

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

PERMIT: **#Z13-36**
PROPERTY ADDRESS: **839 VT Route 12S**
PARCEL NO.: **121019**
PARCEL SIZE: **9.31 acres**

PROPERTY OWNER: **Lang Durfee**
Bethel Mills, Inc.
839 VT Route 12S
Randolph, VT 05060

APPLICANT: **Scott Aronson**
d/b/a Chef's Market
512 Duclos Road
Braintree, VT 05060

I. INTRODUCTION

On April 30, 2013, **Scott Aronson** ("Applicant") filed an application for a zoning permit for a project generally described as the **construction of a 20-foot by 36-foot addition to an existing grocery store**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on April 30, 2013.

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 20, 2013;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records, including previous Memoranda of Decision (MOD) for this property.

The Board closed the public hearing on May 20, 2013 and rendered an oral decision in this matter. This written decision is required pursuant to 24 VSA ch. 36 §1309 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 Village (RV) 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 "general retail sales". Such a use is listed as permitted on the Chart of Permitted and Conditional Uses.

On May 7, 2013, 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 Applicant was the only participant in this proceeding.

Participating Board members were John Becker, Samuel Lincoln, Thomas Malanchuk¹, Gregg McCurdy, David Miles Christopher Recchia² 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 the construction of a 20' x 36' addition to an existing retail store as shown on Exh. #1. The area will be used for additional retail sales space, including the sale of beer and wine. (application, testimony of S. Aronson)
2. No changes to the existing operation of the business is proposed. There will continue to be no indoor seating. (testimony of T. Aronson, S. Aronson)

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

3. The minimum lot size for the RV District is 20,000 SF for non-residential uses. The subject property is 9.31 acres. There currently is a building supply store (d/b/a Central Supplies), a food canteen (d/b/a The Udder Place), a baseball diamond used primarily for T-ball, and the subject business (d/b/a The Chef's Market). (Regulations, municipal records, MOD for #Z08-119)
4. In the RV District, The front and rear setback requirement is 30 feet and the side setback is 20 feet. The proposed addition is closes to the front property line and will be approximately 70 feet from the centerline of VT Route 12S and will not be any closer to the road than the existing building. (Regulations, Exh. #1)
5. The maximum allowable building coverage is 25% in the RV District, or 2.33 acres for the subject property. The proposed building coverage is approximately 1.17 acres. (Regulations, application, MOD for #Z08-119)
6. The required off-street parking requirement for retail establishments is 6 spaces for every 1,000 SF of gross floor space unless otherwise modified by the Board. Past precedent by the Board is to reduce this requirement to 4 spaces per 1,000 SF. The proposed gross floor

¹ Thomas Malanchuk is an alternate member who was sitting in place of absent regular member Trini Brassard pursuant to Section 206D of the Board's Rules of Procedure. Ms. Brassard did not participate in this Decision.

² Member Recchia disclosed that he sells produce to the applicants for sale in this business. No objections were voiced to his participation in this Decision.

space is just under 2,000 SF, thereby requiring 8 parking spaces. A total of 12 are provided around the Chef's Market. Overflow parking is available next to the adjacent retail business of Central Supplies. (Regulations, municipal records, Exh. #1, testimony of S. Aronson)

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 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 an expansion of an existing store with surrounding businesses and residences. (Regulations, MOD for #Z08-119)

Character of the area (SP criteria B)

9. The surrounding area is a mixture of residential and commercial uses. The adjacent properties are used for residences, stores, a chimney contractor and a self-storage facility. (application, municipal records)
10. No changes to the existing use are proposed. (application)
11. The proposed addition is on the side of the store closest to the adjacent store. (Exh. #1)
12. The dumpster is existing and is not visible from neighbors due to vegetation and buildings. (testimony of T. Aronson)
13. The dumpster is for the Chef's Market and is for recycling only. Other solid waste is taken to the Central Supplies' dumpster. (testimony of T. Aronson)
14. There will be no additional lighting on the building or in the vicinity of the Chef's Market. (testimony of T. Aronson)

Traffic and pedestrian considerations (SP criterion C)

15. No changes are proposed to the access to the property and the parking for the Chef's Market. (Exh. #1)
16. Head-in parking for the Chef's Market will be expanded by 3 spaces in front of the addition. To facilitate the use of these new spaces, the driveway behind them will be widened to be the same width as the existing parking area. (Exh. #1, testimony of T. Aronson)
17. No other changes to the on-site traffic is proposed. (Exh. #1)

Effects on adjacent land (SP criterion D)

18. The proposed project does not involve any new walls, fences, loading or landscaping. (application, testimony of T. Aronson)
19. The adjacent property closest to the Chef's Market is a residence and a chimney contractor's yard. There is an existing well-established tree-line between the two properties. (municipal records, MOD for #Z08-119)

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.

DECISIONS³

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the addition to the store as applied for in zoning permit application #Z13-36.

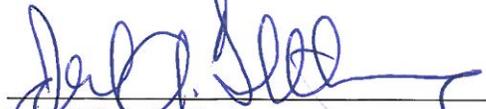
- A. The off-street parking requirement is set at 4 spaces per 1,000 SF of gross floor space.
- B. Site plan approval is granted with the following conditions:
 - 1. The project shall be constructed as shown on the exhibits, and completed and operated in accordance with the application and the findings of fact which are incorporated herein.
 - 2. Construction shall be as shown on Exh. #1.
 - 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. On-site snow storage shall not interfere with sight distances.
 - 4. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
 - 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.

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 \$262.50 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.

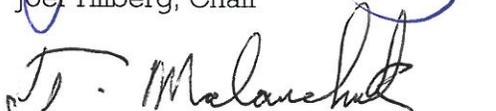
Dated at Randolph, Vermont this 25th day of June, 2013.

RANDOLPH DEVELOPMENT REVIEW BOARD

Concurring Board Members



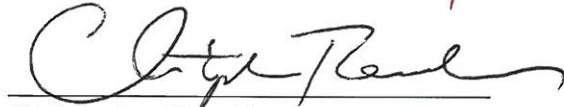
Joe Tillberg, Chair



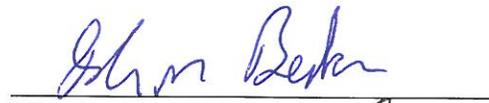
Thomas Malanchuk



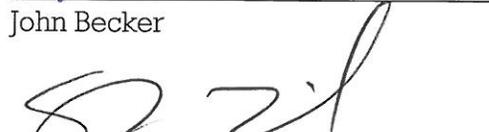
Gregg McCurdy



Christopher Recchia



John Becker



Samuel Lincoln



David Miles

