

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

PERMIT: **#Z13-3**
PROPERTY ADDRESS: **2771 Ridge Road**
PARCEL NO.: **108072.010**
PARCEL SIZE: **210 acres**

PROPERTY OWNER: **Sprague Farms, LLC**
PO Box 455
Brookfield, VT 05036

APPLICANT: **Ronald Tucker**
RE Tucker, Inc.
500 Messier Road
Northfield, VT 05663

I. INTRODUCTION

On December 17, 2012, **Ronald Tucker on behalf of Sprague Farms, LLC** ("Applicant") filed an application for a zoning permit for a project generally described as a request to amend several conditions of approval for the operation of a rock quarry. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on January 14, 2013.

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.

Also under the Regulations, the Board is authorized to undertake local Act 250 review of Criteria 6, 7 and 10 for all projects that require a new land use permit or an amendment to an existing land use permit under 10 VSA Chapter 151 ("Act 250").

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 public hearings held on January 22 and February 20, 2013;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records, including Memorandum of Decision for Zoning Permit #Z10-31 ("MOD" #Z10-31").

The Board closed the public hearing on February 20, 2013 and deliberated on this matter. The outcome of the deliberations is this written decision as required pursuant to 24 VSA ch. 36 §1309.

III. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The portion of the subject property that is used for the quarry is in the Rural Use 5-acre (RU5) District.
2. The project received conditional use and site plan approvals.
3. The applicant is seeking to amend several conditions of conditional use approval, thus requiring conditional use approval

On December 28, 2012, the Administrator referred the application to the Board for review and approval as determined.

IV. PARTICIPANTS

For the purposes of this application, "interested persons" are those who fulfill the requirements of 24 VSA ch. 117 §4465. The attached Service List for this project includes the Applicant, his representatives and persons¹ who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were John Becker, Trini Brassard, Thomas Malanchuk², Gregg McCurdy, David Miles, Christopher Recchia and Joel Tillberg.

V. 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 to amend the conditions of approval as following: 1) to extend the operating season to better meet the demand of quarry customers, principally municipalities, and 2) to allow flexibility in traffic flow that better matches the needs of quarry customers, again, principally municipalities, both while still maintaining total allowable annual volume of traffic and total allowable annual extraction rate. The specific requests are as outlined in Exh. #2. (application and Exh. #2)
2. No changes to the approved site plan are proposed. (application)
3. MOD #Z10-31 condition of approval #1 limits quarry operation from April 15th to October 15th.
4. Unanticipated public safety issues, such as mid-winter mud seasons, can occur during times when the quarry is not open thus the quarry is not able to respond to the need for material. (Exh. #2)

¹ By inclusion in this section of the Memorandum of Decision, the Board does not address the status of any of the people listed above as "interested persons" as defined in the above-referenced state statute.

² Mr. Malanchuk is an alternate member of the Board who was sitting in place of Member Lincoln, pursuant to Section 206D of the Board's Rules of Procedure. Mr. Lincoln did not participate in this Decision

5. During these periods where quarry material is needed to address unanticipated public safety issues, it would need to be operational for up to a one week period. (Exh. #2)
6. With MOD #Z10-31 conditions of approval limiting number of trucks per day (condition #7) and the operational season (condition #1), the maximum annual amount of material that can be trucked off-site is approximately 65,000 CY. (Exh. #2)
7. There is a need to have busier than average days to allow for unanticipated events. (Exh. #2)
8. As with the limitations on the quarry in Chelsea, an upper limit on number of trucks is needed. (Exh. #2)
9. The limits in Chelsea allow for a average number of trucks/loads that is 40% lower than the maximum. (Exh. #2)
10. A 40% increase in the currently-allowed 32 trips per day is 45 trips.
11. The road capacity of Ridge Road is 20,000 vehicles per day. An additional 13 trips per day for a limited time would add negligible traffic to Ridge Road. (MOD #Z10-31 fact #30)

VI. CONCLUSIONS

The Board recognizes that the weather in Vermont is unpredictable. Weather-related events such as heavy rains or mid-winter thaws, in particular, cause unanticipated public safety issues for municipalities. This became especially evident in the last two years with Tropical Storm Irene and the several mini-mud seasons this past winter. Therefore, based on the foregoing Findings of Fact, it is the conclusion of the Board that the need for amending the conditions of approval for the quarry to be able to respond to such events is real. Further, the project will continue to meet the conditional use criteria with the additional conditions included in Section VII.

VII. DECISIONS³

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby decides that all conditions of approval for zoning permit #Z10-31 shall continue to apply and, notwithstanding those conditions, the following conditions shall also apply (numbering continues from previous approval):

29. The quarry may exceed the daily limit of 32 trucks per day (condition #7) and have up to 45 commercial trucks per day, for 5 events in any one calendar year. Landowner purchases for loads in pick-up trucks or trailers having a capacity of approximately 1 CY shall not count toward the daily total.
30. Each event shall not be longer than 5 consecutive days, exclusive of weekends or holidays.
31. A minimum of 48 business hours notice shall be given to the Zoning Administrator and the abutters prior to an event.
32. The events may occur any time of year.

³ 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.

- 33. If the events occur between October 16th and April 14th (the off-season), there shall not be any blasting or crushing allowed; only trucking of stockpiled material.
- 34. After each event, the operator shall provide the Zoning Administrator with an event log indicating daily truck traffic and hauling totals in CY.
- 35. By December 1st, the operator shall provide the Zoning Administrator with the amount of material trucked off-site during the normal operating season of April 15th through October 15th (as imposed by condition #1). By February 1st, the operator shall provide the Zoning Administrator with the amount of material trucked off-site during the preceding calendar year.
- 36. The amount of material trucked off-site for a calendar year shall not exceed 65,000 CY.

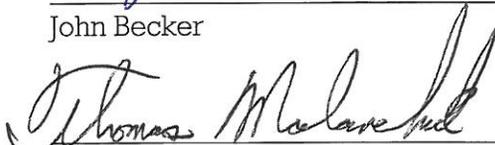
Dated at Randolph, Vermont this 26th day of March, 2013.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members


Joel Tillberg, Chair

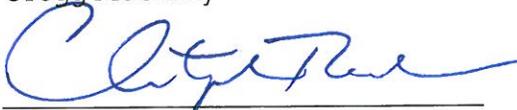

John Becker


Trini Brassard


Thomas Malanchuk

Gregg McCurdy


David Miles


Christopher Recchia

SERVICE LIST

Zoning Permit Application #Z13-3
Sprague Farms, LLC

Ronald Tucker
RE Tucker, Inc.
500 Messier Road
Northfield, VT 5663

Bruce Baldwin
14 Westminster Road
Manchester, CT 6040

Kester and Mary Flagg
2901 Ridge Road
Randolph Center, VT 05061

Linda Nagy
3441 Hebard Hill Road
Randolph, VT 05060-9226

James Tucker
PO Box 41
Randolph Center, VT 05061-0041

Gordon Sprague
Sprague Farms, LLC
PO Box 455
Brookfield, VT 05036-0455

Arthur and Jean Fisher
2885 Ridge Road
Randolph Center, VT 05061

Christopher Nordle
Darby Thorndike Kolter & Nordle
89 South Main Street
Waterbury, VT 05676-1578

Betsy Hale
2966 Ridge Road
Brookfield, VT 5036

Bold listings indicate applicants and/or their representatives.

