

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

Permit: #Z10-53
Property address: Meadow Lane
Parcel no.: part of 121014.010
Parcel size: 1.5 acres

PROPERTY OWNER: Pierce Family Trust
PO Box 321
Randolph, VT 05060

APPLICANT: Laura Soares
43 Skyview Road
Randolph Center, VT 05061

I. INTRODUCTION

On June 28, 2010, **Laura Soares** ("Applicant") filed an application for a zoning permit for a project generally described as **the construction of a physician's office**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on June 29, 2010.

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 July 28, 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 July 28, 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. BACKGROUND

The subject property is a 1.5-acre lot that received subdivision approval in May of 2010.

III. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the Rural Village (RV) 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 "personal and professional business office." Such a use is listed as conditional on the Chart of Permitted and Conditional Uses and therefore conditional use approval is required.

On June 29, 2010, the Administrator referred the application to the Board for review and approval as determined.

IV. PARTICIPANTS

For the purposes of this application, "interested persons" are those who fulfill the requirements of 24 VSA ch. 117 §4465. Mark Bannon, the Applicant's representative, was the only participant in this proceeding.

Participating Board members were John Becker, Trini Brassard, Samuel Lincoln, Thomas Malanchuk¹, Frank Reed, 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 and Required Approvals

1. The applicant has filed an application for the construction of a single-story, 4,100 SF physician's office with associated parking and an accessory detached shed as shown on Exh. #1. The property is currently undeveloped. (application and testimony of M. Bannon)
2. The office will be open weekdays only from 8 AM to 5 PM and will have a maximum of 5 employees on the premises at any one time. (application and testimony of M. Bannon)

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

3. The minimum lot size for the RV District is 20,000 SF for uses other than residential. The subject property is 1.5 acres. (Regulations and application)
4. The front and rear setbacks requirements in the RV District are 30 feet and for the side is 20 feet. The shortest setback distance from any property line structure is approximately 32 feet along the right side yard. (Regulations and Exh. #1)
5. The maximum allowable building coverage is 25% in the RV District, or 16,335 SF for the subject property. The proposed building coverage is 4,500 SF, or 9%. (Regulations and application)
6. The required off-street parking for professional offices is 1 space for every 250 SF of gross floor space, or 18 spaces for the 4,100 SF of office space. The proposed project provides parking spaces for 16 cars. (Regulations, application and testimony of M. Bannon)
7. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)

¹ Capt. Malanchuk is an alternate member of the Board who was sitting in place of absent Member Christopher Recchia pursuant to Section 206D of the Board's Rules of Procedure.

8. The purpose of the Rural Village Districts is : “To provide areas for residence and commerce to co-exist in the same neighborhood and allow for future growth as an economic and social center for the surrounding area.” The proposed project is a commercial enterprise in a residential and commercial area that is on a scale consistent with the residential neighbors. (Regulations and application)

Nuisance considerations (CU criterion B)

9. The proposed use will not generate any of the following: noise, dust, odor, glare, vibration or radiation. (application)
10. The proposed use does not have the potential to cause a hazard through any of the following: fire, traffic, accident or sanitary conditions. (application)

Traffic and nuisance considerations (SP criterion C and CU criteria C and G)

11. The proposed use will have access from Meadow Lane, which is a Class 3 town highway. It is a dead-end road with 4 residences and 3 commercial businesses. The access for the proposed office is after the commercial accesses and 2 of the 4 residential driveways. (Exhs. #1 and 3)
12. All of the traffic to the proposed use will be from the west, thereby maintaining fairly consistent turning movements onto and off of Meadow Lane. (Exh. #3)
13. The access and exit points are limited to one location which will meet Vermont Agency of Transportation Standard B-71. The access is at an 80° angle to Meadow Lane to minimize the impact of headlights shining into the residence across the road. (application and testimony of M. Bannon)
14. It is anticipated that the office will generate an average of 50 vehicle trips a day and a maximum of 50 trips. The peak hour is between 8 – 9AM, when 8 vehicle trips are expected. (application and testimony of M. Bannon)

