

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

Permit: #Z10-42
Property address: near 1334 VT Route 14N
Parcel no.: 115011.020
Parcel size: 114.9 acres

PROPERTY OWNER: Kenneth Blaisdell
505 VT Route 14N
East Randolph, VT 05041

I. INTRODUCTION

On May 25, 2010, **Kenneth Blaisdell** ("Applicant") filed an application for a zoning permit for a project generally described as **a gravel pit**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on May 26, 2010.

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.

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 June 23, 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 June 23, 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 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 allowed in all districts pursuant to §5.15 of the RZR.

The applicant requested local Act 250 review. On May 26, 2010, the Administrator referred the application to the Board for review and approval as determined and requested.

III. 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, his representatives and persons¹ who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were John Becker, Samuel Lincoln, Christopher Recchia, Frank Reed, Thomas Malanchuk² 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 and Required Approvals

1. The applicant has filed an application for a gravel pit as shown on Exhs. #3 and 4. The applicant is going to operate this gravel pit under the following parameters (application and testimony of R. Townsend):
 - A. The pit will be operated in phases. Phase I will be the establishment of stormwater treatment improvements. The remaining phases will involve material extraction.
 - B. Each phase will be approximately an acre and will be closed and restored prior to commencing extraction from the next phase.
 - C. The average extraction rate is 10,000 cubic yards (CY) per year. The total extraction will be 50,000 – 55,000 CY. It is anticipated the pit will be open for 4 -5 years, but this is dependent on whether the maximum annual extraction is achieved each year and could be open for as many as 10 years.
 - D. There will be no crushing or blasting operations involved. The material will be mechanically screened.
 - E. The pit will be in operation weekdays April 1 through October 31 and from 7 AM to 5 PM.
 - F. Overburden from each phase will be stockpiled on site and will be used in the restoration of the pit. The pit area will be returned to agricultural use upon complete closure. Final grades to be no steeper than 4:1.

¹ 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.

² Member Malanchuk is an alternate member who participated because Members Brassard and Rumrill recused themselves from this proceeding.

Consistency and compliance with Town Plan and ordinances. (SP criterion A and Act 250 criterion 10)

2. The minimum lot size for the EV District is 20,000 SF for non-residential uses. The subject property is 114.9 acres, with a total pit area of under 30 acres. (Regulations and application)
3. No work will take place within the flood plain of the Second Branch of the White River. (testimony of R. Townsend)
4. The standards for setbacks, building coverage and parking are not applicable as none is proposed. (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)

Character of the area (SP criterion B)

6. The surrounding area is a mixture of rural, agricultural and residential uses with other gravel pits nearby. (application)
7. The proposed project is similar to and in keeping with some of the other uses of the surrounding area. (application)
8. Test pits indicate that the material in the pit is clean gravel without a lot of fines therefore there shouldn't be any impact from dust within the pit. Dust control will be provided for the access, if needed. (testimony of R. Townsend)
9. On-site traffic will be circular as much as possible to minimize the need for back-up beepers on the trucks and equipment in the pit. (testimony of R. Townsend)

Traffic and pedestrian considerations (SP criterion C)

10. The proposed use will utilize VT Route 14N, which is a Class 1 state highway. There are currently 3 accesses to the property. Two of these will be removed and one will remain. It will be shared with the residence at 1334 VT Route 14N. (testimony of R. Townsend)
11. A Notice of Intent has been issued by the Vermont Agency of Transportation (VTTrans). Although the alignment of VT Route 14N near the access is an issue for residential driveways in that area, there are no known or reported traffic issues on VT Route 14N. "Trucks Entering" signs will be posted on either side of the access which could potentially help slow down traffic in that area. (testimony of R. Townsend and G. Perry)
12. The access will remain constant; trucks utilizing the pit will leave the driveway at different points for the different phases. There will always be a loader on site, there could be more than one truck on site at a time and maybe an excavator as well. (testimony of R. Townsend and K. Blaisdell)
13. The bulk of the traffic to and from the pit will be in the morning, as this is when material is needed most to be delivered to construction sites. (testimony of T. Brassard)
14. No pedestrian traffic is proposed. (application)

Municipal services (Act 250 criteria 6 and 7)

15. The proposed project will not add any additional students to the school district. (Brent Kay, Superintendent)

16. The subject property is outside of the Randolph Police District therefore this service is not provided by the municipality. (Randolph Municipal Records)
17. The subject property is in the East Randolph Fire District. The East Randolph Fire Department has the capacity to provide fire protection to the subject property without undue burdens. (Jacob Boule, East Randolph Fire District Chief)
18. The subject property takes access from a state highway therefore road maintenance is not provided by the municipality. (Randolph Municipal Records)

Affects on adjacent land (SP criterion D)

19. The proposed project does not involve any buildings, walls, fencing, parking or landscaping. (application)
20. The proposed project does involve loading of gravel into vehicles. This will take place within the pit area. (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:

1. Act 250 Criteria³

- 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 February 16, 2010 (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-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. This criterion (The proposed height and location of buildings, walls, fences, parking, loading and landscaping will not interfere with or discourage the appropriate

³ 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

development in adjacent land or unreasonably affect its use.) is not applicable as none is proposed.

VI. DECISIONS⁴

Based upon the foregoing Findings of Facts and Conclusions, approval is hereby granted for the site plan as applied for in zoning permit application #Z10-42 and including the evidence and testimony entered into the record as Findings of Fact. The site plan approval is granted with the following conditions:

1. Operation of the gravel pit shall be as indicated in Fact #1 and as shown on Exhs. #3 and 4.
2. At the conclusion of extraction operations in each phase, the area shall be restored as required by the RZR currently in effect. A certificate of compliance issued by the Administrator shall be required for each phase after restoration work for that phase is completed and prior to any work commencing in another phase. This certificate will only be issued if the restoration and closure meets the RZR.
3. Overburden and other material shall not be stockpiled in the flood plain.
4. 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 28th day of July, 2010.

RANDOLPH DEVELOPMENT REVIEW BOARD Concurring Board Members

/s/ Joel Tillberg, Chair

/s/ John Becker

Thomas Malanchuk

/s/ Frank Reed

/s/ Samuel Lincoln

Christopher Recchia

⁴ 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.

SERVICE LIST

Zoning Permit Application #Z10-42

Kenneth Blaisdell

Kenneth Blaisdell
505 VT Route 14N
East Randolph, VT 05041

Robert Townsend, PE, LS*
American Consulting Engineering
3480 VT Route 64
Williamstown, VT 05679

Christopher J. Nordle, Esq.
Darby Stearns Thorndike et al
89 South Main Street
Waterbury, VT 05767-1538

Heather Kelley
1267 VT Route 14N
East Randolph, VT 05041

Garth and Donna Perry
1309 VT Route 14N
East Randolph, VT 05041

Bold listings indicate applicants and/or their representatives.