

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Alison Davis, Zoning Clerk
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator



MEMORANDUM

To: Development Review Board
From: Ryan Morrison
Date: July 7, 2020
RE: ZP20-0794SN (AP); 66 North Avenue

Note: These are staff comments only. Decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

File: ZP20-0794SN Appeal

Location: 66 North Avenue

Zone: RM **Ward:** 3N

Date appeal accepted: April 28, 2020

Date of administrative decision: April 17, 2020

Date of application: March 17, 2020

Appellant / Owner: Duncan Wisniewski Architecture / Sara Holbrook Center

Request: Appeal of Administrative Denial of a request to install an awning/canopy sign at the newly remodeled Sara Holbrook Community Center.

Background:

- **Zoning Permit 20-0794SN;** new signage. Denied April 17, 2020. (Subject of this appeal.)
- **Zoning Permit 20-0793FC;** new fence. Approved March 24, 2020.
- **Zoning Permit 19-0749LL;** lot line adjustment with 56 & 58 North Avenue. Approved April 12, 2019.
- **Zoning Permit 18-0899CA/MA;** combine three parcels and expand Sara Holbrook Community Center at 66 North Avenue, demolish a duplex and garage at 58 North Avenue, and demolish a duplex and shed at 56 North Avenue. Approved July 17, 2018.
- **Non-Applicability of Zoning Permit 18-0277NA;** replacement of current sign and temporary banner. Approved September 12, 2017.
- **Sketch Plan 16-0811SP;** sketch plan review to demolish two existing duplex residential buildings at 56 and 58 North Avenue and build an addition to the existing Sara Holbrook Community Center.
- **Sketch Plan 15-0263SP;** sketch plan review to combine three parcels (56, 58 and 66 North Ave.), demolish one house, relocate one house, expand community center and construct new attached building for six apartments.
- **Zoning Permit 04-595;** replace existing playground structure. Approved May 13, 2004.
- **Zoning Permit 04-447;** replace existing playground structure. Approved March 23, 2004.
- **Zoning Permit 01-029;** replace existing window sash for the community center, and repair stucco. Approved July 18, 2000.

- **Zoning Permit 94-395**; rear two story addition to the existing community center. Approved April 28, 1994.

Overview:

Zoning application 20-0794SN, to install an awning/band sign at the newly remodeled Sara Holbrook Community Center was denied on April 17, 2020 for reasons outlined below. On April 28, 2020, the appellants filed a timely appeal within the 15-day appeal period.

Recommendation: Uphold zoning permit denial based on the following findings.

I. Findings

Timeline:

- **March 17, 2020** – Application ZP20-0794SN submitted.
- **April 3, 2020** – Application ZP20-0794SN deemed complete.
- **April 17, 2020** – Decision of Denial for ZP20-0794SN.
- **April 28, 2020** – Appeal of administrative denial submitted.

Reason for Denial:

Application ZP20-0794SN (subject of this appeal) was **denied April 17, 2020 for the following reasons:**

The applicant proposes a canopy sign on the front canopy of the Sara Holbrook Community Center. Table 7.2.1-B, Sign Types Permitted by Form/Zoning Districts, specifically prohibits a number of sign types in the Residential zoning districts, including awning and canopy signs in the residential – medium density zoning district – which the subject property is in. As a result, the application cannot be approved.

The appellants have provided a detailed statement addressing why the denial should be overturned. See attached memo dated April 29, 2020.

Appellant’s Arguments and City Responses:

Appellant’s arguments are in *italics*, the City responses are not.

