

TOWN OF RANDOLPH, VERMONT
DEVELOPMENT REVIEW BOARD
MEMORANDUM OF DECISION
(Findings of Facts, Conclusions, and Decision)

PERMIT: #Z10-74
PROPERTY ADDRESS: 2365 VT Route 14N
PARCEL NO.: 115023
PARCEL SIZE: 1.1 acres

PROPERTY OWNER: Kevin Tucker
Kevin Tucker, Inc., d/b/a Tucker's Auto
2365 VT Route 14N
Randolph Center, VT 05061

I. INTRODUCTION

On August 3, 2010, **Kevin Tucker** ("Applicant") filed an application for a zoning permit for a project generally described as **revised site plan for existing auto sales, repair and detailing business**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on August 3, 2010.

Under the Randolph Zoning Regulations ("Regulations"), projects are reviewed based on the site plan, conditional use and/or any other 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 site plan, the conditional use 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 August 31, 2010;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records, including the Notice of Decision for zoning permit #Z99-70 ("NOD #Z99-70").

The Board closed the public hearing on August 31, 2010 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 East Valley (EV) District.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.
3. The use is existing and received approval previously: in 1995 for auto sales and 1999 (permit #Z99-70 for auto sales and repairs. No approval or re-approval for the use is required.

On August 3, 2010, 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 includes the Applicant and persons¹ who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were John Becker, Samuel Lincoln, Thomas Malanchuk², Christopher Recchia, Frank Reed, Krista Rumrill and Joel Tillberg.

IV. FINDINGS OF FACTS

The following findings are facts that were entered into the record for this application and 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.

1. The applicant has filed an application for a revised site plan for an existing auto sales and repair business as shown on Exh. #1. These changes include: stockade fencing, eliminating parking along the driveway to the garage area and a new parking area next to the pond. (Exh. #1)
2. No changes to the existing operation of the business are proposed. (testimony of K. Tucker)
3. The new parking area will be used for display of vehicles for sale and storage of personal vehicle and equipment, too. (testimony of K. Tucker)
4. The minimum lot size for non-residential uses in the EV District is 20,000 SF. The subject property is 1.1 acres. (Regulations and application)
5. The development standards for setbacks and maximum building height are not applicable in this case. (Regulations and application)
6. The maximum allowable building and parking coverage is 75% in the EV District, or 36,000 SF for the subject property. The new proposed parking area is gravel and 7,500 SF. (Regulations, application and testimony of K. Tucker)
7. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)
8. The surrounding area is a dense mixture of rural, agricultural and residential uses. The adjoining properties are used for residential purposes. (application and NOD #Z99-70)

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.

² Mr. Malanchuk is an alternate member of the Board who was sitting in place of Member Trini Brassard, pursuant to Section 206D of the Board's Rules of Procedure. Ms. Brassard did not participate in this Decision

9. The new parking area is more harmonious with the surrounding area as it eliminates the need to park vehicles on the front lawn, thereby maintaining a more residential feel to the property.
10. The personal property and equipment that will be stored in the new parking area will be kept next to the road. The topography makes this area less visible off-site. (testimony of K. Tucker)
11. No changes to the existing access is proposed. (Exh. #1)
12. The new parking area will take access off the existing driveway. It will not be used for customer parking therefore there will be minimal movement into and out of it. (Exh. #1)
13. The adjacent land is used for residential purposes. (application)
14. The new (since the last site plan approval) fencing provides screening of much of the auto repair business from adjacent residences. (application)
15. No new buildings, landscaping, walls, or loading areas are proposed. (application)

V. 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 and including the Applicant's representations at the public hearing, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, will/will not meet the following site plan criteria:

- A. The proposed use, design and layout meets the provisions of the zoning ordinance, other regulations and ordinances of the Town and is not in non-conformance with the Town Plan.
- B. The proposed use, design and layout is of such a location and in such a size and character that it will be in harmony with the appropriate and orderly development of the surrounding area.
- C. The proposed use and layout is of such a nature that it will not make vehicular or pedestrian traffic hazardous when considering turning movements, relationship to intersections, sight distances, location and access of off-street parking, pedestrian traffic and pedestrian-vehicular contact points.
- D. The proposed height and location of buildings, walls, fences, parking, loading and landscaping will not interfere with or discourage the appropriate development in adjacent land or unreasonably affect its use.

VI. DECISIONS³

Based upon the foregoing Findings of Facts and Conclusions, approval is hereby granted/denied for the site plan for the revised site plan as applied for in zoning permit application #Z10-74 and

³ 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 Zoning Administrator. Failure to appeal this decision may prevent any party from arguing against its elements in a future hearing or appeal. 24 VSA §4472.

including the evidence and testimony entered into the record as Findings of Fact. Site plan approval is granted with the following conditions:

1. Development of the property shall be as shown on Exh. #1.
2. All applicable conditions of previous Board approvals shall continue to apply.
3. Any significant modifications to the approved site plan shall require re-approval by the Board pursuant to the regulations in effect at the time of re-application.

Dated at Randolph, Vermont this 29th day of August, 2010.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members

/s/ Joel Tillberg, Chair

/s/ John Becker

Thomas Malanchuk

/s/ Frank Reed

/s/ Samuel Lincoln

/s/ Krista Rumrill

/s/ Christopher Recchia