

**TOWN OF WILMINGTON
COVER SHEET
DRB FINDINGS OF FACT ATTACHED**

20
EAST

Zoning Permit Application Number:

2024-056

Date of First Hearing:

6.17.24

Public Hearing Notice published in the Deerfield Valley News on:

5.30.24

Notice was posted in three public places on:

5.24.24

A copy of the Notice was mailed to the applicant and abutters on:

5.28.24

Appeal period for this DRB Decision expires on:

7.31.24

Approved Permit (after two years) expires on:

7.2.26

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for permit was made to the Board by: Edward J Erhard III

Owner/Applicant(s) Mailing Address: 84-32-122 Street, Key Gardens, NY 11415
Address of the subject property: 20 East Main Street, Wilmington VT

A copy of the request is filed in the office of the Board and is referred to as: #2024-056

Description of Case per Public Notice: Date of Hearing June 17, 2024

Application # 2024-056: Owner: Edward J Erhard III

1. Application is being made for permit #2024-056 for demolition of attached one story rear structure and addition of larger one-story structure for use as a bedroom. This permit requires Development Review Board approval as it is within the Village District with a Historic Design Review District overlay.
2. Summary: The subject building at 20 East Main Street is listed in the National Register of Historic Places and the State Register of Historic Places. Historically referenced as the Hamilton Apartments, it was constructed in 1885 in the Colonial Revival style. The applicant is looking to match the new construction with the existing 6 family house in color and finish material.

Include but are not limited to the following Wilmington Code Sections:

Article II – Section 221, 222, 223, 224, 226, 227, 271, 272

Article IV – Section 420, 424, 440, 450 B

Article V – Section 520, 521, 522, 530

Article VII – Section 710, 720, 721, 722, 723, 730 A, H

Notice for a public hearing was published in the Valley News on: 5/30/2024

Notice was posted in three public places on: 5/24/2024

A copy of the notice was mailed to the applicant on: 5/28/2024

A copy of the notice was mailed to the abutters on: 5/28/2024

Appeal period for this Case expires on:

8/11/2024

Approval expires on:

7/1/2026

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

Ed Erhard

EXHIBITS

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

1. Notice of Hearing
2. Application (3 pages)
3. Site Map Parcel Lines – 20 East Main Street (1 page)
4. Photos Existing Building (5 pages)
5. Plot Plan, building plan, abutters – hand sketches (3 pages)
6. Sewer Bill -
7. Abutter List

ARTICLE II: ADMINISTRATIVE PROCEDURES

Section 221: The Role of the DRB

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 DRB Decision

Section 271 Public Hearings

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

C. Conditional: Requiring DRB written decision

Section 424: Secondary Uses; Not Applicable

Section 440: Districts and District Requirements

Section 450 B

District:

- VIL = Village

In addition, these two (2) zonings overlays apply:

- HDRD = Historic Design Review District (Article V)
- VDRD = Village Design Review District (Article V)

Section 450: District Purposes and Descriptions

Village District (VIL)

1. Purpose: 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.

Building Structures will be reflective of the historic nature of the town.

The Historic Design Review District, as defined in Article V, is included in this district. Some of the parcels in the village are also subject to the Historic Design Review District Guidelines in Article V.

Site Criteria – Village District inside the Historic Design Review District:

Density Limits	Unlimited
Structures/Uses Per Lot	Unlimited
Dimensional Requirements - New Lots	
Minimum Lot Size:	1/8 acre
Minimum Lot Frontage:	40 ft
Structure Height (Max):	38 ft to the highest point of the ridge line All Structures over 24 feet from average grade to the eave line or 38 feet to the ridge line are subject to Development Review Board written decision and approval. *
Setback-Front (Min):	0 ft

	Measured from edge of the actual or proposed road right-of-way to the dripline for 0 setback
Setback-Side/Rear (Min):	0 ft Measured from the dripline.

Allowed Uses:

Conditional Uses, Village District:

Dwelling, Multiple-Family: A building containing separate dwelling units with five or more units.

ARTICLE IV:

Findings of Fact: The project is an existing multi-family dwelling with more than five units which is a Conditional Use within the Village District.

