

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

PERMIT: **#Z12-9**  
PROPERTY ADDRESS: **86 Dylan Drive**  
PARCEL NO.: **121016.020**  
PARCEL SIZE: **1.4 acres**

PROPERTY OWNER: **Joan Mannix (Levy)**  
**PO Box 905**  
**Norwich, VT 05055**

APPLICANT: **Matthew and Sarah Murawski**  
**PO Box 292**  
**Randolph, VT 05060**

**I. INTRODUCTION**

On February 22, 2012, **Matthew and Sarah Murawski** ("Applicant") filed an application for a zoning permit for a project generally described as conversion of a building from retail space and a chiropractor's office into office space and a veterinary hospital. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on February 29, 2012.

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 March 27, 2012;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records.

The Board closed the public hearing on March 27, 2012 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 Village (RV) District.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.

3. The proposed uses of personal and professional business offices and veterinary hospitals and facilities are listed as conditional on the Chart of Permitted and Conditional Uses and therefore conditional use approval is required.

On February 29, 2012, 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. Applicants Matthew and Sarah Murawski were the only participant in this proceeding.

Participating Board members were John Becker, Samuel Lincoln, Thomas Malanchuk<sup>1</sup>, Gregg McCurdy, 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 Approvals**

1. The applicant has filed an application for conversion of a building formerly used for retail space and a chiropractor's office into a veterinary hospital and boarding (hereinafter referred to as the "veterinary facility") and office space of 2,500 and 1,500 SF, respectively, as shown on Exh. #1. This exhibit was revised to show screening for the dumpster and a slightly different configuration of parking behind the building. (application and Exh. #1)
2. The veterinary facility will be open weekdays 7:30 AM to 5 PM, with two days a week open until 8 PM, and on Saturday 7:30 AM to noon. The office space will be open weekdays only from 8 AM to 5 PM. (application)
3. No changes to the boundaries/limits of previously-approved areas designated for parking and loading are proposed. However, the configuration of the parking spaces within these boundaries are proposed to be different from the previous site plan. The parking area along the west side (VT Route 12S) will provide 10 parking spaces in a single row and the loading area along the east side (Dylan Drive) is proposed to be a parking area accommodating 4 parking spaces and a screened dumpster. (Exhs. #1 and 2)
4. Both proposed uses are listed as conditional uses on the Chart of Permitted and Conditional Uses and therefore require conditional use approval. (application and RZR)

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

5. The minimum lot size for the RV District is 20,000 SF. The subject property is 1.4 acres. (RZR and application)
6. The required off-street parking for the office space is 1 space for every 250 SF of gross floor space and is set by the Board for the veterinary facility. The revised site plan

---

<sup>1</sup> Thomas Malanchuk is an alternate member who was sitting in place of absent regular member Trini Brassard.

provides a total of 13 off-street parking spaces. The office space requires 6 spaces which leaves 8 spaces for the veterinary facility. (RZR and Exh. #1)

7. The development standards for setbacks and coverages are not affected by this project as no increase in building footprint is proposed. (application)
8. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. However, the proposed project is supported in a general manner by several goals related to land use (Ch. 3A) and economic development (Ch. 8A). (application and Town Plan)
9. The purpose of the Rural Village Districts is : "To provide areas for residence and commerce to co-exist in the same neighborhood and allow for future growth as an economic and social center for the surrounding area." The Dylan Drive neighborhood is a neighborhood with commercial and residential uses. (RZR and Exh. #2)

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

10. The proposed uses will not generate any of the following: odor, glare, vibration, noise, dust or radiation. A common concern of veterinary facilities that provide boarding of animals is noise. For the proposed project, animals will have no access to the outside except when on a leash and under the control of a staff member. (application)
11. The proposed fence is a security measure to prevent non-hospital dogs from interacting with animals under the hospital's care. (application)
12. Deceased animals not taken by owners are stored in a freezer and picked up weekly by a cremation service. (application)
13. The proposed use will utilize Dylan Drive, which is a Class 3 town highway that dead-ends approximately 350 feet beyond the access to the property and sees very little traffic. (Exhs. #1 and 3)
14. The parking area off of Dylan Drive (behind and to the east of the building) will be for employee use and loading only. (Exh. #1)
15. The revised site plan shows a narrower access point to the employee/staff parking in the back of the building. (Exh. #1).
16. The office space is anticipated to generate 3 – 5 vehicle trips per day. The veterinary facility is proposed to generate 20 – 25 daily vehicle trips. (application)
17. The office space is anticipated to have one-hour peak periods twice a day (8 – 9 AM and 4 – 5 PM). These coincide with the two-hour peak periods twice a day for the veterinary facility of 8 – 10 AM and 4 – 6 PM. The number of peak vehicle trips is 2-4 and 4-6 for the office space and veterinary facility, respectively. (application)
18. No pedestrian traffic is anticipated for either proposed use. (application)

