

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

PERMIT NO.: Z10-19

Property address: 12 South Main Street

PROPERTY OWNER:

A Place of Hope, LLC
PO Box 92
Randolph, VT 05060

Parcel no.: 248001

Parcel size: 0.16 acres

APPLICANT:

Meredith Martin
Shady Lady Tattoo and Piercing Parlour
6 Railroad Street
Randolph, VT 05060

I. INTRODUCTION

On March 29, 2010, **Meredith Martin** ("Applicant") filed an application for a zoning permit for a project generally described as **the conversion of former office space into a tattoo and piercing parlour and a massage and body shop**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on April 6, 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 April 28, 2010;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records, including the written decisions for zoning permit #Z06-12 (the first approval for the tattoo parlor at 6 Railroad Street) and #Z09-80 (the site plan approval for 12 South Main Street).

The Board closed the public hearing on April 28, 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 Commercial (COM) District.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.

3. In 2006, the use of the tattoo parlor received approval pursuant to RZR §2.4.3 as it is not listed on the Chart of Permitted and Conditional Uses.
4. All of the proposed uses (tattoo, piercing and body shop) are not listed on the Chart of Permitted and Conditional Uses, therefore conditional use approval pursuant to RZR §2.4.3 is required.

On April 6, 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 Applicant was the only participant in this proceeding.

Participating Board members were John Becker, Trini Brassard, Samuel Lincoln, 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 Required Approvals

1. The applicant has filed an application for the use of the second floor of an existing building - formerly used as office space - for a 1,238-SF tattoo and body piercing parlour and 263-SF massage and body shop as shown on Exh. #1. No changes to the existing site plan are proposed. (application)
2. The applicant amended the application to extend the hours of business from 9 AM to midnight for the tattoo and piercing parlor and from 9 AM to 7 PM for the massage and body shop. Each business will be open 6 days a week, with no Sunday hours. (application, testimony of M. Martin)
3. In 2006, the use of the tattoo parlor received approval pursuant to RZR §2.4.3 as it is not listed on the Chart of Permitted and Conditional Uses. The use of massage and body shop is also not listed on the Chart. Therefore, RZR §2.4.3 is applicable and requires conditional use approval for each use. (Regulations, municipal records and application)
4. As the project is not either a one- or two-family dwelling, site plan approval is required. (Regulations and application)

Consistency and compliance with Town Plan and ordinances. (SP criterion A and CU criteria A and H)

5. The minimum lot size for the COM District is 12,000 SF. The subject property is 7,300 SF and therefore is a non-conforming lot. (Regulations and application)
6. RZR §5.17.11 allows more than one principal use within a structure. (Regulations)
7. The development standards regarding setbacks and coverage are not applicable as no changes to the footprint of the building are proposed. (Regulations and application)

8. The required off-street parking for office space is 1 space for every 250 SF of gross floor. The new uses will have similar parking needs as the former office space it will be utilizing. The property is within easy walking distance of two municipal parking lots. (Regulations and application)
9. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)

On-site vehicular and traffic considerations (SP criterion C)

10. No changes to the existing site plan are proposed except for the addition of a new access on the northern side of the building into the first floor. (application and Exh. #1)
11. The existing site plan was approved in December of 2009. (municipal records)

Nuisance and traffic concerns. (CU criteria B, C and G)

12. The proposed uses will not generate any of the following: noise, dust, odor, glare, vibration or radiation. (application)
13. The proposed uses do not have the potential to cause a hazard through fire, traffic, accident or unsanitary conditions. (application)

Continuous strip (CU criterion D)

14. No changes to the approved site plan are proposed. (application)

Community facilities (CU criterion E)

15. The proposed uses will not increase the need for any community services. (application)

Character and orderly development of the area (SP criteria B and D and CU criterion F)

16. The purpose of the Commercial District is: "To concentrate the regional and town-wide business, to provide areas for its best development and to protect these locations by excluding other kinds of development which would serve to scatter new businesses and limit the expansion of present business; to provide areas sufficiently compact for the convenience of pedestrians, and with sufficient area to allow parking space for patrons who come by automobile." The proposed uses are commercial development in the COM District. (Regulations and application)
17. The proposed uses are similar to and are in keeping with other uses permitted in the COM District, such as barber shops and beauty parlors, dressmaking and tailoring. (Regulations)
18. The surrounding area is a dense mixture of commercial uses with mixed uses within the buildings. The adjoining properties are used as an insurance office and vacant retail space with office space above to the north, a convenience store/gas station to the south, a fitness center and office space to the east and a restaurant, retail space and transportation facility with offices to the west. Additionally, railroad tracks are along the northern border of the subject property. (Memorandum of Decision for #Z09-80)
19. As no changes to the existing site plan or footprint of the building are proposed, the proposed project will not affect the surrounding area. (application)

The proposed use will not adversely affect the utilization of renewable energy resources. (CU criterion I)

20. The proposed uses 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 Criteria¹

- 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. 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.
- E. The proposed use shall not have an undue adverse effect on the capacity of existing or planned community facilities.
- F. The proposed use shall not have an undue adverse effect on the character of the area, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards in the Town Plan.
- G. The proposed use shall not have an undue adverse effect on the traffic on roads and highways in the vicinity.
- H. The proposed use shall not have an undue adverse effect on the bylaws in effect.
- I. The proposed use shall not have an undue adverse effect on 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

¹ Criteria A – D are from the Randolph Zoning Regulations. Criteria E - I are required to be reviewed pursuant to 24 VSA Ch. 117 §4414(3).

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. DECISIONS²

Based upon the foregoing Findings of Facts and Conclusions, the Board makes the following decisions regarding the tattoo and body piercing parlor and the massage and body shop as applied for in zoning permit application #Z10-19 and including the evidence and testimony entered into the record as Findings of Fact.

- A. The off-street parking requirement for the uses is 1 space for every 250 SF of gross floor space.
- B. Site plan approval is granted with the following conditions:
1. The project shall be developed as shown on Exhibit #1.
 2. All conditions of the previous approval 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.
- C. Conditional use approval is granted for each use with the condition that any expansion of the uses shall require approval pursuant to the regulations in effect at the time of re-application

Dated at Randolph, Vermont this 26th day of May, 2010.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members

/s/ Joel Tillberg, Chair

/s/ John Becker

/s/ Trini Brassard

/s/ Frank Reed

/s/ Samuel Lincoln

/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 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.