

**TOWN OF DUMMERSTON
DEVELOPMENT REVIEW BOARD
LAND USE DECISION**

Applicant: DiSanto Group, LLC
Mailing Address: 11098 Rt. 31, Clyde, NY 14433
Property Owner: Lawrence E. Thomas
Mailing Address: PO Box 220, W. Chesterfield, NH 03466
Agent: Alex DiSanto
Location of Property: Vacant Parcel #000525,
Old Ferry Road, Dummerston, VT
Application: Conditional Use Permit, Site Plan Review & Sign Permit
Re: Re: Application for Zoning Permit #3065

This matter came before a duly warned public hearing of the Dummerston Development Review Board (DRB) held on June 23, 2009 at the Town Office, Dummerston Center, Vermont. The public hearing was preceded by the Board's site inspection of the property. The public hearing was adjourned, followed by deliberations and motions.

Present and participating were the following members of the Development Review Board: Patricia Jaquith, Regina Rockefeller, Cynthia Wilcox, alternate John Warren and Lew Sorenson, chair. Present, but not participating, were Board member Herb Rest (who did not attend the site inspection) and alternate, Rick Sullivan. Also present at the hearing and representing the applicant were Alex and Jonah DiSanto, property owner Lawrence Thomas, Joe Kowalski representing the Windham Solid Waste Management District, and Zoning Administrator, Charlotte Annis.

FINDINGS OF FACT

The Board finds as follows:

1. The applicant proposes establishment of a propane distribution business for 20# (pound) exchange tanks. Filled 20# tanks would be brought to this location where they would be transferred to distribution trucks that would then distribute the tanks to convenience stores and other retail locations. The distribution trucks would return with empty tanks, which would then be transferred from the property. Facilities on the subject property would include a 24'x51' steel roofed building, open on all four sides, with a concrete floor 4-feet above grade for loading and unloading of tanks. The applicant states that a maximum of 8,000 tanks would be on the property at any given time. Filled tanks would be brought to site in semi tractor-trailers containing up to 1200 tanks. The trailers would be left at the site and a two-person evening crew would then transfer the filled tanks to distribution box trucks which would leave on their routes in the morning. The evening employees would also unload

empty tanks from the distribution trucks and transfer them to tractor-trailers. The transfer structure would accommodate four semi trailers and four distribution trucks at any one time. The application does not include any transfer of gas between tanks. Other improvements to the property would include a 10'x20' portable office structure, gravel improved surface for vehicle maneuvering areas, additional parking for distribution trucks and employees. No outdoor storage is proposed. A 6' chain link fence is proposed along the south and east property lines with an entry gate at the southwest corner of the property. Also proposed are four pole mounted security lights and a 6'x6' sign at the entrance gate. The applicant proposes a portable toilet, but if required, is willing instead to connect an office bathroom to an approved septic system.

2. An application for a zoning permit was submitted June 2, 2009 to the Zoning Administrator who on the same date referred it to the DRB, finding that this land development requires a conditional use permit and site plan approval pursuant to Bylaw Sections #230 & #724. The DRB application dated May 14th also requests a sign approval as required by Bylaw Sections #665-670. Other applicable bylaw provisions are contained in sections 620-640, 660, 705, 721, 722, 726 & 727. Prior to the public hearing the applicant submitted a revised site plan and at the hearing the applicant submitted a 3rd revised site plan and additional drawings of the proposed structure, a revised sign plan and several photos of the applicant's operations at Clyde and Canstota, NY. The Board findings and decision is based on the revised material together with the applicant's testimony referenced in these findings.
3. The property is approximately 210' by 500' and is 3.10 acres. It is zoned Commercial/Light Industrial. The predominate portion of the property is level and has been cleared for previously commercial/light industrial use but is now vacant. Old Ferry Road borders the property on its westerly and northerly sides descending in grade to a railroad underpass. The northerly edge of the property is a steep bank separating Old Ferry Road from the main portion of the property. The property borders the Dummerston/Brattleboro town line to the south. The property owner states the property has Brattleboro Town water available, which is proposed for this development. The property owner also is an owner of the abutting Brattleboro property to the south. Dominant immediate area uses include a sawmill business to the west and the Windham Solid Waste Management District's facilities to the south. Property to the north is separated from this area by terrain and is used primarily for agriculture.
4. The applicant testifies that traffic to and from the site will start low and increase as business accounts are established. To start there will be 3 employees and with expected growth, a total of 10 employees. Traffic will also have a seasonal aspect, as the dominant demand for 20# propane tanks is summertime residential grilling. Daily traffic generated by the development will include a maximum of 4 round trip distribution truck trips and 10 employee round trips. Tractor-trailer trips will not

exceed 4 round trips per week.

