

**TOWN OF RANDOLPH, VERMONT**  
**DEVELOPMENT REVIEW BOARD**  
**MEMORANDUM OF DECISION**

(Findings of Facts, Conclusions, and Decision)

**Permit:** #Z11-30

**Property address:** 6 Hale Street

**Parcel no.:** 221004

**Parcel size:** 0.8 acres

**PROPERTY OWNER:** Randolph Senior Citizens, Inc.  
c/o Emilie Daniel  
6 Hale Street  
Randolph, VT 05060

**I. INTRODUCTION**

On May 26, 2011, Emilie Daniel, on behalf of **Randolph Senior Citizens, Inc.**, ("Appellant") filed an application for a zoning permit for a project generally described as **conducting an outdoor flea market in the existing parking lot for the senior center**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on June 9, 2011.

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 29, 2011;
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 29, 2011 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 Residential (RES) District.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.
3. The project requires that a variance be granted because the use is categorized as general retail sales and such a use is not allowed in the RES District.

On June 9, 2011, 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 attached Service List for this project includes the Appellant's representatives and persons<sup>1</sup> who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were John Becker, Trini Brassard, Scott Berkey<sup>2</sup>, Frank Reed, Krista Rumrill and Joel Tillberg.

### IV. FINDINGS OF FACTS FOR THE GRANTING OF A VARIANCE

*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. In making the following findings, the language contained in the five criteria in 24 VSA ch. 117 §4468 has been summarized.*

1. The Appellant has filed an application for the use of the parking lots/areas of the Randolph Area Senior Center for an outdoor flea market. The flea market is proposed to be held on a regular basis (once a month throughout the summer). The flea market would be open to up to 20 vendors and the senior center would use the money it made by charging the vendors to fund senior center programs such as Meals-on-Wheels. (application and testimony of E. Daniel)
2. A flea market is categorized as “general retail sales”. The subject property is in the RES District. General retail sales is not allowed in the RES District, therefore a variance for the use is required. (Randolph Zoning Regulations and application)
3. There are no unique conditions or circumstances of the subject property. (application)
4. The property is currently used as a senior center and is in conformance with the zoning regulations. (application)

### V. CONCLUSIONS

Based on the foregoing Findings of Fact, the Board makes the following conclusions regarding the variance criteria and the project described in the application referred to above and including the Appellant's representations at the public hearing (*Board comments are italicized*):

1. There are NOT physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property.

*While the Appellant indicated a financial hardship, the first criterion is not met if there are no physical circumstances or conditions, unique to the property or otherwise.*

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<sup>1</sup> 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.

<sup>2</sup> Scott Berkey is an alternate member who was sitting in place of absent regular members.

- 2. The property currently is developed in conformity with the provisions of the zoning regulations and the authorization of a variance therefore is NOT necessary to enable the reasonable use of the property.
- 3. An unnecessary hardship has not been demonstrated by the appellant.

The Board does not address variance criteria 4 and 5, as a negative conclusion of only one of the criterion requires denial of the request.

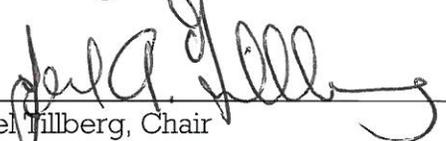
**VI. DECISION<sup>3</sup>**

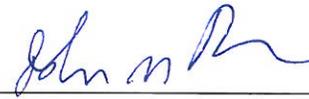
Based upon the foregoing Findings of Facts and Conclusions, approval is hereby NOT granted for the variance as request for zoning permit application #Z11-30 and including the evidence and testimony entered into the record as Findings of Fact. The Board does not make any findings of fact nor conclusions regarding the site plan as the granting of the variance is denied.

Dated at Randolph, Vermont this 27<sup>th</sup> day of July, 2011.

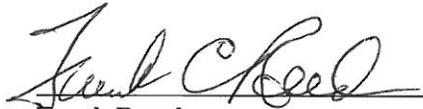
RANDOLPH DEVELOPMENT REVIEW BOARD

Concurring Board Members

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

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

  
 \_\_\_\_\_  
 Trini Brassard

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

  
 \_\_\_\_\_  
 Scott Berkey

  
 \_\_\_\_\_  
 Krista Rumrill

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<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.

SERVICE LIST

Zoning Permit Application #Z11-30

Randolph Senior Citizens, Inc.

Emilie Daniel  
Randolph Senior Citizens, Inc.  
6 Hale Street  
Randolph, VT 05060

Patrick French  
886 Harlow Hill  
Randolph, VT 05060-7733

James Butler  
4 Spring Street  
Randolph, VT 05060

Debra Tucker  
7 Dudley Street  
Randolph, VT 05060

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