

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:

Property owner: Robert & Rosalyn Marzelli

Agents/Business Partners: Mace & Sarah Seby

No other interested persons were present or heard on this case.

Owner/Applicant(s) Mailing Address: **P.O. Box 935, Wilmington, VT 05363**

Address of the subject property: **35 West Main St.**

Tax Map: # **020-20-064**

A copy of the request is filed in the office of the Board and is referred to as: **#2018- 023**

Date of Application: **May 28, 2018**

Zoning Ordinance Then in Effect: **Effective November 8, 2017**

Description of Case per Public Notice:

Owner: Robert & Rosalyn Marzelli and Agent: Mace Seby. Application being made for Conditional Use review to allow a Food Stand. Village zoning district (Historic Design Review District): Sections 450 B (4) & 710, 721, 722 & 730 location: 35 West Main St.

Any signage for this Use will be permitted through the Zoning Administrator and is not included in the scope of this review.

Notice for a public hearing was published in the Valley News on: **May 31, 2018**

Notice was posted in three public places on: **May 31, 2018**

A copy of the notice was mailed to the applicant on: **May 31, 2018**

A copy of the notice was mailed to the abutters on: **May 31, 2018**

Public hearing were held on **June 18, 2018**

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. In addition to the Applicant (Robert Marzelli) the following persons were heard by the Board in connection with this request: Mace Seby – business partner. There were no Interested Parties in attendance at this hearing.

Appeal period for this Case expires on: August 20, 2018

Approval expires on: July 20, 2020

EXHIBITS

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

1. Application consisting of 5 pages (including a hand drawing site plan)
2. Map of Plot 020-20-064
3. Cart orientation to driveway (Applicant Hand Drawing)

SYNOPSIS

The applicant proposes placing a food cart at the southwestern corner of the Used Book Store and to serve food and beverage therefrom. Application is made for 365 days a year with approximate operating hours of 7 AM to dusk. Set up and closing hours would occur before 6 AM and 1 hour after dusk. The food cart would be stationary spring, summer and fall, with placement to the rear of the bookstore in winter.

APPLICABLE DISTRICT

Finding of Fact: Subject property is identified as Tax Map: # 020-20-064 and has an address of 35 West Main St.

Conclusions of Law: The proposed development lies in the Village District within the Historic Design Review District. The application will be reviewed under Article IV Section 450(B).

USES

Finding of Facts: The proposed Use, Food Stand, is a Secondary Use to this property, with Current Uses of Retail (bookstore). Food Stand is defined as “An establishment that serves food and beverages to the public for take-out and/or outdoor consumption.” The applicant proposes serving “family friendly affordable food” and beverage (sandwiches, wraps, potato chips and other hot and cold foods that can be prepared quickly as well as non-alcoholic beverages) to the public for take-out and/or outdoor consumption “eaten while walking around the village or on the valley trail”. The Food Stand will be operational year-round. (Applicant testimony)

Conclusions of Law: A Food Stand is a Conditional Use in the Village District and is allowed if meeting the requirements of a Conditional Use. The Village District for Commercial Use allows an unlimited number of Commercial Structures and Uses per Lot Section 450 B (5)

Dimensional Requirements:

Findings of Fact: the Village District: within the Historic Design Review District 450 (5a)

Density Limits: Unlimited

Structures/Uses per Lot: Unlimited

Dimensional requirements:

- 1/8 acre Min Lot Size
- 40 feet lot frontage
- 38’ to the highest point of the ridgeline from average grade - height maximum (not applicable)
- 0 ft. front setback
- 0 ft side & rear setback

The proposed use is for a structure 7’ x 12’ or 84 square feet. A small structure (Structure, Small) is defined as “Any fence, building or assembly of materials for any Use with a footprint less than or equal to 150 square feet and ten (10) feet or less in height. Small structures are not subject to setbacks defined in Article II. Small structures, except fences exceeding six feet, six inches in height, do not require a Permit.”

Conclusions of Law: The proposed structure, a Food Stand, is a small structure (Structure, Small). The structure is not subject to setbacks or Permitting. Dimensional Requirements are not applicable.

Article V Design Review Districts

Section 530 Development Review Board Site Plan and Design Review Required on Design Review District Development

No structure “may be erected, renovated, substantially altered, restored, moved, demolished, or changed in Use or type of occupancy without a written decisions and approval of plans by the appropriate municipal panel.”

