

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

PERMIT: **#Z12-60**
PROPERTY ADDRESS: **1869 VT Route 66**
PARCEL NO.: **106024**
PARCEL SIZE: **5.7 acres**

PROPERTY OWNER: **McDonald's USA, LLC**
690 Canton Street
Westwood, MA 02090

I. INTRODUCTION

On August 3, 2012, Chris Boyea of Bohler Engineering, on behalf of **McDonald's USA, LLC** ("Applicant") filed an application for a zoning permit for a project generally described as **revised colors of the existing restaurant**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on August 21, 2012.

Under the Randolph Zoning Regulations ("Regulations" or "RZR"), 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 first and final public hearing held on August 28, 2012;
2. Documents contained in this application's file, the Regulations, Town Plan, the Randolph municipal records, the Memorandum of Decision for zoning permit #Z11-51 ("MOD#Z11-51") and the Memorandum of Recommendation for zoning permit #Z12-60 ("MOR #Z12-60") of the Design Review Advisory Commission.

The Board closed the public hearing on August 28, 2012 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. PARTICIPANTS

For the purposes of this application, "interested persons" are those who fulfill the requirements of 24 VSA ch. 117 §4465. The Applicant's representatives were the only participants in this proceeding.

Participating Board members¹ were John Becker, Frank Reed, Gregg McCurdy, Joel Tillberg, Trini Brassard and Samuel Lincoln.

III. 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.

1. The applicant has filed an application for a change in exterior colors on an existing restaurant as shown on Exh. #1. No other changes are proposed. (application)
2. The only provision of the RZR that is affected by the proposed change is §6.9.9A(1) "Design Compatibility". (application and RZR)
3. The Design Review Advisory Commission provided a recommendation to find the changes comply with RZR §6.9.6A(1). (MOR #Z12-60)
4. The existing colors of the building are shades of gray with white. The proposed colors are lighters shades of gray with white. The colors of some sections of the building are to remain unchanged. (Exh. #1)

IV. CONCLUSION

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 only applicable criterion §6.9.6A(1).

V. DECISION²

Based upon the foregoing Findings of Facts and Conclusions, approval is hereby granted for the change in colors of an existing restaurant as shown on Exh. #1 and applied for in zoning permit application #Z12-60 and including the evidence and testimony entered into the record as Findings of Fact. This approval is granted with the condition all applicable conditions of previous approvals for this property shall continue to apply.

¹ Members Brassard and Lincoln did not attend the hearing on August 28, 2012. However, pursuant to Board Rules of Procedure and Ethics §306B and 24 VSA §1208(b), these members have, prior to deliberation, listened to the recording of the testimony they missed and reviewed all exhibits and other evidence.

² 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 \$262.50 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.

Dated at Randolph, Vermont this 10th day of October, 2012.

RANDOLPH DEVELOPMENT REVIEW BOARD

Concurring Board Members



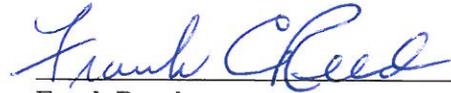
Joel Tillberg, Chair



John Becker



Trini Brassard



Frank Reed



Samuel Lincoln

Dissenting Board Member – Gregg McCurdy (dissenting opinion attached)

