

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

PERMIT NO.: Z09-25

Property address: 3447 VT Route 66

PROPERTY OWNERS: Andre and Amy St. Denis
3447 VT Route 66
Randolph Center, VT 05061

Parcel no.: 108032
Parcel size: 12.4 acres

I. INTRODUCTION

On May 4, 2009, **Andre and Amy St. Denis** ("Applicants") filed an application for a zoning permit for a project generally described as **the keeping of two horses and the construction of a 12-foot by 24-foot three-sided shelter for the animals**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on May 5, 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 Rural Use 2-20 (RU2-20) District.
2. Special Provisions §6.10.3 of the Regulations state the following:

"Agriculture, the keeping of not more than two (2) head of livestock and of poultry up to twenty-five (25) birds, truck gardening, nursery crops, including greenhouses incidental thereto is a Conditional Use as shown in the Use Table. No livestock or poultry shall be housed within one hundred (100) feet from any street line or any lot line. This paragraph shall not permit raising of swine or fur bearing animals other than rabbits. No manure or dust producing fertilizer shall be stored in the open within one hundred (100) feet from any street line or lot line. However, those lands

presently being used as a full time farming enterprise shall be exempt if the storage does not create an environmental hazard.”

§6.10.3 is listed as conditional in the RU2-20 District on the Chart of Permitted and Conditional Uses and therefore conditional use approval is required.

On May 5, 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.

Project Description

1. The applicant has filed an application for the keeping of two horses and the construction of a 12-foot by 24-foot three-sided shelter for the animals on their property that is used as a single-family residence. The application proposed two possible locations for the shelter as shown on Exh. #1. (application)
2. The minimum lot size for the RU2-20 District is 2 acres for single-family residence with on-site water and sewer. The subject property is 12.4 acres. (Regulations and application)
3. The front, side and rear setback for the structures used to house incidental livestock is 100 feet. The shortest setback distance from either location for the proposed structure is 100 feet. (Regulations and Exh. #1)
4. The maximum allowable building coverage is 25% in the RU2-20 District, or 3.1 acres for the subject property. The proposed building coverage is under 10,000 SF. (Regulations and Exh. #1)
5. The required off-street parking of two spaces for a single-family dwelling is not affected by the proposed project as the principal use does not change. (Regulations and application)
6. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)
7. The proposed use will not generate any of the following: noise, dust odor, glare, vibration or radiation. (application)
8. The proposed use will not generate any additional traffic, nor potential for fire, accident or unsanitary conditions. (application)
9. The proposed project does not involve any new roads to be adopted by the Town. (application)
10. No changes to the existing accesses to the property are proposed. (Exh. #1)

11. There are no unsightly uses associated with the proposed use. (application)
12. No changes to the property are proposed that would affect runoff. (application)
13. No changes are proposed. (application)
14. The proposed use will not increase the enrollment in local public schools, need for emergency services, need for public water and/or sewer service, need for solid waste disposal nor the need or use of other planned community services.. (application)
15. The surrounding area is a mixture of rural and residential uses, including the keeping of horses on the property across the road. (application)
16. 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:

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. 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.
- 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.

¹ 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).

- 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.

VI. DECISIONS²

Based upon the foregoing Findings of Facts and Conclusions, conditional use approval is hereby granted for the keeping of two horses and the construction of a 12-foot by 24-foot three-sided shelter for the animals as applied for in zoning permit application #Z09-25 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

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.