Findings of Fact: Food Truck placement requested through this application does not involve a structure or its’ erection, renovation, substantial alteration, restoration, movement, demolition, or change in Use or type of occupancy. The Food Stand will be separate and apart from existing structures.

Conclusions of Law: Section 510 is not applicable to the Food Stand.

Article VI Flood Hazard District

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

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: 35 West Main St has lands within the Flood Hazard District flood hazard area as defined by NFIP or FEMA flood maps.

Conclusions of Law: Flood Hazard regulations are applicable.

Section 610 (A): Development Standards

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

A. Floodway Areas

1. Development within the regulatory floodway, as determined by Section 602, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.
2. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

Findings of Fact: Structures placed within the flood hazard area must not increase the BFE in the event of a flood. The Food Stand will be transported into position hitched to a motor vehicle. It

will stay in place year-round except for in winter where it will be moved to the plowed area behind the bookstore. It and any other accessory items such as trash receptacles, etc. will be moved outside of the flood hazard area in the event of a forecast or threat of possible flooding. (Testimony of the Owner Robert Marzelli and business partner Mace Sebby.)

Conclusions of Law: Movement of all equipment and supplies outside of the flood hazard area in the event of forecast of flood will ensure there is no risk of rise in the BFE. This standard is met.

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, including propane tanks, will be removed from the flood plain in the event of forecast of possible flooding. (Applicant testimony)

Conclusions of Law: This standard is 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.

Finding of Facts: There will be no continuous, permanent, ongoing, or frequent vibration (Applicant testimony)

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.

Finding of Facts: There will be no continuous, permanent, ongoing or frequent noise in excess of that of a normal conversation at the property line. Food preparation will run off of a propane tank which operates at quieter than a normal conversation. (Applicant testimony)

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.

Finding of Facts: There will be no emission of dust, ash, smoke or other particulate matter. A vent system will trap grease and smoke emissions. There will be no hazardous, contaminating, or offensive odors emitted. (Applicant testimony)

Conclusions of Law: Standard 710 C is met.

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: The Book Store has trash collection containers at the rear of the building. Smaller trash and recycling receptacles will be placed near the food stand, to the right of the service window under a set of stairs, in a boxed structure. They will be emptied as needed and no less than daily to the trash collection site behind the book store. Trash behind the bookstore will be emptied regularly to prevent trash overflow. Any food containers and napkins not disposed of on-site will be disposed of in municipal trash cans placed throughout the village which are emptied regularly by municipal workers. In addition town employees pick up trash downtown on a daily basis. It is intended that any food containers and napkins be disposed of in appropriate trash receptacles. There will be no fryer on the food cart and hence no fryer oils to dispose of. (Applicant testimony)

Conclusions of Law: Standard 710 D is met.

Section 721: General Standards

The proposed use shall protect against adverse effect on:

A: Community, Municipal or Educational Facilities

Findings of Fact: The proposed Use will employ 1 or 2 people. No burdens are anticipated for schools, police, fire, health care facilities or other community services or facilities. (Testimony of the Applicant). The placement of the Food Stand will require reconfiguration of the basement access area. Basement access reconfiguration shall provide continuous unimpeded access to the basement for ingress and egress for fire safety.

Conclusions of Law: The decision will be conditioned on maintaining unimpeded ingress and egress access to the basement and the applicant meeting with Wilmington Police and Fire representatives and addressing any safety or impact concerns raised by those departments.

B. Traffic on Roads and Highways

Findings of Facts: The proposed site is accessed from Route 9 west of the town center in the clustered Downtown area of Wilmington. The speed limit through this area is 25 miles per hour. There is traffic calming signage for Route 9 traffic entering from the west. Traffic entering from the east is calmed by a traffic light in the center of town. The area has 2 crosswalks, one east of this property and one west of the property. Pedestrian traffic crossing Route 9 from the southern side are encouraged to use existing cross-walks. The north side of Route 9 West has new sidewalks and sidewalk lighting, improving safe pedestrian access to this property.

While parking is not required in the Village District, the property owner does provide on-site parking behind the building, creating a safer environment for customers arriving by vehicle. Departing vehicles enter the state highway facing forward. This is much safer than parked vehicles having to back into traffic. In addition the owner rents parking spaces from a property on the south side of Route 9. Pedestrians parking across the street are encouraged to cross at designated sidewalks.

