

DEVELOPMENT REVIEW BOARD
108 Shed Road
Berlin, Vermont

APPROVED MINUTES
Meeting of TUESDAY, January 6, 2015

1. The meeting was called to order at 7:00 P.M.

Members present: Robert J. Wernecke, Chair; Karla Nussli, Vice-Chair; Harvey Golubock and John Friedrich. Absent: Henry A. LaGue, Jr.

Staff present: Thomas J. Badowski, Zoning Administrator and Carla Preston, Recording Secretary.

Others present: Michael Rus.

The Board explained its Policy and definition of party status and interested persons to attendees. Copies of the Rules and Policies and Procedure were available as handouts.

2. New business

A. 14-086 – Pomerleau Family, LLC submitted an application for an illuminated Commercial Sign (*Sleepy's – The Mattress Professionals*). The property is located at 1400 Route 302, Berlin, Vermont, in the Highway Commercial District. Michael Rus, owner of Sign Here, Inc. was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application For Zoning Permit, received on or before 12/18/2014; **Exhibit #2:** Sign details for *Sleepy's – The Mattress Professionals* (and Grand Opening banner) showing the style of lettering and star logo, dimensions, etc. prepared by Atlas Sign Industries, dated 10/22/2014; **Exhibit #3:** Sign details for *Sleepy's – The Mattress Professionals* "Grand Opening" banner), prepared by Atlas Sign Industries, dated 10/22/2014; **Exhibit #4:** Photo simulations showing proposed illuminated sign from different angles; **Exhibit #5:** Aerial view of site pointing out location of proposed *Sleepy's*, prepared by Atlas Sign Industries, dated 10/22/2014; **Exhibit #6:** View of Pylon sign including the name *Sleepy's*, prepared by Atlas Sign Industries, dated 10/22/2014; **Exhibit #7:** Memorandum from Brian Waxler with Pomerleau Real Estate authorizing Atlas Sign Industries or their agent to obtain sign permits on their behalf and perform the installation at this location; and **Exhibit #8:** Letter dated 12/17/2014 from Brian Waxler with Pomerleau Real Estate to Zoning Administrator Thomas Badowski authorizing Mike Russ of Sign Here Inc. to represent them for this application.

Project Overview: Michael Rus advised that the property owner and Applicant are applying for illuminated signage for *Sleepy's – The Mattress Professionals*, a new business which is located next to *Radio Shack* in the shopping center. The proposed signage included an illuminated sign on the building and a stick-on vinyl sign that would be added to the existing pylon sign. He advised they are also applying for a temporary banner announcing the Grand Opening which would be displayed for about six weeks. The cloth banner would be located above the illuminated wall sign. Mr. Rus admitted that he did not review the regulations with respect to signage.

Zoning Administrator Badowski advised that the application is before the DRB because the proposed commercial sign would be illuminated. He advised that the proposed wall sign meets the size requirement.

The Board reviewed the signage regulations to determine whether such temporary signs were specifically addressed. Section 3.13, Table 3.01, Exempted Signs, mentions signs 32 square feet or less to be maintained for not more than 45 days regarding fairs, expositions, campaigns, etc. The Board noted that the proposed banner could fall under such similar announcements. It was noted that such signs have been granted in the past without requiring DRB approval. The Board indicated that the issue does need to be addressed during the next revision of the regulations.

Mr. Rus advised that the Applicant would like to have the banner in place for six weeks because it announces the Grand Opening. The proposed banner would be about 50 square feet in size. The proposed illuminated wall sign is 95 square feet.

The frontage of the building is 60 feet and the regulations allow for twice that amount in square footage of signage. The proposed size of the illuminated sign is within the square footage allowed. The Board noted that with respect to the banner sign it may only be permitted for 45 days.

Mr. Friedrich made a motion, seconded by Ms. Nuisl, to close the hearing with respect to Application 14-086. The question was called and the motion passed unanimously.

