

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

**APPLICANT:** Vermont Technical College  
c/o Jack Daniels  
PO Box 500  
Randolph Center, VT 05061

**PERMIT NO.:** Z08-118

**PROPERTY OWNER:** Vermont State Colleges

**I. INTRODUCTION**

On October 21, 2008, Jack Daniels, on behalf of **Vermont Technical College** ("Applicant") filed an application for a zoning permit for a project generally described as **a fire simulation and training facility**. The subject property is parcel number **117012** which is **165.8 acres** in size and located southwest of the Vermont Tech farmstead **off Water Street**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on November 10, 2008.

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.

Also under the Regulations, the Board is authorized to undertake local Act 250 review of Criteria 6, 7 and 10 for all projects that require a new land use permit or an amendment to an existing land use permit under 10 VSA Chapter 151 ("Act 250").

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 November 18, 2008;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records including the Memorandum of Decision for #Z08-62 and the record for application #Z08-96 (see Section II below).

The Board closed the public hearing on November 18, 2008 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. BACKGROUND

This proposed project located behind the Langevin House on Furnace Road received site plan approval on August 26, 2008 (see Memorandum of Decision for Zoning Permit #Z08-62). The following day the applicant withdrew the application and no zoning permit was issued.

On September 8, 2008, the applicant filed an application (#Z08-96) for the proposed project due west of the Vermont Tech farmstead off Water Street, for which a public hearing was held on September 30, 2008. The applicant withdrew that application prior to the Board issuing a Memorandum of Decision.

## III. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the Rural Use 5-acre (RU5) District.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.
3. The current use of the property is a farm as part of Vermont Technical College. The proposed use is a new educational program that will be as part of Vermont Technical College. Therefore, the proposed project does not change the existing use of the property as a "college."

On October 23, 2008, the Administrator referred the application to the Board for review and approval as determined. Additionally, the Applicant has requested local Act 250 review.

## IV. PARTICIPANTS

For the purposes of this application, "interested persons" are those who fulfill the requirements of 24 VSA ch. 117 §4465. The attached Service List for this project includes the Applicant's representatives and persons<sup>1</sup> who participated at the public hearing and submitted written comments on the application. All participants had participated in the previous proceeding for application #Z08-96.

Participating Board members were John Becker, J. Kenneth Currier, Samuel Lincoln, Christopher Recchia, Krista Rumrill and Joel Tillberg.

## V. 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 a construction of fire simulator and training facility with an accessory storage garage southwest of the existing farmstead as shown on Exhs. #1 and 2. (application)
2. The fire simulator and training facility has a one-story, two-story and a "tower" section that will be up to 5 stories in height with a 4-foot high railing on the "tower." (Exh. #1 and testimony of T. Nesbitt)

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<sup>1</sup> By inclusion in this section of the Memorandum of Decision, the Board does not address the status of any of the people listed above as "interested persons" as defined in the above-referenced state statute.

3. The fire simulator and training building will be primarily green or dark green to blend in with the surrounding area. (testimony of J. Daniels)
4. Use of the facility will include non-burn events such as training for repelling, upper floor rescues, and confined space. Use of the facility will be between April 1 and November 1 for up to 35 events. Most events occur on weekends, as that is when the volunteer firefighters are mostly available. However, there may be some during the week. The hours of operation for events will be approximately 7 AM and 5 PM and there will be no nighttime use of the facility. The number of hours per day are necessary to avoid events having to carry over to another day. (testimony of J. Utevich)
5. Except for the requirement that trainees park on campus and carpool to the site, the nature and operation of the facility and burn simulations will be the same as previously-proposed for application #Z08-62, including the following: (testimony of J. Daniels)
  - The fire simulator building will be constructed of materials capable of withstanding high temperatures. A haybale or two and a wooden pallet are burned within the structure without using an accelerant, though a propane torch is sometimes used to set the burn. The internal walls are movable to enable different room configurations.
  - Each burn lasts on average for about 10 minutes but could be as long as 30 minutes before it is extinguished. The fires rarely leave the building, not even through the louvered openings and the temperature is monitored. The Vermont Agency of Natural Resources has indicated an air discharge permit is not required for the facility.
  - During a fire simulation exercise, the facilities in the farmstead will be used for classroom training for the 24 students and 8 – 9 instructors. There are generally four crews with different jobs. A burn will take place as described above then the crews regroup and rotate for a new job, therefore there generally are four different burns in one day, and the whole day usually lasts about 4 – 5 hours.
  - Fire trucks arrive on-site without use of sirens or extra speed and they may be stored on-site overnight. (testimony of J. Daniels)
6. Students/trainees will park on the main campus and carpool to the site from there. (testimony of J. Daniels)
7. The schedule for use of the facility for the coming season usually is established by March of that year. This schedule, although subject to change, could be mailed out to neighbors. The most up-to-date schedule could be available by calling an 800 number, as well as on the Vermont Fire Academy and VTC websites and could be posted at Floyd's Store. (testimony of J. Utevich and J. Daniels)
8. The state has been out to the site and has determined that the proposed location is not on prime agricultural soils. (testimony of J. Daniels)

