

Brandon Development Review Board Hearing

March 22, 2016

Variance #5783b

Applicant: Midway Oil Development

Landowner: MT Associates

Board Members Present: Samantha Stone – Chair, Eric LaRock, Bob Clark, Tom Bohler

Others Present: Charlene Bryant – Secretary, Anna Scheck – Zoning Administrator, Frank Trombetta, Laura Merone Walsh, Jane Young, Shari Vaccarella, Erik Sandblom, Tony Vaccarella, Katharine Briggs, Dave Atherton, Steven Beck, Linda Stewart, Robert Black, Kjel Thompson, Tanner Romano, Bill Moore, Steven Zorn, Linda Thompson, Seth Hopkins, Dan Dukeshire

The hearing was opened at 8:55PM.

The warning was read and found to be in order.

Sam Stone called for any interested parties to state their name and reason and noted all interested parties from the previous hearings would be carried over.

Interested Parties:

Sherry Vaccarella – 3 Conant Square – Adjoining Neighbor

Kelly Yuncker - 41 Prospect Street – Adjoining Neighbor

Jane Young – 8 West Seminary Street – Adjacent Neighbor

Katharine Briggs, Managing Member of Briggs Lane Brandon LLC - 8 Conant and 14 Conant Square - Neighbor across the Street

Steven Beck – Adjacent Property Owner

Steven Zorn – 4 Conant Square - Neighbor across the Street – 4 Conant Square

Jeff Guevin – 26 Champlain Street – Due to Aesthetic Interest

Robert Black – 1403 Arnold District Road – Due to Aesthetic Interest

Linda Stewart - 1329 Arnold District Road – Due to Aesthetic Interest

Kjel Thompson – Union Street – Due to Aesthetic Interest

Sam Stone read the criteria for Interested Party status.

Seth Hopkins, 52 Park Street, did not believe that Mr. Guevin or Mr. Black are eligible under Interested Party status and requested the DRB rule whether Interested Party status would be granted.

Robert Black withdrew his request.

The DRB deliberated in accordance with 24 VSA 44B to consider Interested Party status. Sam Stone stated it has been determined based on the definition of Interested Party that Jeff Guevin, Linda Stewart

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and Kjel Thompson do not meet the criteria, but it does not mean that they cannot speak during the hearing.

Anna Scheck, Jeff Guevin, Robert Black, Linda Stewart, Kjel Thompson, Dan Dukeshire, Laura Merone Walsh, Amy Menard, Frank Trombetta, Steven Zorn and Jane Young were sworn in.

Sam Stone stated this is an application for a variance for the signage and requested the discussion be centered on that topic.

Dan Dukeshire of MT Associates provided a presentation regarding the request for signage variance. The current ID sign is 19 feet tall and 40 square feet of area. The requirement is for no more than 10 feet high in the downtown area. The new sign is 12 feet tall with a total area of 60 square feet that is a bit more than what is there now. The biggest difference is the addition of the Dunkin Donuts, car wash and ATM signs. The width is 6 feet wide by 12 feet high. It works out to be 59.7 square feet with a total height of 12 feet. The material is white vinyl and it is the intent to move the sign to the opposite side of the lot. All variance requests have been submitted under one permit. The second sign is over the front door of the convenience store. The new Tennybrook sign fits more to the color characteristics with the State of Vermont and ties into the building much better. That sign is 26 square feet and the allowable signage is 26 square feet, but when adding the Dunkin Donuts sign it is 50 square feet. Each sign would be okay on its own, but the two businesses in one building run into this problem. The canopy sign is requested by the Mobil franchise to say Mobil and the letters are 23 inches tall. The Brandon Land Use Ordinance allows for letters that are 20 inches tall. That is an internally illuminated LED sign. The signage totals 39 square feet and the allowance is 16 square feet. The last sign is on the car wash that will be the Tennybrook color coded sign and is LED illuminated. It is 40 square feet, which is over the 24 square feet that is allowed.

Anna Scheck advised that each sign has something that creates a questionable variance.

Bob Clark asked why a sign is needed for the car wash when there is already a sign on the pole. Mr. Dukeshire stated the architect did that to make the sign more proportionate to the building, but was not requested by the owners.

Laura Merone Walsh stated this is the same set of signs in their other locations and identifies the buildings and ties in the Tennybrook name and it is felt that the elegance of the two presents a better image for the town.

Sam Stone stated whenever there is a variance hearing, the applicant provides the reasons why they feel they cannot work within the Brandon Land Use Ordinance and why it is not possible to conform to what the town has said is important to the town.

Dan Dukeshire stated the lot is situated low compared to lots on each side and without good signage; it would be a concern that people could not reduce speed safely to enter into the property. In some towns where they have built stations people are right on top of the store and it is a safety concern. A lot of the other competitors in the area have signage that is much larger than the proposed 60 square feet. The style

of the signs will be consistent with material that is on the building frontages and the pole sign is consistent with what other retailers in the area have. The variance, if authorized, will allow the owners to proceed with more confidence that potential customers will not drive by.

Sam Stone asked how the Mobil sign compares to the current sign.

