

TOWN OF RANDOLPH, VERMONT
DEVELOPMENT REVIEW BOARD
MEMORANDUM OF DECISION

(Findings of Facts and Conclusions, and Decision)

PERMIT NO.: Z09-69

Property address: Hebard Hill Road

PROPERTY OWNER: Kenneth and Nancy Smith
85 Dylan Drive
Randolph, VT 05060

Parcel no.: 105019.010
Parcel size: 46.06 acres

I. INTRODUCTION

On September 9, 2009, Ken Smith ("Applicant") filed an application for a zoning permit for a project generally described as a **5-lot subdivision**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on September 9, 2009.

Under the Randolph Land Subdivision Control Regulations and the Zoning Regulations ("Subdivision Regulations" and "Zoning Regulations", respectively, or "Regulations" collectively), projects are reviewed based on the applicable criteria of the Regulations. Before the Administrative Officer ("Administrator") may grant a permit, the Board must find that the project complies with all applicable criteria and approve the subdivision and/or provide any other approval, as required.

Decisions must be stated in the form of Findings of Facts and Conclusions of Law. In rendering this decision, the Board relied on the following:

1. Sworn testimony presented to and evidence received by the Board during the first and final public hearing held on September 29, 2009;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records.

The Board closed the public hearing on September 29, 2009, and rendered an oral decision in this matter. This written decision is required pursuant to 24 VSA ch. 36 §1209 and supersedes the oral decision.

II. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the Rural Use 5 acre (RU5) District.
2. Subdivision approval is required as the proposed project creates three or more lots

On September 9, 2009, the Administrator referred the application to the Board for review and approval as determined.

III. PARTICIPANTS

For the purposes of this application, “interested persons” are those who fulfill the requirements of 24 VSA ch. 117 §4465. The attached Service List for this project identifies persons¹ who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were Joel Tillberg, John Becker, J. Kenneth Currier, Samuel Lincoln, Christopher Recchia, Frank Reed and Krista Rumrill.

IV. FINDINGS OF FACTS

The following findings are facts that were entered into the record for this application and were relied upon by the Board in formulating its conclusions and decisions. While other evidence may have been or is also entered into the record, if it is not included herein, the Board has determined that it is either not relevant evidence or that it is not a fact.

Project Description

1. The Applicant has filed an application for a 5-lot subdivision of a 46.06-acre parcel that is currently undeveloped. The proposed lot sizes are 5.03, 5.04, 5.02, 5.02 and 25.05 acres for lots #1-5, respectively, as shown on Exh. #1. (application)

Compliance with development standards

2. The property requires approval pursuant to the Randolph Land Subdivision Control Regulations because it creates three or more lots. (application and Subdivision Regulations)
3. The property is in the RU5 District. The minimum lot size for the RU5 District is 5 acres. All of the proposed lots will be 5 acres or larger. (Zoning Regulations and application)
4. The minimum lot width in the RU5 District is 300 feet. Lots #1-4 will have at least 300 feet of road frontage. Lot #5 is over 686 feet wide. It does not have road frontage but has access to Hebard Hill Road via a 50-foot wide easement. (Zoning Regulations and application)
5. §5.6 allows the creation of lots without frontage to a public road or water if an access easement at least 20 feet wide. (Zoning Regulations)
6. The development standards regarding setbacks and coverage are not applicable as the property is currently undeveloped. (application)
7. The proposed project does not involve the creation of any public roads nor public utilities. (application)

VI. CONCLUSIONS

Based on the foregoing Findings of Fact, it is the conclusion of the Board that the project described in the application referred to above, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, will meet the development standards in the RU5 District. The Board also concludes that Section VI of the Subdivision Regulations is not applicable.

¹ By inclusion in this section of the Memorandum of Decision, the Board does not address the status of any of the people listed above as “interested persons” as defined in the above-referenced state statute.

VII. DECISIONS²

Based upon the foregoing Findings of Facts and Conclusions, approval is hereby granted for the 5-lot subdivision as applied for in zoning permit application #Z09-69 and including the evidence and testimony entered into the record as Findings of Fact. Such approval is granted with the condition that the final survey of the subdivision is substantially the same as what was presented to the Board (Exh. #1).

Dated at Randolph, Vermont this 29th day of September, 2009.

RANDOLPH DEVELOPMENT REVIEW BOARD

/s/ Joel Tillberg, Chair

/s/ Samuel Lincoln

/s/ J. Kenneth Currier

/s/ Frank Reed

/s/ John Becker

/s/ Krista Rumrill

/s/ Christopher Recchia

² An interested party (as defined in 24 VSA §4465) who participated in this proceeding may appeal this decision to the Vermont Environmental Court within 30 days of the date of the decision, for a fee of \$250 and a notice in writing, certified mailed to the Environmental Court, giving reasons for the appeal, and a copy mailed to the Administrator. Failure to appeal this decision may prevent any party from arguing against its elements in a future hearing or appeal. 24 VSA §4472.

SERVICE LIST

Zoning Permit Application #Z09-69

Kenneth and Nancy Smith

Mary Lewis Webb
155 Hebard Hill Road
Randolph, VT 05060

Gae Kovalesky
PO Box 21
Randolph Center, VT 05060-0021

Bernard and Linda Lewis
226 Hebard Hill Road
Randolph, VT 05060

Cheryl Lloyd
426 Hebard Hill Road
Randolph, VT 05060

Kenneth and Nancy Smith
85 Dylan Drive
Randolph, VT 05060

Peter Kirchhof
943 Hebard Hill Road
Randolph, VT 05060

Bart Parmelee
3133 Hebard Hill Road
Randolph, VT 05060

Becky Wood
742 Hebard Hill Road
Randolph, VT 05060

Bold listings indicate applicants and/or their representatives.