

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

Permit: #Z10-52
Property address: 1540 VT Route 66
Parcel no.: 106020
Parcel size: 9.5 acres

PROPERTY OWNER: Vermont State Colleges
c/o Richard Ethier
PO Box 359
Waterbury, VT 05676

APPLICANT: Jack Daniels
Vermont Technical College
PO Box 500
Randolph Center, VT 05061

I. INTRODUCTION

On June 16, 2010, Jack Daniels, on behalf of the **Vermont State Colleges** (“Applicant”) filed an application for a zoning permit for a project generally described as **the construction of an office building to replace one that was destroyed by fire more than a year ago**. The application was deemed complete pursuant to the Development Review Board (“Board”) Rules of Procedure Section 301 on June 24, 2010.

Under the Randolph Zoning Regulations (RZR or “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.

Also under the Regulations, the Board is authorized to undertake local Act 250 review of Criteria 6, 7 and 10 for all projects that require a new land use permit or an amendment to an existing land use permit under 10 VSA Chapter 151 (“Act 250”).

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 written recommendations of the Design Review Advisory Commission (“Commission”).

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 Southwest Interchange (INT-SW) District.
2. This use is categorized as "office" which is listed in §6.9.3(C)(3) as a conditional use in the INT-SW District therefore conditional use approval is required. In the INT Districts, conditional use approval requires compliance with the criteria set forth in 24 VSA §4414(3) and the following sections of the RZR: §4.1, 4.2, 6.9.4, 6.9.5 and 6.9.6.
3. The project is a state owned and operated facility, therefore 24 VSA §4413 (Limitations on municipal regulations) is applicable. Of the standards in the above-referenced sections, only the following can be applied pursuant to 24 VSA §4413:
 - A. RZR §4.1 Site Plan Review – all criteria, either in whole or in part.
 - B. RZR §4.2 Conditional Use Review – criteria B2 and 5, and C.
 - C. 24 VSA §4414(3) Conditional Uses – criterion (A)(iii).
 - D. RZR §6.9.4 General and Dimensional Standards – standards A, D, E and G.
 - E. RZR §6.9.5 Supplemental Conditional Use Standards – standards A and J – P.

On July 22, 2010, the Administrator referred the application to the Design Review Advisory Commission ("Commission") for review pursuant to RZR §6.9.2D. The Commission held a public meeting on July 22, 2010 and submitted written recommendations on that date. The Administrator then referred the application to the Board for review and action.

III. PARTICIPANTS

For the purposes of this application, "interested persons" are those who fulfill the requirements of 24 VSA ch. 117 §4465. The Applicant's representatives were the only participants in this proceeding.

Participating Board members were John Becker, Trini Brassard, Samuel Lincoln, Christopher Recchia, Frank Reed, Krista Rumrill and Joel Tillberg. Members Lincoln, Reed and Tillberg all disclosed their relationships with Vermont Technical College and no objections were voiced to their participation in the matter.

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 the construction of an office building as shown on Exh. #3. The proposed building replaces a building of the same use and essentially same size and location that was destroyed by fire on November 2, 2008. The building will have two sections; the front section will be construction on the foundation of the previous building and the back section will be of the same total square footage but will be slightly different dimensions. (application and testimony of J. Daniels)
2. The property is owned by the state and the facility is owned and operated by the state, therefore 24 VSA §4413 is applicable. (application and state statute).

