

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: **Town of Wilmington**

Owner/Applicant(s) Mailing Address: PO BOX 217, Wilmington VT 05363

Address of the subject property: **40 Beaver Street**

Tax Map: # **02122022.000**

A copy of the request is filed in the office of the Board and is referred to as: **#2020-039**

Description of Case per Public Notice:

Application # **2020-039**: Owner: Town of Wilmington

Application is being made to construction of a new fire and police station on Beaver Street.

Applicable Wilmington Code Section II, IV, VII and VIII

Notice for a public hearing was published in the Valley News on: **September 17, 2020**

Notice was posted in three public places on: **September 17, 2020**

A copy of the notice was mailed to the applicant on: **September 15, 2020**

A copy of the notice was mailed to the abutters on: **September 17, 2020**

Hearing Date: October 5, 2020 and November 2, 2020

Appeal period for this Case expires on: December 20, 2020

Approval expires on: November 20, 2022

The following presented testimony as the applicant or on behalf of the Applicant or as an Interested Person:

EXHIBITS

The following Exhibits were placed in evidence by the Applicant or their Agent:

1. Application
2. Notice of Hearing
3. Abutter Notice
4. Abutter list
5. Memo from engineering associate DeWolfe
6. Sample plot plan
7. Wilmington PSB
8. Plot plan C1.02
9. Plot plan C1.03
10. Plot plan C1.04
11. Plot plan C1.05
12. Plot plan SP1
13. Building elevation A
14. Lower level floor plan A1
15. Main level floor plan A2
16. Fence design
17. Site plan E0
18. Zoning Review
19. Lighting specs
20. Sign application
21. Sign architect memo
22. Accessible sign graphic
23. One hour parking sign graphic
24. Proposed building signage
25. Building elevations
26. ARK Ramos cast product certification
27. Exterior Finish packet
28. Existing property photos
29. Email from John Broker Campbell regarding flood zone
30. UR20 Glare Angle
31. UR20 Brochure
32. 1843 Historical Glare
33. 1843 Brochure
34. 2020 10.28 C103
35. 2020 10.28 C104
36. 2020 10.28 C105

ARTICLE II: ADMINISTRATIVE PROCEDURES

Section 222 A. Conditional Uses: 1, 3, 4 and 5

Section 223 Development Review Board Site Plan and Design Review

Section 224 Development Review Board Site Plan and Design Review Submission Requirements

Section 227 Plan Changes after Receiving a Development Review Board Decision

Section 233 Dimensional and Sign Waiver Application and Review Process of the Development Review Board

Finding of Facts: This standard has been met, all exhibits have been received & verified.

Conclusions of Law: Article II is met

ARTICLE IV: DISTRICTS & USES

Section 420 Uses

Section 423 Conditional Uses

Section 440-441 Height Limitations

Section 445-448 Exceptions (Setbacks, Small Structures, Agricultural, and Community Facility /Municipality)

Finding of Facts: The current use of the property is storage. The proposed use is combined public safety building housing both The Wilmington Police & Fire Department. The proposed building would be deemed a community facility.

Conclusions of Law: Article IV is met

ARTICLE IV (CON'T) –

Section 450: Districts

A) Conservation

B) Village (a) within the HDRD and (b) outside the HDRD have unique dimensional requirements

C) Residential

D) Resort Residential

E) Commercial/Residential

F) Resort Commercial/Residential

DISTRICT

Finding of Fact: Subject property is in the Village district & within the Village Design Review District

Conclusions of Law: The proposed land development is subject to zoning applicable to the Village District.

USES

Finding of Facts: The Primary Use of the structure would be Safety related facility which is a conditional use.

Conclusions of Law: The proposed Uses are Conditional Uses in this district.

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.

Conclusions of Law: Flood Hazard District regulations are applicable to the proposed development which lies within the Flood Fringe Area of the North Branch of the Deerfield River. The district is present at the southeast corner of the property; no development is proposed within flood plain.

Permitted Uses

Finding of Facts: Agent has provided testimony that no development will be constructed in the flood hazard area.

Conclusions of Law: Article VI 602 has been met

Conditional Uses

Finding of Facts: Except for Permitted Uses as defined in Section 605, all other uses listed for the zoning district that fall within a designated flood hazard area may be Permitted only upon the granting of a Conditional Use Permit by the Development Review Board.

