

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

PERMIT: **#Z16-60**  
PROPERTY ADDRESS: **2 Central Street<sup>1</sup>**  
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 August 22, 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 and emergency operations center** <sup>2</sup>. The application was deemed complete pursuant to the Development Review Board (“Board”) Rules of Procedure Section 301 on August 22, 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 by the Regulations.

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. A site visit conducted on October 12, 2016.
2. Sworn testimony presented to and evidence received by the Board during public hearings held on September 20 and October 12, 2016;
3. Documents contained in this application’s file, the RZR, Town Plan and the Randolph municipal records, including the Memorandum of Decision for zoning permit application #Z16-46 (“MOD”).

The Board closed the public hearing on September 20, 2016 and subsequently deliberated on the matter. The result of the deliberations was a determination that additional information was needed. As the hearing had been closed, the hearing on October 12, 2016 required new public notification which included notice of the fire station being used as an emergency operations center, as discussed during the September hearing. The Board closed the public hearing on October 12

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<sup>1</sup> 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.

<sup>2</sup> The additional use of the property as an emergency operations center was an amendment to the original application, as indicated herein, and is an accessory use to the fire station.

and, again, subsequently deliberated on the matter and came to a decision. 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 based on the original application for a fire station (not as amended to include the emergency operations center):

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.
4. The proposed project is a community-owned and operated facility. As such, review of it is limited pursuant to 24 VSA §4413<sup>3</sup>.

On September, 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 §4465. Attached is a list of all participants in this proceeding.

Participating Board members were John Becker<sup>4</sup>, Matthew Murawski, Paul Putney, Christopher Recchia<sup>5</sup> 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.*

1. The applicant has filed an application for a new fire station to replace the one that was destroyed by fire. The fire station will operate as the previous one did except that there will be more training on-site and the facility will be used as the primary emergency operations center (EOC) for the Town. (application, testimony of T. Brassard)
2. The use of the facility as an EOC will occur during emergencies such as missing persons, major weather events and other catastrophes or major power outages. During such events, many emergency response teams may come into the area including Red Cross, FBI, border patrol, National Guard, state police and sister fire departments, to name a few. The office

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<sup>3</sup> 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.”

<sup>4</sup> 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.

<sup>5</sup> Mr. Recchia was not present for the hearing in September. He did review the record, including listening to the audio recording of the September hearing.

space and training room will be used by such resource personnel, which will need meeting space, waiting areas or perhaps a place to plug into for oxygen or other telecommunications as well as an emergency shelter. Currently, some of these functions are done at Gifford Medical Center and Vermont Technical College. (testimony of T. Brassard and Exhs. #4 & 8)

3. The office space will allow for fire department records to be kept in a central location. Currently, they are scattered in private homes. (testimony of T. Brassard)
4. The kitchen will be used during trainings, some of which take place over multiple days, for fund-raising suppers and during EOC events. (testimony of T. Brassard).
5. The number and types of situations fire department personnel are called to respond to have increased. The facility that burned did not provide many of the necessities for a fully-functioning fire department. The new facility will provide the space necessary to respond to an increase in service calls that require a range of services and to adequately service as the Town's primary EOC. (Exh. #8)
6. The site plan differs from the site plan presented for MOD #Z16-46 in several ways. The building is the same size but is it shifted slightly on the site. Within the building, the left side of the building has been rearranged internally. Additionally, because of the shift in the building, there are fewer parking spaces in the main parking lot. (MOD and Exh. #2)
7. 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 30 feet to the front, 22 feet to the rear and 19½ feet to the side property lines. (application, RZR and Exh. #1)
8. Existing on- and off-site constraints, including the intersection island, traffic patterns and configuration of the intersection of VT Routes 12N and 12A, utility pole and associated guy wires, prevent the building from being flipped (bays on the west end) and/or shifted such that the 20-foot sideyard setback can be met. (testimony of T. Brassard and Exh. #7)
9. Repeated efforts were made with Green Mountain Power to either move the pole or reconfigure the guy wires for it such that the building could be shifted over another 6 inches. Moving the pole would require acquiring property and affect cables/wires for both Fairpoint Communications and Comcast, as well as Green Mountain Power. (testimony of T. Brassard)
10. 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, minimum distance between vehicles in the bay area, and minimum distance between guy wires for the utility pole and the vehicles in the bay area. (testimony of T. Brassard)
11. 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 in MOD)
12. 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)
13. The number of annual calls has increased over the last ten years and is projected to continue to increase during the service life of the building. The size of the building includes an extra bay for a future fire vehicle, or a rescue vehicle or ambulance if increased response times for such services are needed. Until such time as the bay is needed to house a vehicle, the