The Food Stand will be placed on the applicant's lot, out of the state highway Right of Way (ROW). Patrons of the Food Stand will order, wait for and obtain their food outside of the state highway ROW. The food cart is 7' x 12'. The narrow side of the food cart (7') will face the road. The wider service side (12' wide) will face the driveway. Patrons will order food from the

driveway side. Any service waiting lines will form to the left of the service area, but not in the state highway ROW. (Applicant testimony)

Conclusions of Law: The proposed development will have minimal impact on traffic. Existing sidewalks and parking have the capacity to handle expected vehicular and foot traffic. This standard 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 & Natural Resources

Findings of Fact: The applicant will use recyclable and biodegradable packaging materials. Packaging will be kept to the minimum necessary to serve its' functional purpose. There will be no excessively large or messy foods served from the cart. (Applicant testimony)

Conclusions of Law: Standard 721 D is met.

E. Air Quality

Finding of Fact: See Section 710 A above

Conclusion of Law: This standard is met.

F. Character of the Area

Findings of Facts: 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.”

A Food Stand is an appropriate historic type of service. The presence of a Food Stand will add to the quality of life by providing an alternative informal food service option for the downtown area. The presence of outdoor dining is a desirable addition, contributing to the vibrancy and energy of the downtown. The business is small in scale, consistent with the scale of the clustered village.

Hours of operation will be no earlier than 7AM and no later than dusk. The Food Stand personnel will prepare the food cart and close up their services before and after opening hours, but will not operate before 6 AM or 1 hour after dusk.

The existing structure on this lot is white. The food cart will also be white, in keeping with the historic nature of the downtown area. Menu boards and other accessory items will be kept

aesthetically compatible with the historic nature of the downtown. The trailer placement will cover the non-aesthetic utility/electric features of the building.

Conclusions of Law: The proposed development is consistent with the defined purpose of the Village District and is consistent with the mixed-use character of the area. Standard 721 F is met.

Article VII Standards

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: Preserves the rural, agricultural character and ambiance of the community and historic downtown.

C. Development Consistent with the Rural, Agricultural, and Historic Nature of the Town: Merchandise and services shall not detract from the historic character and nature of the town as a family destination for tourists and a family focused residential community.

D. Formula Businesses – not applicable

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

F. Building Scale Conformity – Not applicable

G. Utility Placement – Not applicable

Finding of Fact: The proposed use is within the historic downtown. The proposed location expands the Use of the existing commercial retail operation. The addition of a Food Stand does not detract from the historic or rural/agricultural character of the town but enhances the retail and recreational options available for those shopping or using the Valley Trail downtown. The presence of a Food Stand serves the needs of tourists and residents alike, contributing to services available and character of the town.

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, C and F are met. Section 722 D, E, and G are not applicable.

Article VII Standards

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)

Findings of Fact: See Section 722 above

Conclusions of Law: See Section 722 above

Article VII Specific Standards

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 must be consistent with historic character.

Findings of Fact: The Food Stand will operate only during daylight hours. There will be no new

lighting for this Use with the exception of the downcast internal lighting on the cart. Lighting on the existing structure and on the sidewalks will provide visibility and security for pedestrians after dark.

Conclusions of Law: Standard 730 A is met.

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

Findings of Fact: The food cart will be custom ordered from Advance Concession Trailers in Georgia. It will have a stove with burners and a grill, an oven, a “Salamander” hook up, and refrigeration for perishable items. Food preparation areas on the Food Stand are designed to meet or exceed state and federal safety standards. A state permit from the Department of Health will be required to operate the Food Stand.

Conclusions of Law: Standard 730 B is 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: Pedestrians areas will be kept separate and safe from vehicular traffic through placement of roping, fencing, large planting barrels or such other materials as needed to keep vehicular and pedestrian traffic separated and discourage passage between the Food Stand and the driveway and Route 100. (Applicant testimony). The Food Stand will be accessible from the driveway ground level creating no ADA compliance issues. Winter use will ensure safe passage for vehicular and pedestrian traffic through plowing, sanding, salting as needed. There will be chairs and a large rock for patrons to sit on as well as a single picnic table placed at the rear of the building for those who choose not to stroll or take the food “to-go”.

