

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

**Application #21-05:** Request to open a Bakery.

**Applicant: Michelle Kinney:** 121 Hull Ave. Wallingford, VT 05773

Wallingfordblock@gmail.com

802.558.0399

**Property Owner:** Michelle Kinney 121 Hull Ave. Wallingford, VT 05773

802.353.0666

**Subject Property Location:** 15 South Main St. Wallingford, VT 05773

**Town Parcel:** 7010015

**INTRODUCTION**

The Zoning Administrator (ZA) received the initial application which was reviewed on 23 February 2021. 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 1 March 2021 and that a Public Hearing was scheduled for 7:00 pm, 16 March 2021, via Zoom (<https://www.wallingford.com/development-review-board>). Public Notice was also given by Rutland Herald notice on 27 February 2021, project location POSTER, and in two other public buildings.

Accordingly, a Public Hearing was convened by the DRB at 7:00 pm on 16 March 2021, with a quorum of Members in attendance. The Zoning Administrator, Applicant Michelle Kinney, and Bakery Co-Owners Chloe Gellenthien and Betsy Valine 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 0.15-acre corner parcel in the center of the Town's Main Village. The pre-zoning structure, aka as "The Block" is in the Town's Designated Village District. It is not in a FEMA mapped SFHA.
2. The structure has two ground-level commercial spaces (one space currently occupied by a restaurant) and two upper floors to be renovated at a later date. There are connections 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 Coffee Shop/Bakery service (aka as "Sweet Birches Coffee Roasters & Bakery) preparing and selling of croissants, breakfast sandwiches,

specialty items for retail such as Vermont Maple syrup products, muffins, scones, breads, desserts, small scale produce and catering for events such as weddings, birthdays, etc. The advertisement and sale of lottery tickets and tobacco products was not requested in this application.

5. The floor plan submitted with the application identifies the basement baking area and proposed location of the bakery within the building. Seating will be small tables for not more than 20 people will be placed along south side of wall with the shop occupancy at 33 people as per the District Fire Marshall. Seasonal outdoor seating will be as is currently used by the existing restaurant.
6. The Applicant intends to start with Open hours of operation from 06:30AM until 4:00PM. The application request has requested for maximum hours of operation from 6:00AM to 11:00PM, six (6) days per week (closed Tuesday) to have prior approval should the occasion arise to expand operating hours.
7. The Application requests one-free standing two-sided non-illuminated, made of PVC with wood framing sign, to be mounted on existing site of former shop's sign, approximately 6 feet of the building and 7 feet high.
8. Parking will be on the street as it now exists.

#### CONCLUSIONS of LAW

1. The DRB recognizes that the same rental space in the pre-zoning building has an existing history as the Odd Fellows building with shops having been located in it such as Jularne's Country Shoppe, Uptown Hair Design, Country Kitchen Specialties, Pottery workshop and retail sales. 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. Town regulations do not specifically limit the Hours of Operation but may set reasonable hours and conditions.
3. The Applicant will need to conform to the Fire District #1 requirements for sewer & water allocation and accounts for this application's use.
4. The non-illuminated free-standing sign, as presented, conforms to Article IX in size (34inches x 18 inches) and the specific NC commercial sign limitations. It does not however, conform to the number of free-standing signs allowed per lot as is described in the 2015 Zoning Regulations. The Zoning regulations provide "for one free-standing sign per lot for each 300 feet of road frontage". Window decal/Signs were not included in the written application.

Based on the Application documentation, Testimony of Record, and Review of the applicable regulations, the Wallingford Development Review Board here by **APPROVES**

#### **APPLICATION #21-05 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 alcohol and other related products is not included in this Permit; without additional review and approval of the DRB.

2. This Coffee Roastery/Bakery is approved for the Floor Plan and occupancy requested in #5 of the Findings. The Town Zoning Ordinance does not specifically regulate Occupancy; which is controlled by VT Public Safety rules. The maximum Occupancy of the Building or its sub-units is not to exceed the VT Fire Marshal determination.
3. 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 #6. 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. Outside seasonal Café seating is approved per Findings #5.
6. 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.
7. The Applicant or Property Owner is to establish any required sewer, water, sidewalk maintenance accounts with the Town Fire District/Prudential Committee.
8. The non-illuminated free-standing mounted sign, as referenced in Findings #4, does not conform to Article IX however, since the Applicant has agreed not to place additional signs on the building in the future, and the fact that the shop previous to the bakery had a free-standing sign attached to a pole, the DRB granted the request for a free-standing sign to be in one of two places: either on the existing space (site of the former sign), or on the corner of the south sign of the patio. If applicant does illuminate sign, it must be downlit (downlighting) as specified in the 2015 Zoning Regulations Article IX.

**DECISION and ORDER**

WHEREAS the Wallingford Development Board APPROVES this Decision with its CONDITIONS, which is to be attached to final PERMIT #21-05, as follows:

William Brooks: Approve	David Ballou: Approve	Jill Burkett: Approve
Lucy Thayer: Approve	Jason Stone: Approve	

This Town approval does not release the Applicant from obtaining any other local, state, or 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 and public testimony, or failure to comply to other Vermont State and 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 Vermont 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 William H Brooks 3/26, 2021,  
William Brooks, Chairman, DRB

Received by Zoning Administrator: Erin Stevens Mar 26, 2021