

**TOWN OF WILMINGTON**  
**DEVELOPMENT REVIEW BOARD**  
**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**WILMINGTON, VERMONT 05363**

A request for a permit was made to the Board by: **Carolyn T. Palmer**

Owner/Applicant(s) Mailing Address: **121 Boyd Hill Rd**  
Agent: **Veronica and Matt Horn**  
Agent Mailing Address: **P.O. Box 1837, West Dover, VT 05356**  
Address of the subject property: **7 North Main Street**

Tax Map: **#021-21-30**

A copy of the request is filed in the office of the Board and is referred to as: **Application #2019-007**

Date of Application: **April 12, 2019**

Zoning Ordinance Then in Effect: Adopted October 9, 2017

**Description of Case per Public Notice:**

Application #2019-007, Owner: Carolyn T. Palmer  
Application is being made for a Conditional Use Review to allow a Retail business, Food stand, coffee shop and Land development. Village zoning district (Historic Review District). Sections 450 B 4, 610, 710, 720, 721, 722, 723 and 730. Location: 7 North Main Street

Notice for a public hearing was published in the Valley News on: **April 16, 2019**

Notice was posted in three public places on: **April 16, 2019**

A copy of the notice was mailed to the applicant on: **April 17, 2019**

A copy of the notice was mailed to the abutters on: **April 17, 2019**

Public hearing was held on: **May 6, 2019 and May 20, 2019**

There was a Site Visit on **May 9, 2019**

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.

**Appeal period for this Case expires on: July 7, 2019**

**Approval expires on: June 7, 2021**

In addition to the Applicant and the Applicant's agents, Matt Horn and Veronica Horn, the following persons heard by the Board in connection with this request: 1) witnesses for the applicant 2) persons who were determined by the Board to be "interested persons":

Witnesses for the applicant: Matt Horn, Jr. and Mike Edwards

Interested Parties: Sheila and Gerald Ostler

### **EXHIBITS**

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

1. Application consisting of 3 pages with attached Summary
2. Composite showing the proposed street side the main building with signage and lighting.
3. Composite showing the proposed “Dog House” with stone patios.
4. Narrative of the proposal entitled “Project at 7 North Main Street in Wilmington. VT” consisting of one page.
5. Abutters List.
6. Untitled sketch showing the proposed street side of the main building with signage that varies from Exhibit 2
7. Untitled sketch showing the proposed “Dog House” with stone patios similar to Exhibit 3
8. A reproduction of an historic photograph entitled “Office of Hosea Mann, Jr.” showing the existing building.
9. Written synopsis of proposal.
10. Drawing of building front (westerly) and southerly sides.
11. Drawing of space northerly of the building showing “Dog House”, stone patio with a rock retaining wall and fireplace. Also shown is a proposed iron gate and mill stone.
12. Booklet containing hand drawings of the proposed building changes, photographs of proposed fencing and fireplace together with The Gardens at Matterhorn and large pots.

### **SYNOPSIS**

The applicant proposes to enclose the front porch of the main building with a topped picket railing. A picket fence would also outline the southern boundary. The shed northerly of the main building would have the addition of a small lean-to on the front. This shed would be converted into a food serving area for hot dogs, hot pretzels and other refreshments (the Dog House). The area surrounding the converted shed would be a “courtyard” with either blue stone or a field stone patio with outdoor seating. The easterly side of the courtyard northerly of the Dog House would have a stone wall and a stone fireplace. A picket fence will run along the top of the wall. Heaters would be utilized in this area in cold weather. This northerly courtyard would be enclosed by a wooden fence with wrought iron gates along North Main Street. Located on the easterly bound between the

main building and the Dog House will be a security fence above the courtyard together with an outdoor television on the southerly wall of the Dog House. The television will not face the public way. The main building would have multiple uses. The front portion of the ground floor would be a “high end” retail gift shop with the rear being used to serve fresh juices and smoothies from a service window. The second floor would have a retail store for “wellness” products, a wellness center and a spa room.

