowed.
3. **Minimum number of spaces:** One (1) parking space for each 200 sq ft. retail.
4. **Drive-up Windows:** no waiting lines in public ROW
5. **Minimize visual impact of parking/loading areas**
6. **Buffer parking areas** if needed for safety or aesthetics
7. **Public Road Access:** minimize traffic interruption, provide for auto and pedestrian safety
8. **Rainwater, Snow, and Ice Removal/Storage:** Plan for snow/ice removal, runoff, safety.
9. **Safety:** Minimize physical hazards, provide safe pedestrian and vehicular movement with un-obscured views, especially visibility at intersections, pedestrian safety, convenience, emergency access.
10. **Neighboring properties:** integrate circulation and parking with neighboring properties. Work to maximize for efficiency, safety, and attractive solutions.

Finding of Facts: The property is in the Village Historic Design Review District. There is no requirement for on-site parking in this district.

Conclusions of Law: Standard 732 D is not applicable.

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

Findings of Fact: The proposed use does not involve road development.

Conclusions of Law: Section 730 E is not applicable

F. Landscaping, Screening and Development: Shall “preserve the rural and agricultural character and ambiance of the community”. Natural features characteristic of the town’s rural and agricultural nature shall be preserved. Landscaping and Screening shall be used to preserve and protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties.

Findings of Fact: There are no opportunities for visual barriers or buffering on this lot as the entrance porch rises directly from the public sidewalk and the building covers the entire lot. (Exhibit 7)

Conclusions of Law: This condition is satisfied

G. Land and Water Management: Protect properties, transportation systems, and public safety by
a. Safe and appropriate water management including water supply/availability, stormwater retention/absorption, and impervious surface/runoff management.

b. prevent and control against water pollution

c. make provision for management of erosion, preservation of rivers & streams, river/stream bank management, wetland protection, waterway and channels management, and agricultural land protection,

Findings of Fact: The proposed interior brewery and tasting room in an existing building with municipal water and sewer will not create issues of land and water management. The historic building covers the whole of the lot. (Exhibit 7) There is no ability to deal directly with water management issues. (Testimony of Applicant)

Conclusions of Law: Standard 730 G is met.

H Wastewater and Potable Water: A permit may be issued upon receipt of evidence there is a wastewater and potable water permit. If none is received with a submitted application, the Permit will be conditioned on receipt of a wastewater and potable water permit at which time a final Permit will be issued. DRB shall instruct the applicant on their responsibility to obtain state and federal permits and may condition their decision on obtaining such permits.

Findings of Fact: The premises is served by the municipal water and sewer service. The applicant has testified that the present water and sewer allocations are sufficient for the proposed use. (Testimony of Applicant, Exhibit 10)

Conclusions of Law: Standard 730 H is conditionally met. The applicant shall file with the zoning administrator documentation showing sufficient municipal sewer allocation for the operation of a 57 seat tasting room, brewery, an office and three single bedroom apartments..

I. 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, impervious surfaces essential to stormwater detention, agricultural lands, open scenic lands, scenic vistas, scenic features, unique natural or manmade features, and renewable energy sources.

Findings of Fact: The building to be renovated is located at the corner of East Main and South Main streets in the heart of downtown Wilmington. The project will not impinge upon any natural resources or features

Conclusions of Law: Not applicable

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

Findings of Fact: 1 East Main is in the congested downtown area and is not identified on the town Natural Resources Map, Nov 2016 as having any rare or uncommon animals; a significant natural community; a deer wintering area or wildlife habitat.

Conclusions of Law: The proposed Use will not have any adverse impact on wildlife habitats or corridor. Standard 730 J is met.

K. Shoreland Protection: Compliance with Shoreland Protection Act if development is within 250 feet of a body of water greater than 10 acres.

Findings of Fact: Proposed development is not within 250 feet of a body of water of sufficient size

Conclusions of Law: Standard 730 K is not applicable.

L. Flood Hazard Protection: Development must comply with the provisions of Article VI Flood Hazard District.

Findings of Fact: 1 East Main St is within the Flood Hazard District

Conclusions of Law: See responses under Article VI above.

M. Energy Resources: Commercial Development shall comply with the Vermont Commercial Building Energy Standards. The residential portion of the development shall comply with Vermont Residential Building Energy Standards. 30 V.S.A. (51 & 54)

Findings of Fact: The rehabilitation will comply with these standards. (Testimony of the Applicant).

Conclusions of Law: Section 730 M is met

N. Technical Review Costs: Applicant may be required to pay reasonable costs of technical review.

Findings of Fact: There are no technical review costs.

Conclusions of Law: Section 730 N is not applicable.

Section 732: Conditional Use - Other Specific Standards

- A. Affordable Housing
- B. Automotive Service Station and Repair Garage
- C. Junked Vehicles
- D. Medical Marijuana Dispensaries
- E. Mobil Home Parks (Trailer Parks)
- F. Ponds/Water Impounds
- G. Quarry Operations

H. Recreational Vehicle Storage

I. Solar Projects

J. Wind Turbines

Findings of Fact: The proposed development does not fall into any of the above categories.

Conclusions of Law: Not applicable

CONDITIONS:

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

1. Except as otherwise required to accommodate the conditions of this decision, development will be executed in accordance with Exhibits, Findings of Fact and Conclusions of Law in this decision. Any changes to the plans will require an administrative approval from the zoning administrator or a review by the Development Review Board as required by the Zoning Ordinance.
2. The Applicant shall file with the zoning administrator documentation showing sufficient municipal sewer allocation for the operation of a brewery, a 57 seat tasting area, office and three single bedroom apartments.
3. The Applicant will meet with Wilmington Police and Fire representatives to determine any additional safety requirements.
4. Hours of operation shall be from noon to 10 P.M.
5. The basement shall remain empty and unused.
6. All floatables below the Base Flood Elevation shall be secured.
7. Refuse containers will be located in the interior of the building and shall be sufficient to accommodate the residential users as well as the commercial uses and located above the Base Flood Elevation.
8. Any sign lighting will be shielded and downcast with the minimum lumens necessary to meet the needs of the lighting purpose of preserving pedestrian and vehicular safety. Lighting shall not generate undue or excessive glare so as to interfere with neighboring properties and will not impede the vision of drivers.
9. There shall be no significant air emissions of dust, ash, smoke or other particulate matter.
10. There shall be no permanent or ongoing vibrations created.
11. There shall be no ongoing or permanent noise created.
12. All windows and doors on the north side above the porch shall have pediments as shown on Exhibit 8.
13. Fenestration of the west side shall be as presently exists.
14. 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:

Cheryl LaFlamme
Paul Lockyear
Fred Houston
Charles Foster

OPPOSED:
none

ABSTAINING:
none

For the Board: Cheryl LaFlamme, Vice-Chairperson

Date: May 23, 2019



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.