

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

PERMIT NO.: Z09-27

Property address: 29 North Main Street

PROPERTY OWNER: George Rich
29 North Main Street
Randolph, VT 05060

Parcel no.: 234010.010
Parcel size: 1,820 square feet (SF)

APPLICANT: Gary Hull
d/b/a Capitol Grill 'n Chill
2776 Hebert Road
Williamstown, VT 05679

I. INTRODUCTION

On May 7, 2009, **Gary Hull** ("Applicant") filed an application for a zoning permit for a project generally described as the conversion of a former video sales and rental store into an ice cream and sub shop. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on May 7, 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 May 26, 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 May 26, 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 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 "restaurant". Such a use is listed as permitted on the Chart of Permitted and Conditional Uses.

On May 11, 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, J. Kenneth Currier, 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.

1. The applicant has filed an application for the conversion of a former video sales and rental store (1,600 SF) into a 14-seat sub and ice cream shop as shown on Exh. #2. (application)
2. The minimum lot size for the COM District is 12,000 SF. The subject property is 1,820 SF and therefore is a pre-existing non-conforming lot. (Regulations and application)
3. The development standards for setbacks and maximum building coverage are not applicable as no increase in building footprint is proposed. (Regulations and application)
4. The required off-street parking for a restaurant or retail space is 6 spaces for every 1,000 SF of gross floor space. The entire property is covered with building and therefore no off-street parking is possible. However, the previous use of the space was retail thus the new use would not require additional off-street parking, were any available to begin with. (Regulations and application)
5. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)
6. 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." (Regulations)
7. No changes to the exterior of the building nor the site plan are proposed. (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.

VII. DECISIONS¹

Based upon the foregoing Findings of Facts and Conclusions, approval is hereby granted for the site plan for the conversion of a former video sales and rental store into an ice cream and sub shop as applied for in zoning permit application #Z09-27 and including the evidence and testimony entered into the record as Findings of Fact.

Dated at Randolph, Vermont this 4th day of June, 2009.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members

/s/ Joel Tillberg, Chair

John Becker

/s/ J. Kenneth Currier

/s/ Frank Reed

/s/ Samuel Lincoln

Christopher Recchia

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.