

TOWN OF DUMMERSTON
Development Review Board
LAND USE DECISION

Application: Conditional Use/Site Plan Permit and Variance #3276
dated July 22, 2011

Applicant: Allard Lumber Company
354 Old Ferry Road
Brattleboro, VT 05301

Property: 354 Old Ferry Road
Dummerston, VT

The applicant, Allard Lumber Company, requested a Conditional Use/Site Plan Permit and variance to construct an additional kiln on the west end of the existing bank of kilns in the lower yard.

The matter came before a duly warned public hearing of the Dummerston Development Review Board (DRB) held on Tuesday, August 16, 2011, at the Town Offices in Dummerston. The DRB conducted a site visit immediately preceding public hearing. Present and participating were the following members of the DRB: Herb Rest, Patricia Jaquith, Jack Lilly, Rick Sullivan and Cynthia Wilcox. Also present were Roger Turner; Charlotte Neer Annis, zoning administrator; Richard Holden, representative of Allard Lumber Company; Robin Stern, attorney for the applicant and Bill Jewell, consultant to the applicant. The public hearing was closed following testimony from the applicant's representatives. Deliberations and decisions of the DRB ensued.

FINDINGS OF FACT:

The Board finds as follows:

1. The applicant filed the current application #3276 on July 22, 2011 requesting a Conditional Use/Site Plan permit with a variance to the side yard setback in order to construct a 30' x 40' kiln on the west end of the existing bank of kilns on the lower level of the Allard Lumber Company property for the purpose of adding capacity for kiln drying of lumber to an existing operational lumber yard.
2. The applicant currently has a bank of kilns running east/west, parallel to the property line which is 42 feet to the north, and which runs through a steep embankment.
3. The applicant is currently leasing kiln space from another lumber yard and storage space from BDCC at the Book Press. They are requesting additional kiln space on site to save transportation and rental costs. The boiler for the current kiln facility has the capacity to handle additional space for drying.
4. To the west of the bank of kilns, and running perpendicular to them is a planer shed with a porch type roof on the front. This roof will be removed to accommodate the new kiln.

5. The applicant filed for a Zoning permit on July 22, 2011, which was denied by the zoning administrator on the grounds that the new kiln requires site plan review, conditional use review, and a side yard variance from the DRB under sections 245 and 230 respectively of the Dummerston Zoning Bylaw.
6. The property is located in a commercial/light industrial district. The side yard setback in the CI zone is 50 feet minimum.
7. A variance is required because of the location of the existing buildings and the location of the property line between lots 2 and 3. Lot #2 is owned by the Allard Lumber Company and Cliff Allard; whereas lot #3 is owned by the Allard Lumber Company alone. The additional kiln and existing bank of kilns are located on Lot #2.
8. The certification of posting requirements and notices to abutters were delivered by the applicant. No objections were received before the hearing. No abutters were present at the hearing.
9. The applicant's consultant, Bill Jewell, testified that the new kiln space will be a separate building, four feet to the west of the current bank of kilns, and will measure 33' x 44' x 21' high. It will have the same 42' setback from the property line as the existing kiln #1. He further explained that because the new kiln space will be heated by the same operational machinery as the existing ones, there is no other place where the new space could feasibly be located. The lumber manufacturing process has had an extended history in this location. The structures have accrued over many years, which has resulted in the present placement of buildings, each with a sequential process function into ever tighter physical proximity.
10. The applicant's attorney, Robin Stern, explained that because of the different ownership arrangements of the two parcels, it was not feasible to move the property line which has long been established along the steep embankment separating the upper yard from the lower one where the principal operations of the lumber yard are located. She then addressed the five requirements to be met in order to qualify for a variance under section 728 of the bylaw.
11. General standards for a Conditional Use permit include consideration that the proposed development not adversely affect the capacity of existing or proposed community facilities, the character of the area, traffic on roads in the vicinity, current by-laws, use of renewable energy sources and furtherance of the Town Plan. Specific standards require that the development meet area, density, frontage, setback, coverage, height and any other general requirement for the District in which the proposed use will be located.
12. Site plan review and approval requires compatibility with adjacent land uses; safety of vehicular circulation between the site and the street network; adequacy of circulation, parking and loading facilities with particular attention to safety; adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection of

adjacent property; and lighting, noise, odors and protection of renewable energy sources.

DECISION

The Board concludes that the development, as proposed, does not adversely affect the character of the area or any of its abutting neighbors. It meets the standards for a Conditional Use Permit and site plan review with the one exception of the side yard setback. It further concludes that in the matter of this setback, the embankment along the property line and the location of existing buildings in the lumber yard present physical hardships which would prevent the new kiln from being located elsewhere, and a variance is necessary to enable the reasonable use of this part of the property.

The Board, therefore, grants a Conditional Use Permit, Site Plan Approval and a Variance of eight feet (8') from the side yard setback from the property line between lots #2 and #3 to Allard Lumber Company of 354 Old Ferry Road, Brattleboro, VT 05301. The conditions of these permits are that the development be completed as proposed. The Zoning Administrator will review compliance with the conditions of this permit at least every five years.

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

Herb Rest, Pat Jaquith, Cynthia Wilcox, Rick Sullivan and Jack Lilly
DUMMERSTON DEVELOPMENT REVIEW BOARD

Dated: August 24, 2011

By _____

**ALLARD LUMBER COMPANY
CONDITIONAL USE/SITE PLAN/VARIANCE APPLICATION #3276
DRB HEARING: AUGUST 16, 2011**

EXHIBITS:

1. Zoning permit application and site plan
2. DRB Application and any attachments
3. Property map
4. Newspaper Legal Notice
5. Applicant's Public Notice Certification
6. Interested Persons Record and Service List
7. DRB Attendance Sign-in List (same as above)