

**DRAFT**  
**Town of Wallingford, VT Development Review Board (DRB)**  
**Findings of Fact, Conclusions of Law, Decision & Order(s)**

**Application #18-03 :** Request to open a Full Service Deli, including Alcohol service

**Applicant:** Tracey Urbani (tenant), 126 Cresent St. Rutland VT, 05701 [TraceyUrbani@yahoo.com](mailto:TraceyUrbani@yahoo.com) 802.342.7429

**Property Owner :** Alden LeMay, PO Box 408 Pittsford VT 05763 802.353.0666

**Subject Property Location:** 5 N. Main St. Wallingford Village, VT **Town Parcel:** 7000005

**INTRODUCTION**

The Zoning Administrator (ZA) received the initial application which was reviewed on 3/16/2018. Per Article III of Wallingford Zoning Regulations (effective Sept. 2015), the ZA determined that the application required DRB review and was denied/referred to the Appropriate Municipal Panel on 3/23/2018. The Applicant, Property Owner, and abutting property owners were notified (documented by Certificate of Mailing) of this application on 3/23/2018 and that a Public Hearing was scheduled for 6:00 pm, April 9, 2018, at Town Offices, 75 School St. Wallingford Village. Public Notice was also given by Rutland Herald notice on 3/24/2018, project location POSTER, and in two other public buildings.

Accordingly, a Public Hearing was convened by the DRB at 6:00 pm on 4/9/18, with a quorum of Members in attendance. The Zoning Administrator, Applicant Tracey Urbani, and spouse Brian Wartman were in attendance, sworn in, and submitted testimony. There were no other Interested Parties identified.

Jurisdiction was taken by Article III (Neighborhood Commercial Zoning District, Conditional Uses), Article IV (General Regulations; Conditional Use Approval), Off- Street Parking, and Article IX (Sign & Advertising Display).

After hearing testimony from Applicant and any Interested Parties; the DRB voted to close the Hearing to Testimony, and continue deliberations in an Open Meeting format to consider the following:

**FINDINGS of FACT**

1. The subject property is a non-conforming 0.10 acre corner parcel in the center of the Town's Main Village. The pre-zoning structure, aka as the "Commercial Building" is on the VT & National Historic Registry, and has been in the Town's Designated Village District. It is not in a FEMA mapped SFHA.
2. The structure has two ground-level commercial spaces, and two apartment rental units on the second level. These are connected to municipal Fire District water and sewer services.
3. The application requests a conditional use in the Neighborhood - Commercial Zoning District.
4. The application is requesting to open a Delicatessen food service (aka as "Thoroughbreds Deli), preparing and selling sandwiches, box meals, traditional deli food items, snacks, and beverages, mostly on a take-out basis; from the first floor rental unit on the north east corner of the Building. Catering services was introduced as a future activity originating from the premises. The advertisement and sale of lottery tickets and tobacco products was not requested in this application.
5. The application requests serving alcoholic beverages (beer, wine, and liquor). The last tenant operated this space as a local "Pub", but closed their business and allowed their permits to expire.
6. The floor plan submitted with the application identifies ten (10) bar stool seats and limited seating in the remaining interior; for a total of thirteen (13) seats. There is an existing service bar, food prep counter, and patron/employee bathroom.
7. The Applicant intends to start with Open hours of operation from late morning until 11:00 pm; but hopes to expand operations as business demands. The application request was adjusted during the Hearing process for maximum hours of operation from 6:00 am to 11:00 pm, seven (7) days per week.

8. There would not be any exterior structural changes to the Building's structure. The exiting interior space may receive only minor non-structural (mostly decorative) renovations.
9. Limited outside Café seating was requested for seasonal use, providing it was on private property, did not encumber sidewalk traffic, and was not in the VTRANS Route 7 Right of Way. The Applicant stated that outside alcohol service would not be provided, and outside alcohol consumption would not be allowed.
10. Due to space constraint, and in consideration with the upstairs apartments, loud or live music was not requested as a regular feature.
11. The Application requests one flush-mounted, non-illuminated, 2' X 8' sign, to be mounted over the north-east entrance to the Deli; and submitted a design with their application. In testimony, the Applicants also requested installing window decals, in compliance with the Zoning Regulations, and in similar style with the adjacent permitted business (Biancia's Hair Salon); but window designs were not submitted with the application.
12. There is limited off-street parking, available in the rear of the property. The applicant stated her intention to request the Landlord/Owner to ask the upstairs tenants to park their vehicles in these rear (west) spaces during evening hours. There is a general agreement with VTRANS to tolerate on-street parking along US Rt. 7, with the possible exception of construction/maintenance and a snow emergency.

