

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

PERMIT: **#Z16-5**
PROPERTY ADDRESS: **21-29 Merchants Row**
PARCEL NO.: **231003**
PARCEL SIZE: **0.12 acres**

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

I. INTRODUCTION

On January 15, 2015, Gene Bianco ("Applicant") filed an application for a zoning permit for a project generally described as converting a dance studio and office space into 3 apartments. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on February 4, 2016.

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 RZR. 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 February 23, 2016;
2. Documents contained in this application's file, the RZR, Town Plan and the Randolph municipal records.

The Board closed the public hearing on February 23, 2016 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 property currently doesn't meet the overall minimum lot size requirement in the COM District of 12,000 SF and, at 5,200 SF, barely has the minimum lot size per dwelling unit of 5,000 SF. The building already has 3 apartments. Therefore, this use as a multi-family dwelling is non-conforming. To add 3 more apartments would be expanding the non-

conforming use which requires approval pursuant to §2.5.4. Additionally, the use "multi-family dwelling" is listed as a "conditional" on the Chart of Permitted and Conditional Uses and therefore conditional use approval also is required.

On February 4, 2016, 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 Gene Bianco was the only participant in this proceeding.

Participating Board members¹ were John Becker, Trini Brassard, Thomas Malanchuk, Michael Hildenbrand, 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.

1. The applicant has filed an application to convert a dance studio into 2 apartments and 2 offices into one apartment. No external changes are proposed. (application)
2. The new apartments will provide affordably priced and beautiful living conditions in a location that will encourage its residents to shop, eat and work locally, thus supporting the downtown economy. (Exh. #2)
3. The entire property is covered entirely by the building. (Exh. #3)
4. The minimum lot size for the COM District is 12,000 SF. The subject property is 0.12 acres or 5,200 SF. (application and RZR)
5. The required off-street parking for the 3 new apartments is 5 spaces. The offices, at a total of 705 SF, required 3 spaces and the dance studio required at least 2 spaces. Therefore, there is no net increase in the number of required parking spaces. (application, RZR and Exh. #1)
6. This project will support the Town Plan goal of maintaining Randolph villages as pedestrian-friendly centers that are compact and allow walkable access to downtown living. The residents of the proposed apartments have easy, walkable access to the downtown. (application)
7. This project will support the Town Plan by expanding residential uses in the upper stories of buildings in the downtown. (application)
8. The proposed use will not generate any of the following: noise, dust, odor, glare, vibration or radiation. (application)

¹ Member Becker indicated that he has provided accounting services for Mr. Bianco but felt he could be unbiased. Member Tillberg indicated that Mr. Bianco has swept his chimney on occasion. Neither member felt these affiliations constituted a conflict of interest and therefore they did not recuse themselves.

9. The proposed use does not have the potential to cause a hazard through fire, traffic, accident or unsanitary conditions. (application)
10. The project will generate minimal traffic or, at the very least, less traffic than was generated during dance studio classes. (application and testimony of G. Bianco)
11. With only one of the apartments having more than one bedroom, the potential increase in the enrollment in the local public schools will be minimal. (application)
12. The proposed project will increase the need for public water and wastewater services but will not create an adverse impact to those systems. (application)
13. The proposed project will not increase the need for emergency services, solid waste disposal nor any planned community services. (application)
14. The proposed project is in the downtown, which is a dense mixture of residential and commercial uses. The property abuts the railroad. (Exh. #3)
15. 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. Expansion of a non-conforming use – The additional 3 dwelling units will not result in a greater detrimental effect upon the community.
2. Conditional Use Criteria²
 - 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 that requires a continuous strip of not less than six (6) feet wide that is maintained between the right-of-way line and the balance of the lot and which is suitably landscaped is not applicable as the building covers the entire lot.
 - 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.

² Criteria A – D are from the RZR. Criteria E – I are required to be reviewed pursuant to 24 VSA Ch. 117 §4414(3).

- 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.

3. 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 criterion that requires that the proposed use, design and layout be 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 is not applicable because the building covers the entire lot.
- C. The criterion that requires that the proposed use and layout be 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 is not applicable because the building covers the entire lot.
- D. The criterion that requires that the proposed height and location of buildings, walls, fences, parking, loading and landscaping not interfere with or discourage the appropriate development in adjacent land or unreasonably affect its use is not applicable because the building covers the entire lot.

VI.

DECISIONS³

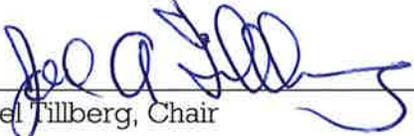
Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the conversion of a dance studio and offices space into 3 additional apartments as applied for in zoning permit application #Z16-5:

- A. The multi-family dwelling part of the building, which is a non-conforming use, may be expanded.
- B. The site plan approval is granted.
- C. The conditional use approval is granted with the condition that approvals from the state fire marshal and the public water and wastewater systems shall be obtained, if required.

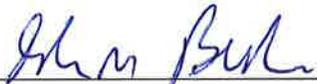
³ An interested party (as defined in 24 VSA §4465) who participated in this proceeding may appeal this decision to the Vermont Environmental Court within 30 days of the date of the decision, for a fee of \$262.50 and a notice in writing, certified mailed to the Environmental Court, giving reasons for 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 14th day of March, 2016.

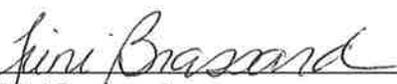
RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members



Joel Tillberg, Chair



John Becker



Trini Brassard



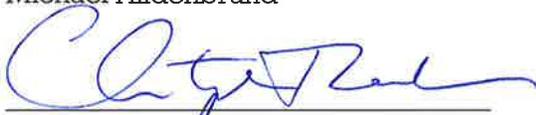
Thomas Malanchuk



Michael Hildenbrand



David Miles



Christopher Recchia