TOWN OF WILMINGTON

DEVELOPMENT REVIEW BOARD FINDINGS OF FACT AND STATEMENT OF FINDINGS WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **Guy and Janet Nido—Owner/Don Booth New Hampshire Signs--Agent**

Owner/Applicant(s) Mailing Address: 77 West Main St, Wilmington, VT

Address of the subject property: 77 West Main Street

Tax Map: **020-20-049**

A copy of the request is filed in the office of the Board and is referred to as: November 4, 2016

Description of Case per Public Notice:

Application # 2016-094

Notice for a public hearing was published in the Valley News on: November 23, 2016

Notice was posted in three public places on: **November 23, 2016**

A copy of the notice was mailed to the applicant on: November 23, 2016

A copy of the notice was mailed to the abutters on: November 23, 2016

A public hearings was held on **December 12**, 2016

There was no Site Visit.

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Vermont Environmental Court.

Appeal period for this Case expires on: February 6, 2017

Approval Expires on: January 6, 2019

In addition to the Applicant/Agent the following persons, heard by the Board in connection with this request, were determined by the Board to be "interested persons". Copies of this decision have been mailed to those persons which are listed below.

None

The following presented testimony on behalf of the Applicant or an Interested Person:

- Guy Nido & Greg Nodo Owner
- Don Booth--Agent

EXHIBITS

The following Exhibits were placed by the Applicant:

- 1. Application with abutter list
- 2. Picture of Existing Sign for Gas Station
- 3. Design of new Valero Sign

SYNOPSIS

Applicant, owner of a commercial gas station on West Main St, is requesting to make a sign change in name from Citgo to Valero

APPLICABLE DISTRICT

Findings of Fact: Subject property is identified as Parcel ID# 020-20-049

Conclusion of Law: The structure for the sign in question is in the Village Zoning District

ARTICLE VII – STANDARDS

SECTION 732 – Other Specific Standards

- B. <u>Automotive Service Station and Repair Garage</u>: Automotive Service Station and Repair Garage must obtain Conditional Use approval in all districts where allowed and may be allowed if the following can be met:
 - 1. Lot size shall be at least one-half acre (1/2 acre).
 - 2. Lot frontage shall be at least one hundred fifty (150) feet.
 - 3. One (1) two-way access or one (1) point of ingress and one (1) point of egress shall be allowed. An additional driveway may be allowed if the property has frontage on two Town roads. Where appropriate the Development Review Board may require a landscape strip. Where there is one point of ingress and one point of egress a landscape strip should be considered along the length of the remaining frontage, beginning at a point adjacent to the driveway and continuing to the side property line, at a minimum of four (4) feet wide.
 - 4. All portions of canopies shall be located at least twenty (20) feet from the side and rear lot lines and all canopy lighting shall be recessed to reduce glare.
 - 5. All canopies shall be of a solid color. Bright colors and designs on canopies are not allowed.

Findings of Fact: This is a pre-existing Automotive Service Station and Repair Garage; items 1, 2,

3 and 4 are not changing. As such, they are not being reviewed under this application.

Item 5 relating to canopies is changing. There will be a change to the color of the canopy. The applicant testified that the canopy will be of a single color, the Valero logo color of teal, and that it is not a bright color. The applicant further testified that there will be no Valero logo or other design on the canopy. The applicant testified that there is no "choice" in the color of the canopy, that it is the Valero color and the only color they allow and that the prior canopy colors are much brighter.

Conclusions of Law: Meets this standards

ARTICLE VIII - SIGNS

Section 842: When is a Zoning Permit Required

A sign permit shall be secured from the Zoning Administrator:

- A. For all signs described in Sections 831, 832 and 833.
- B. Prior to the placement, erection, reconstruction, relocation or modification of any permanent or temporary sign, except signs as described in Section 820, 821, 822 and 823.
- C. For alteration or change of any existing Permitted sign resulting in a different sized sign or a substantially changed sign. Rewording of a sign for an existing use while maintaining uniformity of background shall not be deemed to constitute sign alteration.

Findings of Fact: The applicant testified that they will be maintaining uniformity of the layout and background of the sign and that they will only be replacing the current logo and color with the Valero logo and color. Paragraph C of Section 842 exempts rewording changes to a sign while maintaining uniformity of background.

