

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

PERMIT: **#Z14-50**
PROPERTY ADDRESS: **27 South Main Street**
PARCEL NO.: **248013**
PARCEL SIZE: **0.84 acres**

PROPERTY OWNER: **Alfred Leonard**
27 South Main Street
Randolph, VT 05060

I. INTRODUCTION

On July 28, 2014, **Alfred Leonard** ("Applicant") filed an application for a zoning permit for a project generally described as a **bookshop in an existing barn**. 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 11, 2014;
2. Documents contained in this application's file, the RZR, Town Plan and the Randolph municipal records, including Notice of Decision for zoning permit #Z05-84 ("NOD") for office space.

The Board closed the public hearing on August 11, 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 "general retail sales". 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. The Applicant was the only participant in this proceeding.

Participating Board members were John Becker, Thomas Malanchuk, Matthew Murawski¹, 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 the use of 722 SF within an existing attached barn to be converted to a bookshop as shown on Exh. #2. (application, Exh. #5)
2. The bookshop will be open Saturdays from 9 AM to 5 PM and by appointment all other times. Bookshop is not open during the winter except my appointment. (application, testimony of A. Leonard)
3. The business will include occasional literary workshops and readings. These will not be held in the evening. (testimony of A. Leonard)
4. No external changes to the building or property are proposed. (testimony of A. Leonard)

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

5. The development standards for setbacks and coverages are not affected by this project as no increase in building footprint is proposed. (application)
6. The required off-street parking for the residence is 2 spaces and for retail space is 6 spaces per 1,000 SF of gross floor space. Past precedent is to modify the requirement for retail space to 4 spaces per 1,000 gross floor space. This would mean a total of 5 required parking spaces. The proposed project provides parking spaces for 6 cars. (application, RZR)
7. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. However, an antiquarian and general bookstore is consistent with the economic goal to "retain and enhance quality of life assets" and to promote environmentally-friendly tourism." (Town Plan, application)

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

8. The proposed use will not generate any of the following: noise, dust, odor, glare, vibration or radiation. (application)

¹ Mr. Murawski is an alternate member of the Board who was sitting in place of Member Trini Brassard pursuant to Section 206D of the Board's Rules of Procedure. Ms. Brassard did not participate in this Decision.

9. The proposed use does not have the potential to cause a hazard through fire, traffic, accident or unsanitary conditions. (application)
10. The proposed use will utilize South Main Street, which is a Class 1 town highway with a posted speed limit of 25 miles per hour. (application)
11. One to two pedestrians are expected. There are no sidewalks on the subject property's side of South Main Street and there are no crosswalks across South Main Street in the vicinity of the subject property. (Exh. #1)
12. The four parking spaces to the south of the house will be designated for customers and the 2 by the barn will be for the residents of the house. Signage will be put up directing customers to the south lot. (testimony of A. Leonard)
13. Customers get to the bookshop from the south parking area through the house and over a breezeway. (testimony of A. Leonard)
14. There is sufficient area for vehicles to turn around in the south parking area before exiting the property therefore backing out onto South Main Street is not necessary. (testimony of A. Leonard)
15. Due to the limited hours of operation, minimal traffic is expected. (application)
16. The property owner will be the only person working in the bookshop. (testimony of A. Leonard)

Continuous strip (CU criterion D)

17. There is lawn and trees between the house and road that is over 6 feet wide. There is also lawn and trees between the barn and road, which is farther from the road than the house. (Exh. #1)

Municipal services (CU criterion E)

18. The proposed use does not have the potential to increase enrollment in local public schools nor the need for emergency service, public water and/or sewer capacity, solid waste disposal or other planned community service. (application)

Character of the area (SP criteria B and D, and CU criterion F)

19. The surrounding area is a mixture of residential, medical and commercial uses in close proximity to the downtown. The adjoining properties are used as one- or two- family residences. (NOD)
20. The proposed project does not involve any external modifications to the existing building or site. (application)

Renewable energy resources (CU criterion I)

21. 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 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. 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.
- 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. DECISIONS³

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the bookshop as applied for in zoning permit application #Z14-50:

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

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

- A. The site plan approval is **granted** with the following conditions:
1. The property shall be utilized as shown on the exhibits and completed and operated in accordance with the application and the findings of fact which are incorporated herein.
 2. All landscaping shown on Exh. #2 that is required for screening shall be maintained in a healthy, living condition.
 3. There shall be signage directing customers to parking on south side of house.
 4. Spaces in the south parking area shall be demarcated.
 5. 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.
 6. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
 7. 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.
- 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 30th day of September, 2014.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members



Joel Tillberg, Chair

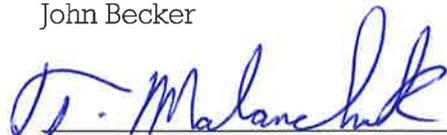


Matthew Murawski



David Miles

John Becker



Thomas Malanchuk

Christopher Recchia

DISSSENT: 


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.

W. H. ...