

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

PERMIT NO.: Z09-92

Property address: 28 South Main Street

PROPERTY OWNER: Clara Martin Center
c/o AJ Horvath
PO Box G
Randolph, VT 05060

Parcel no.: 248016
Parcel size: 0.43 acres

APPLICANT: Randolph Area Food Shelf
c/o Tim Caulfield
PO Box 202
Randolph, VT 05060

I. INTRODUCTION

On November 25, 2009, Tim Caulfield, on behalf of the **Randolph Area Food Shelf** ("Applicant" or "RAFS") filed an application for a zoning permit for a project generally described as the conversion of part of a building into space used by the food shelf. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on November 25, 2009.

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 December 16, 2009;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records, including previous Notices of Decisions ("NOD") for the subject property.

The Board closed the public hearing on December 16, 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 Civic-Tourist (CT) District.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.

3. The use of the food shelf is categorized as “general retail sales.” Such a use is listed as conditional on the Chart of Permitted and Conditional Uses and therefore conditional use approval is required.

On December 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 includes the Applicant's representatives and persons¹ who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were John Becker, Christopher Recchia, Frank Reed 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.

Project description and background

1. The applicant has filed an application for the use of the subject property for food shelf store and storage, as well as office space and/or conference space as shown on Exh. #2. (application and Exh. #2)
2. The only change to the exterior of the building is the removal of the two-story porch in the northwest corner. The only change to the approved site plan is the installation of an at-grade loading dock pad outside the barn doors. The applicant is going to operate this facility...any other applicant representations. (application)
3. In July of 2000, NOD for zoning permit #Z00-52 was issued approving the site plan and the following uses in the building: office, community meeting space and an alternative tutorial program. The first two uses are proposed to remain, therefore only approval for the food shelf store and storage is needed. (municipal records)
4. The use of the food shelf is determined to be essentially the same as retail sales without the exchange of money and therefore it is so classified. In the CT District, retail sales is a conditional use, therefore, this approval is required. (Regulations)
5. The food shelf store will be open from 3 – 5 PM five days a week. Staff will be there at other times and days to sort, restock and perform other duties related to the food shelf. (testimony of T. Caulfield)
6. Deliveries to the food shelf are usually by a box truck about once a week. There also could be a pick-up truck up to once a week. All deliveries are during normal business hours. (testimony of T. Caulfield)

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.

7. The office and meeting space could be used from 8 AM – 8 PM Monday through Saturday. There also could be occasional meetings in the evenings. (testimony of P. Garner)

Consistency and compliance with Town Plan and ordinances. (SP criterion A and CU criteria A, D and K,

8. The minimum lot size for the CT District is 20,000 SF. The subject property is 0.43 acres, or 18,700 SF. Therefore, the lot is non-conforming. (Regulations and application)
9. §5.17.11 of the Regulations allows more than one principal use within a building. (Regulations)
10. The development standards regarding setbacks and building coverage are not negatively impacted as the only work to the exterior of the building is to remove part of it, thereby increasing the front and side yard setbacks and decreasing the building coverage. (Regulations and application)
11. The required off-street parking does not change with the conversion of office space into the food shelf store, as both require the same amount. (Regulations and application)
12. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)
13. The proposed project does not involve any new roads to be adopted by the Town. (application)
14. The purpose of the Civic-Tourist Districts is: “To provide central locations along main highways in the Village and Town for community buildings of all kinds, public, organizational and institutional, which should be accessible to residents of the town and region. To provide accommodations and services for tourists and vacationers.” The food shelf is an organization that is currently on North Main Street and should remain accessible to residents of the Town and region. (Regulations and application)

Traffic and pedestrian considerations (SP criterion C)

Traffic and nuisance considerations (SP criterion C and CU criteria B, C and E)

15. The food shelf will not generate any of the following: odor, glare, vibration, noise, dust or radiation. (application)
16. No changes to the existing accesses/egresses of the previously-approved site plan are proposed. (Exh. #3)
17. No changes to the existing parking configuration or on-site traffic circulation of the previously- site plan are proposed with the exception of the loading pad, which will see minimal use (see Fact #6). (Exh. #3)

Unightly uses (CU criterion F)

18. There are no unsightly uses associated with the proposed use. There will be no dumpster on-site. (application and testimony of T. Caulfield)

Surface runoff control (CU criterion G)

19. There will only be a minimal change in the surface type by the construction of the at-grade loading pad. This pad will sheet flow to the grassy area next to it. (testimony of T. Caulfield)

