

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: Jason Vittorini

Owner/Applicant Mailing Address: 1 Barnes Road, Hingham, MA 02043

Address of the subject property: 4 South Main Street, Wilmington

Tax Map: # 21-22-5

A copy of the request is filed in the office of the Board and is referred to as: #2022-107

Description of Case per Public Notice:

Application is being made for change of use from retail to residential on the first floor by Owner Jason Vittorini in the Village District and inside the Historic Design Review District Overlay.

Applicable Wilmington Code Sections:

Article II -Sections: 222, 226

Article IV –Sections 420, 440; 450 B

Article V – Sections 520, 522

Article VII –Sections 710; 730 A, C, H

Notice for a public hearing was published in the Valley News on: **November 17, 2022**

Notice was posted in three public places on: **November 18, 2022**

A copy of the notice was mailed to the applicant on: **November 18, 2022**

A copy of the notice was mailed to the abutters on: **November 18, 2022**

Appeal period for this Case expires on: 1/30/2023

Approval expires on: 12/30/2024

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

Jason Vittorini

EXHIBITS

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

1. Application - 3 pages

2. Hearing Notice
3. Abutters List
4. Hand drawn interior plan
5. Town of Wilmington Tax Map
6. Interior photos of demolition

SYNOPSIS

The property formerly had a retail outlet on the first floor and has a residential unit on the 2nd floor. The Applicant requests change of use for first floor from retail to residential.

ARTICLE II ADMINISTRATIVE PROCEDURES

Section 222 Land Development and Uses requiring Development Review Board Written Decision and Approval

Section 226 Development Review Board Decisions

Findings of Fact: Sections noted outline administrative procedures, definitions, role of the DRB, and responsibility of the applicant. The Application was received containing all necessary documents.

Conclusions of Law: Article 11 was found to be met

ARTICLE IV: DISTRICTS & USES

Section 420 Uses

Section 440 Districts and District Requirements

Finding of Facts: Testimony was received that the subject property is located on a parcel in the in the Village District and inside the Historic Design Review District Overlay

Conclusions of Law: The requirements of Section 420 and 440 are met

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: Testimony was received that the subject property is in the Village District within the Historic Design Review Overlay District (Section 450 B). The property is identified as Tax Map: # 21-22-5 and as such residential use is a conditional use.

Conclusions of Law: Section 450 is satisfied

USES

Finding of Facts: The Primary Use of the structure is residential.

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

ARTICLE V: DESIGN REVIEW DISTRICTS- OVERLAY 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 window replacement.

Findings of Fact: The proposed 1st floor changes are in the spirit of preserving the historical and cultural heritage of the downtown and supports the goals of historic preservation through the empathetic approach shown.

The proposed changes benefit the community through provision of much needed long term letting, will attract and encourage tourism through helping to house local workforce, will support a visually attractive Village through being sympathetic to the existing structure, will encourage economic growth through , and is an investment in our downtown to make a positive contribution for visual and economic vitality.

Conclusion of Law: The proposal as presented meets the goals of the Historic Design Review District.

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 was received that the alterations proposed would not create vibrations that would infringe upon the requirements of 710 A

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 was received that the alterations proposed would not create noise that

would infringe upon the requirements of 710 B

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 was received that the alterations proposed were not for commercial purposes and that there would be no vibrations that would infringe upon the requirements of 710 C

Conclusions of Law: This Use Performance Standard is not relevant

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 was received that the alterations proposed would not involve injurious or noxious practices that would infringe upon the requirements of 710 D

Conclusions of Law: This Use Performance Standard is met

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: Testimony was received that the alterations proposed would not infringe upon the requirements of 730 A

Conclusions of Law: Standard 730 A 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 Applicant has testified that the necessary water permits will be obtained

Conclusions of Law: The decision will be conditioned on Wastewater and Potable Water management as follows: production of a WW permit and as such Standard 730 H is conditionally met.

CONDITIONS:

The application for change of use is approved with the following conditions, restrictions, requirements, limitations and specifications.

1. Except as otherwise required to accommodate the conditions of this decision, changes will be executed in accordance with Exhibits 4,5 & 6 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. Production of the required Waste Water permit.

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
Paul Lockyear

OPPOSED:

None

ABSTAINING:

None



For the Board: Cheryl LaFlamme, Chairperson

Date: 12/30/2022

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.