

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

PERMIT: **#Z14-11**
PROPERTY ADDRESS: **83 Dylan Drive**
PARCEL NO.: **121016.050**
PARCEL SIZE: **2.3 acres**

PROPERTY OWNER: **Dennis Tabor**
83 Dylan Drive
Randolph, VT 05060

I. INTRODUCTION

On February 28, 2014, Dennis Tabor ("Applicant") filed an application for a zoning permit for a project generally described as **adding towing services to an auto detailing and sales business with other site modifications**. The application was deemed substantially complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on March 7, 2014.

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 March 25, 2014;
2. Documents contained in this application's file, the RZR, Town Plan and the Randolph municipal records, including Memorandum of Decision for zoning permit #Z06-1 (MOD).

The Board closed the public hearing on March 25, 2014 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 Rural Village (RV) District.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.
3. As the use is not listed on the Chart of Permitted and Conditional Uses, §2.4.3 is applicable. This provisions allows an unlisted use if it receives conditional use approval.

On March 10, 2014, 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 Applicant 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 and Christopher Recchia.

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 adding towing services to the existing auto detailing and sales business. The applicant also filed a revised site plan as shown on Exh. #1. The site plan was revised at the hearing by the applicant as shown in red on Exh. #1B.
2. One truck only. The applicant is going to operate this facility...any other applicant representations. (application, testimony of applicant)

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

3. The subject property is in the Rural Village (RV) District.
4. The required off-street parking shall be as set by the Board. For the existing uses, the Board set the off-street parking requirement for customers at two (2). Space for 6 is provided next to the area designated for autos for sale and there is an area by the building where additional customers can park. Customer cars that are in the driveway will be gone by 5 PM each night. The towing service does not increase the need for additional off-street parking. (RZR, MOD and testimony of D. Tabor)
5. The development standards for setbacks and building coverage are not affected by this project as no increase in building footprint is proposed. (application)
6. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)
7. The purpose of the Rural Village Districts is: "To provide areas for residence and commerce to co-exist in the same neighborhood and allow for future growth as an economic and social center for the surrounding area." The proposed project is a residence and a business co-existing on the same lot. (RZR and MOD)

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 Samuel Lincoln pursuant to Section 206D of the Board's Rules of Procedure. Mr. Lincoln did not participate in this Decision

8. According to Map 3 of the 2013 Town Plan, the property is proposed to be located in the Gateway Commercial Retail (GCR) District which is a subzone of the Gateway Commercial (GC) District. The purpose of the GC District is to continue to concentrate residential development and medium-scale business development in relatively close proximity to the CB [Central Business] District and along transportation corridors, thereby maintaining the villages as the centers of commercial life and free of out-of-scale development. The GCR Districts are within close proximity to the CB District and are intended to provide an additional location for residential development and most types of commercial development including primary retail establishments. The proposed project is a medium-scale business a block away from VT Route 12S, which is a transportation corridor. (Page 43 of the Town Plan and MOD)

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

9. The proposed towing service will not generate any of the following: odor, dust, glare, vibration or radiation. (application)
10. The proposed towing service will generate some noise, but most towing is done during the day. The applicant currently averages 1 daytime call per day and is on the state police's call list so he also currently averages 4 calls per week that are at night. (application and testimony of D. Tabor)
11. There is only one (1) tow truck and it is inspected so it has the required muffler and other such equipment. The amount of noise generated by the tow truck is about the same as for a town highway or a garbage truck. (application and testimony of D. Tabor)
12. The tow truck is required to be plugged in at night to keep warm. Currently, this is done next to the stone wall. Electricity will be brought to the tow truck area designated on Exh. #1B so any idling of the truck will be farther way from adjacent residences. (testimony of D. Tabor)
13. The subject property utilizes Dylan Drive, which is a Class 3 town highway with no outlet. The adjacent property and drives before the access to the subject property are for commercial uses and therefore the proposed project will have minimal impact on 4 of the 5 residential properties on Dylan Drive. (MOD and Exh. #2)