1. *Although SHC (Sara Holbrook Center) is located in an RM district, it very nearly borders an NMU district, with much different sign regulations, and the proximity of this lot to that district diminishes the feeling that the SHC is actually in the RM district. Opportunities Credit Union is only separated from SHC by one lot, across the street is Star Press, the Old Northender Pub abuts SHC on its north boundary, Brian’s North End Auto is just up the street. The close proximity of these other businesses lends a slightly different feel to the local environment, such that a sign that is different from the sign requirements in an RM district is worthy of consideration. The denial characterizes the proposed sign as an “Awning or Canopy Sign”, which is a permitted type in the NMU district, and is also permitted in an RH district.*

While the property is indeed near properties zoned NMU, the undeniable fact is that the property is specifically located within the RM zoning district. Table 7.2.1-B specifically prohibits “Awning & Canopy Signs”. Allowing prohibited signage to be erected simply because the subject property is

in close proximity to a zoning district that does allow for such signage is not allowed by the Comprehensive Development Ordinance. The district boundaries are clear and have implications as to what is allowed and where within the city. Zoning ordinances regulate what is and what isn't permitted within specifically zoned districts. The RM zoning district is specifically identified as one such district that prohibits awning & canopy Signs.

- 2. The sign in our sign permit application is the same sign that was presented as part of our original zoning application (ZP18-0899CA/MA). Even though we knew a separate permit application would be required, no mention was made at the time by staff or the DRB that such a sign would not be allowed.*

At the time ZP18-0899CA/MA was approved, staff had no knowledge that such signage would be prohibited by the new Sign ordinance that was adopted on November 27, 2019 (first public hearing with the Planning Commission – November 27, 2018). Had such changes been aware of, it is likely that staff would have encouraged the applicant to submit their sign permit application so it would be permitted under the previous Sign ordinance. Condition #18 of ZP18-0899CA/MA stated “*Any outdoor signage will require a separate sign permit.*” This condition alone signified the fact that any signage included within the plans for ZP18-0899CA/MA was not approved and would be subject to a separate permit of its own.

- 3. It is our belief that the proposed sign effectively communicates and supports the presence of the institution and supports it to achieve the mission to develop responsible and productive children, youth and families through social development, educational and recreational opportunities.*

While the mission of the community center is not in question, a variety of sign types are allowed within the RM zone including: blade sign, directory sign, freestanding yard sign, wall sign, and window sign.

- 4. Its size and appeal are appropriate to improve visibility for passing traffic and create awareness of our location for services and programs to serve the community.*

The forward-most (closest to the front of the property) allowed sign type in the RM zone that could suit the community center is the freestanding yard sign, which takes into account traffic visibility. Specifically, Sec. 7.2.7 states “*No part of a Freestanding Yard Sign may encroach or overhang a public right-of-way, clear sight triangle, driveway, parking area, or walkway.*” This type of sign allows for up to 20 sf of signage (not including supports), and can be located in a manner that minimizes visibility obstructions for passing traffic while providing adequate awareness of the community center's location.

- 5. The proposed sign adheres to Sec. 7.1.1 Authority and Intent of Article 7: Signs.*

Staff would agree that the proposed awning/canopy sign would adhere to Sec. 7.1.1. However, so would the other sign types listed in #3 above. The reason why the awning/canopy sign was denied

is because it has been specifically identified under Table 7.2.1-B as a prohibited sign in the RM zoning district.

6. *If the appeal is granted, it will meet the criteria of Sec. 7.1.11 Alternative Compliance.*

- *the relief sought is necessary in order to accommodate a unique circumstance or opportunity;*
- *will yield a result equal to or better than strict compliance with the standard being relieved;*
- *is the minimum variation necessary from the applicable standard to achieve the desired result;*
- *will not impose an undue adverse burden on adjacent properties; and*
- *the remainder of the sign will be developed consistent with all other applicable sign and size conditions.*

Sec. 7.1.11, Alternative Compliance, allows for minor variation and relief from non-numerical and numerical standards, subject to review and approval by the Design Advisory Board and Development Review Board. Such review has not taken place. In this case, the variation is non-numerical; however, it is a significant variation – approval of an expressly prohibited sign type is sought. Whether signage is possible or not is not in question here. Several different types of exterior signs may be permitted subject to the standards in place. There is no compelling reason to approve a prohibited sign type.

Summary

The property is within the RM zoning district. Table 7.2.1-B strictly prohibits awning/canopy signs within the RM zoning district. Approval of a prohibited sign type because of the property's proximity to a different zone that allows it is not contemplated or permitted by the Comprehensive Development Ordinance.

II. Recommended Motion:

Uphold the denial of zoning application 20-0794SN