

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

PERMIT NO.: Z09-78

Property address: 25 VT Route 14N

PROPERTY OWNER: Michael and Mary Anne Cahill
28 Forest Street
Randolph, VT 05060

Parcel no.: 113034
Parcel size: 0.55 acres

I. INTRODUCTION

On September 28, 2009, Michael and Mary Anne Cahill ("Applicant") filed an application for a zoning permit for a project generally described as **the addition of a 7th apartment in a multi-family dwelling**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on October 8, 2009.

Under the Randolph Zoning Regulations ("Regulations" or "RZR"), 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 October 27, 2009;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records.

The Board closed the public hearing on October 27, 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 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 categorized as "multi-family dwelling". Such a use is listed as permitted on the EV District Use Classifications table.
4. The current use of the property as a 6-unit multi-family dwelling is non-conforming due to the minimum lot size requirements and therefore adding another apartment would require approval to expand a non-conforming use pursuant to RZR §2.5.4.

On October 8, 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 Applicant was the only participant in this proceeding.

Participating Board members were John Becker, 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.

Project Description

1. The applicant has filed an application for approval of an existing 7th apartment in a multi-family dwelling with no external changes proposed. (application)
2. When the applicants purchased the building in 2004, there were 6 apartments for rent and a 7th unit that was occupied by the owner. The applicants are seeking approval for continuing the use of the building as a 7-unit multi-family dwelling. (application and Exh. #3)

The proposed use, design and layout meets the provisions of the zoning ordinance, other regulations and ordinances of the Town and the Town Plan. (SP criterion A)

3. In the EV District, the minimum lot size per dwelling unit in a multi-family dwelling is 10,000 SF. For 7 units, this requires 70,000 SF. The subject property is 0.55 acres, or 24,000 SF, therefore the existing use is non-conforming and RZR §2.5.4 is applicable. (Regulations and application)
4. The development standards for setbacks and building coverage are not applicable as no changes to the footprint of the building are proposed. (Regulations and application)
5. The required off-street parking is 1½ spaces per dwelling unit, or 11 parking spaces for 7 units, but this requirement may be modified by the Board. The subject property provides 11 off-street parking spaces. (Regulations and Exh. #1)
6. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)

No non-conforming use shall be extended or expanded except with the approval of the Board, which shall have determined that no greater detrimental effect upon the community will result. (§2.5.4)

7. No changes to the existing use, parking, traffic pattern or other discernible effect on the property are proposed. (Exh. #3)
8. The building has been a 7-unit multi-family dwelling for over 10 years with no concerns expressed by any member of the community. (Exh. #3)
9. The 7th unit that was added is a studio apartment that is inhabited by one person at a time. (Exh. #3)

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. (SP criterion C)

10. No changes to the existing parking and traffic patterns are proposed. (application and Exh. #3)

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. (SP criterion B)

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. (SP criterion D)

11. No changes to the existing use, parking, traffic pattern or other discernible effect on the property are proposed. (Exh. #3)

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. Expansion of a non-conforming use criteria

No greater detrimental effect upon the community will result from the proposed project.

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. DECISIONS¹

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the addition of a 7th apartment to the multi-family dwelling at 25 VT Route 14N in East Randolph as applied for in zoning permit application #Z09-78 and including the evidence and testimony entered into the record as Findings of Fact.

- A. Expansion of the non-conforming use is granted.
- B. The 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.

Dated at Randolph, Vermont this 27th day of October, 2009.

RANDOLPH DEVELOPMENT REVIEW BOARD

Concurring Board Members

/s/ Joel Tillberg, Chair

/s/ John Becker

/s/ Frank Reed

/s/ Christopher Recchia

/s/ Samuel Lincoln

/s/ Krista Rumrill

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.