#### **CONCLUSIONS of LAW**

1. The DRB recognizes that the same rental space in the pre-zoning building has an existing history as a permitted "Pub" that has been approved for both food and inside alcoholic beverage service, although these permits have expired, and Zoning regulations were revised in 2015. The Board finds the Conditional Use Application with the testimony presented, conforming to the review criteria (#1-4) as required for Conditional Use Approval in Articles III and IV of the Zoning Regulations.
2. The off street parking proposal is anticipated to be consistent with past use of the patronage for this business, and approved. If the need for future parking issues become apparent, the DRB reserves its authority to require other parking arrangements per Article IV (Off- Street Parking Space) of the Zoning Regulations.
3. Town regulations do not specifically limit the Hours of Operation, but may set reasonable hours & conditions.
4. The Applicants (or their Landlord) will need to conform to the Fire District #1 requirements for sewer & water allocation and accounts for this application's use.
5. The non-illuminated flush mounted sign, as presented , conforms to Article IX and the specific NC commercial sign limitations. The Window decal/Signs were not included in the written application.

#### **DECISION & ORDER**

Based on the Application documentation, Testimony of Record, and Review of the applicable regulations, the Wallingford Development Review Board here by **APPROVES APPLICATION #18-03 with the following CONDITIONS:**

1. The business is approved to serve food and beverages as determined in Findings #4 and subject to VT Health Dept. permits. The sale of lottery tickets, tobacco products, and non-Deli related products is not included in this Permit; without additional review and approval of the DRB.
2. The sale of served alcoholic beverages, as determined in Findings #5 and # 6 is approved; pending approval of all VT and Town alcoholic beverage permits that may be required.
3. This Deli operation is approved for the Floor Plan and occupancy requested in #6 of the Findings. Any future expansion of Use will require an additional Permit Application.
4. The maximum hours of (Open) operation are approved as being between 6:00 am and 11:00 pm (eastern), seven days a week, as established in Findings #7. All Deliveries to the Business are restricted to these maximum hours of operation, and are still subject to any Town Noise Ordinance in effect.
5. Per Findings #8, there are no structural changes to the building exterior approved in this permit
6. Outside seasonal Café seating is approved per Findings #9. Outside alcoholic beverage service, and any outside alcoholic consumption is not approved. If outside alcoholic consumption is determined to be at fault of the Applicant, this may be grounds for the DRB, upon its review, to suspend, amend, or revoke this permit.
7. Regular Loud Noise or Music complaints, as a result of patrons or business operations, may be grounds for the DRB, upon its review, to suspend, amend, or revoke this permit.
8. The Applicant or Property Owner is to establish any required sewer, water, side walk maintenance accounts with the Town Fire District/Prudential Committee.
9. The non-illuminated flush mounted sign, as referenced in Findings #11, conforms to Article III and IX. **Window decals or signage are tentatively approved, pending design submission, review, and approval by the ZA prior to their installation.**

WHEREAS, the Wallingford Development Board APPROVES this Decision with its CONDITIONS, which is to be attached to final PERMIT #18- 03, as follows:

William Brooks: Approve;	Ericka Berner: Approve;	Jillian Burkett: Approve;
David Ballou: Approve	Lucy Thayer: Approve	

This Town approval does not release the Applicant from obtaining any other local, state, of federal approval or permit their application may require. Any alteration to the approved application without written prior Town approval, misrepresentation to the facts presented in the application & public testimony, or failure to comply to other VT & federal permits required are grounds to revoke this local permit.

Any Decision by an Appropriate Municipal Panel is subject to appeal by an Interested Party to the VT Environmental Court, within 30 days of the formal decision, as defined in the Town Regulations, and 24 VSA 4471(a), with a copy submitted to the Town, in accordance with the Act.

Approved on behalf of the DRB by \_\_\_\_\_, 4/ \_\_\_\_, 2018,  
William Brooks , Chairman, DRB

Received by Zoning Administrator: \_\_\_\_\_4/ \_\_\_\_,2018

