

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

PERMIT: **#Z13-75**  
PROPERTY ADDRESS: **27 North Main Street**  
PARCEL NO.: **234010**  
PARCEL SIZE: **0.05 acres**

PROPERTY OWNER: **James and Martha Eddy**  
**PO Box 261**  
**Randolph, VT 05060**

APPLICANT: **Annie Lu**  
**3 Salisbury Street**  
**Randolph, VT 05060**

**I. INTRODUCTION**

On August 20, 2013, **Annie Lu** ("Applicant") filed an application for a zoning permit for a project generally described as **the conversion of the upper two floors of an existing building into 2 apartments each**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on August 20, 2013.

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 September 24, 2013;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records.

The Board closed the public hearing on September 24, 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 Commercial (COM) 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 "multi-family dwelling". Such a use is listed as conditional on the Chart of Permitted and Conditional Uses and therefore conditional use approval is required.

On September 18, 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. Applicant Martha Eddy was the only participant in this proceeding

Participating Board members were John Becker, Samuel Lincoln, Eric Sturm<sup>1</sup>, 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 and Required Approvals

1. The applicant has filed an application for the creation of 2 apartments on the second floor with a total of 3 bedrooms and the conversion of the third floor apartment into 2 apartments with a total of 3 bedrooms. The first floor will remain 1,950 SF of retail space. (application and testimony of M. Eddy)
2. No exterior changes are proposed. (application)

#### Consistency and compliance with Town Plan and ordinances. (SP criterion A, CU criteria A and H, and Act 250 criterion 10)

3. The required off-street parking, which may be modified by the Board, is 6 spaces per 1,000 SF of gross floor space for the retail use and 1½ spaces per dwelling unit. For the proposed project, this would mean 12 off-street parking spaces. (RZR and application)
4. No off-street parking is available. The subject property is in the core downtown in close proximity to several municipal parking lots. (municipal records)
5. The development standards for setbacks and coverages are not affected by this project as no increase in building footprint is proposed. (application)
6. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)
7. The proposed project does not involve any new roads to be adopted by the Town. (application)

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

8. The proposed use will not generate any of the following: odor, dust, noise, glare, vibration or radiation. (application)

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<sup>1</sup> Mr. Sturm is an alternate member of the Board who was sitting in place of absent regular Members Gregg McCurdy and Trini Brassard pursuant to Section 206D of the Board's Rules of Procedure.

9. The proposed use does not have the potential to cause a hazard through fire, traffic, accident or unsanitary conditions. (application)
10. The proposed additional apartments will generate minimal additional vehicular and pedestrian traffic. (application)
11. The entire lot is covered with the building. (municipal records)

**Continuous strip** (CU criterion D)

12. The entire lot is covered with the building. (municipal records)

**Municipal services** (CU criterion E and Act 250 criteria 6 and 7)

13. The proposed use does not have the potential to create a burden on the enrollment in local public schools nor the need for emergency services, solid waste disposal or other planned community service. (application)
14. The subject property is served by the Randolph Water and Sewer Districts and the additional apartments and/or bedrooms will require a minimal amount of additional capacity within these systems. (Randolph Village Water Ordinance and Randolph Sewer Ordinance)

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

15. The surrounding area is a dense mixture residential and commercial uses. (NOD)
16. No exterior changes are proposed. (application)
17. According to the Town Plan, the subject property is proposed to be in the Central Business District (CBD). (Town Plan)
18. Page 42 of the Town Plan states this about the CBD: "Office and residential uses are encourages in upper stories and mixed uses, in general are encouraged." (Town Plan)
19. The proposed use is a customer-oriented use. (application)
20. There are no stated policies and standards in the Town Plan that specifically relate to this proposed project. (Town Plan)
21. There will be no dumpster. Instead, each apartment will have a barrel that is stored in the shed at the back of the building or will otherwise be out-of-site. (testimony of M. Eddy)
22. The only access to the apartments is from the porch on the Pleasant Street side of the building which will have a light. (testimony of M. Eddy)

**Renewable energy resources** (CU criterion I)

23. The proposed use will not affect the utilization of renewable energy resources. (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. Conditional Use Criteria<sup>2</sup>

- 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. This criterion is not applicable. (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.
- 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. This criterion is not applicable. (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. This criterion is not applicable. (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. This criterion is not applicable. (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.)

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

**VI. DECISIONS<sup>3</sup>**

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the application for 3 additional apartments as applied for in zoning permit application #Z13-75:

- A. Due to the availability of municipal parking lots, the off-street parking requirements are waived.
- B. The site plan approval is granted with the following conditions:
  - 1. The site plan shall be presented to the Administrator that is consistent with the testimony given. The project shall be completed and operated in accordance with the application and the findings of fact which are incorporated herein.
  - 2. Any trash receptacles shall be screened from public view.
  - 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.
- B. The condition use approval is granted/denied with the following conditions:
  - 1. The project shall be operated in accordance with the application and the findings of fact which are incorporated herein.
  - 2. 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 22 day of October, 2013.

**RANDOLPH DEVELOPMENT REVIEW BOARD**

**Concurring Board Members**

  
\_\_\_\_\_  
Joel Tillberg, Chair

  
\_\_\_\_\_  
John Becker

  
\_\_\_\_\_  
Christopher Recchia

\_\_\_\_\_  
Samuel Lincoln

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Eric Sturm

  
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David Miles

<sup>3</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 \$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.