3. The limitation imposed by 24 VSA §4413 mean the Board can only apply certain criteria, as outlined in Section II above. (state statute and Regulations)
4. The minimum lot size for the INT-SW District is 5 acres per principal building. The subject property is 9.5 acres. RZR §6.9.4(B) allows for density and lot size bonus if there are multiple principal buildings on the same lot if 50% of the lot is protected from future development. In that instance, the minimum lot size is 3 acres per principal building. Therefore, the two principal buildings would require 6 acres with at least 3 acres protected as open space. Currently, there is 7.4 acres of undisturbed forested land on the subject property, 3 of which could be conserved. (Regulations, application and Exh. #2)
5. The minimum lot width for lots over 3 acres is 200 feet. The subject property has an existing lot width of approximately 720 feet. (Regulations and application)
6. The maximum building height is 35 feet. The height of the proposed building does not exceed 35 feet. (Regulations and application)
7. The minimum setback from VT Route 66 is the setback for existing building but no less than 95 feet. The existing foundation for the proposed replacement building is approximately 162 feet from the centerline of VT Route 66 at its closest point. (Regulations and application)
8. The required maximum building and lot coverages are 8 and 24%, respectively. The proposed building coverage is 15,100 SF, or 3.6%. The proposed lot coverage is 75,900 SF, or 18.4%. (Regulations and Exh. #2)
9. The existing and proposed use of the property will not create a nuisance. There will be no noise associated with any manufacturing processes in the proposed building. (Exh. #3)
10. There will be no indoor or outdoor storage of hazardous materials associated with the facility. (Exh. #2)
11. No new accessory buildings are proposed. (application)
12. All of the existing landscaping, with the exception of several trees that will need to be removed along the east side of the proposed building, will remain. A strand of birch trees/stumps will be removed and new birch trees replanted. New perennials will be planted along the north side of the proposed building. (Exh. #3 and testimony of M. Sienkiewicz)
13. The existing landscaping and undeveloped forested lands provides significant buffers and transitions to adjacent properties and screening from VT Route 66. (Exhs. #2 and 3)
14. The dumpster will be screened with a wooden slat enclosure. (testimony of M. Sienkiewicz)
15. No changes to the existing on-site access and internal vehicular traffic circulation is proposed with the project. (application and Exh. #3)
16. The pedestrian sidewalk to the new building will be ADA compliant and more direct than the access to the previous building. (Exhs. #2 and 3 and testimony of M. Sienkiewicz)
17. There is no outdoor storage of materials, only company vehicles. (Exh. #2)
18. The project involves replacing the existing parking lot lighting and new lights on the new building. The lighting will be fully cut-off fixtures, pole mounted at a height not to exceed 20 feet above grade (in the parking areas), CFL or LED, and controlled by motion and

photo sensors on an astrological clock. All site lighting will be off at night/after hours unless triggered by motion sensors. (Exhs. #2 and 3 and testimony of M. Sienkiewicz)

19. The off-street parking requirements are based on total gross floor space of the use (office). The parking requirements are not affected by the proposed project as there is no net change in total gross floor space. (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 meet the following criteria:

- A. RZR §4.1 Site Plan Review – all criteria.
- B. RZR §4.2 Conditional Use Review – criteria B2 and 5, and C.
- C. 24 VSA §4414(3) Conditional Uses – criterion (A)(iii).
- D. RZR §6.9.4 General and Dimensional Standards – standards A, D, E and G.
- E. RZR §6.9.5 Supplemental Conditional Use Standards – standards A and J – P.

VI. DECISIONS¹

Based upon the foregoing Findings of Facts and Conclusions, conditional use approval is hereby granted for the construction of an office building as applied for in zoning permit application #Z10-52 and including the evidence and testimony entered into the record as Findings of Fact. Such approval is granted with the following conditions:

1. Construction shall be as shown on Exhibit #3.
2. All landscaping shown on Exhibit #3 shall be maintained in a healthy, living condition.
3. A minimum of 3 acres of the forested land shall be protected in a contiguous block from future development by a permanent conservation easement approved by the Board and in a form acceptable to the Town Attorney, and that permanently encumbers the land against further subdivision and development and furthers its use or maintenance as forested land.
4. Snow from parking areas must not be plowed onto public highways, adjoining streams or waterways, or onto abutting properties. Snow must be plowed elsewhere on the subject property or removed.
5. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
6. Any significant modifications to the approved site plan and conditional use shall require re-approval by the Board pursuant to the regulations in effect at the time of re-application.

¹ 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.

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

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members

/s/ Joel Tillberg, Chair

/s/ John Becker

Trini Brassard

/s/ Frank Reed

/s/ Samuel Lincoln

/s/ Krista Rumrill

/s/ Christopher Recchia