Frank Trombetta stated the current sign is 39 square feet and is 19 feet high, but they will be dramatically bringing down the height of the sign to 12 feet, with 60 square feet overall. Dan Dukeshire advised the current Mobil sign only is 24 square feet and the proposed Mobil only sign is 18 square feet. Mr. Trombetta stated the Mobil sign is the smallest standard size that Mobil makes.

Laura Merone Walsh stated that Mr. Dukeshire alluded in the criteria points about the signage of similar vendors. One reason for pressing the variance is that similar vendors' signs are over 100 square feet and the proposed sign is 60 square feet inclusive of all signs.

Steven Zorn stated the reason for the ordinance is that the old signs are big and ugly and he understands the point, but it is still violating the ordinance. The Mobil logo is on three different locations and it seems with a 25 mile per hour speed limit, people will not be flying by.

Jane Young stated it seems all six signs in three different locations are in excess of the regulations and questioned if the variance would be granted as an all or nothing situation. She stated it is hard to drive by a gas station without knowing that it is a gas station. She questioned where the tall vertical sign would be located near the church.

Dan Dukeshire stated the site map shows where the sign is located. The line of sight is one of the reasons the original sign was put up so high because of the wall. By bringing the sign lower to the ground, it makes sense to take it to the other side of the property and it does not stand out as much as it does now.

Jane Young asked how far from the church property line it would be. Dan Dukeshire stated the pole is setting parallel to the end of the wall. In looking at it traveling south, if one were on the sidewalk they would not see the side of the post.

Linda Stewart stated as a member of the Planning Commission, the Commission worked hard putting together a Sign Ordinance. These people choose to flaunt noncompliance in every sign they have chosen. She stated before we know it, other businesses will need bigger signs. Other businesses obtained the appropriate signs and Ms. Stewart stated the town needs to stick with the Sign Ordinance. The signs need to come into compliance.

Kjel Thompson asked how many sandwich signs will be out on the property as well and how high is the canopy sign. Dan Dukeshire stated the height of the canopy is the same that it currently is, which is 15 feet. The height of the canopy does not fall into the same guidelines as the height of a sign and the canopy height is in compliance. Sam Stone stated the current issue, according to the Brandon Land Use Ordinance, is that they cannot exceed 20 inches for the lettering and they are at 24 inches.

Robert Black stated in the comments, under canopy signage, it is 16 square feet and in the next sentence it notes that it can be used in place of another sign. Anna Scheck stated she used the exact words and it can be used in place of a wall-mounted sign, but the lettering may not exceed 20 inches and lettering cannot extend above the top of the canopy. Mr. Black agreed with the Planning Commissioner regarding the Sign Ordinance. With regard to the criteria question, he stated though the position of the area is low, the downtown is a slow speed environment and there is plenty of distance to determine that it is a gas station. In coming into town from the north, there are two other gas stations, however, in coming from the south; people will come to this business first. In terms of the signage on the car wash, he can make a sign that would fit within the sign ordinance. He requested not to clutter the downtown with signs as this should not adversely affect the area. With a sign in the field of view of the church, it would affect the aesthetic view of the church.

Linda Stewart stated the only electronic signs are open signs in a window and an electronic sign would not be allowed either.

Amy Menard submitted that the applicant has not submitted sufficient evidence for a variance. Under Brandon Land Use Ordinance, Section 1011, the applicants need to conclude there are unique physical conditions that would result in an unnecessary hardship. There is not evidence to justify that conclusion. It is not relevant what the current sign is now and the Brandon Land Use Ordinance is the governing body. Those are the rules that the town has chosen and if there are not sufficient grounds, the Board would be compelled to deny. This is mostly financial and does not rise to the level of hardship and it would not be reasonable use if the variance is granted. The specific attributes do not rise to the level of the particularity or exceptional topographical position of the property to warrant a variance. The unique thing with this property, when one comes down at a bend to see the property and the location, the low spot in the road benefits the visibility. There is equal concern with the lighting as it relates to the Brandon Land Use Ordinance and the reasoning that LED lights do not shine outside the property is not enough comment. The lights are defined as being confined to the property and as being basic security. The applicant needs to provide sufficient information to the Board and the submission so far is lacking. As far as traffic for safety, there is no traffic study submitted, only verbal information, but traffic safety is not before this Board. She submitted there are not grounds to grant the variance for the prospective signs.

Jeff Guevin referred the Board to the Brandon Land Use Ordinance, Section 1011. This is not so much the criteria, but the law as it is written in the Brandon Land Use Ordinance.

Exhibit A was submitted from the Zoning Administrator – packet included letter from Scott Jensen of Department of Environmental Conservation, Letter dated 3/17/16 from Steven Zorn, Charles Powell and Brent Buehler and additional information provided by KAS Environmental Science & Engineering that included a letter and memo to ZA regarding the Special Flood Hazard Area, a copy of the MT Associates letter from State of VT Department of Environmental Division, MT Associates Land Use Permit #5788, Brandon PWD letter certifying sufficient wastewater capacity and Town of Brandon Tap Permits #C-302 and C-303

Exhibit B was submitted from KAS Environmental Science and Engineering – conceptual design drawing

Sam Stone called for an end to the hearing and advised the DRB has 45 days to render a decision.

Being no further testimony, the hearing closed at 9:48PM.

Respectfully submitted,

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Charlene Bryant