

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

PERMIT: **#Z15-3**  
PROPERTY ADDRESS: **487 Furnace Street**  
PARCEL NO.: **108014.010**  
PARCEL SIZE: **113.4 acres**

PROPERTY OWNER: **State of Vermont**  
**Dept. of Buildings and General Services**  
**2 Gov. Aiken Avenue**  
**Montpelier, VT 05633**

**I. INTRODUCTION**

On December 26, 2014, Tricia Harper, on behalf of the State of Vermont ("Applicant") filed an application for a zoning permit for a project generally described as the expansion of the Vermont Veterans' Memorial Cemetery. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on January 8, 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.

Also under the RZR, 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 first and final public hearing held on February 23, 2015. Hearings 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.

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 Rural Use 5-acre (RU5) 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 "cemeteries" and such a use is listed as permitted on the Chart of Permitted and Conditional Uses.
4. The project is a state-owned facility and, as such, has limitations on its review pursuant to 24 VSA §4413(a)(1) [Limitations on Municipal Bylaws]. This statute provides:  

{State-owned facilities} may only be regulated 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."
5. The Applicant has requested Local Act 250 Review.

On January 8, 2015, the Administrator referred the application to the Board for review and approval as determined and requested.

### **III. PARTICIPANTS**

For the purposes of this application, "interested persons" are those who fulfill the requirements of 24 VSA ch. 117 §4465. Only representatives of the Applicant participated (Ron Lyon of Dubois & King, Robert Durkee III of the Office of Veterans' Affairs, and Robert Burke and Robert Rea of the Dept. of Buildings and General Services).

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 expansion of the Vermont Veterans' Memorial Cemetery as shown on Exh. #1. The 12-acre expansion includes, among other things: 2 new buildings (a public information center and a maintenance building), roads, new access, new burial sections and associated utilities. (application, testimony of Burke)
2. The expansion will include several types of burials (i.e. in-ground crypts and columbariums for cremains) that will allow for burials year round. The existing area of the cemetery will remain on a seasonal schedule (i.e. only non-winter internments). (testimony of Burke)
3. The information center will be open year round but won't have an attendant all the time. (testimony of Lyon and Burke)
4. There will be no nighttime activities or operations. (testimony of Lyon)

**Consistency and compliance with Town Plan and ordinances.** (SP criterion A and Act 250 criterion10)

5. The front, side and rear setbacks for the RU5 District are 30 feet. The shortest setback distance from any proposed structure is approximately over 200 feet. (application and RZR)

6. The maximum allowable building coverage is 15% in the RU5 District, or 17 acres for the subject property. The proposed building coverage is less than 1%. (application and RZR)
7. The required off-street parking shall be as set by the Board. The proposed project provides new parking spaces for 23 cars for a total of 70 spaces cars in 4 parking areas. (application, RZR and Exh. #1)
8. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. However, the proposed zoning district for the property is "rural agriculture" and the use of the property for the cemetery is in keeping with the nature of this zone. (Town Plan and application)

**Traffic and pedestrian considerations (SP criterion C)**

9. The proposed use will utilize Furnace Street, which is a dead-ended Class 3 town highway with a posted speed limit of 25 miles per hour. (application)
10. A new access is proposed that meets Vermont Agency of Transportation Standard B-71. This new access is needed for fire truck access to both the maintenance facility and the information center and other truck access to the maintenance facility. (application and testimony of Burke)
11. The new access has sight distances of over 500 feet. (application)
12. Existing internal roadway system has 18-foot widths. The new internal roads will have 20-foot widths with 2-foot wide mountable shoulders on both sides and slopes of less than 10%. This will allow for just off-roadway parking with better room for through traffic during interments. (testimony of Lyon and Durkee)
13. There will be no lighting on the cemetery roadways. (testimony of Lyon)
14. Peak traffic occurs during funerals, memorial functions and interments. There are generally 2 – 3 internments per day with an average of 20 vehicles per internment. There have not been any traffic issues reported with the cemetery and none are anticipated with the expansion. (testimony of Lyon)
15. Pedestrian walkways are proposed that connect the information center to the Global War on Terror memorial and the Circle of Flags. (testimony of Lyon)
16. The parking area for the information center has one access to the roadway. The aisle width behind the parking spaces is 23 feet wide and is sufficient for parked cars to turn around. There is no area in the parking area for cars to turn around should one enter and find no open parking space. (Exh. #1 and testimony of Lyon)
17. No pedestrian traffic is anticipated to the property, only within it. (application)

**Municipal services (Act 250 criteria 6 and 7)**

18. The proposed project will not add any additional students to the school district. (Brent Kay, Superintendent)
19. The subject property is outside of the Randolph Police District therefore this service is not provided by the municipality. (Randolph Municipal Records)
20. The subject property is in the Randolph Center Fire District. The Randolph Center Fire Department has the capacity to provide fire protection to the subject property without undue burdens. (Kenneth Preston, Randolph Center Fire District Chief)

21. The subject property takes access from a town highway. The Randolph Highway Department has the capacity to provide the proposed project with road maintenance without undue burdens. (William Morgan, Randolph Highway Operations Manager)

**Character of and effects on the area (SP criteria B and D)**

22. The criteria related to character of development and the project's effect on the surrounding area is not applicable pursuant to 24 VSA §4413 (a)(1).

**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 applicable following criteria:

**1. Act 250 Criteria<sup>1</sup>**

- A. The proposed project will not cause an unreasonable burden on the ability of the Town of Randolph to provide educational services (criterion 6).
- B. The proposed project will not cause an unreasonable burden on the ability of the Town of Randolph to provide municipal or governmental services (criterion 7).
- C. The proposed project is not in non-compliance with the Randolph Town Plan which was adopted in accordance with 24 VSA ch. 117 on February 16, 2014 (criterion 10).
- A. The proposed use shall not have an undue adverse effect on the bylaws in effect.
- B. 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.
- 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.~~ Not applicable.
- 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 if an area is provided at the end of the parking area for the information center for vehicles to turn around.
- 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.~~ Not applicable.

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<sup>1</sup> This conclusion/decision regarding local Act 250 review is a rebuttable presumption under the provisions of 10 VSA Ch. 151 and this presumption may be overcome in proceedings under 10 VSA Ch. 151

**VI. DECISIONS<sup>2</sup>**

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the expansion of the Vermont Veterans' Memorial Cemetery as applied for in zoning permit application #Z15-3:

- A. The off-street parking requirement is set at 70 spaces.
- 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, the findings of fact which are incorporated herein and the conditions herein.
  - 2. Construction shall be as shown on Exh. #1 except that the last parking space in the information center parking lot shall be designated for vehicles turning around.
  - 3. 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 at the accesses.
  - 4. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
  - 5. 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.

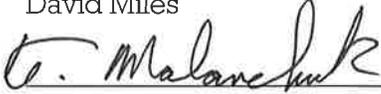
Dated at Randolph, Vermont this 1<sup>ST</sup> day of April 2015 ~~March, 2015.~~

RANDOLPH DEVELOPMENT REVIEW BOARD  
Concurring Board Members

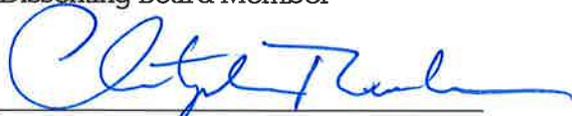
  
Joel Tillberg, Chair

  
David Miles

  
Gregg McCurdy

  
Thomas Malanchuk

Dissenting Board Member

  
Christopher Recchia

<sup>2</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.