**APPLICABLE DISTRICT**

**Finding of Fact:** Subject property is identified as Tax Map: 021-21-30 and has an address of 7 North Main Street.

**Conclusions of Law:** The proposed development is located in the **Village District** within the **Historic Design Review District** and in the **Special Flood Hazard District**. The application will be reviewed under Section 450(B) (4) as a Conditional Use, so much of Section 522 (Goals of the Historic Design Review District) as may apply, so much of Article VI (Flood Hazard) as may apply and so much of Article VII (Standards) as may apply.

**USES**

**Finding of Facts:** In the past this building has been an art gallery and a retail store. It has been vacant for a number of years. The proposed uses are a retail stores on the first and second floors of the main building. The lower level store to be a “gift” store and the upper level store will contain “wellness” products. The main building would also contain a preparation area for juices and smoothies at the rear of the ground floor and a wellness center with an aesthetician and spa on the second. There will be a food service area in the Dog House and proposed courtyard. (Testimony of the Applicant, Exhibits 1 and 4)

**Conclusions of Law:** The proposed uses are a Retail Business, Service Businesses and Food Stand which are conditional uses under Section 450 B 4. The Village District allows an unlimited number of Structures and Uses per Lot. Sections 450 B 4 and 5 a.

**Dimensional Requirements:**

**Findings of Fact:** The Applicant seeks a change of use in the interior of building in the Village District, the addition of a lean-to to a shed and the creation of a fence enclosed area for food service. The lot size of 0.10 acre and a frontage of 37 feet are pre-existing.

**Conclusions of Law:** Not applicable

**Article V Design Review Districts**

**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.

The goals of this District shall be considered by the Development Review Board when considering proposed land development for this District.

**Findings of Fact:** The proposal is to rehabilitate the 7 North Main Street to accommodate two retail stores, a food preparation area for juices and smoothies and a wellness center in the main building. There will be a food service area in an additional building (the Dog House) on the lot. The awning on the front Dog House will be supported by Greek style columns. There will be a flag stone “patio” area with tables and chairs to the north. The front porch is to be fronted by a picket railing with a wide antique board top. Signage is proposed on the front of the building in Exhibits 2 and 6. Signage is not included in the scope of this review. Signage is reviewed by the Zoning Administrator. The main building is in the Greek revival style and was built around 1840. It is listed on both the National and State Register of Historic Places. Appendix II.

**Conclusion of Law:** The proposal as presented meets the goals of the Historic Design Review District excepting only the proposed signage which must be determined by the Zoning Administrator.

## **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.

**Findings of Fact:** Seven North Main Street is within the Floodway Fringe of the Flood Hazard District as defined by DHS, NFIP or FEMA flood maps. The applicant and the Zoning Administrator testified that only about 6 inches of the southwest corner of the present porch is within the Flood Hazard Area as defined. The accessory structure, the Dog House, is not within the Flood Hazard Area. The Applicants have hired an engineer to file the appropriate documentation which would remove the main building from restricted area.

**Conclusions of Law:** Upon the filing of the appropriate amendment to the Flood Hazard maps Article VI will not apply.

### **Section 610 (A): Development Standards**

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

#### **A. 2. Floodway Fringe Areas:**

**Findings of Fact** See Findings of Fact for Section 602. The owner testified that all “mechanicals” for heating and electrical service have been relocated above the Base Flood Elevation (BFE). The basement of the building is empty and will remain so until brought into full conformity with these flood standards. There are basement windows which allow the passage of flood waters. The two propane tanks that supply the building are on the second floor and above the BFE.

**Conclusions of Law:** The requirements of this section have been met.

#### **B. Residential Development**

**Findings of Fact:** The proposed development is not residential. (Application)

**Conclusions of Law:** Not applicable.

#### **C. Non-Residential Development**

**Findings of Fact:** The proposed development will be a substantial improvement to the property. However, the applicant is filing the appropriate engineering to remove the property from the Flood Hazard Area. Notwithstanding the prospective filing, the Owner testified that all “mechanicals” in the main building had been relocated above the BFE. See Findings of Fact in Sections 602 and 610 A 2 above. The Dog House is not within the Flood Hazard Area.

