

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

7
South

Zoning Permit Application Number:

2024-069

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:

7.25.24

Approved Permit (after two years) expires on:

6.24.26

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: **John Langran**

Owner/Applicant(s) Mailing Address: PO Box 1731, Wilmington, VT 05363

Address of the subject property: **7 South Main Street, Wilmington, VT 05363**

Tax Map: parcel # **20-22-21**

A copy of the request is filed in the office of the Board and is referred to as: **Permit #2024-069**

Description of Case per Public Notice

Application # **2024-069**

Applicant proposes a remodel of 2nd Floor apartment

Applicable Code Sections:

Article II – Sections: 221, 222, 223, 224, 226, 227, 271 & 272

Article IV – Sections: 420, 424, 440 & 450 B, HDRD & FLOOD

Article V – Sections 520, 521, 522 & 530

Article VI – Sections 601-603, 605, 606, 608-610 & 620

Article VII- Sections: 710, 720, 721, 722, 723 & 730 A, G & L

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: 7/24/2024

Approval expires on: 6/24/2026

Date of Public Hearing: **June 17, 2024.**

The following presented testimony as the applicant:
John Langran

EXHIBITS

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

Exhibit 1 – Town of Wilmington Cover Sheet and Warning

Exhibit 2 – Application

Exhibit 3 – Floor Plan

Exhibit 4 – Service List

Exhibit 5 – Email from Ned Swanberg, Vermont Agency of Natural Resources

SYNOPSIS

Applicant proposes to remodel 2nd floor apartment

ARTICLE II: ADMINISTRATIVE PROCEDURES

Section 221 Role of the Development Review Board
Section 222 Land Development and Uses Requiring Development Review Board Written Decision and Approval
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
Section 271 Public Hearings
Section 272 Who May Attend and Be Heard at A Public Hearing

Finding of Facts: Sections noted outline administrative procedures, definitions, role of the DRB, and responsibility of the applicant. This application was received containing all necessary documents and those in attendance were advised of who may provide testimony during the hearing.

Conclusion of Law: Article II is met.

ARTICLE IV: DISTRICTS & USES

Section 420 Uses
Section 424 Secondary Uses
Section 440 Districts and District Requirements
Section 450 B District Purposes and Descriptions – Village District

Finding of Facts: Subject property is within the Village District (Section 450 B). The property is identified as Tax Map parcel # 20-22-21. The primary use is a Bar. The secondary use is Dwelling, Multi-Family with four units.

Conclusion of Law: Article IV is met. No change of use is proposed.

ARTICLE V: – DESIGN REVIEW DISTRICTS – OVERLAY DISTRICTS

Section 520 Historic Design Review District
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

Findings of Fact: Subject property is located at 7 South Main and is in the Historic Design Review District. The property is identified as Tax Map parcel # 20-22-21. The 2nd Floor apartment remodel helps maintain and preserve the building and encourages economic growth and prosperity. No exterior renovations are proposed.

Conclusions of Law: Article V is met

ARTICLE VI – FLOOD HAZARD DISTRICT – AN OVERLAY DISTRICT

Section 601 Statement of Purpose
Section 602 Lands on Which These Regulations Apply
Section 603 Development Permit Required
Section 605 Permitted Uses
Section 606 Conditional Uses
Section 608 Conditional Use Application Requirement
Section 609 Review Procedures
Section 610 Development Standards
Section 620 Flood Hazard Definitions

Findings of Fact: ANR reviewed the project and noted the remodel is above the Base Flood Elevation (BFE). Applicant testified that the cost of the repairs was \$40,000 and does not equal or exceed 50% of the market value of the property.

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: Conditional Use – General Standards

Section 722: Conditional Use – Preserving the Character of the Town

Section 730 Specific Standards A, B & D

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 testified that there will be no continuous, permanent, ongoing or frequent vibrations.

Conclusions of Law: This section is met.

B. Noise: Continuous, permanent, ongoing or frequent noise in excess of that of a normal conservation 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 9 PM and 7 AM and does not significantly detract from or diminish other property's allowed use or land development.

Findings of fact: Applicant testified that there would be no noise in violation of this section.

Conclusions of Law: This section 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 testified that there would be no air emissions in violation of this section.

Conclusions of Law: This section 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: Applicants testified that there would be no injurious or noxious practices.

Conclusions of Law: This section is met.

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

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

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

Finding of Fact: The site plan was reviewed and verified.

Conclusions of Law: This section is met.

Section 721: General Standards

The proposed use shall protect against adverse impact on:

- A. Community, Municipal or Educational Facilities
- B. Traffic on Roads and Highways
- C. Bylaws and Ordinances in Effect
- D. Utilization of Renewable Energy & Natural Resources
- E. Air Quality
- F. Character of the Area

Findings of Fact: Based on the proposed use, the applicant's testimony and the exhibits, there will not be any impact on A-F above.