Conclusion of Law: Applicant is not changing the number of units or the Use. The addition to the rear of the property does not adversely impact the 0 ft side or rear setback

ARTICLE V: DESIGN REVIEW DISTRICTS- OVERLAY DISTRICTS

Section 500: Authority

Within the Village Design Review District and the Historic Design Review District no Structure may be erected, reconstructed, altered, restored, moved, demolished or changed in Use or type of occupancy, except as otherwise provided for in Section 531 (A) & (B) of this Article, without a written decision and approval of the plans by the Development Review Board, subject to Site Plan and Design Review and administrative approval by the Zoning Administrator as provided for within this zoning ordinance pursuant to 24 VSA § 4464 (C).

Section 510: The basis for a **Design Review District** is to preserve the natural beauty, vistas and the visual character of the Village of Wilmington. The visual aspects of the Design Review Districts represent an important asset to the community by providing a source of pleasure for both residents and visitors and contributing to the economic development of the community.

Section 520: Historic Design Review District Purpose

The basis for the Historic Design Review District is to preserve the beauty, vistas and visual character of the many buildings of historic significance as defined by the National and State Registers of Historic Places dating from the early 19th century.

To protect these characteristics, it is necessary to ensure that proper attention is given to the historic exterior features of buildings and Structures so as to provide a means by which long term economic prosperity may be supported, property values can be stabilized or improved, and economic well-being of the community protected and fostered.

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

As required by §4414(1)(E), no Structure in any Design Review District (Historic or Village), “may be erected, renovated, substantially altered, restored, moved, demolished, or changed in Use or type of occupancy without a written decision and approval of the plans by the appropriate municipal panel.” (The Development Review Board).

Section 540: Site Plan and Design Review Standards

- A. All development and land improvements within a Design Review District are subject to the Standards as defined in Article VII as well as any applicable standards as set forth in Article VI Flood Hazard Area, Article VIII Signs, and Article IX Telecommunications.
- B. All development and land improvement with the Village Design Review District shall

preserve the character of the village and conform to the Goals of this District as defined in Section 513.

- C. All development and land improvements within the Historic Design Review District shall conform to the Site Plan and Design Guidelines of Appendix I to the extent reasonable and possible to satisfy the intent of this ordinance and preserve, rehabilitate or restore the historic Structures of the town as defined in Sections 730, 731, and 732 of this Ordinance.

ARTICLE V:

Findings of Fact: The existing one-story rear structure which serves as a bedroom for the first-floor apartment is not original to the building and was added at some later period. It is in poor condition and has reached the end of its serviceable life as shown by photos and testimony. The applicant testified that the new addition which will have a larger footprint as noted in exhibits, will match the current buildings style, material and color to maintain the historic character of the property.

Conclusion of Law: It is the opinion of the DRB that this addition meets the Historic Standards and will be an improvement to the town.

ARTICLE VII: STANDARDS (Section 710, 720, 721, 722, 723, 730 A, H)

Section 710: Use Performance Standards

Pursuant to 24 V.S.A. § 4414(5) Performance Standards, the following standards shall apply to all Uses and land development in the town.

- A. **Vibration:** No continuous, permanent, ongoing, or frequent vibration shall be produced which, when transmitted, is discernible at the property line without the aid of instruments.

Temporary vibration created during land development should be limited to daylight hours to preserve quality of life in neighboring properties.

- B. **Noise:** continuous, permanent, ongoing or frequent noise in excess of that of a normal conversation (in the judgment of the Development Review Board) must not exist at the property boundary line. Recurring periodic or intermittent noises in excess of that of a normal lawn mower (in the judgment of the Development Review Board) at the property line is allowed provided it does not occur between the hours of nine (9) PM and seven (7) AM, and does not significantly detract from or diminish other property's allowed Use or land development.

Temporary noise created during land development should be limited to daylight hours to preserve quality of life for neighboring properties.

- C. **Air Emissions for Commercial Operations:** There shall be no emission of dust, ash, smoke or other particulate matter:

1. Which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity
2. Which can cause contamination of the subject property or beyond the property boundaries
3. Which is composed of solid or liquid particles in concentrations exceeding current state authority standards
4. Which causes emission of non-farming, odorous matter in such quantities, as determined to be offensive.

- 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 may cause injury or damage to human or animal health, vegetation, or property.

Findings of Fact: Applicant testimony and nature of the intended Use as a bedroom it is found that the addition will not have any adverse effect related to Performance Standards, Items A, B, C, D, or E (Listed above).

Conclusions of Law: Conditions met.

