

Department of Permitting & Inspections

Zoning Division
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MEMORANDUM

TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: January 18, 2022
RE: ZP-21-799; 200 Shelburne Street

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.

Zone: RL Ward: 6S

Owner/Applicant: Vermont Donut Enterprises Real / Mary Stanton

Request: Replacement of non-conforming signage.

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 7 (Signs)

Overview:

200 Shelburne Street is within the RL (Low Density) zoning district. The signs on the property proposed for replacement, freestanding and wall, exceed the maximum size allowance for signage in the RL zone. The applicant proposes to replace both of these with more, but not entirely, compliant signage. Replacement of a nonconforming sign is subject to Section 7.1.6 CDO, requiring DRB review.

The property has been used commercially for decades, and is considered a Neighborhood Commercial Use within the RL zone. There are no special sign allowances for such uses, so all signage is subject to the standards of Article 7 – Signs.

Background:

Previous zoning permits:

- **Zoning Permit 10-0075CA;** replacement siding. Approved July, 2009.
- **Zoning Permit 00-096;** replace existing internally illuminated sign faces and the freestanding sign for the donut shop. Approved August, 1999.
- **Zoning Permit 99-626;** enlarge vestibule area. Approved July, 1999.
- **Zoning Permit 99-046;** change/extend hours of operation. Application withdrawn.
- **Zoning Permit 97-600;** site and parking lot improvements associated with freezer expansion. Approved July, 1997.

Recommendation: Sign Permit approval as per the following findings and conditions:

I. Findings

Article 2: Administrative Mechanisms

Section 2.7.8 Withhold Permit

Per this standard, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. **Affirmative finding as conditioned.**

Article 7: Signs

Sec. 7.1.6 Non-Conforming Signs

Any legally pre-existing Sign or other advertising device which does not conform to the current provisions of this Article shall be deemed a non-conforming Sign. Non-conforming Signs may remain in use at the same location, and ordinary maintenance and repair of such Signs shall be permitted.

*A non-conforming Sign shall not be relocated, enlarged, replaced, redesigned, or altered in any way (except for repainting, refacing, repair or a change of lettering, logo, or colors using the same materials within the existing Sign frame) **except to bring the Sign into complete or substantially greater compliance with this Article. In such cases, the DRB may allow a new Sign to be in substantially greater compliance than the existing nonconforming Sign subject to the applicable requirements of this Article.** Nonconforming signs that are destroyed or damaged by 50% or more of their value shall not be rebuilt or repaired after one (1) year except in full conformance with this Article.*

The request is to replace a nonconforming freestanding yard sign and a wall sign. A conforming freestanding yard sign in a residential district is limited to an area of 20 sf (not including supports), a height of 4 ft (not including supports) / 6 ft above the finished grade (including supports), and minimum setbacks of 3 ft (front) and 5 ft (side). The sign depth is limited to 1 ft. Additionally, no part of a freestanding yard sign may encroach into a clear sight triangle. Lastly, freestanding yard signs in residential districts may not be illuminated. See Section 7.2.7.

The existing freestanding yard sign is 50 sf in area, 18 ft in height (5 ft sign height), and is setback within 1 ft (approx.) of the side yard property line. It is situated within a driveway clear sight triangle, and it is internally illuminated. The replacement sign is proposed at 36 sf in area, with a total height of 15 ft (sign height of 12 ft), and a depth of 13". It is proposed to maintain the existing setback and placement within the driveway clear sight triangle. The replacement sign is also proposed to be internally illuminated.

A conforming wall sign in a residential district is limited to 6 sf in area, and limited to just external or backlit illumination. See Section 7.2.13. The existing, internally illuminated wall sign is 35.4 sf in size, and the proposed, internally illuminated replacement is 19.2 sf.

Zoning permit records indicate that in 2000 the signs were replaced. There are no other sign permits on file.

Sec. 7.2.7 Freestanding Yard Sign

As noted above, the existing freestanding yard sign is noncompliant. The applicant proposes to replace this sign with one that will be closer to, but not complete, compliance. The size and overall height will decrease, while the location and type of illumination (internal) will essentially be the same. The proposed replacement sign does not meet the standard of “*bring the Sign into*

complete... compliance". That leaves an analysis of *substantially greater compliance*. There are aspects of the replacement freestanding sign which are clearly more conforming than existing (size & height), and others that maintain the same level of nonconformity (location & internal illumination). The reduction in size and height are substantially more compliant than the existing size and height. **Affirmative finding**

Sec. 7.2.13 Wall Sign

The existing 35.4 sf wall sign (internally illuminated) is proposed to be replaced with a 19.2 sf, internally illuminated sign. Similar to Sec. 7.2.7 above, the proposed replacement does not meet the standard of "*bring the Sign into complete... compliance*", which leaves an analysis of *substantially greater compliance*. The reduction in size would constitute greater compliance. Maintaining the same internal illumination, however, would not. The reduction in size is substantially more compliant than the existing size. **Affirmative finding**

II. Conditions of Approval

1. Per **Section 2.7.8, Withhold Permit**, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. See attached list for guidance on open permits/violations.
2. Standard Permit Conditions 1-15.