

# TOWN OF DUMMERSTON

## Development Review Board

### Conditional Use Application for Short Term Rental and Site Plan Review Findings and Decision

#### HEARING SPECIFICS

**Permit Application Number: 3721**

**Date Received: May 17, 2023**

**Applicant: Susan McMahon (Director for Landmark Trust USA, Land Owner)**

**Mailing Address: 707 Kipling Rd., Dummerston, VT 05301**

**Location of Property: Parcel 702, 759 Kipling Rd., Dummerston, VT**

**Owner of Record: Landmark Trust USA**

**Application: Conditional Use Application; Short Term Rental and Site Plan Review.**

**Date of Hearing: July 20, 2023**

#### INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a Conditional Use, Short Term Rental and Site Plan Review under the Town of Dummerston Zoning Bylaw Sections 720 and 724.
2. On June 28, 2023, notice of a public hearing was published in The Commons.
3. On June 28, 2023, notice of a public hearing was posted at the following places:
  - The Dummerston Town Office.
  - The West Dummerston Post Office.
  - The Dummerston School.
4. On July 6, 2023, notice of a public hearing was posted at the following place: 759 Kipling Rd., Dummerston, VT, which is within view of the public-right-of-way most nearly adjacent to the property for which the application was made.
5. On June 28, 2023, a copy of the notice of a public hearing was emailed to the applicant.
6. On June 28, 2023, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:
  - a. Chamberlin Leon W Jr, 739 Kipling Rd, Dummerston, VT 05301
  - b. Elder Rod W & Alison , 966 Kipling Rd, Dummerston, VT 05301

- c. Evans Barbara S Revocable Trust, 518 Kipling Rd, Dummerston, VT 05301
  - d. Schulick Paul & Barbi Trustees, 1064 Kipling Rd, Dummerston, VT 05301
  - e. Scott Farm Inc, 707 Kipling Rd, Dummerston, VT 05301
  - f. Stevenson Malcolm/Wilcox Stephen, Barone David, 60 Prospect St, Rockville, CT 06066
  - g. Wilcox John W & Cynthia G W/ Life Estate, 125 East Orchard Rd, Dummerston, VT 05301
  - h. World Learning Inc, PO Box 676, Brattleboro, VT 05302
7. The application was considered by the Development Review Board (DRB) at a public hearing on July 20, 2023.
  8. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended April 6, 2023.
  9. Present at the hearing were the following:
    - a. Members of the Development Review Board:  
Alan McBean, Cami Elliott, Chad Farnum, Peter Doubleday.
    - b. Others:  
Susan McMahon (Director for Landmark Trust USA, Land Owner), Roger Jasaitis (Zoning Administrator).
  10. A site visit was conducted on July 20, 2023.
  11. Present at the site visit were the following:
    - a. Members of the Development Review Board:  
Alan McBean, Cami Elliott, Peter Doubleday, Chad Farnum.
    - b. Others:  
Roger Jasaitis (Zoning Administrator), Susan McMahon (Director for Landmark Trust USA, Land Owner).
  12. During the course of the hearing the following exhibits were submitted to the DRB:
    - a. Application for Zoning Permit, number: 3721.
    - b. Application to the Development Review Board for a Conditional Use Permit and Site Plan Review, number: 3721.

## **FINDINGS OF FACT**

Based on the application, testimony, exhibits, and other evidence the DRB makes the following findings:

1. The applicant seeks a Conditional Use permit for Conditional Use, Short Term Rental, under Sections 720-726 of the Dummerston Zoning Bylaw, at parcel #035, 759 Kipling Rd., Dummerston, VT. The subject property is a 571 acre parcel located at 759 Kipling Rd., in the Town of Dummerston (tax map parcel no. 000702). The property is more fully described in a Deed recorded at Book 59, Page 337, in the Town of Dummerston Land Records.