extra space will be used for recovering from a call (drying out of equipment, cleaning equipment, restocking, etc.), practical training space, shelter space and other functions that are anticipated at some time during the life of the building. (testimony of T. Brassard and Exh. #8).

14. The proposed parking is for 20 spaces in the main parking lot to the west of the building, 3 to the east and, as needed, 2 spaces in front of the unoccupied bay. 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 previous fire station property had 6 delineated parking spaces. While carpooling to the facility during a call is unlikely, it there will be carpooling for training events. (Exh. #1, testimony of T. Brassard and testimony of M. Hildenbrand in MOD)
15. There will be a barrier or curbstops installed for the parking spaces along the road. (testimony of M. Hildenbrand)
16. The access to the parking lot is located to be as far west as possible of the intersection of VT Routes 12N and 12A. (Exh. #1)
17. The site plan shows a strip of land that is over 6 feet wide between the road and the balance of the lot that will be grass and perhaps some seasonal plantings but no trees. (Exh. #1 and testimony of T. Brassard)
18. Compliance with all of the site plan and conditional use criteria is not applicable pursuant to 24 VSA §4413 (a)(1). Which criteria and/or parts of criteria is as noted in MOD #Z16-46.

## **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 Criteria**

MOD #Z16-46 stated that conditional use approval was **granted** with the condition that if a new site plan were submitted, conditional use re-approval would be required and contingent upon a positive finding and conclusion of criterion D only. For this new site plan, the Board concludes that criterion 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.) is met.

### **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.~~

*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 or to the west and, therefore, the side and rear setback requirements would interfere with the intended functional use of the facility as a fire station and EOC. As such, these requirements do not have 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 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>6</sup>**

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the new fire station and EOC as applied for in zoning permit application #Z16-60 and including evidence provided at the public hearing:

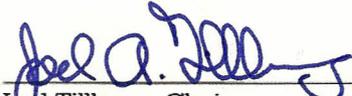
- A. The site plan approval is **granted** with the following conditions:
  - 1. The project shall be constructed as shown on the exhibits, and completed and operated in accordance with the application and the findings of fact which are incorporated herein.
  - 2. Construction shall be as shown on Exh. #1.
  - 3. All landscaping shown on Exh. #1 shall be maintained in a healthy, living condition. Additional seasonal plantings are encouraged, shall not require approval and shall not hinder sight distances at the parking lot entrance.
  - 4. 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.
  - 5. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
  - 6. 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 conditional use approval is **granted** with the condition that any significant modifications to the use of the property shall require review and approval by the Board pursuant to the regulations in effect at the time of re-application.

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<sup>6</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 \$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.

Dated at Randolph, Vermont this 9<sup>th</sup> day of November, 2016.

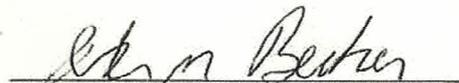
RANDOLPH DEVELOPMENT REVIEW BOARD  
Concurring Board Members

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

  
\_\_\_\_\_  
Matthew Murawski

  
\_\_\_\_\_  
Paul Putney

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

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

SERVICE LIST

Zoning Permit Application #Z16-60

Town of Randolph

Fire station and emergency operations center

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**Bold listings indicate applicants and/or their representatives.**