B. 14-087 – Redstone Construction d/b/a J.K.L. Limited Partnership submitted an application for an illuminated Commercial Sign; Golub Corporation d/b/a Price Chopper #123 (*Starbucks*). The property is located at 168 Ames Drive #1, Berlin, Vermont, in the Highway Commercial District. No representative was present to give testimony on this matter. The Board noted the regulations do not require that a representative be present for an application but noted that unanswered questions could result in recessing the application.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application For Zoning Permit, received on or about 12/08/2014; **Exhibit #2:** Existing Wall details for Price Chopper #123 prepared by Signworks Corp.; **Exhibit #3:** Proposed Wall Sign details for Price Chopper #123 showing existing and proposed 7.1 square foot addition "Starbucks" logo sign box, prepared by Signworks Corp.; **Exhibit #4:** Memorandum dated 12/05/2014 from Jonathan A. Levy with J.K.L. Limited Partnership to the Town of Berlin authorizing the installation of the proposed sign and its use by Price Chopper; **Exhibit #5:** Letter dated 12/23/2014 from Fred A. Early, Signworks Project Manager, with Signworks Sign Corp. to the Town of Berlin explaining how the size of the signs were calculated and the total square footage for Price Chopper signage; and **Exhibit #6:** Copy of the Findings of Facts & Conclusion issued on or about 09/23/2010 for Golub Corporation d/b/a Price Chopper.

Mr. Badowski advised that the application before the Board is to install a *Starbucks* sign and logo at Price Chopper #123. He noted that there were several reiterations of this proposal. He advised that Price Chopper has applied for and received a change of use to include restaurant use for Starbucks. The application included existing conditions and proposed conditions regarding signage along with additional seven (7) square foot sign. Based on the Board's interpretation of the regulations, Price Chopper would be allowed up to 300 square feet of signage. With the addition of this sign, the applicant would still be below that amount.

Chair Wernecke explained that Price Chopper chose to have several smaller signs (Bagel Factory, Bottle Return, Custom Meat, etc.) in addition to a large wall sign. Section 3.13 (B)(1) of the regulations states that no single establishment regardless of size shall be allowed more than 300 square feet. Section C of that provision speaks to shopping center signs and is in direct conflict with the provision covering commercial signs in section B by implying that individual signs shall not exceed 80 square feet if located within a shopping center.

The Board has consistently interpreted the regulations to allow the greater of the two provisions up to a maximum of 300 square feet. The Board has informed the Zoning Administrator and the Planning Commission that this inconsistency must be addressed when the regulations are revised. The Board noted that background illumination in signs would also be addressed in future revisions.

The Board noted how the sign measurement was taken and proposed by the applicant but will rely on its Findings as stated in the Applicant's prior permit from 2010 (10-038). Based on the Board's measurements, the Applicant was found to have had a total of 262 square feet of signage. The Applicant is now proposing an additional seven (7) square feet of signage with this application. The amount of total signage for Price Chopper #123 would be 269 square feet thus does not exceed the 300 square foot maximum allowed.

Mr. Friedrich made a motion, seconded by Ms. Nuisl, to close the hearing with respect to Application 14-087. The question was called and the motion passed unanimously.

3. Review and approval of the Minutes.

The Chair called for approval of the Minutes of the December 2, 2014 meeting. Two paragraphs under 14-081 were rearranged that concerned the discussion pertaining to temporary storage of vehicles. The 2nd, 3rd and 4th sentences on page 4 under 14-081 k – flood hazard area were removed and replaced with: The 100 year flood elevation is 550 feet. The first floor elevation of the existing building to be retained is 553.7 feet and the new building first floor elevation is 554.0 feet.

Chair Wernecke made a motion, seconded by Mr. Friedrich, to approve the Minutes of the December 2, 2014 meeting as amended. The question was called and the motion passed unanimously.

4. Public Comment

Persons present participated in the meeting as noted above.

5. Other Business

6. Status of Findings.

The Board voted to go into deliberative session at 7:33 P.M. and out at 8:15 P.M. to discuss the status of Findings. The Board's decision with regard to (closed) adjourned applications will be reported in its Findings.

7. The next meeting of the Development Review Board is scheduled for **Tuesday, January 20, 2015.**

8. There being no further business, the meeting was adjourned at 8:16 P.M.

Respectfully submitted,

Carla Preston

Carla Preston
Recording Secretary
Town of Berlin

