

TOWN OF DUMMERSTON

Development Review Board

Conditional Use and Site Plan Review Application Findings and Decision

HEARING SPECIFICS

Permit Application Number: 3712

Date Received: March 28, 2023

Applicant: Lindsay Richard

Mailing Address: 1503 US Rt 5, VT 05346.

Location of Property: Parcel 395, 1503 US Rt 5, E. Dummerston, VT

Owner of Record: Black Birch Properties LLC

Application: Conditional Use Application; Retail Store and Site Plan Review.

Date of Hearing: April 18, 2023

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a Conditional Use, Retail Store (Cut flower sales) and Site Plan Review under the Town of Dummerston Zoning Bylaw Sections 720 and 724.
2. On April 5, 2023, notice of a public hearing was published in The Brattleboro Reformer.
3. On March 29, 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 April 4, 2023, notice of a public hearing was posted at the following place: 1503 VT Route 5, E. 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 March 29, 2023, a copy of the notice of a public hearing was emailed to the applicant.
6. On March 29, 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. Bernier Trevor & Jasmine, 31 Cherry St, Brattleboro, VT 05301
 - b. Titus Deborah, 1656 US Rt 5, E Dummerston, VT 05346

- c. Town Of Dummerston, Selectboard, 1523 Middle Rd, East Dummerston, VT 05346
 - d. Wall Amy S, 86 Hillside Dr, E. Dummerston, VT 05346
 - e. Seymour Allan & Sally W Trustees, 1500 US Rt 5, E Dummerston, VT 05346 (via email)
7. The application was considered by the Development Review Board (DRB) at a public hearing on April 18, 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 (via zoom), Peter Doubleday.
 - b. Others:
Lindsay Richard (applicant), Amy Wall (owner), Roger Jasaitis (Zoning Administrator).
 10. A site visit was conducted on April 18, 2023.
 11. Present at the site visit were the following:
 - a. Members of the Development Review Board:
Alan McBean, Cami Elliott, Peter Doubleday.
 - b. Others:
Lindsay Richard (applicant), Roger Jasaitis (Zoning Administrator).
 12. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application for Zoning Permit, number: 3712.
 - b. Application to the Development Review Board for a Conditional Use Permit and Site Plan Review, number: 3712.

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, Retail Sale Store, under Sections 720-726 of the Dummerston Zoning Bylaw, at parcel #395, 1503 US Rt. 5., Dummerston, VT. The subject property is a 6.2 acre parcel located at 1503 VT Route 5, in the Town of Dummerston (tax map parcel no. 000395). The property is more fully described in a Deed recorded at Book 130, Page 393, in the Town of Dummerston Land Records.
2. The property is located in the Rural Commercial District as described on the Town of Dummerston Zoning Map on record at the Town of Dummerston municipal office and Section 220 of the Zoning Bylaw.
3. The Application states Conditional Use approval is requested for:
 - a. Accessory Structure 8' x 4' for retail cut flower sales.

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. Applicant: Lindsay Richard states that she wants to have a self service farm stand to sell cut flowers. Currently she has 13 people signed up for a flower Community Supported Agriculture (CSA).
6. Parking will be at the designated 2 spots near the farm stand.
7. Flowers will be sold from the 4' x 8' farm stand located in the parking lot.
8. Hours of operation: Self Serve: 7 days a week, April 30 to May 15 and June 15 to September 15. 8am to dusk. CSA: pick up from 4pm to 8pm on Sundays.
9. Signage: Applicant has not decided about a sign yet for the business or directional signage.
10. Lighting: No extra lighting will be added to the site.
11. Chad Farnum asked which direction the farmstand would be facing. The Applicant stated into the parking lot.
12. Cami Elliott asked if the structure is visible from the road. The Applicant stated that it is only slightly visible due to the vegetation and the raised earthen berm.

DECISION AND CONDITIONS

The DRB finds that this application meets the requirements of the Town Plan and the Zoning Bylaw and Approves the application with conditions.

1. The DRB approves the proposed Retail Store for cut flower sales.
 - a. The application meets the requirements of *Sections 721 of the Zoning Bylaw General Standards*.
 - b. The proposed development meets the requirements of *Sections 722 of the Zoning Bylaw Specific Standards*.
 - c. The proposed development meets the requirements of *Sections 726 of the Zoning Bylaw Site Plan Review Procedure*.
2. The following conditions apply to this approval:
 - a. Signage:
 - i. Per Section 669: 5(A) The business is limited to one (1) sign at 32 square feet (2 sides allowed). **A separate application and approval from the DRB will be required for this sign.**
 - ii. Instructional signage is limited to under 4 square feet per sign per; *10 V.S.A. § 494(8) Small signs displayed for the direction, instruction, or convenience of the public, including signs which identify parking, rest rooms, freight entrances, posted areas or the like, with a total surface area not exceeding four square feet.*

- b. Hours of Operation: 8:00am to Dusk, 7 days a week from April 30th to September 15th.
3. **The provisions and conditions of previously approved Conditional Use permits remain in effect on this parcel.**
 4. **This Conditional Use permit will be reviewed by the Zoning Administrator in 5 years (May 2028) 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.*
 5. **Expiration: This Zoning Permit approval will expire by limitation two (2) years from the date of approval. All work must be completed as shown on any approved plan before the expiration date.**
 6. **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 3 day of May, 2023.



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.