

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: **Herbert & Leslie Burdett**

Owner/Applicant(s) Mailing Address: **PO Box 92, Wilmington VT, 05363**

Address of the subject property: **7 West Main Street, Wilmington, VT 05363**

Tax Map #**021-20-031.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2012-097

Description of Case per Public Notice:

Application # 2012-097; owner: Herbert & Leslie Burdette, Trustees.
Application being made for Flood Hazard and Historic District review to
allow repair to a flood damaged structure and repair to an existing deck at
a Retail with apartments structure; Flood Hazard Area Regulation
Sections 804, 811 & 820.B and the Zoning Ordinance Section 620;
location: 7 West Main Street.

Notice for a public hearing was published in the Valley News on: **8/31/2012**

Notice was posted in three public places on: **8/30/2012**

A copy of the notice was mailed to the applicant on: **8/30/2012**

A copy of the notice was mailed to the abutters on: **8/30/2012**

The public hearing was held on: **9/17/2012**

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: October 31, 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 (four pages)
- A Abutters List
- B Substantial Damage Estimator (five pages)
- C Property Assessment Information
- D Case Summary
- E E-mail authorization for Agent David Dyas

1. The subject property is in the Commercial and the Historic Review Districts of the Town of Wilmington. It is considered an historic building contributing to the Historic Review District. The property is identified as Tax Map 021-20-031.000.
2. It was noted that the Public Notice misspelled the Applicant's name. The correct spelling is Burdett. Agent David Dyas spoke for the Application.
3. The structure sustained damage to the porch and basement, as a result of the floodwaters from Tropical Storm Irene in 2011.
4. The Applicant has chosen not to mitigate the repairs to the damaged structure.
5. Repairs will only be necessary to a portion of the first floor porch decking.
6. Except for repairs there is no exterior work proposed.

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

The subject property is in the Historic Review District and the SFHA (AE zone) and requires Flood Hazard review to allow repair of damage caused by Tropical Storm Irene and repairs to the porch.

Vermont Municipal and Regional Planning and Development Act: section 4414(E)
“Within such a designated design review district, no structure may be erected, reconstructed, substantially altered, restored, moved, demolished, or changed in use or type of occupancy without approval of the plans by the appropriate municipal panel.”

With regards to the criteria for Flood Hazard Review, the Board concludes that this proposal *will* conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

***Cumulative Substantial Improvement:** Any combination of repairs, reconstruction, rehabilitation, addition, alteration or other improvements of a structure, during any (one) year period, in which the cumulative cost equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.*

The Board concludes, based upon the substantial damage calculation of 7.0% prepared by the Zoning Administrator (Exhibit B), that the building was not substantially damaged. In addition, the property is considered a contributing historic structure to the Historic Review District and is exempt from the 50% criteria. The repairs will not change its designation.

The Board concludes that the cumulative substantial improvements to the porch and to the basement total \$15,394.18 which is less than 50% of the market value of the structure before the start of construction of the improvements. The total also includes improvements to the porch not related to the damage caused by Irene.

III. CONDITIONS for Flood Hazard approval:

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

1. The repairs to the porch shall be limited to only those which are necessary to ensure safety.
2. No changes shall be made to the exterior size or design.
3. The Board concludes that no review under the Historic Review District criteria is

necessary because the exterior consists entirely of repair.

Thus, the Development Review Board *does* **approve** the application for a **Flood Hazard review in the Commercial District to allow repairs to a flood damaged building.**

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

ABSENT:
Paul Tonon
Dave Kuhnert

For the Board: Polly Steel, Chairperson

Date: 10/1/2012

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.