

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

Permit No.: Z10-33

Property Owners: James and Katrina Lumbra
3333 South Randolph Road
Randolph Center, VT 05061

Applicants: William and Kathy Holbrook
Once Again
913 Riford Brook Road
Braintree, VT 05060

Property address: 12 Prince Street, Unit #1
Parcel no.: 239003.010
Parcel size: condominium unit #1 on a 4.57-acre parcel

I. INTRODUCTION

On May 4, 2010, **William and Kathy Holbrook** ("Applicants") filed an application for a zoning permit for a project generally described as **the conversion of accessory storage space into retail space**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on May 18, 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.

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, 2010;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records including previous memoranda of decisions (MODs) for this subject property.

The Board closed the public hearing on May 26, 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 Commercial (COM) District.

2. As the project is not either a one- or two-family dwelling, site plan approval is required.
3. The use is categorized as "general retail sales." Such a use is listed as permitted on the Chart of Permitted and Conditional Uses.

On May 11, 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. The Applicants were the only participants in this proceeding.

Participating Board members were John Becker, Trini Brassard, Christopher Recchia, Frank Reed, 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 and Required Approvals

1. The applicant has filed an application for the conversion of 1,950 SF of accessory storage space into retail space as shown on Exh. #1. No exterior changes are proposed to the building or the previously-approved site plan. (application)
2. The existing site plan was approved in May of 2008 for zoning permit #Z08-13. (municipal records)
3. Site plan approval is required pursuant to RZR §4.1 for uses other than one- and two-family dwellings. The proposed use is not a one- or two-family dwelling therefore site plan approval is required. (Regulations and application)
4. The use is categorized as "general retail sales." Such a use is listed as permitted on the Chart of Permitted and Conditional Uses therefore use approval is not required. (Regulations and application)

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

5. The minimum lot size for the COM District is 12,000 SF. The subject property is 4.57 acres and the buildings thereon have been converted into condominiums. The application is within Unit #1 which has a total of 15,580 SF of building space. (Regulations, Exh. #2 and municipal records)
6. The requirements for setbacks and coverage are not applicable as no changes are proposed that would affect these standards. (Regulations, application and Exh. #1)
7. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)
8. The purpose of the Commercial District is: "To concentrate the regional and town-wide business, to provide areas for its best development and to protect these locations by excluding other kinds of development which would serve to scatter new businesses and limit the expansion of present business; to provide areas sufficiently compact for the

convenience of pedestrians, and with sufficient area to allow parking space for patrons who come by automobile." The proposed project is new commercial business within the COM District. (Regulations and application)

Character of the area and affect on adjacent properties. (SP criteria B and D)

9. The surrounding area is a dense mixture of commercial and residential uses. The proposed use is in keeping with the existing use of the property. (*MOD for zoning permit #Z08-13*)
10. No changes are proposed with respect to walls, fences, loading, etc. (*application*)
11. No additional exterior lighting is proposed. (*application*)
12. No changes are proposed to the exterior of the building. (*application*)

Traffic and pedestrian considerations (SP criterion C)

13. No changes to the existing on-site traffic circulation or parking is proposed. (*Exh. #2*)
14. It is anticipated that the retail sales business will generate an additional 10 - 15 vehicles to the property, with a peak volume of 2 -4 over a 2 hour period. (*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 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. 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, approval is hereby granted for the site plan for the conversion of accessory storage space into retail space as applied for in zoning

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 \$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.

permit application #Z10-33 and including the evidence and testimony entered into the record as Findings of Fact. Site plan approval is granted with the following conditions:

1. Development shall be as shown on Exh. #1.
2. All conditions of previous approvals shall continue to apply.
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 26th day of May, 2010.

RANDOLPH DEVELOPMENT REVIEW BOARD

Concurring Board Members

/s/ Joel Tillberg, Chair

/s/ John Becker

/s/ Trini Brassard

/s/ Frank Reed

(did not participate)

Samuel Lincoln

/s/ Krista Rumrill

/s/ Christopher Recchia