

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

Applicant: Allard Lumber Company

**Mailing Address and
Location of Property:** 354 Old Ferry Road, Brattleboro , VT 05301
Application for adjoined property within Dummerston

Application: The request is for Conditional Use approval, for front and property line setback Variances and for site plan approval for the construction of two kilns in a commercial/light industrial district.

Re: Application for Zoning Permit #3220

The matter came before a duly warned public hearing of the Dummerston Development Review Board (DRB) held on March 28, 2010, at the Town Office, Dummerston Center, Vermont. The DRB conducted a site visit immediately preceding the public hearing.

Present and participating were the following members of the Development Review Board: Cynthia Wilcox, Lew Sorenson, Regina Rockefeller, Patricia Jaquith, Herbert Rest; . Also present: John Warren, alternate, Rick Sullivan,alternate, Charlotte Neer Annis, Zoning Administrator; Clifford Allard, applicant and Wm. Jewell, consultant to the applicant , Bell. The public hearing was adjourned following testimony of the applicant and Mr. Jewell. Deliberations and motions of the Development Review Board ensued.

FINDINGS OF FACT

The Board finds as follows:

1. The applicant proposed the construction of two 30' x 40' kilns within the already operational lumber yard as an expansion of the current operational capacity. The location of the proposed structures will not meet side and property line setback zoning requirements.
2. The applicant filed the Zoning Permit on March 30, 2010.
3. The posting requirements for notices to abutters were delivered by the applicant. No objections were received before the hearing .

No abutters were present at the hearing.

4. The Zoning Administrator denied the application for permit #3220 March 30, 2010 finding that a site plan approval, a setback variance and a conditional approval were needed under sections 724 and 230 of the Town of Dummerston Zoning Ordinance.

5. The Dummerston Development Review Board conducted a site visit at the property on March 28, 2010 at approximately 6:00 p.m.

6. The property is located in a Commercial/Light Industrial District.

7. Section 230 of the Zoning Bylaw requires a 100 foot building front yard setback and a 100 foot property line setback. In addition, a conditional use permit and site plan approval are required.

8. The applicant testified that the construction will be for extensions onto two currently existing structures.

- The first will be a 33' x 40' new kiln added to the street side of a current structure identified as kiln # 1, will be 35 feet high and assume the approximate same contour as the present building. A retaining wall will be required to support the abutting ramp roadway. There is a dropoff on the other side of the ramp that ends at the Old Ferry Road, a distance of 35 feet from the closest aspect of the proposed construction. The setback from the property line will be about 40 feet.
- The second will be a 40' x 40' kiln to be added to an existing palner shed, 35 feet in height and 7 feet from the adjoining property line.

9. The property line setback issues that exist for both proposed structures are created by a Dummerston located property that is owned by and used by the proprietor of Allard Lumber Company for Allard Lumber Co. business.

10. The location of the proposed structures is dictated by the need to access their entrances with large equipment used in the transfer of volumes of lumber to and from the kilns and by the need to provide adequate passage way for bulky product between buildings. Efficiency and logic of the lumber manufacturing process also dictates the placement of the kilns at these locations near to the planer and sorting operations.

11. Other locations for the kiln constructions on the Allard properties would result in unacceptable process inefficiencies and/or unacceptable traffic patterns and would jeopardize the proposed expansion of operations.

12. The lumber manufacturing process has had an extended history in this location. The structures have accrued over many years. Future contingencies have not always been adequately considered in the placement of functional units. This has resulted in the present placement of buildings, each with a sequential process function, into ever tighter physical proximity.

13. The ramp roadway rises above Old Ferry Road and provides partial visual blockage of the current and proposed structures and will remain unchanged in profile. The wall of the first construction will closely abut the retaining wall of the ramp roadway. The location of the yard is adjacent to other light commercial operations, has itself been a part of the commercial community at this location for many years. The character of the area will not be affected by the proposed construction nor will it affect the potential for adjacent property development.

14. The request represents the least deviation from the zoning regulations while providing a functional workable outcome.

CONCLUSIONS OF LAW AND DECISION

The Board finds that the proposed use shall meet the Specific Standards outlined in Section 728 Variances and the Vermont Statute 24 VSA 4464. The Variance is approved for the front yard setback.

The Board further finds that the proposed use of the structures in kiln operations is consistent with the manufacturing/packaging/processing conditions under section 230 and conditional use permit is thus granted.

The Board finds that the site plan would be acceptable and a property line variance would unnecessary if the two adjoining Dummerston located properties owned by the applicant would be combined into a single parcel. It is the decision of the Board that a site plan approval is to be contingent upon the merger of the said properties into a single parcel and that the property line variance would then no longer be necessary.

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 statutes.

**Lew Sorenson, Cynthia Wilcox, Regina Rockefeller,
Patricia Jaquith, Herbert Rest**

Dated: March 28, 2010

DUMMERSTON DEVELOPMENT REVIEW BOARD

Herbert F. Rest
On behalf of the Board

