

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

PERMIT: **#Z15-55**
PROPERTY ADDRESS: **71 VT Route 12S**
PARCEL NO.: **121001.010**
PARCEL SIZE: **1.15 acres**

PROPERTY OWNER: **Central Vermont Shopping Center, LLC**
Ernie Pomerleau
69 College Street
Burlington, VT 05401

APPLICANT: **Adam Wiggett**
Wiggett's Auto
721 Curtis Road
Randolph Center, VT 05061

I. INTRODUCTION

On July 6, 2015, Adam Wiggett ("Applicant") filed an application for a zoning permit for a project generally described as conversion of retail space into auto repairs and sales. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on August 3, 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 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 August 25, 2015;
2. Documents contained in this application's file, the RZR, Town Plan and the Randolph municipal records, including previous Memoranda of Decision ("MOD").

The Board closed the public hearing on August 25, 2015 and rendered an oral decision in this matter. This written decision is required pursuant to 24 VSA ch. 36 §1409 and supersedes the oral decision.

II. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the Commercial (COM) 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 "auto sales" and "auto repairs". Both uses are listed as permitted on the Chart of Permitted and Conditional Uses.

On August 4, 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 John Becker, Thomas Malanchuk, Matthew Murawski¹, Michael Hildenbrand, David Miles and Joel Tillberg. Member Tillberg announced that the Applicant is a customer of his business. No objections to his participation in this matter were voiced.

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 an auto sales and repair shop as shown on Exh. #1. The applicant is going to operate this facility 7 days a week between 7 AM and 11 PM. (application, testimony of A. Wiggett)

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

2. The development standards related to setbacks and building coverage are not applicable as no new building is proposed. (application)
3. The required off-street parking shall be as set by the Board. The proposed project provides parking spaces for 15 customers, 5 employees and an area for display of inventory (cars for sale). (RZR and Exh. #1)
4. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. (Town Plan)
5. The purpose of the Commercial District is: "To concentrate the regional and town-wide business, to provide areas for its best development and to protect these locations by excluding other kinds of development which would serve to scatter new businesses and limit the expansion of present business; to provide areas sufficiently compact for the convenience of pedestrians, and with sufficient area to allow parking space for patrons who come by automobile." (RZR)

Character of the area (SP criteria B)

6. The subject property is owned by the same entity that owns the adjoining property through which the subject property has an access easement. It is used for retail sales and a bank.

¹ Matthew Murawski is an alternate member who was sitting in place of absent regular members pursuant to Section 206D of the Board's Rules of Procedure.

The other adjacent properties are industrial, residential and undeveloped. (testimony of A. Wiggett and MOD for #Z11-6)

7. The proposed project is in keeping adjoining commercial activity. (application)

Traffic and pedestrian considerations (SP criterion C)

8. Customer and employee parking is in an area that was used for customer parking by the previous tenant. (MOD #Z11-6)
9. All customer parking is head-in along the driveway portion of the adjoining property that is not typically used by customer and employees of the adjoining properties and therefore has less traffic. (testimony of A. Wiggett)
10. The customer parking will be roped off from the service bays and employee parking and will have signage indicating it is customer parking. The spaces will not be delineated. (testimony of A. Wiggett)
11. All customer parking will be entirely on the subject property. (testimony of A. Wiggett and condition of approval)

Affects on adjacent land (SP criterion D)

12. No new construction, walls, fencing, landscaping parking or loading areas are proposed. (Exh. #1 and 3)

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 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.

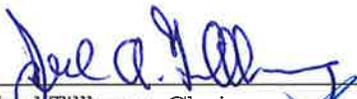
VI. DECISIONS²

Based upon the foregoing Findings of Facts and Conclusions, approval is hereby granted for the site plan for the auto sales and service business as applied for in zoning permit application #Z15-55. 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. #1 and the front of all the customer and inventory parking shall be no closer than 20 feet from the property lines.
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 or designated parking areas.
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 22 day of September, 2015.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members



Joel Tillberg, Chair



John Becker



Matthew Murawski



Michael Hildenbrand

Thomas Malanchuk



David Miles

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.