

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

PERMIT: **#Z15-1**
PROPERTY ADDRESS: **1917 VT Route 66**
PARCEL NO.: **106026**
PARCEL SIZE: **1.41 acres**

PROPERTY OWNER: **Tom Frawley**
Summit Distributing, LLC
240 Mechanic Street
Lebanon, NH 03766

I. INTRODUCTION

On December 16, 2014, Tom Frawley ("Applicant") filed an application for a zoning permit for a project generally described as an amendment to the work authorized under zoning permit #Z14-5 to include the addition of an accessory restaurant to a store/gas station. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on January 5, 2015.

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 February 23, 2015. Hearing were also held on January 27 and February 2 but the Board only moved to continue the hearing and no evidence was heard.
2. Documents contained in this application's file, the RZR, Town Plan and the Randolph municipal records including the Memorandum of Decision for zoning permit #Z14-5 (MOD).

The Board closed the public hearing on February 23, 2015 and rendered an oral decision in this matter. This written decision is required pursuant to 24 VSA ch. 36 §1309 and supersedes the oral decision.

II. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the Interchange-Northwest (INT-NW) 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 "accessory restaurant". Such a use is listed as conditional in RZR §6.9.3(C)(2) and therefore conditional use approval is required.

4. As the project does not involve any new external construction nor changes to the approved building or site plan, referral to the Design Review Advisory Commission is not required as this amendment will not trigger any criteria under its purview.

On January 5, 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 was the only participant in this proceeding.

Participating Board members were Thomas Malanchuk, Gregg McCurdy, 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 the inclusion of a 454-square foot (SF), 15-seat restaurant in a convenience store and gas station as shown on Exh. #1 and 2. The restaurant will be open 12 hours a day. (application)

Consistency and compliance with Town Plan and ordinances. (SP criterion A, CU criteria A and H and INT §6.9.3 (C))

2. The development standards for setbacks, coverages, building height, etc., are not affected by this project as no changes to the approved building or site plan are proposed. (application)
3. The required off-street parking for a restaurant is the same as for retail sales, therefore the approved parking is sufficient. (RZR)
4. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)
5. Accessory uses in the INT Districts shall not exceed 50% of the gross floor area of the principal use. The accessory restaurant will comprise 11% of the gross floor area of the convenience store. (application)

Traffic and nuisance considerations (SP criterion C, CU criteria B, C and G, and INT §6.9.5 (A), (B), (M) and (O))

6. It is anticipated the accessory restaurant will generate an additional 160 vehicle trips per day to the 700 vehicles anticipated for the gas station convenience store. However, the peak period for the restaurant (11 AM to 2 PM) will not coincide with the peak period for the gas station convenience store (7 AM to 10 AM). (application)
7. A state highway access permit was issued by the Vermont Agency of Transportation for this property in 2009. (testimony of T. Frawley)

8. No change in traffic from the previous application is anticipated with the accessory restaurant. (testimony of T. Frawley)
9. The proposed use will not generate any of the following: noise, dust, odor, glare, vibration or other nuisance. (application)
10. The proposed use does not have the potential to cause a hazard through any of the following: fire, traffic, accident or unsanitary conditions. (application)

Continuous strip (CU criterion D)

11. There is a grassy area that is over 6 feet wide between the paved area and VT Route 66 (Exh. #2)

Municipal services (CU criterion E)

12. The proposed use does not have the potential to increase the enrollment in local public schools or the need for emergency services, solid waste disposal or any planned community services. (application)
13. The proposed use has received approval for additional wastewater allocation from the Town. (Exh. #3)

Renewable energy resources (CU criterion I)

14. The proposed use will not affect the utilization of renewable energy resources. (application)

Determination of applicability

15. The facts in the MOD for zoning permit #Z14-5 are unaffected by the accessory restaurant as it is accessory to the principal use and entirely within the principal building, and no changes to the exterior of the building or the approved site plan are proposed. (RZR, MOD)
16. The following criteria are not affected by the proposed use:
 - Site plan criteria - B (in harmony with development of surrounding area) and D (non-interference with adjacent land)
 - Conditional use criterion F (effect on character of surrounding area)
 - INT District general and dimensional standards (RZR §6.9.4) criteria - C (minimum lot widths), F (setbacks), G (building and lot coverages), H (maximum slope) and I (surface water)
 - INT District supplemental conditional use standards (RZR §6.9.5) criteria - D (retail sales), E (open space), F (scenic sensitivity), G (topography and grading), H (stormwater management), I (clustering), J (landscaping), K (screening), L (access and circulation), N (parking and service areas), P (outdoor lighting) and Q (utilities).
 - INT District building design standards (RZR §6.9.6)

VI. 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 applicable criteria:**

1. Conditional Use Criteria¹

- A. The proposed use is not inconsistent 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.
- E. The proposed use shall not have an undue adverse effect on the capacity of existing or planned community facilities.
- 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.

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.
- 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.

3. INT District Supplemental Conditional Use Standards

- A. Nuisances
- B. Hazardous Materials
- C. Accessory Uses
- M. Traffic and Circulation
- O. Outdoor Storage

VII.

DECISIONS²

Based upon the foregoing Findings of Facts and Conclusions, the following approvals are hereby granted for the site plan and conditional use for the accessory restaurant as applied for in zoning

¹ Criteria A – D are from the Randolph Zoning Regulations. Criteria D – I are required to be reviewed pursuant to 24 VSA Ch. 117 §4414(3).

² 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.

permit application #Z15-1 and including the evidence and testimony entered into the record as Findings of Fact.

- A. The site plan approval is granted with the condition that all conditions of approval for zoning permit #Z14-5 shall remain in effect.

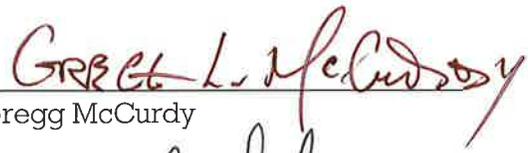
- B. The condition use approval is granted with the condition that any expansion of the use shall require approval pursuant to the regulations in effect at the time of re-application.

Dated at Randolph, Vermont this 1st day of APRIL 2015 ~~March, 2014~~

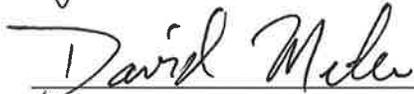
RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members



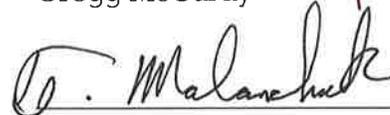
Joel Tillberg, Chair



Gregg McCurdy



David Miles



Thomas Malanchuk

Dissenting Board Member



Christopher Recchia