The Food Stand will extend toward the road no more than 2 feet than the existing structure and will not block visibility to traffic ingress or egress. (Applicant testimony)

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 HDRD)

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 unobscured 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: On-site parking is not required in the Village 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.

a. Landscaping beds, trees, shrubs and plantings: required as needed to meet the stated goals above and shall be maintained in perpetuity for general aesthetic appearance and plant health.

b. Screening and Buffer Areas: required as needed to screen all unaesthetic features to meet the stated goals above. Screening must be of natural vegetation and plantings. Fencing may be used secondary to plantings to achieve screening. (See special provisions for screening unaesthetic features, large and small.)

b1. Screening and Buffering Commercial Structures and Uses: Required when commercial development has an undue adverse aesthetic impact on surrounding properties and roads. Shall be minimum of 10 feet where reasonable and possible.

b2. Screening and Buffer of Parking: Required where reasonable and possible when parking has an undue adverse impact on the aesthetics of properties and roads.

b3. Screening and Buffer of Ground Mounted Solar Arrays: Required when ground mounted solar arrays have an undue adverse aesthetic impact on surrounding properties and roads. Shall be minimum of 10 feet where reasonable and possible.

Findings of Fact: Existing landscaping on this property includes a variety of flowers and shrubs for visual aesthetics. These plantings will be supplemented with additional flowering plants and shrubs to enhance the aesthetics of the Food Stand. Trash receptacles will be placed discretely near or under a stairway. The receptacles will be screened with wooden housing. (Applicant testimony)

Conclusions of Law: Standard 730 F is 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: All food products and food production byproducts, equipment and supplies will be removed safely to protect and preserve land and water. (Applicant testimony) There will be no alteration of lands, rivers, streams, waterways. Nothing in this proposed development will create erosion.

Conclusions of Law: Standard 730 F 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 food cart will have a 3 bay sink for hand washing and food preparation. Clean water and waste water are kept separate. Waste water will be placed down the drain of the existing bookstore structure. The proposed Food Truck will not release any water, waste or chemicals to the property.

Conclusions of Law: The decision will be conditioned on the Applicant determining if any additional sewer allocation is required and obtaining same if necessary. Standard 730 G is met.

H. 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 proposed development will have no impact on natural resources and features as defined above.

Conclusions of Law: Standard 730 H is met.

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

Findings of Fact: 35 West 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: 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 near a body of water.

Conclusions of Law: Not applicable.

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

Findings of Fact: See Section 602 above

Conclusions of Law: See Section 602 above

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

Findings of Fact: There is no commercial or residential land development.

Conclusions of Law: Not applicable.

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: 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. Any substantial changes to the plans will require an administrative approval from the zoning administrator or a review by the Development Review Board, in conformance with the Zoning Ordinance.
2. The Applicant shall meet with Wilmington Police and Fire representatives and address any safety or impact concerns raised by those departments.
3. The Applicant shall obtain a valid permit to operate from the Vermont Health of Department as well as any other State or Federally required permits.
4. The Food Stand and any accessory structures and floatables will be transportable and will be moved outside of the flood hazard area in the event of a forecast or threat of possible flooding.
5. The Food Stand site shall be managed to address safety hazards and to preserve pedestrian and vehicular safety. Roping, fencing, flower barrels and/or other devices shall be placed between the driveway and the Food Stand service area and Route 9 and the Food Stand service area to keep vehicular and pedestrian's traffic separated and clear of the traveled way of the driveway and Route 9.
6. Reconfiguration of the basement access required for Food Stand placement will maintain clear access for ingress and egress to the building for fire safety.
7. The Applicant will determine if any additional sewer allocation is required and obtaining same if necessary.
8. Food containers by the Food Stand shall be recyclable and biodegradable. Refuse containers and Recycle containers shall be kept discreet and emptied as needed but no less than daily. The Food Stand area shall be kept clear of trash.
9. To maintain the character of the area and the district, hours of operation are approved for 7AM –

- dusk. Set up and take down of services may occur between 6 AM and 1 hour after dusk.
10. All features of the Food Stand and accessory structures will be in keeping with the aesthetics of the historic downtown.
 11. Water, food products and waste will be removed in a timely fashion and on a regular basis.
 12. There shall be no significant air emissions of dust, ash, smoke or other particulate matter.
 13. There shall be no permanent or ongoing vibrations created.
 14. There shall be no ongoing or permanent noise created.

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:

Jessie Couture
Fred Houston
Paul Lockyear
Wendy Manners Seaman

OPPOSED:

none

ABSTAINING:

None

For the Board: Wendy Manners Seaman, Chairperson

Date: July 20, 2018

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.