

**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: **Crooked Steeple LLC**

Owner/Applicant(s) Mailing Address: **655 Longmeadow St, Longmeadow, MA 01106**

Address of the subject property: **12 South Main Street**

Tax Map: # **20-22-023.000**

A copy of the request is filed in the office of the Board and is referred to as: **#2020-005**

Description of Case per Public Notice:

Application # **2020-005**: Owner(s): **Crooked Steeple LLC**

Application is being made to consider the change of use from an Institutional use serving a church/childcare to a Retail coffee shop and event space/gallery at 12 East Main Street. Applicant also proposes to perform minor maintenance repairs to the exterior siding and clean-up of existing landscaping.

Applicable Wilmington Code Section 222, 522, 530, 602, 610, 720, 722, 723, 730.

Notice for a public hearing was published in the Valley News on: **03/19/2020**

Notice was posted in three public places on: **03/18/20**

A copy of the notice was mailed to the applicant on: **03/18/20**

A copy of the notice was mailed to the abutters on: **03/18/20**

Appeal period for this Case expires on: 05/21/2020

Approval expires on: 05/20/2022

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

Justin Will
Ginny Reed

EXHIBITS

The following Exhibits were placed in evidence by the Applicant or their Agent:

1. Application
2. Application summary
3. Space use illustration
4. Interior design illustration

5. Photos of repair
6. Photo of suggested sign location
7. Lighting example
8. Flood Boundaries
9. Notice of Hearing
10. Abutter Notice
11. Parcel map
12. Example sign

SYNOPSIS

The application proposes change of use from Church/day care to Retail coffee shop and minor repairs to exterior, replace/repair lighting and new sign hanging from present frame.

ARTICLE IV: DISTRICTS & USES

Section 430-433 Legal Non-Conforming Structures, Lots, or Uses

Section 440-441 Height Limitations

Section 445-448 Exceptions (Setbacks, Small Structures, Agricultural, and Community Facility /Municipality)

Section 461-463 Business Uses within a Dwelling

Finding of Facts: This application does not fall into any of the above categories

Conclusions of Law: Not applicable

ARTICLE IV (CON'T) –

Section 450: Districts

A) Conservation

B) Village (a) within the HDRD and (b) outside the HDRD have unique dimensional requirements

C) Residential

D) Resort Residential

E) Commercial/Residential

F) Resort Commercial/Residential

DISTRICT

Finding of Fact: Subject property is in the Village District within the Historic Review District and is not in the Special Flood Hazard District. The property is identified as Tax Map: #20-22-023.000
The application will be reviewed under Section 450 (B) (4) as a Conditional Use, 520 Historic Design Review District Purpose, 522 Goals of the Historic Design Review District, Article VI Flood Hazard District Section 602, Article VII Standards Section 710.

Finding of Facts: The Primary Use of the structure is Retail.

Conclusions of Law: The proposed Uses are Conditional Uses in this district.

ARTICLE V: DESIGN REVIEW DISTRICTS- OVERLAY DISTRICTS

Section 510 – 512: Village Design Review District

Section 520 – 522: Historic Design Review District

Finding of Facts: The application is for a property within the Historic Design Review District

The Structure is listed in the Appendix II listing of structures in the State or National Registers of Historic Places.

The year built is listed as 1835

The style of the original structure is Greek Revival.

Conclusions of Law: All proposed repair/replacement shall be consistent with the Greek Revival style of 1835 as noted above.

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.

Findings of Fact: The proposed change of use to a Retail Coffee shop will rehabilitate the interior of the building.

The proposed development benefits the community will encourage economic growth through offering a coffee retail location & providing a location to gather, and is an investment in our downtown to make a positive contribution for visual and economic vitality.

Conclusion of Law: The proposal as presented meets the goals of the Village Design Review District.

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.

Finding of Facts: The subject property is not within the Floodway or Floodway Fringe Area. This application is not subject to the relevant Flood Hazard provisions of the Zoning Ordinance.

Conclusions of Law: Flood Hazard District regulations applying to Floodways/Floodway Fringe Area are not applicable to the proposed development. Testimony provided by ZO Mike Tuller confirmed property is out of Floodway.

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 9 PM and 7 AM 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 applicant has agreed to hours of operation from 7am to 7pm with no events to be held at this location until future meeting with DRB.

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 to the exterior. There shall be no emission of dust, ash, smoke or other particulate matter. (Testimony of 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.

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

Conclusions of Law: this condition is satisfied.

SECTIONS 721: GENERAL STANDARDS

The proposed use shall protect against adverse effect on:

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

B. Traffic on Roads and Highways

C: Bylaws and Ordinances in Effect

D. Utilization of Renewable Energy

E. Air Quality

F. Character of the Area

Findings of Fact: The purpose of the Historic Design Review 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.

Finding of Facts: Proposed changes are consistent with the defined purpose of the Historic Design Review District and is consistent with the historic nature of the District.

Conclusions of Law: The pro change is consistent with the defined purpose of the Village District and is consistent with the historic nature of the Village posed window. Standard 721 F is met.

