

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

(Findings of Facts, Conclusions, and Decision)

PERMIT: **#Z14-48**  
PROPERTY ADDRESS: **37 South Main Street**  
PARCEL NO.: **248022**  
PARCEL SIZE: **2.79 acres**

PROPERTY OWNER: **Estate of Thelma Buxton**  
**37 South Main Street**  
**Randolph, VT 05060**

APPLICANTS: **Marcia Eaton and Nancy Cassidy**  
**61 Rosewood Drive**  
**Randolph, VT 05060**

## **I. INTRODUCTION**

On July 28, 2014, Marcia Eaton and Nancy Cassidy, on behalf of the Estate of Thelma Buxton ("Applicant") filed an application for a zoning permit for a project generally described as adding a 3<sup>rd</sup> dwelling unit to an existing duplex. The application was deemed substantially complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on August 11, 2014.

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 August 25, 2014;
2. Documents contained in this application's file, the RZR, Town Plan and the Randolph municipal records.

The Board closed the public hearing on August 25, 2014 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 Civic-Tourist (CT) 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 a "multi-family dwelling". Such a use is listed as conditional on the Chart of Permitted and Conditional Uses and therefore conditional use approval is required.

On August 11, 2014, 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. Nancy Cassidy as the only participant in this proceeding

Participating Board members were John Becker, Matthew Murawski, Thomas Malanchuk, 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**

1. The applicant has filed an application for creating a one-bedroom apartment in a two-unit building. No external changes to the footprint of the building are proposed. No changes to the site are proposed either. (application)

#### **Consistency and compliance with Town Plan and ordinances. (SP criterion A, CU criteria A and H)**

2. The minimum lot size for the CT District is 15,000 SF per dwelling unit, for a total of 45,000 SF (1.03 acres) for the proposed project. The subject property is 2.79 acres. (application and RZR)
3. The required off-street parking is 1½ spaces per dwelling unit for a total of 5 spaces for the proposed project. The proposed project provides parking spaces for 5 cars with 3 additional spaces available in front of the barn. (application, RZR and Exh. #2)
4. The development standards for setbacks and coverages are not affected by this project as no increase in building footprint is proposed. (application)
5. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. However, the proposed project does comply with the following general goal of the Plan: "#1. Encourage a compact, efficient pattern of settlement that allows for new growth, while preserving the essential rural characters and livelihoods that are central to Randolph's beauty, legacy and quality of life. (page 8 Town Plan)

#### **Traffic and nuisance considerations (SP criterion C and CU criteria B, C and G)**

6. The proposed use will not generate any of the following: odor, noise, dust, glare, vibration or radiation. (application)
7. The proposed use does not have the potential to cause a hazard through any of the following: fire, traffic, accident or unsanitary conditions. (application)

8. The proposed use will utilize Rosewood Drive, a private road which takes access off South Main Street, which is a Class 1 town highway. (application and Exh. #1)
9. The additional traffic from the one-bedroom dwelling unit will be minimal. (application)

**Continuous strip** (CU criterion D)

10. No changes to the site are proposed. (application)

**Municipal services** (CU criterion E)

11. As the proposed project involves a minor increase in the general population, it does have the potential to increase the need for the following public services: emergency services, water, sewer, and solid waste disposal. As the additional unit is only a one-bedroom, and will result in the reduction in bedrooms previously in the building, the increases are negligible. (application)

**Character of the area** (SP criterion B and CU criterion F)

12. The surrounding area is a mixture of dense residential, commercial and medical/institutional uses. Creating a small one-bedroom apartment within an existing structure with no external modification will not have an effect on the adjacent properties or the area. (application)

**Renewable energy resources** (CU criterion I)

13. 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. Conditional Use Criteria<sup>1</sup>

- 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. A continuous strip of not less than six (6) feet wide will be maintained between the right-of-way line and the balance of the lot which will be suitably landscaped.
- 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.

---

<sup>1</sup> Criteria A – D are from the RZR. Criteria E – I are required to be reviewed pursuant to 24 VSA Ch. 117 §4414(3).

- G. The proposed use shall not have an undue adverse effect on the traffic on roads and highways in the vicinity.
- 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.

**2. 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.**

**DECISIONS<sup>2</sup>**

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the addition of a 3<sup>rd</sup> dwelling unit as applied for in zoning permit application #Z14-48:

- A. The 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. #2.
  - 3. 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 nor required parking spaces.
  - 4. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
  - 5. 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.

---

<sup>2</sup> 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.

- B. The condition use approval is granted with the following conditions:
1. The project shall be operated in accordance with the application and the findings of fact which are incorporated herein.
  2. Any expansion of the use shall require approval pursuant to the regulations in effect at the time of re-application.

Dated at Randolph, Vermont this 30<sup>th</sup> day of September, 2014.

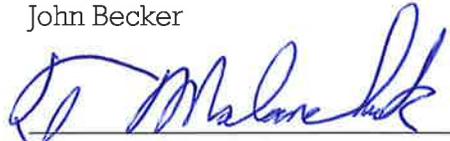
RANDOLPH DEVELOPMENT REVIEW BOARD  
Concurring Board Members

  
\_\_\_\_\_  
Joel Tillberg, Chair

  
\_\_\_\_\_  
Matthew Murawski

  
\_\_\_\_\_  
David Miles

\_\_\_\_\_  
John Becker

  
\_\_\_\_\_  
Thomas Malanchuk

\_\_\_\_\_  
Christopher Recchia

Mr. D. J. [unclear]

[unclear]