

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

PERMIT: **#Z13-77**
PROPERTY ADDRESS: **8 Railroad Street**
PARCEL NO.: **242003**
PARCEL SIZE: **0.21 acres**

PROPERTY OWNER: **Shane Niles**
PO Box 173
Randolph Center, VT 05061

APPLICANT: **Stephanie Tyler Busha**
216 LaBounty Road
Randolph, VT 05060

I. INTRODUCTION

On September 3, 2013, **Stephanie Tyler Busha** ("Applicant") filed an application for a zoning permit for a project generally described as **the renovation of upper floor for an apartment and the renovation of the first floor and an addition for a pottery supply distribution and studio/gallery**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on September 9, 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 "general retail sales". Such a use is listed as permitted on the Chart of Permitted and Conditional Uses.

On September 9, 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, Eric Sturm¹, 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 Approval

1. The applicant has filed an application for the construction of a new 24' x 30' 2-story addition and the renovation of the building in general for an apartment on the upper floor and for the sale of pottery supplies and a pottery gallery on the first floor as shown on Exh. #1. (application, Exh. #1 and testimony of S. Tyler Busha)
2. The applicant is going to operate business Monday through Saturday between 9 AM and 5 PM. (application, testimony of S. Tyler Busha)
3. The sale of pottery supplies is the principal use and is considered "general retail sales" which is listed as a permitted use on the Chart of Permitted and Conditional Uses. As the use is not a one- or two-family, site plan approval is required. The pottery studio is accessory to the principal use. (RZR and application)

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

4. The front, side and rear setbacks for the COM District are established by the Board during site plan review. The existing building is setback from the front, side and rear property lines is 35, 8 and 74½ feet, respectively. The proposed addition will not decrease the front and side setback distances and will be 44½ feet from the back property line. Most of the remaining land behind the proposed addition is a steep, wooded bank. (RZR, application and testimony of S. Tyler Busha)
5. The maximum allowable building coverage in the COM District is set by the Board during site plan review. The proposed building coverage is 1,497 SF, or 18%. (RZR and application)
6. 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 2 spaces for the one dwelling unit. For the

¹ Eric Sturm is an alternate member who was sitting in place of absent regular members pursuant to Section 206D of the Board's Rules of Procedure.

proposed project, this would mean 11 off-street parking spaces. The proposed site plan provides 3 spaces. (RZR and application)

7. The subject property is in the core downtown in close proximity to several municipal parking lots and with on-street parking. (municipal records)
8. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)

Affect on the area (SP criteria B and D)

9. The surrounding area is a dense mixture of commercial and residential uses. (application)
10. The property to the west is office space for a realtor's office, to the east is a hair salon, to the north is the railroad tracks and the backs of commercial buildings, and to the south are residences. The residences are physically separated from the subject property by a steep wooded embankment. (application and testimony of S. Tyler Busha)
11. The proposed project is a 720 SF addition for a commercial use in the COM District. (application and RZR)
12. The existing building was heavily damaged by fire 2001 and has not been repaired. The proposed project will repair and renovate the existing building. (municipal records and application)
13. There is no dumpster proposed and there are no unsightly uses associated with the proposed use. (application and testimony of S. Tyler Busha)
14. The parking and loading areas are to remain along the front building. (application)
15. No new fencing, lighting or landscaping other than lawn is proposed. (Exh. #1, application and testimony of S. Tyler Busha)

Traffic and pedestrian considerations (SP criterion C)

16. Railroad Street is an unpaved Class 3 town highway that ends at the western side of the subject property. (municipal records)
17. Three head-in parking spaces and a loading area are provided in front of the building. (Exh. #1)
18. It is anticipated that there will be 5 – 10 customers and employees per day, most of which will arrive by vehicle. (application)
19. No pedestrian provisions are provided. (Exh. #1)
20. The applicant does not anticipate more than 1 – 2 customers at a time and minimal deliveries. (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 Board hereby makes the following decisions regarding the application for the apartment and pottery supply distribution and gallery as applied for in zoning permit application #Z13-77.

- A. The off-street parking requirements are modified to require 3 off-street 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. Construction shall be as shown on Exh. #1.
 - 3. All lawn areas shall be maintained in a healthy, living condition.
 - 4. 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.
 - 5. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
 - 6. 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.

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.

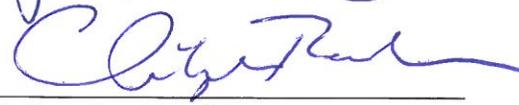
Dated at Randolph, Vermont this 22 day of October, 2013.

RANDOLPH DEVELOPMENT REVIEW BOARD

Concurring Board Members



Joel Tillberg, Chair



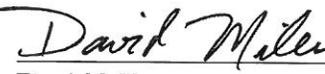
Christopher Recchia

Eric Sturm



John Becker

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