

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: **Stephanie Pohle**

Owner/Applicant(s) Mailing Address: PO Box 1858, Wilmington, VT 05363

Address of the subject property: **19 S Main Street**

Tax Map: parcel # **20-22-019.000**

A copy of the request is filed in the office of the Board and is referred to as: **#2021-027**

Description of Case per Public Notice

Application # **2021-027**: Owner: Stephanie Pohle

Applicant proposes a mobile food trailer in existing parking lot and the addition of an auxiliary kitchen, outdoor seating, plantings and parking spaces.

Applicable Code Sections:

Article II- Sections: 222, 223, 224, 226, 227

Article IV- Sections: 420, 423, 424, 440, 450 B

Article V- All Sections

Article VI- Sections: 602, 604, 610 A, L

Article VII- Sections: 710, 720, 721 A, B, C, D, 722 A, B, C, 723, 730 A, B, C, D, F, L

Notice for a public hearing was published in the Valley News on: **6/29/21**

Notice was posted in three public places on: **6/29/21**

A copy of the notice was mailed to the applicant on: **6/29/21**

A copy of the notice was mailed to the abutters on: **7/1/21**

Hearing Date: 7/21/2021

Appeal period for this Case expires on: 8/22/2021

Approval expires on: 7/22/2023

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

Stephanie Pohle

EXHIBITS

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

1. Application (3 pages)
2. Notice of Hearing
3. Abutter Notice & List
4. Auxiliary Kitchen Plan Details
5. Request for Food Trailer Permit- drawing of building and distances
6. Google Map images- top down view of 19 S Main
7. Google Map images- top down view of 19 S Main (higher vantage)
8. Google Map image- top down view of downtown district
9. Parcel Image
10. Flood Zone image- red lines indicating flood zone
11. Photo image of 19 S Main with food truck trailer in the background
12. Photo image of 19 S Main – front façade
13. Photo image of 19 S Main – front door entry facade
14. Photo image of signage for 19 S Main Restaurant
15. Photo image of food truck trailer in proposed location on the property.
16. Email from John Broker-Campbell re: Flood zoning with photo image of Flood Hazard Areas in relation to 19 S Main.
17. UPDATED Request for Food Truck Permit drawing, including picnic table and planter locations.

SYNOPSIS

The application proposes a mobile food truck trailer in existing parking lot and the addition of an auxiliary kitchen, outdoor seating, plantings and designated parking spaces to enhance the appearance, functionality, and curb appeal of the existing restaurant.

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 226 Development Review Board Decisions

Section 227 Plan Changes after Receiving a Development Review Board Decision

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 424 Secondary Uses

Section 440 Districts and District Requirements

Section 450 B District Purposes and Descriptions- Village District (VIL)

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 within the Historic Design Review Overlay District (Section 450 B). The property is identified as Tax Map: parcel # **20-22-019.000**

Conclusions of Law: The proposed land development is subject to zoning applicable to the Historic Design Review Overlay District

USES

Finding of Facts: The Primary Use of the structure is as a Restaurant.

Conclusions of Law: The applicant is not requesting any changes to the current use.

ARTICLE V: DESIGN REVIEW DISTRICTS OVERLAY DISTRICTS DESCRIPTION, USES, AND REGULATIONS

Section 500 Authority

Section 510 Village Design Review District Purpose

Section 511 Village Design Review District Boundaries

Section 512 Goals of the Village Design Review District

Section 520 Historic Design Review District Purpose

Section 521 Historic Design Review District Boundaries

Section 522 Goals of the Historic Design Review District

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

Section 531 Exceptions to Zoning Permit or Development Review Board Site Plan and Design Review Requirements

Section 540 Site Plan and Design Review Standards

Findings of Fact: Applicant acknowledges requirements of both the Village Design Review Overlay District and the Historic Design Review Overlay District. Applicant testifies that current application aligns with the goals for these respective districts.

Conclusions of Law: Article V is met.

ARTICLE VI: FLOOD HAZARD DISTRICT

Section 602 Lands to Which These Regulations Apply

Section 604 Interpretation of Flood Hazard Area Boundaries

Section 610 A L Floodway and Floodway Fringe Areas; Securing Floatables

Findings of Fact: Applicant testifies that in the event of conditions conducive to flooding, the food truck will be removed from 19 S Main and relocated. Additionally, propane tanks used for food truck operation are securely attached to the food truck trailer tongue and any additional outside items will be secured or removed (i.e. picnic tables, trash cans, etc).

