

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

PERMIT: **#Z14-43**
PROPERTY ADDRESS: **2309 South Randolph Road**
PARCEL NO.: **116026.020**
PARCEL SIZE: **10 acres**

PROPERTY OWNER: **Edward Barna**
2309 South Randolph Road
Randolph Center, VT 05061

I. INTRODUCTION

On July 14, 2014, **Edward Barna** ("Applicant") filed an application for a zoning permit for a project generally described as a **motorcycle repair shop**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on July 15, 2014.

Under the Randolph Zoning Regulations (RZR or "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 29, 2014;
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 29, 2014 and rendered an oral decision in this matter. This written decision is required pursuant to 24 VSA ch. 36 §1409 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. As the applicant is the resident/property owner, the use is categorized as "home or cottage industry". Such a use is listed as permitted on the Chart of Permitted and Conditional Uses.

On July 15, 2014, 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. Edward and Jody Barna and abutters James and Carol Perrin were the only participants in this proceeding.

Participating Board members were John Becker, Thomas Malanchuk, Paul Putney¹, David Miles Christopher Recchia and Joel Tillberg. Member Tillberg disclosed that Edward Barna is a customer of his tool business. No objections were voiced to his 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

1. The applicant has filed an application for a motorcycle repair shop in his garage at his residence as shown on Exhs. #1 – 3. (application)
2. When the business is full-time, the applicant is going to operate this shop 6 days a week: Monday through Saturday from 9 AM to 5 PM. For now, it is part time and work will be done in the evenings for 3 – 5 hours and on weekends, no later than 9 PM. (testimony of E. Barna)
3. There will not be any other employees for the business. Most of the motorcycles to be repaired will be picked up by the applicant. (application, testimony of E. Barna)
4. All repair and work will be done within the shop. (application)
5. The shop may also repair all-terrain vehicles but not snowmachines. (testimony of E. Barna)
6. No exterior changes to the existing site are proposed, except for signage. Only internal renovations with the shop are proposed. (testimony of E. Barna)

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

7. As no exterior site or building changes are proposed, the development standards (setbacks, coverage, etc.) are not affected by the project. (RZR, application)
8. The required off-street parking is 2 spaces for the residence and is set by the Board for the shop. The proposed project provides parking spaces in front of the garage for customers and he and his wife park between the house and the shop. There is not a lot of drive-in traffic, as most motorcycles are picked up because they are not working. (RZR, application, Exh. #2 and testimony of E. Barna)
9. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)

Character of the area (SP criteria B)

10. The surrounding area is a mixture of rural residential and agricultural uses with much open land. (application, Exh. #1)

¹ Paul Putney is an alternate member who was sitting in place of absent regular member Gregg McCurdy pursuant to Section 206D of the Board's Rules of Procedure. Mr. McCurdy did not participate in this Decision.

11. No exterior changes to the site are proposed except for signage. (application and testimony of E. Barna)
12. All repairs are done inside the shop. The noise from the shop can barely be heard from inside the house. (testimony of J. Barna)
13. The shop is set back a minimum of 150 feet from the road the closest property line. (application)
14. The garage is insulated, which provides noise-dampening. (testimony of E. Barna)
15. With the amount of farm machinery on the road, the proposed shop will not have more of an impact that what currently exists in the area. (testimony of E. Barna)

Traffic and pedestrian considerations (SP criterion C)

16. The proposed use will utilize South Randolph Road, which is a Class 3 town highway. No changes to the existing access, which has sight distances from 300 and 1,000 feet, are proposed. (application)
17. Very minimal additional vehicular traffic (1 – 3 cars daily) and no pedestrian traffic is anticipated for the project. (application)

Effects on adjacent land (SP criterion D)

18. The house and shop are set back from South Randolph Road by more than 300 feet. (application, Exh. #3)
19. The property lines to the north and south have trees along them. (Exh. #1)
20. All equipment associated with the business will be kept indoors. Household items like ladders and wheelbarrows may be outside. (testimony of E. Barna)
21. There will be no outdoor storage of waste and a trash dumpster is not proposed. (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. DECISIONS²

Based upon the foregoing Findings of Facts and Conclusions, the following decisions are made with respect to the motorcycle repair shop (as a home or cottage industry) as applied for in zoning permit application #Z14-43:

- A. The required off-street parking for the shop is set at 3 spaces.
- 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. 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 or required on-site parking.
 - 3. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
 - 4. 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 25th day of August, 2014.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members

Joel Tillberg, Chair

John Becker

Christopher Recchia

Thomas Malanchuk

Gregg McCurdy

David Miles

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 \$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.