

**TOWN OF RANDOLPH, VERMONT
DEVELOPMENT REVIEW BOARD
MEMORANDUM OF DECISION**

(Findings of Facts and Conclusions, and Decision)

PERMIT: **#Z12-24**
PROPERTY ADDRESS: **784 Sunset Hill Road**
PARCEL NO.: **118010.020**
PARCEL SIZE: **10.1 acres**

PROPERTY OWNER: **Stephen Bohnyak**
784 Sunset Hill Road
Randolph, VT 05060

I. INTRODUCTION

On April 5, 2012, **Stephen Bohnyak** ("Applicant") filed an application for a zoning permit for a project generally described as a **2-lot subdivision**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on April 16, 2012.

Under the Randolph Land Subdivision Control Regulations and the Zoning Regulations ("Subdivision Regulations" and "Zoning Regulations", respectively, or "Regulations" collectively), projects are reviewed based on the 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 subdivision 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 April 30, 2012;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records.

The Board closed the public hearing on April 30, 2012, 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 Use 5-acre (RU5) District.
2. Subdivision approval is required, as the property was created in the Sunset Hill Partnership 8-lot subdivision in 1988 and Section 2.2 of the Subdivision Regulations states the following:

"When the owner of the initial lot, tract or parcel of land transfers ownership of a portion of that land to a person or corporation, *and that person or corporation further transfers*

ownership of any portion of that land, that person or corporation becomes a subdivider and must meet all requirements of this Subdivision Regulation.” (emphasis added).

On April 16, 2012, 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 attached Service List for this project identifies persons¹ who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were Joel Tillberg, John Becker, Trini Brassard, Gregg McCurdy, Christopher Recchia and Frank Reed.

IV. FINDINGS OF FACTS

The following findings are facts that were entered into the record for this application and were 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 owns a 10.1-acre parcel that was created in 1988 as part of a 8-lot subdivision of Sunset Hill Properties. The Applicant has filed an application to subdivide the 10.1 acres into 2 lot of 5 acres each, as shown on Exh. #1. (municipal records and application)
2. The original Exh. #1 showed an easement for access to the back lot along the east side of the property. A new survey was presented (Exh. #6) that did not show any easement and, at the hearing, the Applicant revised this latter survey to show a new location of the easement that is partly along the existing drive to the house on the front lot. (Exh. #6)
3. Subdivision approval is required pursuant to the Subdivision Regulations, as noted in Section II above. (Subdivision Regulations)

Compliance with development standards

4. The property is in the RU5 District. The minimum lot size for the RU5 District is 5 acres. The proposed lot sizes are 5 acres. (Zoning Regulations and application)
5. The minimum lot width in the RU5 District is 300 feet. Each proposed lot will have at least 300 feet of lot width. (Zoning Regulations and application)
6. Lot #2 does not have road frontage but does have a 50-foot wide easement for access to Sunset Hill Road, which is a public road. §5.6 of the Zoning Regulations requires an easement of at least 20 feet in width for access to a public road or water. (Exh. #6, municipal records and Zoning Regulations)
7. The front, side and rear setbacks for the RU5 District are 30 feet. The proposed lot lines will be farther from any structure than 30 feet. (Zoning Regulations and Exh. #6)

¹ By inclusion in this section of the Memorandum of Decision, the Board does not address the status of any of the people listed above as “interested persons” as defined in the above-referenced state statute.

8. The maximum allowable building coverage is 15% in the RU5 District, or 32,700 SF for a 5-acre lot. Lot #1 is the only lot with any building (700 SF) and, as a 5-acre lot, would have less than 1% of building coverage. (Zoning Regulations, municipal records and application)
9. The proposed project does not involve the creation of any public roads nor public utilities. (application)

V. CONCLUSIONS

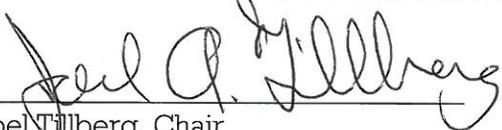
Based on the foregoing Findings of Fact, it is the conclusion of the Board that the project described in the application referred to above, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, will meet the development standards in the RU5 District. The Board also concludes that Section VI of the Subdivision Regulations is not applicable.

VI. DECISION²

Based upon the foregoing Findings of Facts and Conclusions, approval is hereby granted for the 2-lot subdivision as applied for in zoning permit application #Z12-24. The subdivision approval is granted as shown on Exh. #6 with the condition that it shall be completed in accordance with the application, plans and exhibits on file and the findings of fact which are incorporated herein.

Dated at Randolph, Vermont this 15th day of May, 2012.

RANDOLPH DEVELOPMENT REVIEW BOARD


Joel Tillberg, Chair

Trini Brassard

Gregg McCurdy


John Becker, Secretary


Frank Reed


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 Administrator. Failure to appeal this decision may prevent any party from arguing against its elements in a future hearing or appeal. 24 VSA §4472.

SERVICE LIST

Zoning Permit Application #Z12-24

Stephen Bohnyak

Stephen Bohnyak
784 Sunset Hill Road
Randolph, VT 05060

Donald and Louise Almeida
249 Summer Street
East Bridgewater, MA 02333-1351

Alan and Therese Heath
824 Sunset Hill Road
Randolph, VT 05060

Bold listings indicate applicants and/or their representatives.