

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: **IN THE WIND PROPERTIES, LLC.**

Owner/Applicant(s) Mailing Address: **P.O. Box 1349 Wilmington, Vt. 05363**

Address of the subject property: **400-406 RT 100 NORTH Wilmington, Vt. 05363**

Tax Map: **006 02 021.1**

A copy of the request is filed in the office of the Board and is referred to as: **Case: #2015-112**

Description of Case per Public Notice: Application #2015-122; Owner: In the Wind Properties, LLC. Agent; Doug Furlon. Application is being made for a conditional sign waiver to install two freestanding signs on one property. Commercial/Residential zoning district; Sections 433, 451 & 804; location: 400 & 408 Route 100 North.

Notice for a public hearing was published in the Valley News on: **October 29,2015**

Notice was posted in three public places on: **October 29,2015**

A copy of the notice was mailed to the applicant on: **October 29,2015**

A copy of the notice was mailed to the abutters on: **October 29,2015**

The public hearing was held on: **December 7, 2015**

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: February 21,2016

Approval expires on: January 21,2017

In addition to the Applicant/Agent the following persons, heard by the Board in connection with this request, were determined by the Board to be "interested persons":

None

Copies of this decision have been mailed to those persons listed below.

The applicant.

EXHIBITS

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

1. Application consisting of 4 pages
2. "Pic # 1" showing the existing sign on the South Lawn
3. "Pic #2" showing the existing sign posts for sign #2 on North Lawn
4. Sketch of proposed signs showing stone garden base.
5. Sketch showing proposed sign content.

The Board FINDS the following:

APPLICABLE DISTRICT

Findings of Fact: The subject property is identified as Tax Map: **006 02 021.1**. (Application)

Conclusions of Law: The proposed development lies in the Commercial/Residential District pursuant to Article II, Section 270.

ANALYSIS

Findings of Fact: There are two freestanding signs on the property: one on the southerly lawn (Sign 1) and the second at the northerly property end near the drive providing access to the westerly portion of the property (Sign 2). Both signs meet the setback and size requirements of the By-Law. (Exhibits 2 and 3)

Conclusions of Law: Two freestanding signs on a single property are not allowed under the Zoning By-Law. (Section 433) This is the sole non-conformity dealing with the signs.

Findings of Fact: The applicant has applied for a waiver under Section 451 to allow continued maintenance of the signs but modified the request during the hearing contending that both signs are pre-existing and fall under the provisions of Section 230 Legal Non-conformities. (Application, Testimony of the Applicant)

Conclusions of Law: The Board accepts the modification and will continue its analysis under Sections 230, 231, 232 and 233.

Section 230: Legal Non-conforming Structures

Finding of Fact: Based on testimony from the owner, the signs in question existed on the property in excess of 15 years. The signs predate the development of a sign ordinance.

Conclusion of Law:). A Legal Nonconforming Structure is one "which does not comply with non-use restrictions or requirements established by this Ordinance, but which complied with the non-use restrictions or regulations in existence at the time of the construction of the building or structure."

The sign in question is a Legal Nonconforming Structure.

Section 232 Legal Nonconforming Structures, Lots and Uses

Finding of Fact: The sign is a Legal Nonconforming Structure as defined in Section 230 above.

Conclusion of Law: This legal non-conforming structure is allowed to exist indefinitely. (Section 232)

Section 232 b) Legal Nonconforming Structures, Lots, and Uses

Finding of Fact The applicant is seeking to change the design and contents of the signs. (Exhibits 4 & 5)

Conclusion of Law: Any changes made to these pre-existing signs are subject to all other terms of this ordinance. This sign will be subject to the Sign Standards of this Ordinance including but not limited to Sections 431, 432, 433, 434, 471, 472, and 474. Upon reaching a determination that the proposed sign is in conformity with all sign standards and the provisions of the Zoning Ordinance, a zoning permit may be issued by the Zoning Administrator.

III. CONDITIONS:

The second freestanding sign on this commercial multi-business property is a Legal Nonconforming use, having been erected prior to the adoption of the Sign Ordinance.

The changes to the signs are to be permitted by the Zoning Administrator upon the applicant demonstrating to the Zoning Administrator that the proposed sign meets the requirements of Article IV of the Zoning Ordinance, except as to their number. Upon establishing that the proposed signs are in conformity a zoning permit may be issued by the Zoning Administrator.

If unused, this Approval expires 1 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:

Tim Hall

Fred Houston

Wendy Manners Seaman

Allen Taylor

OPPOSED:

None

ABSTAINING:

None

For the Board: Peter Wallace, Chairperson

Date: January 21, 2016

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.