Continuous strip (CU criterion D)

15. The proposed project maintains a landscaped front lawn between the building and the road. This lawn is over 40 feet wide. (Exh. #1)

Municipal services (CU criterion E)

16. As the proposed use is not a residential use, it will not increase the enrollment in local public schools. (application)
17. The proposed use will require additional water allocation be granted and shall otherwise conform to the Randolph Village Water Ordinance. (municipal records)
18. The subject property is outside of the Randolph Police District therefore this service is not provided by the municipality. (Randolph Municipal Records)
19. The proposed use will not increase the need for emergency services or other planned community services. (application)

Character of the area (SP criterion B and CU criterion F)

20. There are no specifically stated policies or standards in the Town Plan that relate to this project.. (application and Town Plan)
21. The purpose of the Rural Village Districts is : “To provide areas for residence and commerce to co-exist in the same neighborhood and allow for future growth as an

economic and social center for the surrounding area.” The proposed project is a commercial enterprise in a residential and commercial area that is on a scale consistent with the residential neighbors. (Regulations and application)

22. The surrounding area is a mixture of residential and commercial uses. (application and Exh. #3)
23. The proposed office is a single-story structure in keeping with the adjacent residences. (application and testimony of M. Bannon)

Affects on adjacent land (SP criterion 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. (SP criterion D)

24. The parking area is behind the building and will be closest to the adjacent commercial uses, not the residences. It will be landscaped. (Exhs. #1 and 3)
25. The detached shed will be screened from the adjacent developed properties natural vegetation. (Exh. #3)
26. There will not be a solid waste dumpster on-site. (testimony of M. Bannon)
27. The soffit lighting be recessed and no other lighting is proposed. (testimony of M. Bannon)

Renewable energy resources (CU criterion I)

28. The proposed use will not affect the utilization of renewable energy resources. (application)

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. Conditional Use Criteria²

- A. The proposed use is not inconsistent with the objectives of the Town Plan and is consistent with the purposes of the Randolph Zoning Regulations.
- B. The proposed use will not cause any hazard to health or property through fire, traffic, accident, unsanitary conditions, excessive noise, vibration, odor or other nuisances.
- C. The proposed use will not add a volume of traffic to the highways beyond their reasonable capacity.
- D. A continuous strip of not less than six (6) feet wide will be maintained between the right-of-way line and the balance of the lot which will be suitably landscaped.
- E. The proposed use shall not have an undue adverse effect on the capacity of existing or planned community facilities.

² Criteria A – D are from the Randolph Zoning Regulations. Criteria D – I are required to be reviewed pursuant to 24 VSA Ch. 117 §4414(3).

- F. The proposed use shall not have an undue adverse effect on the character of the area, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards in the Town Plan.
- G. The proposed use shall not have an undue adverse effect on the traffic on roads and highways in the vicinity.
- H. The proposed use shall not have an undue adverse effect on the bylaws in effect.
- I. The proposed use shall not have an undue adverse effect on the utilization of renewable energy resources..

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. 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.

VII. DECISIONS³

Based upon the foregoing Findings of Facts and Conclusions, the Board makes the following decisions regarding the proposed physician's office as applied for in zoning permit application #Z10-53 and including the evidence and testimony entered into the record as Findings of Fact.

- A. The site plan approval is granted with the following conditions:
 - 1. Construction shall be as shown on Exh. #1
 - 2. All landscaping shown on Exh. #1 shall be maintained in a healthy, living condition.
 - 3. 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.
 - 4. The subject property shall have adequate entrance and exit for emergency vehicles at all times.

³ 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.

5. 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.
- B. The condition use approval is granted with the condition that any expansion of the use shall require approval pursuant to the regulations in effect at the time of re-application.

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

RANDOLPH DEVELOPMENT REVIEW BOARD

Concurring Board Members

/s/ Joel Tillberg, Chair

/s/ John Becker

/s/ Trini Brassard

/s/ Frank Reed

/s/ Samuel Lincoln

/s/ Krista Rumrill

Thomas Malanchuk