

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

PERMIT: #Z10-75
PROPERTY ADDRESS: 12 Prince Street, Unit 3
PARCEL NO.: 239003.030
SIZE: 4.57 acres (lot), 7,544 SF (condominium)

PROPERTY OWNER: Windsor Holdings, LLC
c/o Brent Anderson
PO Box 56
Etna, NH 03750

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

I. INTRODUCTION

On August 2, 2010, Tim Caulfield, on behalf of the **Randolph Area Food Shelf** ("Applicant") filed an application for a zoning permit for a project generally described as **the conversion of manufacturing space into the food shelf**. 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.

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 Commercial (COM) District.

2. As the project is not either a one- or two-family dwelling, site plan approval is required.
3. The use is categorized as “general retail sales.” Such a use is listed as permitted on the Chart of Permitted and Conditional Uses.

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 Applicant’s representatives were the only participant in this proceeding.

Participating Board members were John Becker, Trini Brassard, Samuel Lincoln, 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 the conversion of former manufacturing space into space for the food shelf. This includes space for “retail sales”, office and storage, all associated with the food shelf operation. (application)
2. With the exception that no money is paid for the goods received, the food shelf’s activities are identical to general retail sales and is thus categorized as such. This use is listed as a permitted use in the COM District therefore only site plan approval is required. (Regulations)
3. No changes to the exterior of the building or site are proposed. (application)
4. The development standards for setbacks, height and coverage are not applicable as no changes to the exterior of the building are proposed for this project. . (Regulations and application)
5. There are 5 parking spaces in front of the unit and 2 behind that are for the exclusive use of Unit #3. However, there is an abundance of shared parking, including handicap accessible spaces, on-site. (testimony of P. Garner)
6. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)
7. 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 project would convert space used for a non-conforming use (manufacturing) into a conforming use that is commercial. (Regulations and application)

8. The surrounding area is a mixture of commercial and residential uses. The project is a commercial use within the COM District. (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 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. DECISIONS¹

Based upon the foregoing Findings of Facts and Conclusions, approval is hereby granted for the site plan for the food shelf as applied for in zoning permit application #Z10-75 and including the evidence and testimony entered into the record as Findings of Fact. Site plan approval is granted with the following conditions:

1. 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.
2. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
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.

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