

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

Application #17-07 : Request to replace an non- illuminated exterior wall mounted store sign

Applicant: MT Associates (Owners of record), dba. Midway Oil Corp.

Postal address: 217-N. Main St. Rutland VT 05701

Subject Property Location: 172 N. Main St. Wallingford Village, VT

Town Parcel: 7000172

INTRODUCTION

The Zoning Administrator (ZA) received an initial application on 2/10/2017, and was reviewed on 2/24/2017. Per Article IX 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 2/24/2017 n 2/24/17, abutting property owners were notified (documented by Certificate of Mailing) of this application; and that a Public Hearing was scheduled for 6:30 pm , March 13, 2017, at Town Offices, 75 School St. Wallingford Village. Public Notice was also given by Rutland Herald notice on 2/25/17, project location POSTER, and in two other public buildings.

Accordingly, a Public Hearing was convened by the DRB at 6:45 pm (prior scheduled public hearings ran longer than anticipated) on 3/13/17, with a quorum of Members in attendance. The Zoning Administrator and D. Dukeshire (manager & agent for MT Associates, dba Midway Oil Corp.), and a number of Interested Parties (Identified by Meeting Minutes & attendance roster) were present.

Jurisdiction was taken by Article IX, Paragraph 8 of the Zoning regulations, regulating illuminated signs; and Article IV, with attention to Specific (Zoning) District Regulations.

After hearing testimony from Applicant and all Interested Parties; the DRB voted to close the Hearing to Testimony, but Continue deliberations until a special meeting at 6:30 pm, on 3/24/2017. At this meeting, the DRB decided to Continue deliberations until 6:30 pm, on April 10, 2017 so Members could conduct their independent drive-bys of existing stores with the same signage as requested in the application. On April 10, 2017, the DRB met to deliberate this application, and issue this decision.

FINDINGS of FACT

1. The subject property was originally established as a pre-zoning automobile service station with gasoline sales. Subsequent permits have been issued to replace past permits; which include a convenience store with gasoline sales. This is a conditional use in the Neighborhood - Commercial Zoning District.
2. The application is requesting to replace an existing, permitted, flush & wall mounted non-illuminated sign that advertises "SMART SHOP" with the internally illuminated sign proposed, in the same location.
3. The replacement sign is to be only illuminated during open hours of operation, presently 6:00am until 9:00 pm (eastern time zone).
4. There was concern expressed by neighboring residential ownerships with "off-site" impacts of illuminated commercial advertising. Accordingly, the DRB members conducted their own & individual drive-bys to observe similar Midway Oil Corp. Stores in Castleton, Fair Haven, and Poultney, which exhibited existing and comparable signs as requested by applicant for the Wallingford location.

CONCLUSIONS of LAW

1. That the Application is subject to Town Zoning Jurisdiction. The dimensions of the sign applied for conforms to Articles IV and IX regarding dimensions for a flush mounted non-illuminated sign.
2. The proposed ILLUMINATED sign does NOT CONFORM to Article IX, Paragraph 8 (b ,c, & d) of the Zoning Regulation for an illuminated sign.

DECISION & ORDER

Based on the Application documentation, Testimony of Record, and Review of the applicable regulations, the Wallingford Development Review Board here by **DENIES APPLICATION #17-07 for a new external, flush mounted (wall), internally illuminated mounted store sign.**

The Development Review Board finds the Application in compliance with Articles IV & IX of the current Zoning Regulations for a similar Non-Illuminated sign in the same location, and authorizes the Zoning Administrator to issue a permit for a similar non-illuminated sign.

The majority of the Wallingford Development Board authorizes this Decision, which is to be attached to final PERMIT #17-07 with the CONDITION to approve , as follows:

William Brooks: Approve Ericka Berner: Approve Jillian Burkett: Approve Carol Ann Martin: Absent

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.

William H. Brooks, 4/24, 2017, William Brooks , Chairman, DRB

Received by Zoning Administrator: GM Beasey 4/25, 2017