

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

PERMIT: **#Z14-51**
PROPERTY ADDRESS: **7174 VT Route 66**
PARCEL NO.: **110037**
PARCEL SIZE: **0.33 acres**

PROPERTY OWNER: **Edward Burgle
Marie Olivia Burgle Trust
12 Partridge Road
South Weymouth, MA 02190**

APPLICANT: **Daniel Small
28 Gifford Hill Road
Randolph Center, VT 05061**

I. INTRODUCTION

On August 5, 2014, **Daniel Small** ("Applicant") filed an application for a zoning permit for a project generally described as utilizing a vacant building for a **small engine and tire repair shop**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on August 18, 2014.

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 August 25, 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 August 25, 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 East Valley (EV) 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 “small engine sales and service”. Such a use is listed as permitted on the Chart of Permitted and Conditional Uses.

On August 11, 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. Applicant Dan Small was the only participant in this proceeding.

Participating Board members were John Becker, Matthew Murawski¹, Thomas Malanchuk, David Miles Christopher Recchia 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 using an existing building for small engine and tire repair services as shown on Exh. #2. Most of the tire repairing will be done off-site. (application, testimony of D. Small)
2. The small engine repairs will be for things such as lawn mowers, snow machines, four-wheelers, etc., but no automobiles. Most items to be repaired will be dropped off by customers. (testimony of D. Small)
3. There will be no retail sales. (testimony of D. Small)
4. The business will be open Monday through Saturday from approximately 8 AM to 5 PM. (testimony of D. Small)
5. It is anticipated that the applicant will be the only worker for the business. (application)
6. No changes to the existing site are proposed. (testimony of D. Small)
7. While the building has been currently vacant for many years, the previous use of it was for non-residential use. (testimony of D. Small)

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

8. The development standards for minimum lot size, building and parking coverage, building height and setbacks are not applicable as no changes to the building or the site are proposed. (application, testimony of D. Small)
9. The required off-street parking shall be as set by the Board. The proposed project provides parking spaces for 5 customer cars, 1 space for the Applicant and a space for the trailer. (Exh. #2, testimony of D. Small)

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

10. There is no clear and unambiguous language in the Town Plan that relates or refers specifically to the proposed project. (Town Plan)

Character of and effects on the surrounding area (SP criteria B and D)

11. The surrounding area is a mixture of rural, commercial and residential uses. The adjoining properties are used as single- and multi-family dwellings and a general store. (application, Exh. #1)
12. The 20-foot bank on the west side of the property is steep and vegetated such that drivers coming down Route 66 cannot see behind the building at all. (testimony of D. Small)

Traffic and pedestrian considerations (SP criterion C)

13. The proposed use will utilize VT Route 66 which is a Class 1 state highway. The Vermont Agency of Transportation has indicated that a state highway access permit is not required. (application, Exh. #3)
14. There is sufficient space on the property for cars to turn around or to circulate around the building so that backing out onto Route 66 is not necessary. (testimony of D. Small)
15. No pedestrian traffic is anticipated. (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/will not 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.

VII. DECISIONS²

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions for the small engine and tire repair services as applied for in zoning permit application #Z14-51:

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

- A. The off-street parking requirement 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. The property shall be utilized as shown on Exh. #2.
 - 3. Any outdoor storage of materials used or generated by the business shall be behind the building and thus screened by the existing vegetation and bank.
 - 4. All landscaping shown on Exh. #2 that is indicated is needed for screening purposes shall be maintained in a healthy, living condition.
 - 5. 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 nor utilization of parking spaces.
 - 6. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
 - 7. 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 30th day of September, 2014.

RANDOLPH DEVELOPMENT REVIEW BOARD

Concurring Board Members

Joel Tillberg, Chair

John Becker

Matthew Murawski

Thomas Malanchuk

David Miles

Christopher Recchia

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.