

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

**PERMIT NO.:** Z10-22

**PROPERTY OWNER:** State of Vermont  
Vermont Veterans' Memorial Cemetery  
c/o Joe Aja  
2 Governor Aiken Avenue  
Montpelier, VT 05633-5801

**Property address:** Furnace Street  
**Parcel no.:** 108014.010  
**Parcel size:** 113 acres

## **I. INTRODUCTION**

On April 5, 2010, Joe Aja, on behalf of the **State of Vermont** ("Applicant") filed an application for a zoning permit for a project generally described as **the construction of a monument and associated parking area**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on April 5, 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.

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 April 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 April 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. DETERMINATIONS BY THE ADMINISTRATOR**

The Administrator has made the following determinations:

1. The subject property is in the Rural Use – 5 acre (RU5) District.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.

3. The existing use is categorized as “cemetery.” Such a use is listed as permitted on the Chart of Permitted and Conditional Uses. The proposed memorial is an extension of the existing use therefore use approval is not required.
4. 24 VSA §4413 provides limitations for reviewing the proposed project as it is a state-owned and operated facility.
5. The applicant requested local Act 250 review.

On April 5, 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 Applicant was the only participant in this proceeding.

Participating Board members were John Becker, Trini Brassard, Christopher Recchia, Frank Reed and Joel Tillberg. Members Becker and Brassard disclosed that they are both employees of the State, though not for the Department of Buildings and General Services. No objections were voiced to their participation in this proceeding.

### 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 applicable review criteria**

1. The applicant has filed an application for the construction of monument memorializing the global war on terror. The monument will include a 4-car parking area and miscellaneous site improvements. It will be located in a field to the west and just outside of the Vermont Veterans’ Memorial Cemetery proper. The memorial will have no winter access. (application and Exh. #2)
2. The proposed project is a state-owned and operated facility. (application)
3. 24 VSA §4413 states that state-owned and operated facilities may only be regulated with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that the regulations do not have the effect of interfering with the intended functional use.
4. Based on the limitation of 24 VSA §4413, site plan criteria A, B and D are applicable in part. Criterion C is not applicable (see specifics under each criteria).

#### **Compliance with ordinances. (SP criterion A and Act 250 criterion 10)**

5. Site plan criterion A requires that the proposed use, design and layout shall meet the provisions of the Zoning Ordinance, other regulations and ordinances of the Town and the Town Plan. The limitations of 24 VSA §4413 allow the Board to only determine compliance with the development standards of the Zoning Ordinance.
6. The minimum lot size for the RU5 District is 5 acres. The subject property is 113 acres. (Regulations and application)

7. The front, side and rear setbacks for the RU5 District are 30 feet. All site improvements will be outside of the town right-of-way for Furnace Street except for the access to the parking area. (Regulations and Exh. #2)
8. The standard for maximum allowable building coverage is not applicable as the proposed project does not involve any building, per se. (Regulations and application)
9. The required off-street parking shall be as set by the Board. The proposed project provides parking spaces for 4 cars. (Regulations and application)
10. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)

#### Affects on adjacent land (SP criterion B )

11. Site plan criterion B requires that 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. This criterion is not within the limitations of 24 VSA §4413 and therefore is not applicable.

#### Traffic and pedestrian considerations (SP criterion C)

12. Site plan criterion C requires that 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. Only the traffic considerations of this criterion are within the limitations of 24 VSA §4413.
13. The proposed use will utilize Furnace Street, which is a Class 3 town highway. (application)
14. The proposed access to the 4-space parking lot is 15 feet wide and does not conform to Vermont Agency of Transportation standard B-71. (Exh. #2 and application)
15. Most of the traffic will occur on Memorial Day. It is anticipated the memorial will generate minimal traffic. (testimony of J. Aja)
16. The proposed access has sight distances of 60 and over 1,000 feet looking to the left and right, respectively, while exiting the parking area. (application)

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

17. Site plan criterion D requires that 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. This criterion is within the limitations of 24 VSA §4413 as it relates to the allowable considerations of height, location, parking, loading and landscaping.
18. The land most adjacent to the portion of the total 113 acres upon which the memorial is proposed is used as a college and a campground. There is much open land around the proposed memorial. (application and Exh. #2)
19. No walls are proposed other than what is integral to the memorial. (Exh. #2)
20. No landscaping is proposed other than the split rail fence. Vermont Technical College will continue to plant corn in the field behind the memorial. (testimony of J. Aja)
21. The total lot coverage of the proposed project is 1,655 SF. (application)

22. The proposed memorial will be no closer than 840 feet to adjacent properties other than the college property across the road. (application)

#### Municipal services (Act 250 criteria 6 and 7)

23. The proposed project will not add any additional students to the school district. (Brent Kay, Superintendent)
24. The subject property is outside of the Randolph Police District therefore this service is not provided by the municipality. (Randolph Municipal Records)
25. The subject property is in the Randolph Center Fire District. The Randolph Center Fire Department has the capacity to provide fire protection to the subject property without undue burdens. (Robert Squire, Randolph Center Fire District First Assistant Chief)
26. The subject property takes access from a town highway. The Randolph Highway Department has the capacity to provide the proposed project with road maintenance without undue burdens. (Gary Champy, Randolph Town Manager)
27. The proposed project will not need water nor sewer therefore these public services are not needed. (application)

#### Town Plan (Act 250 criterion 10)

28. There is no clear and unambiguous language in the Town Plan that directly relates to this project. (Town Plan)
29. The monument is an extension of the existing permitted cemetery and does not change the Town Plan. (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 Criteria<sup>1</sup>

- 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. The remainder of this criterion is not applicable pursuant to 24 VSA §4413.
- B. This criterion is not applicable as is in not within the limitations of 24 VSA §4413.

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<sup>1</sup> 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

- C. The proposed use and layout is of such a nature that it will not make vehicular traffic hazardous when considering turning movements, relationship to intersections, sight distances, location and access of off-street parking. The remainder of this criterion is not applicable pursuant to 24 VSA §4413.
- 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. DECISIONS<sup>2</sup>

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the proposed memorial as applied for in zoning permit application #Z10-22 and including the evidence and testimony entered into the record as Findings of Fact.

- A. The required off-street parking is set at 4 spaces.
- B. The site plan approval is granted with the following conditions:
  - 1. Construction shall be as shown on Exh. #2.
  - 2. 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 26<sup>th</sup> day of May, 2010.

RANDOLPH DEVELOPMENT REVIEW BOARD

**Concurring Board Members**

\_\_\_\_\_  
/s/ Joel Tillberg, Chair

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/s/ John Becker

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/s/ Trini Brassard

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/s/ Frank Reed

\_\_\_\_\_  
/s/ Christopher Recchia

<sup>2</sup> 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.