Conclusions of Law: Article is met

Development Standards – Flood Fringe Areas Section 610 C (1)

Finding of Facts: New construction and existing buildings to be substantially improved shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities to be designed so that below the base flood elevation & the Structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Conclusions of Law: Standard is met.

DIMENSIONAL REQUIREMENTS

Finding of Facts: Dimensional requirements of lot size, frontage, building height, and setbacks are met. The Historic Design Review District has a zero setback. Setback requirements are met.

Conclusions of Law: Dimensional Requirements are 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: Testimony provided by agent.

Conclusions of Law: This Use Performance Standard 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.

Findings of Fact: Testimony provided by agent.

Conclusions of Law: This Use Performance Standard 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: Testimony provided by agent.

Conclusions of Law: This Use Performance Standard 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.

Findings of Fact: Testimony provided by agent.

Conclusions of Law: This Use Performance Standard is met

SECTIONS 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: Testimony from Engineer memo: The proposed building will relocate & combine the existing Wilmington Fire Department & Police Department. There will be no increased impact on educational facilities, or other municipal facilities impacted by increased population. The new building will require new water & sewer services. The impact to the municipal water & sewer systems is expected to be minimal. Allocation & connection approvals will be obtained for the project.

Conclusion of Law: General Standard is met.

B. Traffic on Roads and Highways

Findings of Fact: Testimony from Engineer memo: Since the project is relocating the existing Fire & Police Departments, both located within 0.2 miles of the project location, there is no additional impact to traffic on roads, highways, transportation systems, or pedestrian walkways. There are no existing sidewalks on Beaver Street. A sidewalk is proposed on the site to connect visitor parking to building entrances. The project includes a gravel pedestrian path to connect the existing path from the Church Street parking area to Baker field to the south of the project.

Conclusion of Law: General standard is met.

C: Bylaws and Ordinances in Effect

Findings of Fact: Testimony from Engineer memo: The project is designed to meet all effective by-laws and ordinances as evidenced by this application.

Conclusion of Law: General standard is met.

D. Utilization of Renewable Energy

Findings of Fact: Testimony from Engineer memo: The project does not propose renewable energy generation and does not block access to renewable resources on adjacent properties.

Conclusion of Law: General standard is met.

E. Air Quality

Findings of Fact: Testimony from Engineer memo: The project will not have a significant effect on air quality. The fuel source for the building heating is propane. A diesel generator is proposed for emergency backup power. The generator will only be run occasionally during power outages and for maintenance purposes.

Conclusion of Law: General standard is met.

F. Character of the Area

Findings of Fact: Testimony from Engineer memo: The community safety services provided by the proposed Public Safety Building are essential to preserve and develop the existing village area. The proposed building will increase the efficiency of Police & Fire services and improve their reliability during natural disasters. The consolidation of Police & Fire services into one building will open the current locations of these services for future redevelopment. The proposed building will be a significant aesthetic improvement to the former Town garage site. The building and site have been designed to meet the goals of the Village Design Review District as detailed below. All

proposed building utilities are underground.
Conclusion of Law: General standard is met.

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.”

Conclusions of Law: Proposed construction is consistent with the defined purpose of the Village District and is consistent with the character of the area.

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**
- C. Development Consistent with the Rural, Agricultural, and Historic Nature of the Town**
- D. Formula Businesses**
- E. Maximum Square Footage of Retail (2000 square feet)**
- F. Building Scale Conformity**
- G. Utility Placement**

Findings of Fact: Testimony provided by agent.

Conclusions of Law: The proposed land development meets the requirements of Section 722

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: Proposed lighting include installation of 5 pole lights at 16 feet mounting height and 3 wall mounted lights are proposed for parking area. 5 pole lights at 8 feet mounting height are proposed for lighting the pedestrian path to the west of the building. Additional lights are proposed under the canopies at the truck bays and building entrances. All fixtures are downcast with fully cut off optics. Testimony of Agent and Claus Bartenstein lighting engineer.

Conclusions of Law: Standard 730 A is met.

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

Findings of Fact: Project will not create any safety hazards.

