

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

PERMIT: **#Z14-40**  
PROPERTY ADDRESS: **143 Fish Hill Road**  
PARCEL NO.: **118020**  
PARCEL SIZE: **3.9 acres**

PROPERTY OWNER: **Dede Tracy**  
**143 Fish Hill Road**  
**Randolph, VT 05060**

## **I. INTRODUCTION**

On July 7, 2014, **Dede Tracy** ("Applicant") filed an application for a zoning permit for a project generally described as conversion of a residence into a 2- to 3-room bed and breakfast. The application was deemed substantially complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on July 10, 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.

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 July 29, 2014;
2. Documents contained in this application's file, the RZR, Town Plan and the Randolph municipal records.

The Board closed the public hearing on July 29, 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 Residential (RES) 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 "tourist home/guest home". Such a use is listed as conditional on the Chart of Permitted and Conditional Uses and therefore conditional use approval is required.

On July 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. Dede Tracy and neighbor Del Thompson were the only participants in this proceeding.

Participating Board members were John Becker, Thomas Malanchuk, Paul Putney<sup>1</sup>, 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 conversion of her residence into a 2- to 3-room bed and breakfast as shown on Exh. #2. The residence also includes a home occupation (Reiki therapy). The site plan was revised at the hearing to show on-site lighting. (application)
2. No internal or external changes are proposed. (application)

#### **Consistency and compliance with Town Plan and ordinances. (SP criterion A, CU criteria A and H, and Act 250 criterion10)**

3. There is no minimum lot size for the RES District for non-residential uses. The subject property is 3.9 acres. (application and RZR)
4. The development standards (setbacks, coverage, etc.) are not affected by the proposed project as no changes are proposed. (application and RZR)
5. The required off-street parking is 2 spaces for a single-family residence and is set by the Board for the bed and breakfast. In a previous approval of a bed and breakfast (for Don and Evelyn Sweetser, zoning permit # Z00-6), the Board required 1 space for every room of the bed and breakfast. The proposed project provides parking spaces for at least 5 cars. (application, RZR and Exhs. #2 and 3)
6. There is no clear and unambiguous language in the Town Plan that specifically refers to the proposed project. However, on page 44 of the Town Plan, it is noted that bed and breakfasts would be allowed in residential zones. (application and Town Plan)

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

7. The proposed use will not generate any of the following: odor, dust, glare, vibration or other nuisance. (application)

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<sup>1</sup> Mr. Putney is an alternate member of the Board who was sitting in place of Member Gregg McCurdy pursuant to Section 206D of the Board's Rules of Procedure. Mr. McCurdy did not participate in this Decision

8. The proposed use does not have the potential to cause a hazard through fire, traffic, accident or unsanitary conditions. (application)
9. The proposed use will utilize Fish Hill Road, which is a Class 3 town highway. It generally has light – medium – moderate – heavy traffic. (application)
10. There will not be an increase in traffic from what was generated when the applicant's sons were living at home. (application)
11. No changes to the existing access are proposed. (application)

#### **Continuous strip (CU criterion D)**

12. Other than the driveway, there is no development within 375 feet of Fish Hill Road. (Exh. #1)

#### **Municipal services (CU criterion E and Act 250 criteria 6 and 7)**

13. The proposed use does not have the potential to increase enrollment in public school nor the need for emergency services, public water or sewer capacity, solid waste disposal or other planned community service. (application)

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

14. The surrounding area is a mixture of residential and commercial uses. The adjoining properties are used as single-family residences to the south and west, commercial (Vermont Technical Enterprise Center and Gifford Medical Centers' Kingwood Building medical offices) to the north and open land to the east. (application)
15. As the proposed project only involves utilizing spare rooms in a home to provide lodging for visitors and the residence is relatively isolated from adjoining property, there will be little to no impact on the surrounding the surrounding area. (application and Exh. #1)
16. The proposed project is in keeping with the residential uses in the surrounding area. (application)
17. There are no unsightly uses associated with the proposed use. (application)
18. The property is proposed to be in the Residential District per the Town Plan. As stated, in Fact #6, bed and breakfasts are proposed to be allowed in the residential zones. (Town Plan)

#### **Renewable energy resources (CU criterion I)**

19. 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 Criteria<sup>2</sup>**

- 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.

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<sup>2</sup> Criteria A – D are from the RZR. Criteria E – I are required to be reviewed pursuant to 24 VSA Ch. 117 §4414(3).

- 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.

**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. DECISIONS<sup>3</sup>**

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the bed and breakfast as applied for in zoning permit application #Z14-40:

- A. The off-street parking requirement for the bed and breakfast is set at 1 space per room in the bed and breakfast.

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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 \$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.

- B. The site plan approval is granted with the following conditions:
1. The project shall be completed and operated in accordance with the application and the findings of fact which are incorporated herein.
  2. 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.
  3. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
  4. 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.
- B. 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. 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 25<sup>th</sup> day of August, 2014.

RANDOLPH DEVELOPMENT REVIEW BOARD

**Concurring Board Members**

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Joel Tillberg, Chair

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John Becker

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Christopher Recchia

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Thomas Malanchuk

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Paul Putney

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David Miles