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)

The development or subdivision is in conformance with the duly adopted Randolph Town Plan (Act 250 criterion 10)

9. The minimum lot size for the RU5 District is 5 acres. The subject property is 165.8 acres. (Regulations and application)

10. The front, side and rear setbacks for the RU5 District are 30 feet. The shortest setback distance from the proposed structure is well over 100 feet. (Regulations and application)
11. The maximum allowable building coverage is 15% in the RU5 District, or 25 ac. for the subject property. The proposed building coverage is 2,070 SF. (Regulations and application)
12. The required off-street parking shall be as set by the Board. The proposed project provides parking spaces for 10 cars. The site plan submitted originally showed 12 spaces, but the two farthest ones are to be removed. (Regulations and testimony of J. Daniels and T. Nesbitt)
13. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)

**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)**

14. The proposed use will utilize Water Street, which is a Class 3 town highway with is a street with no outlet that sees mostly residential traffic and traffic to the existing farmstead. (application)
15. The peak traffic for the proposed facility will not coincide with the peak traffic on Water Street. (application)
16. No new access off Water Street is proposed; the facility will use the existing access for the farmstead. (testimony of T. Nesbitt)
17. During events, the facility will general additional traffic of 8 – 10 vehicles that will travel Water Street 2 to 3 times. (testimony of J. Daniels)

**The development or subdivision will not cause an unreasonable burden on the ability of a municipality to provide educational services. (Act 250 criterion 6)**

**The development or subdivision will no place an unreasonable burden on the ability of the local government to provide municipal or governmental services. (Act 250 criterion 7)**

18. The proposed project will not add any additional students to the school district. (Brent Kay, Superintendent)
19. The subject property is outside of the Randolph Police District therefore this service is not provided by the municipality. (Randolph Municipal Records)
20. The subject property is in the Randolph Center Fire District. The Randolph Center Fire Department has the capacity to provide fire protection to the subject property without undue burdens. (Albert Floyd, Randolph Center Fire District Chief)
21. The subject property takes access from a town highway. The Randolph Highway Department has the capacity to provide the proposed project with road maintenance without undue burdens. (Robert Runnals, Randolph Highway Supervisor)
22. The subject property is not served by the Randolph Water and Sewer Districts therefore these services are not provided by the municipality. (Randolph Municipal Records)

**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)

23. The surrounding area is a mixture of rural, agricultural, institutional/educational and residential uses. (application)
24. The proposed project is in an isolated location and therefore will not adversely affect the surrounding area. (application)
25. The closest residence to the proposed facility is 700 yards. (testimony of J. Daniels)
26. The base elevation of the adjacent existing windmill is approximately at the same elevation of the top of the training facility excluding the railing. (testimony of T. Nesbitt)
27. The smoke and noise from the fire simulation events is minimal at 300 yards away from the facility. (Exh. #6 and testimony of J. Daniels)

## VI. 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. Act 250 Criteria<sup>2</sup>

- A. The proposed project will not cause an unreasonable burden on the ability of the Town of Randolph to provide educational services (criterion 6).
- B. The proposed project will not cause an unreasonable burden on the ability of the Town of Randolph to provide municipal or governmental services (criterion 7).
- C. The proposed project is not in non-compliance with the Randolph Town Plan which was adopted in accordance with 24 VSA ch. 117 on December 21, 2004 (criterion 10).

### 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-compliance 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.

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<sup>2</sup> This conclusion/decision regarding local Act 250 review is a rebuttable presumption under the provisions of 10 VSA Ch. 151 and this presumption may be overcome in proceedings under 10 VSA Ch. 151

## VII. DECISIONS<sup>3</sup>

Based upon the foregoing Findings of Facts and Conclusions, approval is hereby granted for the site plan as applied for in zoning permit application #Z08-118 and including the evidence and testimony entered into the record as Findings of Fact. Such approval is granted with the following conditions:

1. Construction shall be as shown on Exh. #1 with the exception that the farthest two parking spaces are to be eliminated.
2. The Applicant shall maintain a schedule of events at the facility. This schedule for the year shall be mailed to the abutters prior to April 1. An updated schedule shall be made available to the public by any of the following means: an 800 number, posting at the general store in Randolph Center, and/or posting on the website of the Applicant.
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 24<sup>th</sup> day of November, 2008.

### RANDOLPH DEVELOPMENT REVIEW BOARD Concurring Board Members

\_\_\_\_\_  
/s/ Joel Tillberg, Chair

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John Becker

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/s/ J. Kenneth Currier

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/s/ Krista Rumrill

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Samuel Lincoln

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/s/ Christopher Recchia

<sup>3</sup> 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.