

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

PERMIT: **#Z11-31**  
PROPERTY ADDRESS: **15 - 17 Harlow Hill**  
PARCEL NO.: **105000**  
PARCEL SIZE: **1 acres**

PROPERTY OWNER: **Harlow Hill Townhouses Association  
c/o Gary Ferris  
15A Harlow Hill  
Randolph, VT 05060**

## **I. INTRODUCTION**

On June 2, 2011, Gary Ferris, on behalf of **Harlow Hill Townhouses Association** ("Applicant") filed an application for a zoning permit for a project generally described as a revised site plan for a planned unit development. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on June 7, 2011.

Under the Randolph Zoning Regulations ("Regulations"), 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 June 29, 2011;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records, including Notices of Decision (NOD) for previous approvals for this property.

The Board closed the public hearing on June 29, 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 Use-5 acre (RU5) District.
2. As the project is not either a one- or two-family dwelling and is a modification to an approved site plan, site plan re-approval is required.

On June 7, 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 attached Service List for this project includes the Applicant’s representative and persons<sup>1</sup> who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were John Becker, Trini Brassard, Scott Berkey<sup>2</sup>, Frank Reed, Krista Rumrill 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 to remove a chain link fence along the northern property line as described on Exh. #1 and shown on Exh. #2. (application)
2. The fence was shown and installed as part of the approved site plan for the planned unit development. (municipal records)

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

3. The development standards related to minimum lot size, setbacks, building coverage and parking requirements are not affected by this proposed project. (Regulations and application)
4. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)
5. The purpose of the Rural Use Districts is: “To protect and encourage farming of all kinds, as an important part of the Town’s economic base...” (Regulations)

#### Character of the area and traffic and pedestrian considerations (SP criteria B and C)

6. Site plan criteria B and C are not affected by this proposed project. (Regulations and application)

#### Affects on adjacent land (SP criterion D)

7. The surrounding area is a mixture of agricultural, residential and commercial uses. The adjoining properties are used for cow pasturing, undeveloped forest, commercial office and residential uses. (NOD for zoning permit #Z03-13)
8. A barbed wire fence currently exists directly behind the chain link fence that is proposed to be removed. (Exh. #1)

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<sup>1</sup> 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.

<sup>2</sup> Scott Berkey is an alternate member who was sitting in place of absent regular members.

9. The barbed wire fence is on the adjacent property and is used to contain pasturing cows. The abutting property owner does not want people walking on that property and although there is the barbed wire fence, the chain link fence is an added measure for keeping people off of the property. (NOD for zoning permit #Z03-13 and testimony of W. Davoll)
10. As the fence to be removed is chain link, it does not provide any screening. And even though there haven't been any incidents of residents being injured by the fencing, it does act as a deterrent for residents and helps keep them safely away from the barbed wire fence and off the adjacent property where the cows are pastured. (Exh. #1 and testimony of W. Davoll and G. Ferris)
11. Removal of the chain link fence will make the property more attractive but it would remove the barrier to the abutting property. The chain link fence could be replaced with a more attractive type of fence, such as split rail, or a stone wall. (Exh. #1 and testimony of E. Daniel and G. Ferris)

## V. CONCLUSIONS

Based on the foregoing Findings of Fact, the Board makes the following conclusions regarding the site plan criteria and the project described in the application referred to above and including the Applicant's representations at the public hearing (*comments italicized*):

- 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, parking, loading and landscaping will not interfere with or discourage the appropriate development in adjacent land or unreasonably affect its use, however, the fence location WILL interfere with the adjacent land.

*The removal of the fence acts as a deterrent for residents and helps keeps them safely away from the barbed wire fence thereby allowing the continued appropriate use of the adjacent land for cow pasturing.*

## VI. DECISIONS<sup>3</sup>

1. Based upon the foregoing Findings of Facts and Conclusions, the Board hereby does not grant approval for the site plan for the removal of the fence along the northern property

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<sup>3</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 \$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.

line as applied for in zoning permit application #Z11-31 and including the evidence and testimony entered into the record as Findings of Fact.

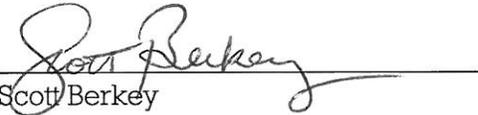
Dated at Randolph, Vermont this 27<sup>th</sup> day of July, 2011.

RANDOLPH DEVELOPMENT REVIEW BOARD

Concurring Board Members

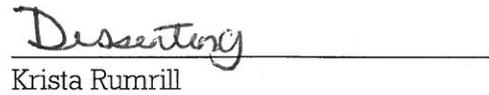
  
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Joel Tillberg, Chair

  
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Trini Brassard

  
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Scott Berkey

  
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John Becker

  
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Frank Reed

  
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Krista Rumrill

SERVICE LIST

Zoning Permit Application #Z11-31  
Harlow Hill Townhouses Association

Emilie Daniel  
17B Harlow Hill  
Randolph, VT 05060

Warren and Barbara Davoll  
353 Windover Road  
Randolph, VT 05060

Gary Ferris  
15A Harlow Hill  
Randolph, VT 05060

**Bold listings indicate applicants and/or their representatives.**