Conclusions of Law: This change is deemed to not constitute a sign alternation. The proposed change meets this standards.

Section 870: Sign Standards – Applying to ALL signs

Allowed (not requiring a Permit) and Permitted (requiring a permit)

With the exception of those signs receiving a Conditional Sign Waiver from the Development Review Board as defined in Section 850, all signs, both Allowed and Permitted, must satisfy the following standards:

- A. Signs shall not prevent a clear and unobstructed view of existing Allowed or Permitted signs.
- B. All signs must be maintained in good repair, with clear, easily readable lettering, without significant rotting, rusting, peeling, fading, or deteriorating parts, and must be in stable, safe and durable condition, safely secured to a stable structure as determined by the Zoning Administrator.
- C. When a business or organization closes, moves or otherwise terminates, or an advertised product ceases to be offered, all graphics and text signs pertaining to that use, service, product or event must be removed from the location within ninety (90) days unless an extension of time is approved by the Development Review Board. The need to maintain a visible sense of business activity in retail areas will be considered in the granting of waivers to this provision.

- D. Any nonconforming ('grandfathered') sign that is destroyed or damaged may be restored to its original state, but not altered unless in conformance with this Bylaw.
- E. Signs shall not be placed without permission from the owner or tenant of a property or his/her authorized agent.
- F. Signs shall not impair public safety or impede pedestrian traffic. Violations are subject to State penalties pursuant to 19 V.S.A. § 1105.
- G. Signs shall not prevent a clear and unobstructed view of official signs and approaching or merging traffic.
- H. Signs shall not impede access to any door, window, or fire escape.
- I. With the exception of entrance and exit signs, signs shall not be erected which appear to direct the movement of traffic or interfere with, imitate, or resemble any official traffic, directional or route sign, signal or device.
- J. External illumination of signs shall be downcast and effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled way of a Public Road or adjacent properties. Businesses in the Village District are encouraged to keep externally illuminated signs and soft internal window displays illuminated until midnight to maintain an active appearance. Bright lighting is discouraged.
- K. Signs with internal illumination, including but not limited to incandescent, fluorescent, neon, and LED, are not allowed. Previously Permitted internally illuminated signs existing on November 20, 2014, the date of adoption of this provision in the Sign Article of the zoning ordinance, are "Grandfathered" and considered "Permitted" under Section 803 (2) of this Article VIII and may remain "as-is." Sign changes require full compliance with this Article VIII. (See Section 842)
- L. Signs shall not be illuminated, internally or externally, by any flashing, moving or intermittent light.
- M. Signs shall not contain any moving parts.
- N. Signs shall not emit noise or have audible systems to the extent that they can be heard on adjacent properties, public ways, parking areas, streets, or highways.
- O. External signs shall be sufficiently secured and of a material able to withstand sustained winds.
- P. Signs may not be placed internally so as to be visible through a window or door, with the intention of circumventing this article.

Findings of Fact: There will be no changes to the pre-existing sign other than color and logo design. As such, this Section does not apply to this application.

Pertinent to Paragraph K: While this sign is internally illuminated and internal illumination is not allowed for new or significantly changed signs, this is a previously permitted internally illuminated sign existing on November 20, 2014 that is not undergoing substantial change other than the exempted change in wording and logo. As such, this is a pre-existing legal nonconformity as defined in Section 430 - 431. Any significant changes to this sign in the future will require full compliance with this Article VIII (Section 870) above.

Conclusions of Law: Meets this standards.

The application for sign is **approved** by the Development Review Board

If unused, this Approval expires 2 years from the date of issue. A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before the Approval becomes final. In addition, all fees must be paid and a Zoning Permit must be issued prior to the commencement of any work requested in the application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval does not relieve you, as applicant, from obtaining any and all applicable State and Local Permits.

Town of Wilmington, Zoning Administrator reserves the right to monitor compliance with this decision and all decisions issued by the Development Review Board.

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications and contained herein:

Fred Houston
Tim Hall
Wendy Manners
Peter Wallace
OPPOSED:

None

ABSTAINING: None

For the Board: Wendy Manners-Seaman, Chairperson Date: January 6, 2017

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.