Continuous strip (CU criterion D)

14. The subject property has no road frontage. However, there will be at least 6 feet of a continuous, grassy strip along the right-of-way for the access to the subject property and the adjacent residence. (Exhs. #1B and 2)

Municipal services (CU criterion E)

15. The towing service does not have the potential to increase any of the following: enrollment in local public schools, need for emergency service (it is an emergency service...), need for public water or sewer capacity, need for solid waste disposal or need or use of any other planned community service. (application)

Character of the area and effects on adjacent land uses. (SP criteria B and D, and CU criterion F)

16. The surrounding area is a mixture of commercial and residential uses. The adjoining properties are used as a self-storage facility to the north, residences to the south, undeveloped open land to the east, and retail and a veterinary hospital for the west. Of the properties on Dylan Drive, there are 5 single-family residences, one of which has a

commercial use attached, and 3 commercial buildings. The proposed project adds another commercial use to a property already in commercial use. (MOD and application)

17. The proposed new area designated for customer cars and cars for sale is already screened from the adjacent residence with evergreen trees, as is the trash dumpster. (Exhs. #1B and 2)
18. The proposed towing area is set back from the shared driveway and will initially be screened with a green lattice fence until such time as evergreens are planted. (Exh. #1B and testimony of D. Tabor)
19. The existing tree lines on the property to the north and east will remain. (testimony of D. Tabor)
20. No additional lighting is proposed. (testimony of D. Tabor)

Renewable energy resources (CU criterion I)

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

V. 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 criteria:

1. Conditional Use Criteria³

- 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.
- 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.

³ 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 meets the provisions of the zoning ordinance, other regulations and ordinances of the Town and is not in non-conformance with the Town Plan.
- 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. DECISIONS⁴

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the addition of towing services and site modifications as applied for in zoning permit application #Z14-11:

- A. The condition use approval is granted with the following conditions:
 - 1. The project shall be operated in accordance with the application and the findings of fact which are incorporated herein.
 - 2. The towing truck shall not use its flashers or beacons when on the property or on the shared right-of-way.
 - 3. The towing truck shall be parked only in the area designated on Exh. #1B as "park flat."
 - 4. The towing truck shall not be allowed to idle for longer than 5 minutes.
 - 5. Accident vehicles must be removed from the property within 5 business days of arrival.
 - 6. Adding additional towing vehicles shall be considered an expansion of this use.
 - 7. All conditions of conditional use approval from MOD #Z06-11 shall continue to apply.
- B. 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. #1B.

⁴ 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.

3. All landscaping shown on Exh. #1B shall be maintained in a healthy, living condition.
4. Cars for sale shall only be displayed in the area designated on Exh. #1B. The maximum number of such cars shall not exceed seven (7).
5. Vehicles towed to the property shall only be kept in the area designated on Exh. #1B as "accident vehicles."
6. There shall be no outdoor storage of vehicle parts or other waste from the business.
7. Condition of site plan approval #5 for MOD #Z06-11 shall remain in effect.
8. 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.
9. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
10. 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.

Dated at Randolph, Vermont this 29th day of April, 2014.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members



John Becker, Acting Chair

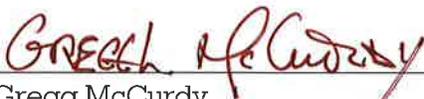
Christopher Recchia



Trini Brassard



Thomas Malanchuk



Gregg McCurdy



David Miles

SERVICE LIST

Zoning Permit Application #Z14-11

Dennis Tabor

Dennis Tabor
83 Dylan Drive
Randolph, VT 05060

Eveline Chase
155 Dylan Drive
Randolph, VT 05060

Arnold Dumas
125 Dylan Drive
Randolph, VT 05060

Bold listings indicate applicants and/or their representatives.

