

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

PERMIT: **#Z11-51**  
PROPERTY ADDRESS: **1896 VT Route 66**  
PARCEL NO.: **106024**  
PARCEL SIZE: **5.7 acres**

PROPERTY OWNER: **McDonald's Corp.**  
**c/o Cloughlin, Inc.**  
**201 Woodstock Avenue**  
**Rutland, VT 05701**

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

## **I. INTRODUCTION**

On July 21, 2011, Owen Speulstra of Bohler Engineer, on behalf of **McDonald's Corp.**, ("Applicant") filed an application for a zoning permit for a project generally described as an **addition to an existing restaurant, new building façade and miscellaneous site modifications**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on July 21, 2011.

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.

The application was submitted to the Design Review Advisory Commission (DRAC), which held a meeting on August 10, 2011 to review the project and provide the Board with recommendations on compliance with the building design criteria set forth in RZR §6.9.6.

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 September 29, 2011;
2. Documents contained in this application's file, the Regulations, Town Plan, the Randolph municipal records including previous memoranda or notices of decisions for the subject property, and the recommendation of the DRAC.

The Board closed the public hearing on September 29, 2011 and deliberated on this matter. This written memorandum, required pursuant to 24 VSA ch. 36 §1209, memorializes the decision of the Board regarding this application.

## II. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the Northwest Interchange (INT-NW) District.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.
3. The use is categorized as "restaurant." Such a use is not allowed in the INT-NW District and therefore is considered a non-conforming use. Expansion of this use requires approval pursuant to §2.5.4.

Upon submission of the DRAC's recommendations, the Administrator referred the application to the Board for review and approval as determined.

## III. 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 persons<sup>1</sup> who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were John Becker, Thomas Malanchuk<sup>2</sup>, Christopher Recchia, Frank Reed, and Joel Tillberg.

## IV. 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 and required approvals

1. The applicant has filed an application for the construction of a 15' by 26' addition to an existing restaurant within an area currently landscaped as shown on Exh. #1 and a new building façade as shown on Exh. #6. Additionally, the applicant proposed to install a second ordering station in the existing drive-through lane and re-designating handicap parking spaces. No other changes to the existing site are proposed. (application)
2. The restaurant will be open 24 hours a day, 7 days a week. (testimony of C. Boyea)
3. The existing use of the property is a restaurant and is not proposed to be changed with this project. Restaurants are not allowed in the INT-NW District therefore it is a non-conforming use. As the project involves an addition and an expansion in hours of operation, approval to expand a non-conforming use is required pursuant to RZR §2.5.4. As the project is not a conditional use, §6.9.5 (Supplemental Conditional Use Standards in the Interchange Districts) is not applicable. (application and RZR)
4. As the project is not either a one- or two-family dwelling, site plan approval is required pursuant to §4.1. (application and RZR)

### Expansion of a non-conforming use.

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<sup>1</sup> 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.

<sup>2</sup> Thomas Malanchuk is an alternate member who was sitting in place of absent regular members.

5. The proposed site modifications will include improvements in compliance with the Americans with Disabilities Act. (Exh. #5)
6. The proposed project does not disturb or expand beyond the limits of development current in place on the property. (Exh. #1)

#### Consistency and compliance with Town Plan and ordinances. (SP criterion A)

7. The maximum building height is 35 feet. The proposed building height is 18 feet. (Exh. #1)
8. Along VT Route 66, the setback of the building for expansion of existing structures is the existing setback of the existing building, which is 144 feet. The proposed addition is setback farther from VT Route 66 than the existing building. (Regulations and Exh. #1)
9. The maximum allowable building and lot coverages are 8 and 24%, respectively. The proposed building and lot coverages are 1.4 and 13.1%, respectively. (Regulations and Exh. #1)
10. The required off-street parking for restaurants is 6 spaces for every 1,000 SF of gross floor space, or 22 spaces for this project. The project provides parking spaces for 38 cars. (Regulations and Exh. #1)
11. The development standards for minimum lot size, lot width and maximum slope are not applicable as no changes to them are proposed. (Regulations and application)
12. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)

#### Character of the area (SP criteria B)

13. The surrounding area is a mixture of rural, agricultural and commercial uses. The adjoining properties are used as a gas station/convenience store, an auto repair and sales business and a golf driving range. (application)
14. The proposed project will not increase the area currently developed on the property. (Exh. #1)
15. The proposed project is only adding ±400 SF of building footprint and is not increasing the lot coverage. (application and Exh. #1)

#### Traffic and pedestrian considerations (SP criterion C)

16. The proposed site modification to add a second ordering station in the drive-through lane does not change traffic circulation patterns. (application)
17. The proposed site modification to re-arrange/redesignate handicap parking spaces does not alter the areas currently used for parking. (Exh. #1)
18. The proposed project provides additional sidewalks for better pedestrian access to the building from the parking areas. (Exh. #1)

#### Affects on adjacent land (SP criterion D)

19. All modifications to the existing site are within the area currently developed. (Exh. #1)

#### Building design (BD) review (Exh. #6)

20. The DRAC reviewed Exh. #2 at a public meeting held on August 10, 2011. It finalized its recommendations on August 16, 2011 and submitted them to the Board.