2. The property is located in the Productive Lands District as described on the Town of Dummerston Zoning Map on record at the Town of Dummerston municipal office and Section 210 of the Zoning Bylaw.
3. The Application states Conditional Use approval is requested for:
  - a. Short Term Rental.
4. The application requires review under the following sections of the Town of Dummerston Zoning Bylaw: Article 7; Section 720 Development Review Board and Article 7; Section 724 Site Plan Approval.
5. Susan McMahon (Director for Landmark Trust USA, Land Owner) stated the property has been rented to the public since 2004 and the fact that it was never permitted for Short Term Rentals was an oversight on the part of the previous director of the Landmark Trust.
6. Cami Elliott (DRB) confirmed with the Applicant that the property is a one (1) bedroom, two (2) person occupancy rental with parking for two (2) cars. There is no signage (or plans for any) and the only exterior lighting is next to the entry doors and shielded from adjoining properties.
7. Alan McBean (DRB) asked how many days a year it is rented? Susan McMahon (Director for Landmark Trust USA, Land Owner) replied that during Covid the rate was 75% but it is typically 60% to 70%.
8. Alan McBean (DRB) asked if the property had fire inspections by the State Fire Marshall? Susan McMahon (Director for Landmark Trust USA, Land Owner) replied no but the fire extinguishers are inspected every year. The Zoning Administrator clarified that all rental properties are considered public buildings by the State and are subject to inspections from the Fire Marshall. Susan McMahon (Director for Landmark Trust USA, Land Owner) said the building was inspected by the Fire Marshall in 2004 when it was renovated. She said the Trust welcomes inspection on its properties.

## DECISION AND CONDITIONS

1. Based upon these findings, and subject to the conditions set forth below, the Development Review Board approves the application for a Conditional Use permit for Short Term Rental:

The proposed development meets the requirements of *Sections 721 of the Zoning Bylaw General Standards*:

1. *The capacity of existing or planned community facilities;*
  - a. The application meets this requirement.
2. *The character of the area affected;*
  - a. The application meets this requirement.
3. *Traffic on roads and highways in the vicinity;*
  - a. The application meets this requirement.
4. *By-laws then in effect;*
  - a. The application meets this requirement.
5. *Utilization of renewable energy sources;*
  - a. The application meets this requirement.
6. *Furtherance of the provisions of the Dummerston Town Plan.*
  - a. The proposed development conforms to the Town Plan.
    - i. *Housing Goals, Policies, and Action Steps*
      1. *Goal 1: To create flexibility and diversity in Dummerston's housing stock.*

As conditioned, the proposed development meets the requirements of *Sections 722 of the Zoning Bylaw Specific Standards*:

1. *Section 210 Productive Lands District*
  - a. The proposed project will still conform to the purpose of the zoning district (as stated in *Sections 205-240* of these Bylaws) in which the land development is located.
2. *Section 615 Setback Requirements*
  - a. The proposed development meets the requirements for the district.
3. *Section 620 Off-Street Parking Requirements*
  - a. The proposed development meets the requirements.
4. *Section 635 Landscaping Requirements*
  - a. The proposed development meets the requirements.

5. *Section 640 Erosion and Sediment Control*
  - a. The proposed development meets the requirements.
6. *Section 660 Performance Standards*
  - a. The proposed development meets the requirements with the condition that under *Section 660 (8) Fire, Safety, explosive , or other hazard*, Short Term Rental properties are considered Public Buildings by the State of Vermont and fall under the State Fire Regulations. This structure will be subject to inspection by the State Fire Marshal and must conform to State Fire Regulations for Public Buildings.
7. *Section 665 Outdoor Advertising Signs*
  - a. No signage is requested.

As conditioned, the proposed development meets the requirements of *Sections 726 of the Zoning Bylaw Site Plan Review Procedure*:

1. *Compatibility with adjacent land uses.*
    - a. The proposed development meets the requirements.
  2. *Maximum safety of vehicular circulation between the site and the street network.*
    - a. The proposed development meets the requirements.
  3. *Adequacy of circulation, parking and loading facilities with particular attention to safety.*
    - a. The proposed development meets the requirements.
  4. *Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection of adjacent property.*
    - a. The proposed development meets the requirements.
  5. *Lighting, noise, odors, protection of renewable energy resources.*
    - a. The proposed development meets the requirements with the condition that all exterior lighting must be shielded to prevent glare to adjoining properties (*Section 660, (6)*).
2. **Rental occupancy is limited to 2 persons per bedroom per State wastewater rules. The house is a 1 bedroom house so the maximum occupancy is 2 persons.**
  3. **This Conditional Use permit will be reviewed by the Zoning Administrator every 5 years per Section 727.**
    - a. **Section 727 Conditional Use /Site Plan Permit Review: *Conditional Use and Site Plan permits shall be reviewed every five (5) years by the Administrative Officer for compliance to the conditions granted in the permit.***
  4. **It is the Applicant's responsibility to be in compliance with any and all Town or State required or issued permits at all times or this approval is null and void.**

The following members of the Dummerston Development Review Board participated and concurred in this decision: Chad Farnum, Peter Doubleday, Cami Elliott, Alan McBean.

Dated at Dummerston, Vermont, this 15<sup>th</sup> day of August, 2023.

A handwritten signature in black ink, appearing to be 'AFB', is written above a horizontal line.

Signed for the Dummerston Development Review Board

**NOTICE:** This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.