**Conclusions of Law:** This condition is satisfied.

#### **D. Subdivisions**

**Findings of Fact:** The proposed development is not a subdivision. (Application)

**Conclusions of Law:** Not applicable.

#### **E. Enclosed Areas Below the Lowest Floor**

**Findings of Fact:** The basement will be kept vacant. (Testimony of the Applicant)

**Conclusions of Law:** This condition is satisfied

#### **F. Recreational Vehicles**

**Findings of Fact:** No recreational vehicles are proposed to be placed on site. (Application)

**Conclusions of Law:** Not applicable

**G. Accessory Structures**

**Findings of Fact:** The Dog House is not within the Flood Hazard Area. (Testimony of the Zoning Administrator)

**Conclusions of Law:** Not applicable

**H. Water Supply Systems**

**Findings of Fact:** Water is supplied by the municipal system which, purportedly, meets the infiltration requirements of this standard. (Testimony of the Applicant)

**Conclusions of Law:** This standard is satisfied.

**I. Sanitary Sewage Systems**

**Findings of Fact:** The building is connected to the municipal septic system and has been for some time. No modifications are proposed. The municipal system purportedly meets the infiltration requirements of this standard. (Testimony of the Applicant)

**Conclusions of Law:** This standard is satisfied.

**J. On-Site Waste Disposal Systems**

**Findings of Fact:** Arraignments have been made with the owner of a neighboring property across North Main Street for the maintenance of trash barrels for the disposal of waste. Should this disposal method become unavailable, trash barrels shall be kept within either building on site? Exterior trash barrels will be secure from bears. (Testimony of the Applicant)

**Conclusions of Law:** This condition is satisfied

**K. Watercourse Carrying Capacity**

**Findings of Fact:** No watercourse or floodway is proposed to be altered. (Application)

**Conclusions of Law:** Not applicable.

**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 will be secured. Refuse containers will be kept inside. The exterior refuse containers on the neighboring property will be secured in the event of a flood. The patio and the Dog House are not within the Flood hazard area. There will be no propane tanks below the BFE. (Testimony of the Applicant)

**Conclusions of Law:** The requirements of this section have been 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.

**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 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. Any music either live or played through external speakers shall comply with this volume standard. (Testimony of the Applicant)

**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 of the cooking process to the exterior. There will be no grill but cooking will be by steamers. Should there be a grill at some future time; the Applicant will install sufficient ventilation machinery to comply with this section. (Testimony of the Applicant) There shall be no emission of dust, ash, smoke or other particulate matter. (Testimony of the 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 the Applicant)

**Conclusions of Law:** Standard 710 D is met.

### **Section 721: General Standards**

The proposed use shall protect against adverse effect on:

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

**Findings of Fact:** There will be 4 to 6 employees to serve the various businesses on the premises. (Testimony of the Applicant)

**Conclusions of Law:** No additional stress will be placed on the Town facilities or educational system.

**B. Traffic on Roads and Highways**

**Findings of Fact:** The proposed site is accessed from North Main Street across from the Red Mill. It is bounded to the north by Lyle Hill Road. The speed limit through this area is 25 miles per hour. The stoplight in the center of town and the constraints of a narrow single lane road ensure traffic maintains slow speeds through this area.

The proposed seating is for 25 customers, 16 on the patio and 9 on the porch. Maximum number of daily patrons is presently unknown. (Testimony of the Applicant)

**Conclusions of Law:** The proposed development will have minimal impact on traffic. Standard 721 B is met.

**C: Bylaws and Ordinances in Effect**

**Findings of Fact:** 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**

**Findings of Fact:** The heating system will be propane. There are no plans for any renewable energy systems. The building has been insulated under the Vermont Building Construction Standards. Testimony of the Owner

**Conclusions of Law:** Standard 721 D is met.

**E. Air Quality**

**Findings of Fact:** See Section 710 C above

**Conclusion of Law:** Standard 721 E is met.

**F. Character of the Area**

**Findings of Fact:** 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.”

The proposed project is in a pre-existing building and accessory building prior to the junction of North Main Street and Lisle Hill Road. It proposes to house as many as four enterprises in the main building with a gift shop and beverage service on the first floor and a spa and wellness center on the second. A white baluster railing with a wide top is proposed for the porch in keeping with the Greek Revival nature of the building. A four foot high wood fence with wrought iron gates and a grist stone will enclose the north area which will be a stone patio with tables and chairs. The Dog House will serve beverages, smoothies and hot dogs. (Testimony of the Applicant) The varied economic uses will add to the character and viability of the area.

