

TOWN OF RANDOLPH, VERMONT
DEVELOPMENT REVIEW BOARD
MEMORANDUM OF DECISION
(Findings of Facts, Conclusions, and Decision)

PERMIT NO.: Z09-64

Property address: 1869 VT Route 66

PROPERTY OWNER: McDonald's Corp.
c/o Coughlin, Inc.
250 Woodstock Avenue
Rutland, VT 05071

Parcel no.: 106024
Parcel size: 5.66 acres

APPLICANT: Owen Speulstra
Bohler Engineering, LLC
5 Computer Drive West, Suite 203
Albany, NY 12205

I. INTRODUCTION

On August 31, 2009, Owen Speulstra, on behalf of **McDonald's Corp.**, ("Applicant") filed an application for a zoning permit for a project generally described as **a 15-foot by 24.8-foot (372 SF) addition to an existing restaurant**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on August 31, 2009.

Under the Randolph Zoning Regulations ("Regulations"), projects are reviewed based on the site plan, conditional use and/or any other applicable criteria of the Regulations. Before the Administrative Officer ("Administrator") may grant a permit, the Board must find that the project complies with all applicable criteria and approve the site plan, the conditional use and/or provide any other approval, as required.

Decisions must be stated in the form of Findings of Facts and Conclusions of Law. In rendering this decision, the Board relied on the following:

1. Sworn testimony presented to and evidence received by the Board during the public hearings held on September 29 and October 27, 2009;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records.

The Board closed the public hearing on October 27, 2009 and rendered an oral decision in this matter. This written decision is required pursuant to 24 VSA ch. 36 §1209 and supersedes the oral decision.

II. BACKGROUND

The following zoning permits and/or approvals were issued and/or granted for the subject property:

1. In February of 1994, site plan approval was granted for the construction of the existing restaurant.
2. In July of 1994, revised site plan approval was granted for new seating and miscellaneous changes.

3. In July 1998, approval was granted for new signage and landscaping.

III. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the Mixed Use (MU) District¹.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.
3. The existing use is a permitted use in the MU District.

On August 31, 2009, the Administrator referred the application to the Board for review and approval as determined.

IV. PARTICIPANTS

For the purposes of this application, "interested persons" are those who fulfill the requirements of 24 VSA ch. 117 §4465. The attached Service List for this project includes the Applicant's representatives and persons² who participated at the public hearing and/or submitted written comments on the application.

Participating Board members³ were John Becker, Samuel Lincoln, Christopher Recchia, Frank Reed, Krista Rumrill and Joel Tillberg.

V. FINDINGS OF FACTS

The following findings are facts that were entered into the record for this application and relied upon by the Board in formulating its conclusions and decisions. While other evidence may have been or is also entered into the record, if it is not included herein, the Board has determined that it is either not relevant evidence or that it is not a fact.

Project Description

1. The applicant has filed an application for the construction of a 15' by 24.8' addition to an existing restaurant within an area currently landscaped as shown on Exh. #1. On October 27, 2009, the applicant submitted a revised site plan (Exh. #5) that shows bollards in front of the new addition. No other changes to the existing site are proposed. (application)

The proposed use, design and layout meets the provisions of the zoning ordinance, other regulations and ordinances of the Town and the Town Plan. (SP criterion A)

2. The minimum lot size for the MU District is 5 acres. The subject property is 5.66 acres. (Regulations and application)
3. The front, side and rear setbacks for the MU District are as established by the Board. The shortest setback distance from the proposed addition is approximately 63 feet to VT Route 66. This is approximately 4 feet farther from VT Route 66 than the existing building (Regulations and Exh. #5)

¹ An amendment to the Regulations that affects this property was approved by a town-wide vote on September 16, 2009. However, the application was received and deemed complete prior to the vote.

² By inclusion in this section of the Memorandum of Decision, the Board does not address the status of any of the people listed above as "interested persons" as defined in the above-referenced state statute.

³ Member J. Kenneth Currier participated at the September 29, 2009 hearing but resigned from the Board the following day thus he did not participate in this decision.

