

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

PERMIT: **#Z16-46**
PROPERTY ADDRESS: **2 Central Street¹**
PARCEL NO.: **207002**
PARCEL SIZE: **0.94 acres**

PROPERTY OWNER: **Town of Randolph**
Randolph Village Fire Department (RFVD)
PO Drawer B
Randolph, VT 05060

I. INTRODUCTION

On June 27, 2016, Michael Hildenbrand, on behalf of the Town of Randolph ("Applicant") filed an application for a zoning permit for a project generally described as a **new fire station**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on July 6, 2016.

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 July 26, 2016;
2. Documents contained in this application's file, the RZR, Town Plan and the Randolph municipal records.

The Board closed the public hearing on July 26, 2016 and subsequently completed deliberations. This written decision is prepared as required pursuant to 24 VSA ch. 36 §1309.

II. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the Residential (RES) 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 "fire station". Such a use is listed as conditional on the Chart of Permitted and Conditional Uses and therefore conditional use approval is required.

¹ For this project, the Town purchased the adjacent properties at 1 and 3 Park Street, parcel numbers 236001 and 236003 and 0.39 and 0.23 acres, respectively. The information and reference to "subject property" herein is for the 3 lots combined.

4. The proposed project is a community-owned and operated facility. As such, review of it is limited pursuant to 24 VSA §4413².

On July 6, 2016, 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. Applicant's representative Michael Hildenbrand³ was the only participant in this proceeding.

Participating Board members were John Becker⁴, Matthew Murawski, Paul Putney, 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 new fire station to replace the one that was destroyed by fire, as shown on Exhs. #1, 3 and 4. The fire station will operate as the previous one did except that there will be more training on-site. (application, testimony of M. Hildenbrand)

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

2. There is no minimum lot size in the RES District for non-residential uses. The subject property is 0.94 acres. (application and RZR)
3. The minimum front and rear setback requirement in the RES District 30 feet and the minimum side setback requirement is 20 feet. The shortest proposed setback distance is 38 feet to the front, 22 feet to the rear and 10 feet to the side property lines. (application, RZR and Exh. #4)
4. The building was designed to meet current Vermont state building codes which include such things as two bathrooms, minimum sizing per person in the training room and two drinking

² 24 VSA §4413(a)(1) states: "The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use: (A) State- or community-owned and operated institutions and facilities."

³ Mr. Hildenbrand is a regular member of the Board. He did not participate as a Board member for this proceeding or Decision.

⁴ Mr. Becker is an alternate member of the Board who was sitting in place of absent regular members pursuant to Section 206D of the Board's Rules of Procedure.

- fountains. The size of the building also includes an extra bay for future functions that are anticipated at some time during the life of the building. (Exh. #3).
5. In addition to items required by state building codes, the fire vehicle bays, mechanical/electrical rooms and work area, the building also includes a 845-square foot (SF) training room which appears to seat 48 people, a 210-SF kitchen, and a total of 580 SF of office space in four rooms, 115 SF of which would become a stairway to a partial second floor if constructed in the future. The kitchen is used for the ham and bean suppers the fire department puts on as a fundraiser. (Exh. #2 and 3 and testimony of M. Hildenbrand)
 6. Training currently takes place off site, usually on the Vermont Technical College campus. (testimony of M. Hildenbrand)
 7. The proposed parking is for 21 non-accessible spaces to the west of the building and 3 to the east. During a fire call, it is the intent of this project to park all fire personnel on-site. The applicant is currently capable of having up to 25 fire personnel. The 3 spaces to the east will be used only during fire calls. The Chief and assistant Chief will park in front of the unused bay. The previous fire station property had 6 delineated parking spaces. (Exh. #3 and 4 and testimony of M. Hildenbrand)
 8. If the building were moved forward (i.e. to the south) to meet the 30-foot rear setback requirement, the longest fire vehicle would protrude into Central Street if not in the bay. (testimony of M. Hildenbrand)
 9. The maximum allowable building coverage is 25% in the RES District, or 10,400 SF for the subject property. The proposed building coverage is 8,637 SF, or 21%. (application and RZR)
 10. Compliance with the Town Plan and other ordinances of the Town is not applicable pursuant to 24 VSA §4413 (a)(1).