**Conclusions of Law:** The proposed development is consistent with the defined purpose of the Village District and is consistent with the historic nature of the Village. Standard 721 F is met.

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

**A. Preserving the Town’s Character:** The re-purposing of a pre-existing building into multiple uses ranging from a gift shop to a spa and wellness center fits into the varied offerings that are integral to village life. The repurposing of the Dog House as a food stand adds another option in food service to the area. There are no major changes to the main building.

**B. Economic Development Contributing to the Character of the Town:** The addition of a gift store, food service of hot dogs, juice and smoothies as well as a wellness center and spa in an existing building will not detract from the historic character and nature the town as a family destination for tourists and a family focused residential community.

**C. Development Consistent with the Rural, Agricultural, and Historic Nature of the Town:** The proposed development of a retail store in a historic building that was formerly an art gallery and a Food Stand in an accessory building on the property can be considered development consistent with the Rural, Agricultural and Historic Nature of the Town.

**D. Formula Businesses –** Not applicable, not a formula business as defined

**E. Maximum Square Footage of Retail (2000 square feet) –** There will be less than 2000 square feet of retail space.

**F. Building Scale Conformity –** Not applicable, pre-existing building

**G. Utility Placement –** Not applicable,

**Findings of Fact:** The proposed retail use and other uses as described above within an existing building in the historic downtown with the addition of a Food Stand in an existing accessory building is in keeping with the mixed use of Village properties. The proposed exterior television will not be visible from any public way.

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

**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)**

**A. Historic Structures:** No development shall compromise a certified Structure’s historic status.  
**Findings of Fact:** The building is listed on the National and State Register of Historic Places and noted as Greek Revival. (Appendix II) The accessory building is not so listed. The applicant seeks to add an open railing with a wide top to the front porch of the main building. This addition will enhance the character of the community and preserve the original Greek Revival character of the Structure.

**Conclusions of Law:** This condition is satisfied.

**B. Historic Preservation, Rehabilitation and Restoration.** Historic features and historic Structures shall, to the extent reasonable and possible, be preserved, rehabilitated, or restored.  
**Findings of Fact:** There are no historic features of the building that are being rehabilitated or restored.

**Conclusions of Law:** This condition is satisfied.

**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:** There will be string lighting over the northerly patio and down lighting under the Dog House awning. The existing lighting on the porch of the main building will remain and is not obtrusive. There will be down lighting in the open area to the south of the main building.

**Conclusions of Law:** Standard 730 A is met.

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

**Findings of Fact:** The Applicant shall meet with Wilmington Fire Department representatives and address any safety or impact concerns related to the open fireplace in the patio to the north of the Dog House raised by that department.

**Conclusions of Law:** This permit shall be conditioned upon the receipt of a letter from the Wilmington Fire Chief indicating that all fire safety issues have been 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:** Access to the premises is from the public sidewalk on the easterly side of North Main Street.

**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 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 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:** The property is in the Village Historic Design Review District. There is no requirement for on-site parking in this 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.

**Findings of Fact:** There are no opportunities for visual barriers or buffering directly in front of the building on this lot as the entrance porch rises directly from the public sidewalk. The applicant has testified that the patio on the north side will have radiant heat beneath blue or flag stone hardscape keeping that area snow free in the winter. (Exhibit 4) Intervals between the large stones will be planted with "steppables" which will allow some water penetration. There will be an arborvitae in the northerly corner at the junction of Lisle Hill Road and a driveway which runs along the easterly bound of the property and gives access to the second floor of the main building. A stone retaining wall is to run along this easterly side to support the driveway. There will be a fireplace at the midpoint of this wall. (Exhibits 7 and 11 and Testimony of the Applicant) The top of the wall will have a two foot planting bed. Exhibit 11 and Testimony of the Applicant. The area in front of this

wall will be dug out to the grade of North Main Street increasing the patio area. Large pots together with planting beds around the patio will provide additional vegetation. (Exhibit 12 and Testimony of the Applicant.) Plantings on the south side of the building will include shrubs and perennials such as hydrangea and dwarf butterfly bush. Testimony of the Applicant.

