

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: Alice Richter for the Crafts Inn Owners Association Inc.

Agent(s) Mailing Address: **PO Box 385, Wilmington VT, 05363**

Owner/Applicant(s) Mailing Address: **PO Box 385, Wilmington VT, 05363**

Address of the subject property: **10 West Main Street, Wilmington, VT 05363**

Tax Map #**020-20-082.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2012-008

Description of Case per Public Notice:

Application # 2012-008; owner: Crafts Inn Owners' Association Inc.; Agent: Alice Richter. Application being made for Flood Hazard and Historic District review to allow construction of a gazebo of 288 sq. ft. at a time share; Flood Hazard Area Regulation Sections 804, 811 & 820.B.7 and the Zoning Ordinance Section 620; location: 10 West Main Street.

Notice for a public hearing was published in the Valley News on: **2/10/2012**

Notice was posted in three public places on: **2/10/2012**

A copy of the notice was mailed to the applicant on: **2/10/2012**

A copy of the notice was mailed to the abutters on: **2/10/2012**

The public hearing was held on: **3/19/2012**

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Vermont Environment Court.

Appeal period for this Case expires on: April 27, 2012

In *addition* to the Applicant / Agent the following persons were heard by the Board in connection with this request: (Copies were mailed to those persons listed below as having been heard.)

Alice Herrick, Zoning Administrator

I. The Board FINDS:

The following are the circumstances which give rise to the request, and the following are facts and opinions presented to the Board at the hearing and developed by the Board in independent evaluation.

EXHIBITS:

- Application (three pages)
- A Design Plan application dated 1/23/1998
- B Site Plan
- C Site Plan with photo
- D Gazebo elevation
- E Gazebo floor framing
- F Gazebo details by Kloster Farms, Dwg. No. PVG-1
- G Hurricane anchor details
- H Case Summary
- I Abutters List
- J E-mail from Rebecca Pfeiffer, February 24, 2012
- K Specifications for Techno Metal posts (12 sheets)

1. The subject property is in the Commercial, Historic Review and Flood Hazard Districts of the Town of Wilmington. The property is identified as Tax Map 020-20-082.000.
2. The use of the property consists of a condo / timeshare with associated amenities.
3. The new structure will be the same style, dimensions and location as the gazebo lost during the flooding caused by Tropical Irene in 2011. The site is ninety four (94) feet south of Vt. Rte. 9 West (West Main Street), twenty feet (20) from the riverbank, and situated below road grade, therefore reducing its visibility from the main traffic flow.
4. The structure shall be used for storage of outdoor furniture for the majority of the year, and on some occasions, for gatherings.
5. The gazebo is not enclosed by any walls but has decorative railings and posts.

6. The applicant testified that the majority of the structure would be built with pressure treated lumber. Additional materials would include Western Red Cedar shingles for the roof, and decorative vinyl railings and post covers.
7. Electricity will be supplied to the gazebo by means of underground watertight conduit for use by electrical outlets and interior lighting.
8. The original plan was to anchor the gazebo with anchors used for hurricanes (Exhibit G). At the hearing the Applicant presented a different plan what would use post driven into the ground and secured to the building. (Exhibit K). The Applicant stated that this would better meet flood proofing requirements.

II. Regarding the Flood Hazard criteria, the Board CONCLUDES:

Installation of a gazebo in the Flood Hazard District requires approval under the Flood Hazard Area Regulations of the Town of Wilmington (Article VIII). With regards to the Flood Hazard criteria, the Board concludes that this proposal *will* conform to the requirements of the Wilmington Flood Hazard Area Regulations and the following standards:

820. B.7: Accessory Structures: A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building meets the following requirements:

(a) The structure must only be used for parking or storage

Although it will be used for gatherings, on a daily basis its use is storage.

(b) The structure shall be designed to have low flood damage potential, OR the structure must have the FEMA required openings to allow floodwaters in and out;

The gazebo is an open structure and therefore meets FEMA requirements for allowing floodwater to flow through the structure.

(c) The structure must be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters, OR the structure must be constructed using flood resistant materials below the base flood elevation;

The structure of the gazebo will be made of flood resistant materials.

(d) The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement; and

The base of the structure will be anchored to as securely as possible to the ground by means of Techno metal posts.

(e) All building utility equipment including electrical and heating must be elevated or flood proofed.

The supply line to the electrical outlets on the structure will be sealed and watertight. There is no heating.

II. CONDITIONS for Flood Hazard approval:

This is granted subject to the following restrictions, requirements, limitations or specifications.

1. The gazebo shall be consistent with the design, size, and placement presented in the Exhibits.
2. In order to address the concerns put forth by the State of Vermont, Department of Environmental Conservation (exhibit J), the structure shall be constructed of pressure treated materials and/or rot resistant cedar, with vinyl decorative accessories. It shall be raised above ground level to lower resistance by allowing water to flow under, as well as through, the structure.
3. The 6"x6" posts shall be arranged in two rows of three posts each, and secured with Techno Metal posts that have been drilled as deep as necessary to anchor them securely to the ground.
4. All electrical wiring shall be watertight. Electrical outlets shall be ground faulted (GFI).

III. Regarding the Historic Review District criteria, the Board CONCLUDES:

Installation of a gazebo in the Historic Review District requires approval under the Zoning Regulations of the Town of Wilmington (Article VI). With regards to the Historic Review criteria, the Board concludes that this proposal *will* conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

The Board concludes that because the gazebo is not enclosed by walls it does not meet the Zoning Ordinance's definition of a building. Therefore, the Building Review Criteria does not apply. However, the Board finds that the gazebo is consistent with other buildings and structures in the Historic Review District.

IV. CONDITIONS for Historic Review District approval:

This is granted subject to the following restrictions, requirements, limitations or specifications.

1. The gazebo shall be located as presented in the exhibits.

2. Due to the structure's orientation away from the main traffic area and the site being below grade, the use of vinyl railings and post covers, for ease of maintenance, are acceptable.

Thus, the Development Review Board *does approve* the application for the construction of a gazebo of 288 sq. ft. in the Historic Review and Flood Hazard Districts.

If unused, this Approval expires 1 year from the date of issue. A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit *must* be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval *does not relieve you*, as applicant, from obtaining any and ALL applicable State and other local permits.

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

Gil Oxley
Nicki (Polly) Steel
Andrew Schindel
David Kuhnert
Paul Tonon

OPPOSED:

None

For the Board: Polly Steel, Chairperson

Date: 3/28/2012

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.