Conclusions of Law: Standard 730 B is conditionally 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: Pedestrian safety is provided on site through the proposed sidewalk from public parking areas to building entrances and the gravel pedestrian path on the west side of the site. There are three accesses to the site. The 24’ width northly access will serve the police department & visitors to the building. The 82’ width middle access is the paved apron to allow fire apparatus to rapidly exit the site in an emergency. The 20’ width southerly access will be restricted to public safety personnel and will provide the Fire Department access to the lower portion of the building.

Conclusions of Law: Standard 730 C is conditionally 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 un-obscured 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: Parking spaces of 23 spots including 2 accessible spaces are proposed for the site. All spaces are 10x18 with minimum 24’ aisles. Snow storage is provided along the western and southern portions of the site.

Conclusions of Law: Standard 732 D is met.

E. Road Development: New roads, public and private, shall conform to the town’s Highway Ordinance.

Findings of Fact: The proposed change 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: Proposed project landscaping consists of shade trees (maple, oak & birch) around the perimeter of the site with more formally landscaped areas at the northeast corner of the site and to the south of the building. The parking areas are more than 10’ from adjacent property lines and the largest parking area to the north of the site adjacent to a shed and other parking.

Conclusions of Law: Standard 730 F is conditionally 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: The proposed project will create less than one acre of new impervious area and will reduce impervious area and will result in a reduction of stormwater runoff from the site. Stormwater will be collected in a series of of grassed swales and underground drainage and directed to the municipal stormwater system at the south end of the site, matching the current drainage pattern.

Conclusions of Law: Standard 730 G is conditionally 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 project will obtain allocation from the Town and a Wastewater System & Potable Water Supply Permit from the state prior to construction.

Conclusions of Law: Standard 730 H is conditionally met

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

Findings of Fact: No significant natural resources or features on the project site with the exception of mature trees which should be preserved to the extent possible.

Conclusions of Law: Standard 730 I is conditionally met.

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

Findings of Fact: proposed application does not apply.

Conclusions of Law: Standard 730 J is conditionally 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: This waterway is not a Shoreland to a body of water of greater than 10 acres.

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: The Flood Hazard District is present at the southeast corner of the site. No development is proposed within this area.

Conclusions of Law: Standard 730 I is met.

M. Energy Resources: Commercial Development shall comply with the Vermont Commercial Building Energy Standards

Findings of Fact: Project is designed to comply with 2020 Commercial Building Energy standards.

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.

ARTICLE VIII SIGNS

ARTICLE VIII: SIGNS

Section 801: Purpose

Section 802: Application in District

Section 831: Types of Signs

Section 832: Number of Signs B, C, D

Section 833: Size of Signs

Section 850: Conditional sign waivers requiring written decision & approval from the DRB

Section 870: Signs Standards: Applying to all signs

Section 871: Sign Design guidelines

Section 873: Setback & height limitations

Section 874: Calculation of area & number of signs

Findings of Fact: Application is for 13 parking & traffic directional signs on the site. 2 signs will designate the location of ADA accessible parking. 7 signs will designate parking for police & fire use. 4 signs limit traffic at the apron & southerly drive to emergency use only. Canopy signs are also included for building entrances for "Police" & "Fire," & "Wilmington Safety Facility."

Conclusion of Law: Section 850 Conditional size waiver is approved based on the area and heights shown in exhibits.

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 1-36 and the testimony provided. Any changes to the plans will require an administrative approval from the Zoning Administrator and/or a review by the Development Review Board, in conformance with the ordinance.
2. Construction times to be limited to 8am to 6pm Monday through Friday.
3. During construction, entire project must be contained in safety fencing for pedestrian & vehicular safety.
4. Safety sign lighting must not overlight the signage & must eliminate any glare.
5. Landscaping trees on the northeast side of the project (facing route 9 East) must be consistent in size & maturity of current maple & apple trees.
6. (5) Pole lights at 16' & (5) pole lights at 8' must conform to the following requirements:
 - a. color temp for lights must not exceed 3000K temp (warm)

- b. Lights can not exceed 80% of maximum light
- c. Lighting system must utilize timers, dimmers & motion detector on pole lights that are programmable by end users.

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:

Diane Abate
 Cheryl LaFlamme
 Charles Foster
 Mary Brady

OPPOSED:

None

ABSTAINING:

None

Date: 11/20/2020

For the Board: Cheryl LaFlamme, Chairperson

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.