**Conclusions of Law:** This condition is satisfied

**G. Land and Water Management:** Protect properties, transportation systems, and public safety by  
a. Safe and appropriate water management including water supply/availability, storm water 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:** The proposed retail store in an existing building and a Food Stand in an accessory building both with municipal water and sewer will not create issues of land and water management. The hardscaping of the northern patio is mitigated by vegetation between the large stones. There is a small drain near the north end of the porch that connects to the main town drainage system. This drain is in need of repair.

**Conclusions of Law:** Standard 730 G is met conditional upon the Applicant consulting the Vermont Department of Transportation as to the necessary procedures for correcting the small drain.

**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 premises are served by the municipal water and sewer service. The applicant has testified that the present water and sewer allocations are sufficient for the proposed use. (Testimony of Applicant)

**Conclusions of Law:** Standard 730 H will be met by the Applicant filing letters from the Wilmington Water District and the Wilmington Waste Water District showing adequate availability of water and septic capacity to serve the proposed development.

**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 storm water detention, agricultural lands, open scenic lands, scenic vistas, scenic features, unique natural or manmade features, and renewable energy sources.

**Findings of Fact:** The buildings to be renovated are located at the corner of North Main Street and Lisle Hill. The project will not impinge upon any natural resources or features.

**Conclusions of Law:** Not applicable

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

**Findings of Fact:** 7 North 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:** The proposed Use will not have any adverse impact on wildlife habitats or corridor. 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 within 250 feet of a body of water of sufficient size

**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:** 7 North Main St is 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:** The rehabilitation will comply with these standards. (Testimony of the Applicant).

**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.

### **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, Findings of Fact and Conclusions of Law in this decision. Any changes to the plans will require an administrative approval from the zoning administrator or a review by the Development Review Board as required by the Zoning Ordinance.
2. None of the signage shown on any Exhibit has been considered. Signage is approved by the Zoning Administrator.
3. The exterior television on the south wall of the Dog House shall not be visible from any public way.
4. The front porch balusters shall be open with no permanent barrier between them and the main building and shall meet State of Vermont height and spacing regulations.
5. The Applicant will meet with Wilmington Fire Department representatives to determine any additional safety requirements required for the outside fireplace with particular attention to the safety of children.
6. Hours of operation shall be from 9 AM to 9 P.M.
7. All floatables below the Base Flood Elevation shall be secured. There will be no use of the basement whatsoever until the property is removed from the Flood Hazard Area.
8. The Applicant shall work with the Vermont Department of Transportation dealing with the repair or replacement of the drain at the northerly end of the front porch.
9. Any dumpsters or containers for the disposal of refuse shall be shielded and be placed above the Base Flood Elevation.
10. All patio, string and sign lighting will be shielded and downcast with the minimum lumens necessary to meet the needs of the lighting purpose of preserving pedestrian and vehicular safety. Lighting shall not generate undue or excessive glare so as to interfere with neighboring properties and will not impede the vision of drivers.
11. There shall be no significant air emissions of dust, ash, smoke or other particulate matter whether through a kitchen ventilator or otherwise.
12. There shall be no permanent or ongoing vibrations created.
13. There shall be no ongoing or permanent noise created whether by music or otherwise that is greater than that of a normal conversation at the property line.
14. The basement shall remain empty and unused until it is brought up to the standards of Article VI, Flood Hazard District, of these regulations.
15. The Applicant shall provide certification, filed with the Zoning Administrator, from the Wilmington Water District and the Town of Wilmington that there is sufficient water and sewer capacity to serve the project as proposed.
16. The Applicant shall maintain all plantings in good health in perpetuity and shall replace plantings as necessary.
14. 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:

Wendy Manners-Seaman  
Cheryl LaFlamme  
Charles Foster  
Fred Houston

OPPOSED:

None

ABSTAINING:

None

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For the Board: Wendy Manners-Seaman, Chairperson

Date: June 7, 2019

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.*