

**TOWN OF RANDOLPH, VERMONT
DEVELOPMENT REVIEW BOARD
MEMORANDUM OF DECISION**

(Findings of Facts and Conclusions, and Decision)

PERMIT NO.: Z10-6

PROPERTY OWNERS:

James and Maureen Heyder
PO Box 285
East Randolph, VT 05041-0285

Parcel no.: 113030
Parcel size: 45.9 acres
Address: 31 VT Route 14S

Joel and Amy Messier
29 VT Route 14S
East Randolph, VT 05041

Parcel no.: 113031
Parcel size: 0.7 acres
Address: 29 VT Route 14S

I. INTRODUCTION

On February 1, 2010, **Joel and Amy Messier and James and Maureen Heyder** ("Applicant") filed an application for a zoning permit for a project generally described as a **lot line adjustment such that a total of 0.5 acres is transferred from the Heyder lot to the Messier lot**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on February 1, 2010.

Under the Randolph Land Subdivision Control Regulations and the Zoning Regulations ("Subdivision Regulations" and "Zoning Regulations", respectively, or "Regulations" collectively), projects are reviewed based on the 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 subdivision 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 March 31, 2010¹;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records.

The Board closed the public hearing on March 31, 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 Messier property is entirely in the East Valley (EV) District. The Heyder property is in both the EV and Rural Use-5-acre (RU5) District. The relevant portion of the Heyder property is in the EV District.

¹ The first hearing was originally scheduled for February 24, 2010, but was cancelled due to bad weather.

2. Subdivision approval is required, as the property was first subdivided in 1989 and Section 2.2 of the Subdivision Regulations states the following:

“When the owner of the initial lot, tract or parcel of land transfers ownership of a portion of that land to a person or corporation, and that person or corporation further transfers ownership of any portion of that land, that person or corporation becomes a subdivider and must meet all requirements of this Subdivision Regulation.” (emphasis added).

On February 1, 2010, 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. Amy Messier was the only participant.

Participating Board members were Joel Tillberg, John Becker, Trini Brassard, Samuel Lincoln, Christopher Recchia, Frank Reed and Krista Rumrill.

IV.

FINDINGS OF FACTS

The following findings are facts that were entered into the record for this application and were 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 it is either not relevant evidence or it is not a fact.

Project Description and Necessary Approval(s)

1. The Applicant has filed an application for a lot line adjustment such that two areas totalling 0.5 acres are transferred from the Heyder lot to the Messier lot as shown on Exh. #1. The Heyder lot would become 45.4 acres and the Messier lot would become 1.2 acres. (application and Exh. #1)
2. The Heyder property is currently used as a single-family residence. (application)
3. The Messier property is currently used as a retail store and a single-family residence in one building. (application)
4. The property requires approval pursuant to the Randolph Land Subdivision Control Regulations because the Messier property was subdivided from the Heyder property in 1989. (Municipal records and Subdivision Regulations)
5. Public infrastructure improvements - The proposed project does not involve the creation of any public roads nor public utilities therefore Section VI of the Subdivision Regulations is not applicable. (application and Subdivision Regulations)

Compliance with development standards

6. Lot size - The relevant portion of the properties is in the EV District. The minimum lot size for the EV District is 10,000 SF for a single-family dwelling and 20,000 for other uses. The Heyder property is proposed to be 45.4 acres and the Messier property is proposed to be 1.2 acres (52,300 SF). The minimum lot size for the current uses of each property is 10,000 and 20,000 SF, respectively. (Zoning Regulations and application)
7. Lot width - The minimum lot width in the EV District is 100 feet. The proposed lot line adjustment will not affect the width of either lot. (Zoning Regulations and application)

- 8. Setbacks - The front, rear and side setbacks for principal structures in the EV District are 30, 30 and 20 feet, respectively. The proposed lot line adjustment will increase the setbacks of the buildings on the Messier property. The Heyder residence is over 500 feet from the proposed lot lines. The Heyder's "shop" is closest to the proposed lot lines and will be approximately 23 feet from the new southern side property line. (Zoning Regulations and Exhs. #1 - 3)
- 9. Building and parking coverage - The maximum allowable building and parking coverage is 75% in the EV District. The lot line adjustment will have a positive effect on the building and parking coverage of the Messier lot and will have a negligible effect on the Heyder lot. (Zoning Regulations and application)

V. CONCLUSIONS

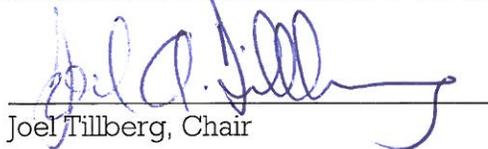
Based on the foregoing Findings of Fact, it is the conclusion of the Board that the project described in the application referred to above, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, will meet the development standards in the EV District. The Board also concludes that Section VI of the Subdivision Regulations is not applicable.

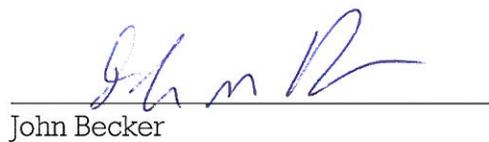
VI. DECISIONS²

Based upon the foregoing Findings of Facts and Conclusions, subdivision approval is hereby granted for the lot line adjustment as applied for in zoning permit application #Z10-6 and including the evidence and testimony entered into the record as Findings of Fact.

Dated at Randolph, Vermont this 31st day of March, 2010.

RANDOLPH DEVELOPMENT REVIEW BOARD


Joel Tillberg, Chair

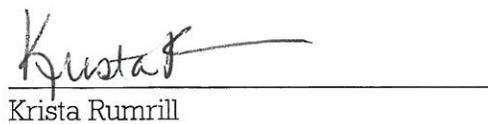

John Becker


Trini Brassard


Sam Lincoln


Christopher Recchia


Frank Reed


Krista Rumrill

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 Administrator. Failure to appeal this decision may prevent any party from arguing against its elements in a future hearing or appeal. 24 VSA §4472.