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

Conditional Uses are subject to both General and Specific Standards as defined below. Site Plan and Design Guidelines of Appendix I shall be applied to development within the Historic Design Review District and are recommended in all other districts.

The Development Review Board will complete a Site Plan Review and a Design Review as needed to determine conformity with the Standards of this Article VII.

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.

The Development Review Board shall require conformity with Section 732 within the Historic Design Review District.

SECTIONS 721: GENERAL STANDARDS

In all districts, all Conditional Use development shall protect from undue adverse effects. No Land Development or Use shall result in an undue adverse effect on any of the following:

- 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: The Conditional Uses will not have an undue adverse effect on items A-F.

Conclusion of Law: General Standards are 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: This proposed project and the Conditional Use preserves the Character of the Town

Conclusions of Law: Condition is met.

Section 723: Conditional Use - Preserving the Character of the Town: Historic Preservation (compliance is required for properties in the Historic Design Review District (HDRD))

A. Historic Structures:

All Conditional Uses for a certified historic Structure as defined by Internal Revenue code 26 U.S.C. Section 47 (c) and/or recognized in the National Register of Historic Places, or by the Preservation Trust of Vermont shall not engage in land development that will compromise the Structure's historic status. Every effort shall be made to preserve and enhance the historic features of Structures dating to 1920 or earlier. Preservation and enhancement of historic Structures shall be compatible with the historic character of the town and region.

B. Historic Preservation, Rehabilitation and Restoration. Historic features and historic Structures shall, to the extent reasonable and possible, be preserved, rehabilitated, or restored.

(Preservation, Rehabilitation, Restoration including Reconstruction as defined in Section 723 B of the Wilmington Zoning Ordinance)

Consistent with Section 723 D, criteria to be applied in determining which of these approaches is most appropriate for the structure include the property's':

1. Historical significance
2. Physical condition
3. Proposed Use
4. Reasonableness of undertaking Preservation, Rehabilitation, or Restoration/Reconstruction
5. Degree to which it will contribute to preserving or enhancing the character of the community

C. Historic Features: For reconstruction, historic features of Structures or complimenting the historic features of the region shall be retained or reconstructed.

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

E. Demolition of Historic Structures

The owner of a historic structure that may reasonably be Preserved, Rehabilitated, Restored/Renovated shall not demolish any historic Structure certified as a historic Structure as defined by Internal Revenue Code 26 U.S.C. Section 47 (c) or listed on any State or Federal Register of Historic Places.

Findings of Fact: Based on the Appendix II listing of the Zoning Ordinance: This property is listed in the National and State Registers of Historic Places. Historically referenced as the Hamilton Apartments, it was constructed in 1885 in the Colonial Revival style. The property is a contributing building to the historic district. The existing addition, which was added later, is itself not a contributing historic feature of the property and not highly visible to the street.

Conclusions of Law: The existing added structure has reached the end of its serviceable life, is not a contributing feature of the historic building, is located at the rear of the property and does not warrant the need to preserve or rehabilitate it.

SECTION 730: CONDITIONAL USE – SPECIFIC STANDARDS

All land development and Uses in all Districts and Overlay Districts shall conform to the following:

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: Applicant testified that no new lighting will be added.
Conclusions of Law: Condition 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 not 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: Applicant testified that no plumbing is being added or replaced.
Conclusions of Law: Condition is met.

CONDITIONS:

The application for the demolition of single room bedroom structure at back of building and new construction of larger single-story bedroom **is approved** based on the following conditions.

1. Except as otherwise required to accommodate the conditions of this decision, development will be executed in accordance with Exhibits 1-15 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. Approval of building dimensions, footprint and single-story height as shown in exhibits.
3. Applicant to match exterior siding material, style and color of original home.

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 a 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 an 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:

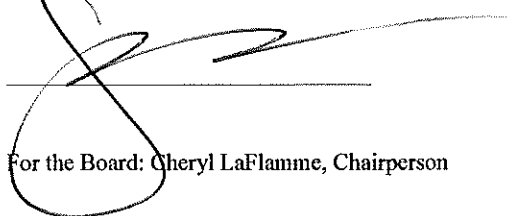
Cheryl LaFlamme
Chrystal Holt
John Gannon
Diane Abate

OPPOSED:

None

ABSTAINING:

None



For the Board: Cheryl LaFlamme, Chairperson

Date: 7/1/2024

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.