Conclusions of Law: Article VI is met.

ARTICLE VII: STANDARDS

Section 710 Use Performance Standards

Section 720 Applicability of Conditional Use Standards and Site Plan and Design Guidelines

Section 721 A, B, C, D Conditional Use- General Standards

Section 722 A, B, C Conditional Uses- Preserving the Character of Town
Section 723 Conditional Uses- Preserving the Character of the Town: Historic Preservation
Section 730 A, B, C, D, F, L, Specific 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: Applicant testifies there will be no vibration.

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: Applicant testifies there will be no noise between the hours of 9pm and 7am.

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: Applicant testifies there will be no air emissions beyond the acceptable threshold.

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: Applicant testifies there will be no injurious or noxious practices.

Conclusions of Law: This Use Performance Standard is met

Section 720: Applicability of Conditional Use Standards and Site Plan and Design

Guidelines: The Development Review Board shall utilize the Listing of Structures in the State and Federal Registers of Historic Places (Appendix II) to determine the historical significance of all pre-existing Structures seeking written decision and approval for alteration, renovation or change.

Finding of Facts: Applicant address does fall in the Historic Design Review District.

Conclusions of Law: Section 720 is applicable and requires conformity with Section 732.

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

B. Traffic on Roads and Highways

C: Bylaws and Ordinances in Effect

D. Utilization of Renewable Energy

E. Air Quality

F. Character of the Area

Findings of Fact: Applicant testifies that no undue adverse effects shall arise from approval of this application.

Conclusions of Law: This General Standard is met.

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: Applicant testifies that the food truck will meet the intent of preserving the character of the town.

Conclusions of Law: This Conditional Use Standard is met.

SECTION 723: CONDITIONAL USE- PRESERVING THE CHARACTER OF THE TOWN: HISTORIC PRESERVATION

A. Historic Structures

B. Historic Preservation, Rehabilitation, and Restoration

C. Historic Features

D. Criteria for Determining Preservation, Rehabilitation, Restoration/Reconstruction

E. Demolition of Historic Structures

Finding of Fact: Applicant testifies that the food truck is in compliance with the guidelines for the Historic Design Review District to the extent reasonable.

Conclusion of Law: This Conditional Use Standard is met.

SECTION 730: CONDITIONAL USE – SPECIFIC STANDARDS

A. Lighting and Glare: All exterior lighting shall be shielded and downcast. Glare and reflection are 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: Applicant testifies that no additional lighting is planned to be added, however if lighting is used, it will be shielded and downcast.

Conclusions of Law: Standard 730 A is met.

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

Findings of Fact: Applicant testifies that all precautions will be taken to reduce safety risks while the food truck is in operation.

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: Applicant testifies that visible barriers will be used to demarcate the food truck area from the remainder of the parking lot area.

Conclusion 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: Applicant testifies that when the food truck is not in operation, utility vehicles have adequate access to the building and parking will remain accessible by patrons. While the food truck is in use, parking will be affected, however only minimally.

Conclusions of Law: Standard 732 D is conditionally met.

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: Applicant testifies that moveable planters will be used around the food truck and picnic table area, placed seasonally.

Conclusions of Law: Standard 730 F is met.

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

Findings of Fact: Applicant address is located in the Flood Hazard District.

Conclusions of Law: See responses under Article VI above.

CONDITIONS:

The application for development is **APPROVED, WITH** the following conditions, restrictions, requirements, limitations and specifications.

1. The food truck shall be maintained in working condition and licensed, registered and safety inspected with the Registry of Motor Vehicles.
2. The applicant will meet with Wilmington Police and Fire representatives and address any safety or impact concerns raised by those departments.
3. Parking is prohibited in the parking lot in front and side of the restaurant during food truck

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:

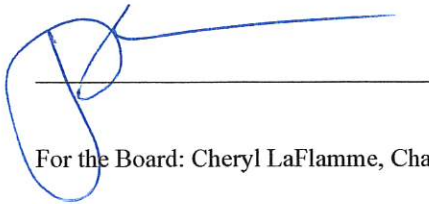
Diane Abate
Cheryl LaFlamme
Charles Foster
Chrystal Holt

OPPOSED:

None

ABSTAINING:

None



A handwritten signature in blue ink, appearing to be 'Cheryl LaFlamme', is written over a horizontal line. The signature is stylized and loops around the line.

Date: 7/23/21

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.