Conclusions of Law: This section is met.

Section 722: Conditional Use – Preserving the Character of the Town

Land development and Uses in all Districts shall preserve the character of town consistent with its rural and agricultural heritage, conforming to the following:

1. Preservation of the Town's Character: Business development shall, to the extent reasonable and possible, occur in a manner that preserves the rural and agricultural character and ambiance of the community and the historic downtown.
2. Economic Development Contributing to the Character of the Town: Merchandise or services shall not detract from the historic character and nature of the town as a family destination for tourists and a family focused residential community.
3. Development Consistent with the Rural, Agricultural, and Historic Nature of the Town: Construction, reconstruction, or land development, whether allowed, Permitted, or Conditional shall, to the extent reasonable and possible, reflect and/or compliment the historic nature of the town and the rural and agricultural appearance of the neighborhood and region.
4. Formula Businesses: The visual appearance of Formula Businesses (also known as chain stores, including things such as grocery stores, gas stations, chain drugs stores, dollar stores, etc. See Article X for a complete definition of this term, including signage, shall project an appearance harmonious with the character of the rural, agricultural, and historic nature of the town, reflecting the distinctive and unique character of the town, consistent with the Site Plan and Design Guidelines of Appendix I.
5. Maximum Square Footage for Retail: All retail businesses with a proposed footprint of greater than two thousand (2,000) square feet (for example a 50' long x 40' wide store) shall require Development Review Board review, written decision and approval in all districts. Stores exceeding the two thousand (2,000) square foot maximum may be approved by the Development Review Board in the event that the business:
 - is consistent with the unique character and ambiance of the community
 - is found to be in the best interest of the community
 - is the minimum size required to reasonably accommodate the business
 - will enhance or preserve the economic base and economic diversity of the town as a whole
 - will create economic stability and viability for the community
6. Building Scale Conformity: Development shall conform to the scale of the established neighborhood.
7. Utility Placement: to preserve the aesthetics and natural beauty of the area, underground utilities are encouraged where possible, particularly in areas of natural scenic beauty and in the Historic Design Review District.

Finding of Facts: Based on the proposed use, the applicant's testimony and the exhibits, the proposed use will be consistent with the Town's rural and agricultural heritage and conform to the standard of this section.

Conclusion of Law: This section is met.

Section 730: Specific Standards

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

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.

Findings of Fact: At the request of the Fire Marshall, the applicant installed one outdoor light. He testified that the light is shielded and downcast.

Conclusion of Law: Section 730 A is met.

G. Land and Water Management: Pursuant to 24 V.S.A. § 4414 (1)(G) and 24 V.S.A. § 4414 (9) the development plan shall protect properties, transportation systems, and public safety by:

1. Providing for safe and environmentally appropriate water management including but not limited to water supply quality/availability, stormwater retention/absorption and impervious surface runoff management.
2. Preventing water pollution.
3. Making appropriate provision for management of erosion, preservation of rivers and streams, river/stream banks, wetlands, waterways, channels, and agricultural lands.
4. Preserving and promoting scenic or aesthetic features and open spaces.

If the project is not subject to the State of Vermont Act 250 written decision and approval process, determination of conformity of this provision may be made through expert testimony or studies.

Finding of Fact: Applicant testified that no changes was being made to land and water management.

Conclusions of Law: Section 730 G is met.

L. Flood Hazard Protection: All Land Development in the Flood Hazard District shall comply with all provisions of Article VI, Flood Hazard District. All floatables in any District and in an area which has historically flooded and all Flood Fringe Areas, shall be raised above the estimated 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, (see Flood Hazard Regulations § 620 (B)(12)).

While hay bales and logs are protected Agricultural and Silviculture industries in Vermont, conformity with this provision is encouraged.

Finding of Fact: See Article VI Findings of Fact.

Conclusions of Law: Section 730 L is met.

CONDITIONS:

This 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 the exhibits 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.

If unused, this Approval expires 2 years from the date of issue. A request for extension may be made by 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.

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 APPROVAL, FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

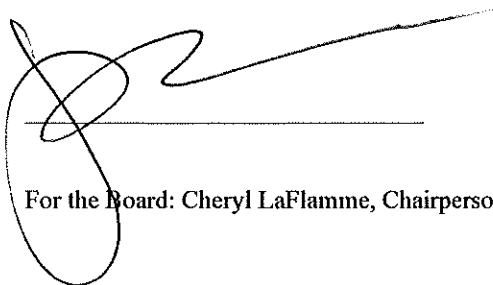
Cheryl LaFlamme
Diane Abate
John Gannon
Chrystal Holt

OPPOSED:

None

ABSTAINING:

None



A large, stylized handwritten signature in black ink, appearing to be 'Cheryl LaFlamme', written over a horizontal line.

Date: 6/24/2024

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.
