

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

PERMIT: **#Z11-67**
PROPERTY ADDRESS: **1650 Davis Road**
PARCEL NO.: **116032.010**
PARCEL SIZE: **65 acres**

PROPERTY OWNER: **Marc McPhetres**
1650 Davis Road
Randolph Center, VT 05061

I. INTRODUCTION

On September 19, 2011, **Marc McPhetres** ("Applicant") filed an application for a zoning permit for a project generally described as a **meat-cutting business**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on September 19, 2011.

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 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 September 29, 2011;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records, including the Memorandum of Decision for Dale Barnard ("MOD #Z05-13") as it relates to cottage industries.

The Board closed the public hearing on September 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, site plan approval is required.
3. The use is categorized as "home or cottage industry." Such a use is listed as permitted on the Chart of Permitted and Conditional Uses.

On September 19, 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 Applicant was the only participant in this proceeding.

Participating Board members were John Becker, Thomas Malanchuk¹, Christopher Recchia, Frank Reed 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 and Required Approval

1. The applicant has filed an application for the conversion of approximately 500 SF of accessory residential space into a meat-cutting business as shown on Exhs. #1 – 4. No new structures are proposed. Exh. #4 was revised at the hearing to show where the solid waste dumpster will be located. (Exhs. #1 – 3 and application)
2. The applicant is going to operate this business on a part-time, as-needed basis. There will be no slaughtering as part of the business, although the applicant may slaughter his own animals. (application and testimony of M. McPhetres)
3. The property currently has 2 single-family residences on it. The applicant lives in one and the other is rented. (Exh. #1 and testimony of M. McPhetres)
4. The proposed meat-cutting room is in space accessory to the rented dwelling. (Exhs. #2 – 4)
5. As one of the residences on the property will be occupied by the owner of the proposed business, and the proposed business will employ up to four people other than the owner and will generate minimal traffic, the proposed use of the property is categorized as a “cottage industry” which is permitted in the RU5 District and therefore no use approval is required. (application, testimony of M. McPhetres, past precedent (see MOD #Z05-13 for Dale Barnard) and RZR)

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

6. The minimum lot size for the RU5 District is 5 acres. The subject property is 65 acres. (RZR and application)
7. The development standards related to setbacks and coverages are not applicable as no new structures are proposed. (RZR and application)
8. The required off-street parking shall be set by the Board. There are several parking areas proposed or existing: one with 2 spaces for the tenants of the dwelling and one with 6 spaces for employees and customers of the business. The applicant will park next to his house (building #1). (RZR, Exh. #4 and testimony of M. McPhetres)

¹ Thomas Malanchuk is an alternate member who was sitting in place of absent regular members.

9. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)

Character of the area (SP criteria B)

10. The surrounding area is a mixture of rural, agricultural and residential uses. The adjoining properties are used as farms and residences. (application)
11. It is anticipated the proposed project will generate 1 customer per day, on average. The peak period will be in the Fall hunting season, when traffic could be as much as 4 customers per day, any day of the week. (application)
12. The proposed business will be run with few employees and in an existing building. (application)
13. The applicant revised Exh. #4 at the hearing to indicate the location of the solid waste dumpster. The proposed location will be such that the building next to it will screen it from neighboring properties. (Exh. #4 and testimony of M. McPhetres)

Traffic and pedestrian considerations (SP criterion C)

14. The proposed use will utilize Davis Road, which is a Class 3 town highway with a posted speed limit of 35 mph. (application)
15. No changes to the existing accesses to Davis Road are proposed. (Exh. #2)
16. The parking as shown on Exh. #4 is existing. (testimony of M. McPhetres)

Affects on adjacent land (SP criterion D)

17. No new buildings, wall, fencing, parking loading or landscaping is proposed. (Exhs. #2 - 4)

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 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, if any, will not interfere with or discourage the appropriate development in adjacent land or unreasonably affect its use.

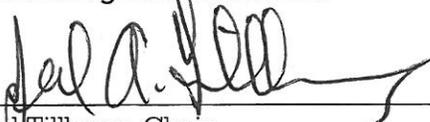
VI. DECISIONS²

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the site plan for the meat-cutting business as applied for in zoning permit application #Z11-67 and including the evidence and testimony entered into the record as Findings of Fact.

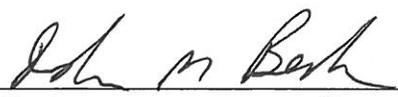
1. The off-street parking requirement is set at 6: 4 for employees and 2 for customers.
2. Should the business employ more than four (4) non-household employee or should the business owner cease to reside in a dwelling on the property, the business cannot be classified as a cottage industry and compliance with the zoning regulations in effect at that time shall be required, which may include conditional use, site plan or other such approvals.
3. Site plan approval is granted with the following conditions:
 - A. Development shall be as shown on Exhs. #3 and 4.
 - B. Snow from parking areas must not be plowed onto public highways, adjoining streams or waterways, or onto abutting properties. Snow piles shall not interfere with sight distances at the access points. Snow must be plowed elsewhere on the subject property or removed.
 - C. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
 - D. 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.

Dated at Randolph, Vermont this 31st day of OCTOBER, 2011.

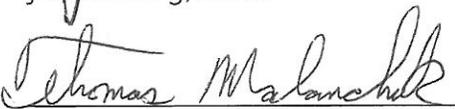
RANDOLPH DEVELOPMENT REVIEW BOARD Concurring Board Members



Joel Tillberg, Chair



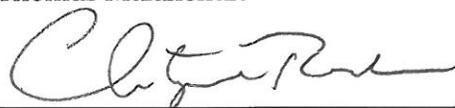
John Becker



Thomas Malanchuk



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 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.