

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

(Findings of Facts and Conclusions, and Decision)

PERMIT: **#Z13-88**
PROPERTY ADDRESS: **1916 East Bethel Road**
PARCEL NO.: **117053**
PARCEL SIZE: **115 acres**

PROPERTY OWNERS: **John and Gail Osha**
2799 East Bethel Road
Randolph Center, VT 05061
Christopher and Elizabeth Dutton
51 Church Street
South Royalton, VT 05068

I. INTRODUCTION

On October 22, 2013, **Christopher Dutton**, on behalf of all the property owners ("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 October 22, 2013.

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 November 18, 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 November 18, 2013, 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 3- and 5- Acre (RU3 and RU5, respectively) Districts.

2. Subdivision approval is required, as the property was first subdivided in 2003 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 October 29, 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.

Participating Board members were Joel Tillberg, John Becker, Thomas Malanchuk¹, David Miles and Christopher Recchia.

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 and Required Approval

1. The Applicant has filed an application for a 2-lot subdivision as shown on Exh. #1. (application)
2. In June of 2003, a 3.1-acre lot was subdivided from the subject property. (zoning permit #Z03-53)
3. Pursuant to §2.2 of the Subdivision Regulations, any further subdivision of this property requires subdivision approval. (Regulations)

Compliance with development standards

4. The property is in the RU3 and RU5 Districts. The minimum lot size for the RU3 and RU5 Districts are 3 and 5 acres, respectively. The proposed lot sizes are 5 and 110 acres. The 5-acre lot contains a single-family dwelling with an apartment and accessory garage. The 110-acre lot is used for agriculture and has no structures except a sugar shack. (Zoning Regulations, application and Exh. #2)
5. The minimum lot width in the RU3 and RU5 Districts is 300 feet. Each proposed lot will have at least 300 feet of road frontage. (Zoning Regulations and Exh. #1)
6. The only existing structures (not including the sugar shack), are in the RU3 District. The front, side and rear setbacks for the RU3 is 30 feet. The proposed lot lines will be farther from any structure than 30 feet. (Zoning Regulations and Exh. #1)

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

7. The maximum allowable building coverage is 15% in the RU3 District, or 32,670 SF for the proposed 5-acre lot. The building coverage is approximately 3000 SF, or 1% of the proposed 5-acre lot. (Zoning Regulations and application)
8. The development standards for setbacks and building coverage are not applicable to the 110-acre lot as there are no structures on the property except for the old sugar shack. (Zoning Regulations and Exh. #2)
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 RU3 and RU5 District. The Board also concludes that Section VI of the Subdivision Regulations is not applicable.

VI. DECISIONS²

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 #Z13-88. The subdivision approval is granted 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 November, 2013.

RANDOLPH DEVELOPMENT REVIEW BOARD

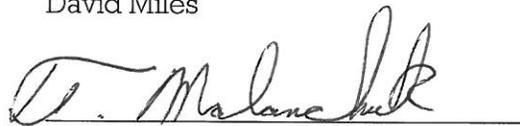

Joel Tillberg, Chair

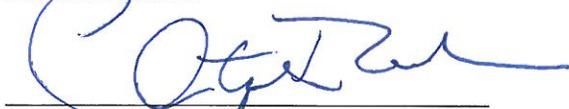

John Becker, Secretary

did not participate
Trini Brassard


David Miles

did not participate
Samuel Lincoln


Thomas Malanchuk


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 \$262.50 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.