5. The applicant also testifies that the property will be kept in a neat condition with lawn and delineated areas for vehicles. Concrete pad strips will be provided for the wheel locations where the semi trailer will be parked. Other vehicle areas will be gravel. The applicant is willing to meet conservation standards for security lighting, which will be directed downward, and is agreeable to landscaping at the entry area.
6. The applicant proposes a sign of 6' x 6', rather than the rectangular shape shown on the drawings, but with the same content. The sign will be single sided and unlit.
7. The representative of the Windham Solid Waste Management District testified that the District has no object to the proposed application. The West Dummerston Volunteer Fire Department reports no concerns with the proposal, but notes the possibility of State of Vermont standards and requests that the applicant coordinate with them so that they will have access through the locked gate in case of need.
8. The Board finds that with conditions the proposed use complies with the performance standards of Section #660 and the proposed sign complies with the several standards set out in the Sections #665-669. The proposed development will not adversely affect the community facilities, the character of the area or traffic on Old Ferry Road; and with conditions, the development meets the standards for Conditional Use Permits set out Section #722 and Site Plan Review standard of Section #726. Likewise, with appropriate conditions, the standards of Sections #620-640 will be met.

CONCLUSIONS OF LAW AND DECISION

The proposed development meets the standards of the Bylaw and a consolidated Conditional Use Permit, Site Plan Approval and Sign Permit is issued subject to the following conditions:

1. Development of the property and operation of the propane distribution facility shall conform to the application materials, the applicant's assurances as reflected in the findings above, and these conditions. Specifically there shall be no transfer of gas between tanks and no outdoor storage. Any modification of the use shall require an amendment to this permit.
2. The proposed use area shall be enclosed within a perimeter fence along the property lines except along the northerly boundary where the fence shall be at the top of the bank above the road.
3. The entrance shall be constructed so that sight distances are maintained and sufficient pull off area exists in front of the gate so entering trucks do not obstruct the roadway.
4. Landscaping shall be provided at the entry and sign area. The sign shall be a

- maximum of 6'x6', one-sided with an overall height of 7 feet.
5. Lighting shall be the minimum needed for security, shall be directed downward and shall be of energy conservation specification. This condition shall be administered by the Zoning Administrator who shall consider the recommendations of the Dummerston Energy Committee.
 6. The office structure shall include a bathroom facility connected to an approved septic system rather than the proposed port-a-potty.
 7. The applicant shall consult with the West Dummerston Fire Department regarding emergency access at the entry gate.
 8. All state standards and permit requirements shall be met including fire protection and water quality. Evidence of compliance with state permits shall be furnished to the Zoning Administrator prior to the issuance of the occupancy permit. Should any state requirement preclude compliance with these conditions, the application shall be returned to the Board for resolution prior to construction.

The following members of the Dummerston Development Review Board participated and concur in this decision. The Decision is subject to appeal as provided by Vermont statute.

Pat Jaquith, Regina Rockefeller, Cynthia
Wilcox, John Warren and Lew Sorenson

Dated: July 31, 2009

DUMMERSTON DEVELOPMENT REVIEW
BOARD

Lew Sorenson, Chair
For the Board

EXHIBITS:

1. Application for Zoning Permit #3191
2. DRB Conditional Use Permit, Site Plan Review and Sign Permit application including outline of proposed feature and limitations submitted by Stub Thomas.
3. Newspaper Public Hearing Legal Notice
4. Applicants' Posting and Adjoining Property Owner Notice Certification

5. Additional application materials submitted at the site inspection and at the public hearing.
6. DRB Attendance Sign-in Sheet
7. Interested Persons Record and Service List