Continuous strip (CU criterion H)

20. No changes to the existing landscaping around the lot of the previously-approved site plan are proposed. (Exh. #3))

Municipal services (CU criterion I)

21. As the proposed food shelf is not a residential use, it will not increase the enrollment in local public schools. (application)
22. The proposed food shelf will require additional water and sewer allocation be granted and. (application)
23. The subject property is in the Randolph Police District and the Randolph Village Fire District. The food shelf currently is located on North Main Street, which is also in the Randolph Police Department and the Randolph Village Fire District. (municipal records)

Character of the area (SP criteria B and CU criteria J)

Affects on adjacent land (SP criterion D)

24. The character of the area is defined by the purpose of it's zoning district - see Fact #14.
25. Only minimal changes to the building or existing site plan are proposed. (application and Exh. #3)

Renewable energy resources (CU criterion L)

26. The proposed use will not affect the utilization of renewable energy resources. (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:

1. Conditional Use Criteria²

- A. The proposed use is not inconsistent with the objectives of the Town Plan and is consistent with the purposes of the Randolph Zoning Regulations.
- B. The proposed use will not cause any hazard to health or property through fire, traffic, accident, unsanitary conditions, excessive noise, vibration, odor or other nuisances.
- C. The proposed use will not add a volume of traffic to the highways beyond their reasonable capacity.
- D. The criterion regarding Town of Randolph road standards is not applicable as no new roads are proposed.
- E. The access and exit points of the subject property will be limited to one location, which is sufficiently wide and so related to highways to insure safety and efficiency of circulation of vehicular and pedestrian traffic.

² Criteria A – H are from the Randolph Zoning Regulations. Criteria I – M are required to be reviewed pursuant to 24 VSA Ch. 117 §4414(3).

- F. All unsightly uses of the proposed project are properly screened.
- G. An adequate system of surface runoff control is not required.
- H. A continuous strip of not less than six (6) feet wide will be maintained between the right-of-way line and the balance of the lot which will be suitably landscaped.
- I. The proposed use will not result in an undue adverse affect on the capacity of existing or planned community facilities.
- J. The proposed use will not result in an undue adverse affect on the character of the area affected.
- K. The proposed use will not result in an undue adverse affect on the traffic on roads and highways in the vicinity.
- L. The proposed use will not result in an undue adverse affect on the bylaws and ordinances in effect.
- M. The proposed use will not result in an undue adverse affect the utilization of renewable energy resources.

2. 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, approvals are hereby granted for the site plan and conditional use as applied for in zoning permit application #Z09-92 and including the evidence and testimony entered into the record as Findings of Fact.

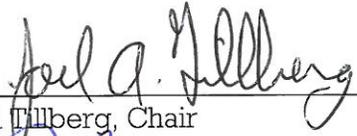
- A. The site plan approval is granted with the following conditions:
 - 1. Construction shall be as shown on Exhibit #3
 - 2. All landscaping shown on Exhibit #3 shall be maintained in a healthy, living condition.

³ 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.

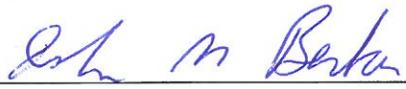
3. Snow from parking areas must not be plowed onto public highways, adjoining streams or waterways, or onto abutting properties. Snow must be plowed elsewhere on the subject property or removed.
 4. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
 5. All conditions of previous approvals for the meeting and office space uses shall remain in effect.
 6. 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.
- B. The condition use approval is granted with the condition that any expansion of the use shall require approval pursuant to the regulations in effect at the time of re-application.

Dated at Randolph, Vermont this 3 day of February, 2010.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members



Joel Tillberg, Chair



John Becker



Christopher Recchia



Frank Reed

CERTIFICATE OF SERVICE

I hereby certify that I, Mardee A. Sánchez, Zoning Administrator for the Town of Randolph, sent a copy of the attached letter of notification by U.S. Mail, postage prepaid, on Wednesday, February 03, 2010 to the following:

Applicant's representatives

Tim Caulfield, Pauline Garner & Arnie Spahn
Randolph Area Food Shelf
PO Box 202
Randolph, VT 05060

Property Owner

AJ Horvath
Clara Martin Center
PO Box G
Randolph, VT 05060

Richard Burstein
New Idea Realty, LLC
PO Box 28
Randolph, VT 05060

Town of Randolph, Vermont
Planning and Zoning Office

By _____
Mardee A. Sánchez