21. The applicant revised the building elevations (Exh. #6) in response to the DRAC's recommendations and these were presented to the Board for review and approval.

#### Design compatibility (building design (BD) criterion A)

22. There is only one principal building on the parcel.
23. The proposed building elevations reflect an entirely new façade. All four sides of the building are of the same design and materials. The elements of the design (clapboard-like siding, cornices, mullioned windows, faux columns) all work together to convey a consistent architectural theme.
24. The façade is broken up by sections of contrasting and compatible colors (dark and light grey), projections at the entryways, overhangs, cornices, etc.
25. Subcriterion 2 is not applicable as there is only one principal building on the property.

#### Orientation (BD criterion B)

26. This criterion is not applicable as there is only one principal building on the property and this is an existing building that is only proposed to be expanded.

#### Height (BD criterion C)

27. The new building façade does not affect the height of the existing building.
28. The proposed addition is of the same height as the rest of the existing building.
29. Subcriterion 2 is not applicable as the existing building with its new façade and the proposed addition does not exceed the maximum height limit.

#### Scale (BD criterion D)

30. Although no definition of a "large building" is provided in the RZR, the total proposed footprint is only approximately 3,500 square feet.
31. This criterion is not applicable as the proposed building is not "large."

#### Facades (BD criterion E)

32. Three of the four sides of the building are visible from a public way (VT Route 66). All of those three sides are of similar architectural style.
33. The longest wall that is visible from VT Route 66 is the one facing south. It includes windows, projections, doors and sections of slightly higher rooflines.
34. The windows are of varying sizes and in varying locations.
35. The principal entryway is in a projection along the south side of the building. There are two entrances to this projection: from the east and west.
36. The only architectural element that could be considered "franchise architecture" is the yellow striped awns over a window on the south side and a door on the west side. These awnings are secondary to the overall architectural design.

#### Rooflines (BD criterion F)

37. With a single-story building less than 20 feet in height and less than 4,000 SF of gross floor area, it does not have much height or mass and is a smaller-scale development in itself.
38. The roofline, although flat, does have parts that project higher in some places.

39. The DRAC did not recommend a pitched roof.
40. The flat roof does include cornices and other details of visual interest such as faux columns, etc.

#### Materials (BD criterion G)

41. The siding is proposed to simulate clapboards but in a more durable material.

## 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:

1. Expansion of a non-conforming use (§2.5.4)  
No greater detrimental effect upon the community will result from the expansion of the restaurant.
2. Site plan (§4.1)
  - 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. DECISIONS<sup>3</sup>

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions for the expansion to an existing restaurant and other site modifications as applied for in zoning permit application #Z11-51 and including the evidence and testimony entered into the record as Findings of Fact:

1. Approval to expand a non-conforming use.

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<sup>3</sup> 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.

2. Site plan approval is granted with the following conditions:
1. Construction shall be as shown on Exhs. #1 and 6.
  2. All applicable conditions of previous approvals for this property 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 31<sup>st</sup> day of October, 2011.

RANDOLPH DEVELOPMENT REVIEW BOARD  
Concurring Board Members

  
\_\_\_\_\_  
Joel Tillberg, Chair

  
\_\_\_\_\_  
Thomas Malanchuk

  
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Christopher Recchia

  
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John Becker

  
\_\_\_\_\_  
Frank Reed

SERVICE LIST

Zoning Permit Application #Z11-51

McDonald's Corp.

Chris Boyea  
Bohler Engineering  
5 Computer Drive West, Suite 203  
Albany, NY 12205

Charles Coughlin  
McDonald's Corporation  
c/o Coughlin, Co.  
201 Woodstock Avenue  
Rutland, VT 05701

William Rice  
PO Box 4  
Randolph Center, VT 05061

Sally Penrod  
1923 Stock Farm Road  
Randolph, VT 05060

Eric Sturm  
1329 Hebard Hill  
Randolph, VT 05060

**Bold listings indicate applicants and/or their representatives.**

