

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

PERMIT: **#Z11-86**
PROPERTY ADDRESS: **895 VT Route 12S**
PARCEL NO.: **121021**
PARCEL SIZE: **2.1 acres¹**

PROPERTY OWNER: **Gene Bianco**
PO Box 246
Randolph, VT 05060

I. INTRODUCTION

On November 17, 2011, **Gene Bianco** ("Applicant") filed an application for a zoning permit for a project generally described as **site plan modifications for a chimney contractor business**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on November 17, 2011.

Under the Randolph Zoning Regulations ("Regulations" or RZR), 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 December 8, 2011;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records, including Memorandum of Decision for zoning permit #Z10-115 (MOD #Z10-115).

The Board closed the public hearing on December 8, 2011 and rendered an oral decision in this matter. This written decision is required pursuant to 24 VSA ch. 36 §1209 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 use was previously-approved in MOD #Z10-115.

¹ The applicant has received approval to subdivide the subject property into 2 lots (zoning permit #Z11-87). The lot for the business will be ±66,300 SF. The lot has not yet been separately conveyed.

On November 21, 2011, 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, Krista Rumrill, Samuel Lincoln, Christopher Recchia, Frank Reed, 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 modifications to a previously-approved site plan for a chimney contractor business as shown on Exh. #1 – 3. Specifically, the applicant proposes to construct a 30-foot by 24-foot building detached from the existing garage in lieu of the 20-foot by 30-foot addition to the garage that was approved in zoning permit #Z10-115. (application and MOD #Z10-115)
2. The applicant is not proposing any changes to the operation of the business as indicated in MOD #Z10-115. (testimony of G. Bianco)
3. The use of the property received conditional use approval on February 16, 2011 (MOD #Z10-115)
4. As the project is not a one-or two-family dwelling and per condition of approval (A)(1) of MOD #Z10-115, site plan approval is required. (application, RZR and MOD #Z10-115)

Consistency and compliance with Town Plan and ordinances. (SP criterion 1)

5. In the RV District, the requirement for the front and rear setback is 30 feet and the side setback is 20 feet. The shortest setback distance from the proposed new structure is over 100 feet. (RZR and application)
6. The maximum allowable building coverage is 25% in the RV District, or nearly 16,500 SF for the subject property (based upon approved subdivision – see footnote 1). The proposed building coverage is 1,392 SF, or 2%. (RZR and application)
7. The revised site plan still provides parking for 8 vehicles. It was determined this was adequate for the business. (Exh. #2 and MOD #Z10-115)
8. Fact #9, related to compliance with the Town Plan in MOD #Z10-115, is not affected by the proposed project. (Town Plan and MOD #Z10-115)

Character of the area (SP criteria 2)

9. Facts #25 - 27 in MOD #Z10-115, related to the surrounding area, are not affected by the proposed project. (application and MOD #Z10-115)

10. There will be a light on each building that will be of a residential-type that will be on during business hours and operate on motion sensor during non-business hours. (application and testimony of G. Bianco)
11. There will be no dumpster on site nor other unsightly use associated with the project. Any materials stored on-site will be behind the existing garage and properly screened. (testimony of G. Bianco)

Traffic and pedestrian considerations (SP criterion 3)

12. Facts #12 and 15 in MOD #Z10-115, related to site plan criteria 3, are not affected by the proposed project. (application and MOD #Z10-115).
13. No changes are proposed to the previously-approved access to the property. (Exh. #2)

Affects on adjacent land (SP criterion 4)

14. Facts #25 - 27 in MOD #Z10-115, related to the surrounding area, are not affected by the proposed project. (application and MOD #Z10-115)
15. The new storage building will be screened from the adjacent residences with existing vegetation/woods. (Exh. #2)
16. No walls, fencing or loading areas are 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:

1. 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.
2. 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.
3. 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.
4. 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, approval is hereby granted for the modified site plan for the chimney contractor business as applied for in zoning permit application #Z11-86 and including the evidence and testimony entered into the record as Findings of Fact. Site plan approval is granted with the following conditions:

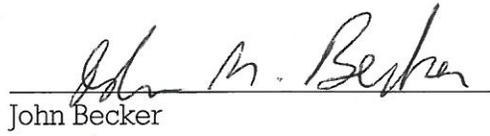
1. Construction shall be as shown on Exhs. #1-3.
2. All conditions of the previous approvals for this business on this property shall continue to apply.

Dated at Randolph, Vermont this 8th day of December, 2011.

RANDOLPH DEVELOPMENT REVIEW BOARD

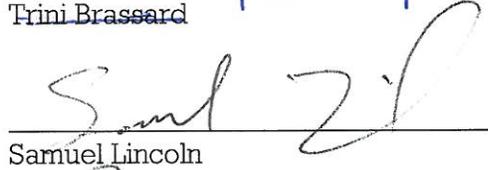
Concurring Board Members


Joel Tillberg, Chair

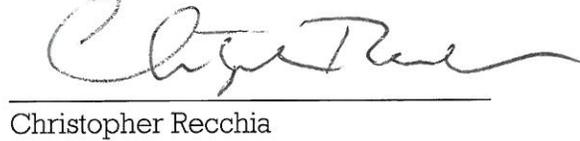

John Becker

did not participate
Trini Brassard


Frank Reed


Samuel Lincoln


Krista Rumrill


Christopher Recchia

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 \$250 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.