4. In the MU District, the maximum allowable building coverage is 20% and building and lot coverage is 35%. The existing building coverage is 1.2% and the existing building and lot coverage is 12%. The proposed additional building coverage is 372 SF, or less than 1%. (Regulations and application)
5. The required off-street parking is 6 space for every 1,000 SF of gross floor space. The proposed project will require 23 parking spaces. The existing property provides parking spaces for 39 cars⁴. The (Regulations, application and Exh. #5)
6. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)

The proposed use and layout is of such a nature that it will not make vehicular or pedestrian traffic hazardous when considering turning movements, relationship to intersections, sight distances, location and access of off-street parking, pedestrian traffic and pedestrian-vehicular contact points. (SP criterion C)

7. No changes to the previously-approved site plan are proposed that relate to the on-site vehicular or pedestrian traffic. (Exh. #5)
8. Since the restaurant opened in 1995, there have been three accidents reported in the parking lot. (Exh. #4)
9. There were some comments received concerning the safety of the existing western access. However, the Vermont Agency of Transportation had indicated that, while “development and traffic may at some point in the future warrant re-evaluation of the access points at McDonald’s we do not believe that a minor addition to the existing building will require changes to the existing access points at this time.” (Exh. #3)

The proposed use, design and layout is of such a location and in such a size and character that it will be in harmony with the appropriate and orderly development of the surrounding area. (SP criterion B)

The proposed height and location of buildings, walls, fences, parking, loading and landscaping will not interfere with or discourage the appropriate development in adjacent land or unreasonably affect its use. (SP criterion D)

10. No changes are proposed to the existing operation of the restaurant. (application)
11. No additional fencing, parking, loading or landscaping is proposed. (Exh. #5)
12. No additional lighting is proposed. (application)
13. The impact of 372 additional SF is negligible. (application)

VI. CONCLUSIONS

Based on the foregoing Findings of Fact, it is the conclusion of the Board that the project described in the application referred to above and including the Applicant's representations at the public hearing, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, will meet the following criteria:

⁴ The number of spaces shown on Exh. #5 is 39. The additional information for site plan review form inaccurately indicates there are 43.

Site Plan Criteria

- A. The proposed use, design and layout meets the provisions of the zoning ordinance, other regulations and ordinances of the Town and is not in non-conformance with the Town Plan.
- B. The proposed use, design and layout is of such a location and in such a size and character that it will be in harmony with the appropriate and orderly development of the surrounding area.
- C. The proposed use and layout is of such a nature that it will not make vehicular or pedestrian traffic hazardous when considering turning movements, relationship to intersections, sight distances, location and access of off-street parking, pedestrian traffic and pedestrian-vehicular contact points.
- D. The proposed height and location of buildings, walls, fences, parking, loading and landscaping will not interfere with or discourage the appropriate development in adjacent land or unreasonably affect its use.

VII. DECISIONS⁵

Based upon the foregoing Findings of Facts and Conclusions, the Board does not require the project to meet any of the items of 10 VSA §6086(a) and approval is hereby granted for the site plan as applied for in zoning permit application #Z09-64 and including the evidence and testimony entered into the record as Findings of Fact. Such approval is granted with the following conditions:

- 1. Construction shall be as shown on Exh.# 5.
- 2. All conditions of previous approvals shall continue to apply.
- 3. Any significant modifications to the approved site plan shall require re-approval by the Board pursuant to the regulations in effect at the time of re-application.

Dated at Randolph, Vermont this 18th day of November, 2009.

RANDOLPH DEVELOPMENT REVIEW BOARD

Concurring Board Members

/s/ Joel Tillberg, Chair

/s/ John Becker

Christopher Recchia

/s/ Frank Reed

/s/ Samuel Lincoln

/s/ Krista Rumrill

⁵ An interested party (as defined in 24 VSA §4465) who participated in this proceeding may appeal this decision to the Vermont Environmental Court within 30 days of the date of the decision, for a fee of \$250 and a notice in writing, certified mailed to the Environmental Court, giving reasons for the appeal, and a copy mailed to the Zoning Administrator. Failure to appeal this decision may prevent any party from arguing against its elements in a future hearing or appeal. 24 VSA §4472.