

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

PERMIT: **#Z15-35**
PROPERTY ADDRESS: **2236 VT Route 12N**
PARCEL NO.: **102045**
PARCEL SIZE: **52.3 acres**

PROPERTY OWNER: **Pauline Poulin**
d/b/a Vermont Maple BBQ
2236 VT Route 12N
Randolph, VT 05060

I. INTRODUCTION

On May 27, 2015, Pauline Poulin ("Applicant") filed an application for a zoning permit for a project generally described as a restaurant. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on June 11, 2015.

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 22, 2015;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records.

The Board closed the public hearing on June 22, 2015 and rendered an oral decision in this matter. This written decision is required pursuant to 24 VSA ch. 36 §1409 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 "restaurant". Such a use is listed as permitted on the Chart of Permitted and Conditional Uses.

On May 28, 2015, 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 and abutter George Phillips were the only participants in this proceeding.

Participating Board members were John Becker, Michael Hildenbrand, 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 a restaurant as shown on Exh. # 2. The applicant revised Exh. #2 at the hearing such that the overflow parking area to the north is eliminated, 4 picnic tables and a port-a-potty will be located to the north of the carport and the dumpster will be to the south of the carport. These tables may be located in the car port shelter. Another site plan, Exh. #3, was submitted showing an alternate location for the mobile catering unit. This Exh. #3 was withdrawn when Exh. #2 was revised. (application, testimony of P. Poulin)
2. The restaurant is food service from a mobile catering unit. Additionally, the applicant's residence is on the property and some food preparation may take place in her kitchen. No food service or seating will be in the residence. (application and testimony of P. Poulin)
3. The restaurant will be open 7 days a week from 11 AM to 11 PM. Pick-up of catered food may occur at other hours. There will also be an occasional on-site event such as family reunions, etc., but the property will not be an event venue. Such on-site events may utilize the now-eliminated northern overflow parking area and also may involve installation of an event tent. (application, testimony of P. Poulin)
4. The applicant will continue to bring the mobile catering unit off-site for events such as the Tunbridge Fair. During normal operations, the site will be utilized as indicated on revised Exh. #2. (testimony of P. Poulin)

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

5. The minimum lot size for the RU5 District is 5 acres per principal use. There currently is a single-family dwelling and the restaurant would be a second principal use thereby requiring 10 acres. The subject property is 52 acres. (Regulations, application)
6. The development standards regarding setbacks and building coverage are not applicable as the restaurant is a mobile catering unit. (Regulations and application)
7. The required off-street parking is 6 spaces for every 1,000 SF of gross floor space. The mobile catering unit is 300 SF and the carport that may be used for seating is 480 SF, for a total of 780 SF, which requires 5 spaces. The proposed project provides parking spaces for 22 cars and overflow parking to the south of the main parking with an additional parking for 45 vehicles. (Regulations, application and Exhs. #2 and 4)
8. 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)

9. The surrounding area is a mixture of rural, agricultural and residential uses with much open land. The adjoining properties are used as single-family residences and farming. (application)
10. The restaurant has been in operation on the property for a while (months). Its continued operation is supported by numerous neighbors. (testimony of P. Poulin and G. Phillips, Exh. #7)

Traffic and pedestrian considerations (SP criterion C)

11. The property takes access from VT Route 12N, as Class 1 state highway. A state highway access permit is not needed for the project. (Exh. #1)
12. VT Route 12N has a posted speed limit of 50 miles per hour at the access to the property. The sight distances at the access are over 1,000 feet in both directions. (application)
13. No pedestrian access to the property is anticipated. (application)
14. Vehicles will be separated from the mobile catering unit with fencing or posts and chains. (Exh. #2)

Affects on adjacent land (SP criterion D)

15. No new buildings, walls, fencing or landscaping is proposed. (Exhs. #2 and 3)

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

VI. DECISIONS¹

Based upon the foregoing Findings of Facts and Conclusions, approval is hereby granted for the site plan for the restaurant as applied for in zoning permit application #Z15-35 and as revised at the public hearing. Site plan approval is granted with the following conditions:

1. The project site shall be developed and 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. The mobile catering unit shall only provide food service if located as indicated on Exh. #2.
3. Vehicles shall not be allowed to park on VT Route 12N.
4. The access and all parking areas shall remain unobstructed.
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 or designated parking areas.
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.

Dated at Randolph, Vermont this 3rd day of August, 2015.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members

Joel Tillberg, Chair

Christopher Recchia

Michael Hildenbrand
Michael Hildenbrand

John M. Becker
John Becker

Thomas Malanchuk
Thomas Malanchuk

David Miles
David Miles

¹ 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.