

TOWN OF RANDOLPH, VERMONT
DEVELOPMENT REVIEW BOARD
MEMORANDUM OF DECISION

(Findings of Facts, Conclusions of Law, and Decision)

APPLICANT: East Randolph Baptist Church
PO Box 216
67 VT Route 14N
East Randolph, VT 05041-0216

PERMIT NO.: Z08-27

PROPERTY OWNER: East Randolph Baptist Church

I. INTRODUCTION

On May 5, 2008, Marty Bascom, on behalf of the **East Randolph Baptist Church** ("Applicant") filed an application for a zoning permit for a project generally described as the **construction of a parking lot to serve a church across the road**. The subject property is parcel number **113036** which is **0.7 acres** in size and located at **52 VT Route 14N**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on May 5, 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.

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 27, 2008;
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 27, 2008 and rendered an oral decision in this matter. This written decision is required pursuant to 24 VSA ch. 36 §1209 and supercedes the oral decision.

II. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the East Valley, Conservation and Flood Plain (EV, CON and FP, respectively) Districts.
2. As the property is in the flood plain, the Regulations and 24 VSA §4424 requires that the Administrator submit a copy of the application to the Vermont Agency of Natural Resources, Department of Environmental Conservation, Water Quality Division for review and comment.

The Administrator submitted the application on May 12, 2008 and received comments from the State on May 21, 2008 (see Exh. #5).

3. As the project is not either a one- or two-family dwelling, site plan approval is required.
4. The use is categorized as "churches, convents and parish houses". Such a use is listed as permitted EV District Use Classifications table.

On May 19, 2008, 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. Representatives for the Applicant Marty Bascom and Robert Palmer were the only participants in this proceeding.

Participating Board members were John Becker, J. Kenneth Currier, Samuel Lincoln, Christopher Recchia, 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 a parking lot approximately triangular in shape and no more than 200 feet by 200 feet as shown on Exh. #3. The lot will accommodate up to 20 vehicles and is for use by the church located across the road. Exh. #3 was revised at the public hearing by Robert Palmer to show that no work would take place within the CON District, which is 50 feet on either side of the Second Branch of the White River. (application, Regulations and Exh. #3)
2. The parking lot will be used primarily for Sunday services, but could also be used for other events, as well. (testimony of M. Bascom)
3. The parking area will involve the removal of 6 inches of topsoil to be replaced with road fabric and 6 inches of hardpack. No paving, structures or net increase in fill is proposed. (Exh. #3, application and testimony of R. Palmer)
4. The subject property is in the EV, CON and FP Districts. (application and Regulations)
5. The proposed project is located within the Special Flood Hazard Area - Zone AE (commonly called the "floodway") of the Second Branch of the White River (application and Exhs. #5 and 6)
6. The subject property has an existing single-family residence on it that is proposed to remain. (application and Exh. #3)

Flood Plain and Conservation Districts' Standards

7. §6.1(E)(1)(a) requires that a professional engineer certify that the proposed development will not result in any increase in flood levels during the occurrence of the base flood and will not obstruct the stream channel. (Regulations)
8. See Facts #1 and 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)

9. The minimum lot size for the EV District is 10,000 SF for a single-family residence and 20,000 SF for uses other than residences. The subject property is 0.7 acres, or 30,500 SF. (Regulations and application)
10. The parking lot is proposed to be 10 feet from the northern boundary and 50 feet from the edge of the Second Branch of the White River. §5.17.9 allows parking in connection with a permitted use to take place in a required front, side or rear yard. (Regulations and revised Exh. #3)
11. The maximum allowable building and parking coverage is 75% in the EV District, or 22,875 SF for the subject property. The existing building coverage is 913 SF and the parking coverage will be under 20,000 SF. The proposed building and parking coverage will be under 20,913 SF, or 69 %. (Regulations and application)
12. 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)

13. The proposed parking lot will utilize VT Route 14N, which is a Class 1 state highway. The proposed project will not generate additional traffic, but rather, simply accommodate the existing traffic generated by the church. (testimony of R. Palmer)
14. VT Route 14N has a posted speed limit of 35 miles per hour at the proposed access. (application)
15. The proposed project will require a Notice of Intent from the State of Vermont Agency of Transportation (VTrans) for the new access off a state highway. (application and Exh. #7)
16. Members of the church could "teach" people using the parking lot the first few times on how to park in the lot such that it is utilized as shown on revised Exh. #3, or lines could be painted to "teach" people. (testimony of M. Bascomb)
17. The church could have orange cones or pylons in VT Route 14N during events to slow traffic down and direct pedestrians to one crossing point. (testimony of M. Bascomb)

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)

18. The subject property is in the village of East Randolph. The surrounding area is a mixture of agricultural, residential and religious institutional uses with much open land. (application)
19. The proposed use is accessory to an existing church. (application and Regulations)
20. Although the abutting residence to the north is several hundred feet away from the proposed parking lot, screening could be helpful in minimizing any potential negative aesthetic impact to that residence. (Exh. #6)

V. CONCLUSIONS OF LAW

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:

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 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 of Law, the Board hereby approves the site plan for the construction of an accessory parking lot next to 52 VT Route 14N as applied for in zoning permit application #Z08-27 and including the evidence and testimony entered into the record as Findings of Fact. Such approval is granted with the following conditions:

1. Prior to commencement of construction, the Permittee shall submit to the Administrator a certification by a registered professional engineer that the proposed development will not result in any increase in flood levels during the occurrence of the base flood and will not obstruct the stream channel.
2. Prior to commencement of construction, the Permittee shall submit to the Administrator the Notice of Intent from VTtrans for the new access.

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 \$225 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.

3. Construction shall be as shown on revised Exhibit #3.
4. It is recommended that screening be provided along the northern side of the parking lot, in the form of fencing, landscaping or other method acceptable to the abutting property owner to the north.
5. During events at the church for which the parking lot will be utilized, the Permittee shall place orange cones, pylons or other such device for pedestrians crossing VT Route 14N if allowed by VTTrans.
6. For events for which the parking lot will be utilized, a parking attendant shall direct vehicles as to the proper parking configuration (as shown on revised Exhibit #3) until it is well established. If this is not effective, the Permittee shall be required to demarcate the parking spaces and maintain such demarcation until the proper parking configuration is well established.
7. 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.
8. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
9. 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 ____ day of June, 2008.

RANDOLPH DEVELOPMENT REVIEW BOARD

/s/Joel Tillberg, Chair

/s/John Becker

/s/J. Kenneth Currier

Christopher Recchia (absent)

Samuel Lincoln (absent)

/s/Krista Rumrill

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