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

A. Preserving the Town's Character

B. Economic Development Contributing to the Character of the Town

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

D. Formula Businesses

E. Maximum Square Footage of Retail (2000 square feet)

F. Building Scale Conformity

G. Utility Placement

Findings of Fact: The proposed land development is not applicable to provisions

Conclusions of Law: The proposed land development meets the requirements of Section 722

Section 723: Conditional Use - Preserving the Character of the Town: Historic Preservation

(compliance is required for properties in the Historic Design Review District (HDRD))

A. Historic Structures:

All Conditional Uses for a certified historic Structure as defined by Internal Revenue code 26 U.S.C. Section 47 (c) and/or recognized in the National Register of Historic Places, or by the Preservation Trust of Vermont shall not engage in land development that will compromise the Structure's historic status. Every effort shall be made to preserve and enhance the historic features of Structures dating to 1920 or earlier. Preservation and enhancement of historic Structures shall be compatible with the historic character of the town and region.

Findings of Fact: Based on the Appendix II listing of the Zoning Ordinance: This property is listed in the National and State Registers of Historic Places, with an original style of Greek Revival. The structure was built in 1835. The proposed land development has the following characteristics which are appropriate to the style and year of construction.

Conclusions of Law: This standard is met.

B. Historic Preservation, Rehabilitation and Restoration. Historic features and historic Structures shall, to the extent reasonable and possible, be preserved, rehabilitated, or restored. (Preservation, Rehabilitation, Restoration including Reconstruction as defined in Section 723 B of the Wilmington Zoning Ordinance)

Consistent with Section 723 D, criteria to be applied in determining which of these approaches is most appropriate for the structure include the property's:

1. Historical significance
2. Physical condition
3. Proposed Use
4. Reasonableness of undertaking Preservation, Rehabilitation, or Restoration/Reconstruction

5. Degree to which it will contribute to preserving or enhancing the character of the community
Findings of Fact: proposed renovation is not applicable to provisions.
Conclusions of Law: This condition is satisfied.

C, Historic Features: For reconstruction, historic features of Structures or complimenting the historic features of the region shall be retained or reconstructed.

Finding of Facts: The proposed land development is not a reconstruction. In accordance with this Standard the development features must compliment the historic features of the structure or the region. The Board finds the proposed development is consistent with the region.

Conclusions of Law: This condition is satisfied.

D. Criteria for Determining Preservation, Rehabilitation, Restoration/Reconstruction:

See 732 B above.

E. Demolition of Historic Structures

The owner of a historic structure that may reasonably be Preserved, Rehabilitated, Restored/Renovated shall not demolish any historic Structure certified as a historic Structure as defined by Internal Revenue Code 26 U.S.C. Section 47 (c) or listed on any State or Federal Register of Historic Places.

Finding of Facts: No demolition is proposed for this structure.

Conclusions of Law: This standard is not applicable.

SECTION 730: CONDITIONAL USE – SPECIFIC STANDARDS

A. Lighting and Glare: Shall be shielded and downcast. Glare and reflection is prohibited if it is an 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: Per testimony of the application, no changes will be made to existing lighting until a lighting plan can be presented to the DRB. The existing lighting illuminating the church steeple will not be utilized until a plan can be reviewed by the DRB.

Conclusions of Law: Standard 730 A is not applicable at this time.

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

Findings of Fact: Minor renovations will have no safety hazards.

Conclusions of Law: The decision will be conditioned on the physical hazard safety precautions noted above. Standard 730 B is conditionally met

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: There will be no traffic or pedestrian safety issues during renovation.

Conclusions of Law: The decision will be conditioned on the traffic and pedestrian safety precautions noted above. Standard 730 C is conditionally 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: No parking on site.

Conclusions of Law: Standard 732 D is met.

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

Findings of Fact: The proposed change 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: Landscaping and Screening opportunities to preserve and protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties include minor changes to existing landscaping & window boxes.

Conclusions of Law: Standard 730 F is conditionally met

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: No water concerns.

Conclusions of Law: Standard 730 G is conditionally 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: Not applicable

Conclusions of Law: Standard 730 H is conditionally met

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: Not applicable

Conclusions of Law: Standard 730 I is conditionally met.

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

Findings of Fact: Not applicable

Conclusions of Law: Standard 730 J is conditionally 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: This waterway is not a Shoreland to a body of water of greater than 10 acres.

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: Property is not 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

Findings of Fact: Not applicable

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.

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 4, 5, 6 and the testimony provided. Any changes to the plans will require an administrative approval from the Zoning Administrator and/or a review by the Development Review Board, in conformance with the ordinance.
2. Per testimony provided by the applicant, no changes will be made to the existing lighting until a future lighting plan design can be presented to the DRB. Also, the exterior lights illuminating the church steeple will not be turned on until the lighting plan is presented to the DRB.
3. Per Testimony of the applicant, the hours of operation will be 7am-7pm. Also no events will be held in the location until the hours of operation & noise levels are reviewed by the DRB. The applicant stated that they will review their plans & bring back to the DRB at a future date.

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:

Diane Abate
Cheryl LaFlamme
Charles Foster

OPPOSED:

None

ABSTAINING:

None



Date: 4/21/2020

For the Board: Cheryl LaFlamme, Chairperson

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.