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

11. The proposed fire station is located on the same site as the previous fire station. The proposed building and parking will be larger than what was previously there but will serve similar functions including the following noise-generating functions: personal/public vehicle traffic entering and exiting the site, fire apparatus entering and existing the site, fire department and public function such as meetings and trainings and use and testing of the emergency generator. (Exh. #5)
12. The new building will be far superior in construction and therefore better noise attenuation and the generator will also have noise attenuation. (Exh. #5 and testimony of M. Hildenbrand)
13. The previous fire station only had one access for fire personnel and it was a shared driveway with an apartment building. The project proposes to keep the shared driveway for a few vehicles to use during a fire call, but to install a new access for the bulk of the traffic to the site. This new location is off of Park Street, not Central Street which is a less-travelled road. (Exh. #5)
14. The peak traffic generated as a result of the proposed project will not change significantly from previous benchmarks. (Exh. #5)
15. The parts of CU criterion B relating to anything other than noise and traffic are not applicable pursuant to 24 VSA §4413 (a)(1).

Municipal services (CU criterion E)

16. The criterion related to affect on existing and planned community services not applicable pursuant to 24 VSA §4413 (a)(1).

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

17. The criteria related to character of development and the project's effect on the surrounding area are not applicable pursuant to 24 VSA §4413 (a)(1).

Renewable energy resources (CU criterion I)

18. The criterion related to renewable energy resources is not applicable pursuant to 24 VSA §4413 (a)(1).

V. CONCLUSIONS

Based on the foregoing Findings of Fact, the Board makes the conclusions below about the project as applied for and including the Applicant's representations at the public hearing. Criteria, either in whole or in part, that is not applicable pursuant to 24 VSA §4413 (a)(1) is ~~stricken through~~. The Board's specific comments are *italicized*.

1. Conditional Use Criteria⁵

A. ~~The proposed use is consistent 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.

This conclusion is subject to change if a new site plan is submitted.

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.~~

⁵ Criteria A – D are from the RZR. Criteria E – I are required to be reviewed pursuant to 24 VSA Ch. 117 §4414(3).

2. Site Plan Criteria

- A. The proposed use, design and layout DOES NOT meet the provisions of the zoning ordinance, ~~other regulations and ordinances of the Town and is not in non-conformance with the Town Plan.~~

In particular, the building does not meet the required rear and side yard setbacks. However, 24 VSA §4413 provides that local requirements such as setbacks cannot interfere with the intended functional use of the facility. The Board concludes there was sufficient convincing evidence provided by the Applicant that demonstrated that the building cannot be made any narrower nor moved closer to the road and, therefore, the rear setback requirement would interfere with the intended functional use of the facility as a fire station and thus this requirement does not have to be met.

However, sufficient convincing evidence was not provided to demonstrate that:

- 1) the elements within the building (i.e. kitchen and, to a certain extent, the nearly 600 SF of office space and the 24' by 35' training room) are part of the intended functional use of the facility as a fire station,*
- 2) the building couldn't be 10 feet shorter without interfering with the intended functional use of the facility,*
- 3) providing a parking space for each of the fire personnel that could be on-site for a fire call is part of the intended functional use of the facility, or*
- 4) if the building were moved 10 feet to the west and some parking in that lot were lost, those spaces couldn't be made up elsewhere on the property (i.e. in front of the unused bay, which is nearly 600 SF and able to accommodate more than the Chief's and Assistant Chief's vehicles, or by changing the 3 spaces on the east side from parallel back to angled parking, etc.).*

In short, the Applicant failed to demonstrate that the minimum 20-foot side yard setback requirement interfered with the intended functional use of the fire station and therefore this requirement has to be met.

- ~~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 Board did not address this criterion as the site plan failed to meet criterion A above.
- ~~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.

DECISIONS⁶

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the new fire station as applied for in zoning permit application #Z16-46 and including evidence provided at the public hearing:

- A. The site plan approval is **denied**.
- B. The conditional use approval is **granted** with the condition that if a new site plan is submitted, conditional use re-approval shall be required and contingent upon a positive finding and conclusion of criterion D only.

Dated at Randolph, Vermont this 15 day of August, 2016.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members



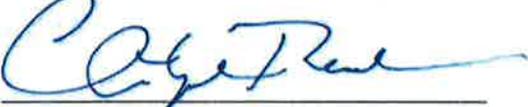
Joel Tillberg, Chair



Matthew Murawski



Paul Putney



Christopher Recchia

Dissenting Board Member



John Becker

⁶ 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.