#### **Continuous strip** (CU criterion D)

19. The revised site plan shows a 6-foot wide continuous strip between the employee/staff parking area and Dylan Drive. (Exh. #1)

#### **Municipal services** (CU criterion E)

20. As the proposed use is not a residential use, it will not increase the enrollment in local public schools. (application)

21. The subject property is outside of the Randolph Police District therefore this service is not provided by the municipality. (Randolph Municipal Records)
22. The proposed uses do not have the potential to increase the need for any municipal services (application)

#### Character of the area and affect on adjacent land (SP criteria B and D, and CU criterion F)

23. Due to the location of the property (in the middle of a dead-end road less than a ½-mile long), the area affected by the proposed project is primarily the properties on Dylan Drive. Of the 9 properties that take access off Dylan Drive, 5 are single-family residences and 4 are commercial, including retail sales, self-storage facility and auto detailing shop. (application and municipal records)
24. No changes are proposed to existing building and to the general site plan of the property (i.e. no expansion of parking) except for the access to the designated employee parking area. (Exh. #1)
25. The building has been vacant for approximately two years. The previous uses of the building include a chiropractor's office, retail sales and small engine repairs. (application and municipal records)
26. The revised site plan shows the dumpster screened on the east and south sides, which is the direction of the residences on Dylan Drive. (Exh. #1 and 3)
27. The proposed fence will be 2- or 3-rail style, 3-4' feet tall with woven wire affixed to the inside. Along southern property line, fence may be woven wire on T-post without wooden rails. (Exh. #1)
28. No walls or landscaping are proposed. (Exh. #1)

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

29. 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>2</sup>

- A. The proposed use is not inconsistent with the objectives of the Town Plan and is not inconsistent 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.

---

<sup>2</sup> Criteria A – D are from the Randolph Zoning Regulations. Criteria D – I are required to be reviewed pursuant to 24 VSA Ch. 117 §4414(3).

- 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. DECISIONS<sup>3</sup>**

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions for the site plan and conditional use as applied for in zoning permit application #Z12-9:

- A. The off-street parking requirement for the veterinary office is set at 7 parking spaces.
- B. The site plan approval is granted with the following conditions:
  - 1. The project shall be constructed as shown on Exh. #1 as revised at the hearing, completed and operated in accordance with the application, plans and exhibits on file and the findings of fact which are incorporated herein.

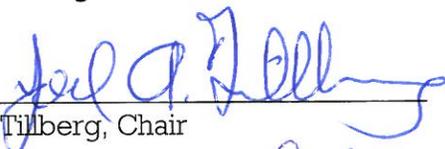
---

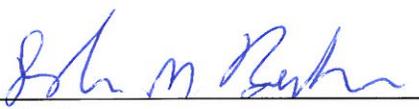
<sup>3</sup> An interested party (as defined in 24 VSA §4465) who participated in this proceeding may appeal this decision to the Vermont Environmental Court within 30 days of the date of the decision, for a fee of \$250 and a notice in writing, certified mailed to the Environmental Court, giving reasons 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.

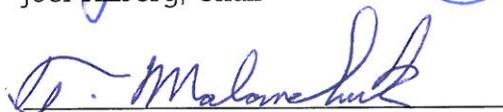
2. Snow from parking areas must not be plowed onto public highways, adjoining streams or waterways, or onto abutting properties. Snow must be plowed elsewhere on the subject property or removed. Snow removal and storage shall not interfere with sight distances of the accesses.
  3. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
  4. 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.
- C. The condition use approval is granted with the condition that the project shall be operated in accordance the application, plans and exhibits on file and the findings of fact which are incorporated herein and any expansion of the uses 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 April, 2012.

RANDOLPH DEVELOPMENT REVIEW BOARD  
Concurring Board Members

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

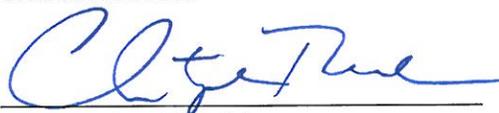
  
\_\_\_\_\_  
John Becker

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

  
\_\_\_\_\_  
Frank Reed

\_\_\_\_\_  
Samuel Lincoln

  
\_\_\_\_\_  
Gregg McCurdy

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