

TOWN OF DUMMERSTON
DEVELOPMENT REVIEW BOARD
LAND USE DECISION

Appellant: Godfrey Renaud and Christie Turner
Mailing Address: 309 Beaver Pond Road, Dummerston, VT 05301
Location of Property: Parcel #814, 853 US Route 5, Dummerston, VT
Owner of Record: Jean Gassett c/o Karlene Vernier, Peyton, CO 80831
Application: Conditional Use permit for tree service and landscaping company.
Re: Referral of zoning permit application #3280, 8/13/2011

The matter came before a duly warned public hearing of the Dummerston Development Review Board (DRB) held on Sept. 20, 2011, at the Town Office, Dummerston Center, Vermont.

Present and participating were the following members of the DRB: Lew Sorenson, Patricia Jaquith, Cynthia Wilcox, John Warren, and alternate Jack Lilly seated as a voting member. Also present but not participating were DRB members Herbert Rest and Rick Sullivan, both of whom recused themselves. Most voting members acknowledged having had business dealings with the appellant but stated that this history would not affect their decision. Also present: Christie Turner and Godfrey Renaud, appellants; Charlotte Neer Annis, Zoning Administrator; Carlton Garland, Sam Garland.

The public hearing was adjourned following testimony of the appellant and discussion with the board. Following the public meeting, deliberations and motions of the DRB took place.

FINDINGS OF FACT

1. The applicant proposes to move their existing business to the property at 853 US Route 5, for which they are currently negotiating to purchase, from locations at their home on Beaver Pond Road and in Brattleboro. The business consists of a tree service and a landscaping business.
2. Applicant proposes to build a pole barn and office/maintenance shop along with paved driveway and paved parking area, using an existing driveway for access from US Rte. 5.
3. The property is in two zones: the eastern half (approx.), fronting the road, is zoned Rural Commercial; the western portion is in a Conservation Zone. As shown in sketches supplied to the DRB and confirmed during a site visit, all construction is to be within the

Rural Commercial zone.

3. The Zoning Administrator denied the application for permit #3280 on Sept. 2, 2011, finding that the proposal requires a Conditional Use permit, per section 225, and a Site Plan, per section 727, both of the Town of Dummerston Zoning Bylaw.
4. The Dummerston DRB conducted a site visit on the property on Sept. 20, 2011, at 6:30pm.
5. The appellants described the current size of the business and foreseeable changes as follows: currently there are 11 employees, which could rise to about 15; currently there are 9 vehicles (defined as trucks that go on the highway and not lawnmowers or trailers), which could rise to 12.
6. The activities proposed for the property include the following: meeting place and staging area for the day's work each morning, and return at the end of the day; storage area for equipment; truck storage in a three-sided building; limited outside storage for materials such as wood chips; wood-chipping operation about twice a year; business office; repairs and maintenance will be conducted in a heated, insulated, enclosed building.
7. Lighting: Lighting will be limited to motion-sensing lights, for occasional work after dark and for security.
8. Any signage will be in accord with the Bylaws of the Town.
9. Landscaping will be done to buffer the operation from surrounding properties and Route 5.
10. Traffic will be limited to workers commuting to the site, work vehicles exiting and entering at beginning and end of work day and occasionally during the day to get materials and tools, only occasional customers. One on-site daytime employee is anticipated.
11. Wood-chipping is a noisy operation; other sources of noise are the comings and goings of trucks and cars.

CONCLUSIONS OF LAW AND DECISION

1. The proposed use is allowed for the portion of the property that is within the Rural Commercial zone (section 225), consisting of the Permitted Use of Forestry (broadly defined) and Conditional Uses including Office Building and Enclosed storage.
2. Sections 720-722 apply for the granting of a Conditional Use.
3. The DRB finds that all six requirements of Section 721 are met. There is concern about the noise level of some aspects of the operation, especially wood-chipping.
4. The DRB finds that all general requirements as stated in Section 722 are met.
5. The proposal as currently presented is not accurate and detailed enough to qualify as a Site Plan, as required by Sections 724-726.
6. Therefore, the DRB approves the Conditional Use of the property as outlined in the application and in accordance with public testimony, with the following conditions:
 - a. a detailed Site Plan shall be submitted with location of structures, driveways, and parking areas conforming to the locations shown in the current application;
 - b. said Site Plan shall be specific as to location and size of buildings and outside work areas, whether surfaces are to be paved, the sort of floor on the buildings, presence and location of fuel storage tank, location of signs and plans for landscaping;
 - c. the permit applies only to the portion of the property within the Rural Commercial zone, and that no changes will be made to the portion in the Conservation zone;
 - d. the question of noise of operations shall be addressed;
 - e. any signs must be approved in a separate application in accordance with Sections 665, 669, and 670.

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, Patricia Jaquith, John Warren, Jack Lilly

Dated: October 14, 2011

DUMMERSTON DEVELOPMENT REVIEW BOARD

Herbert F. Rest
On behalf of the Board

EXHIBITS

1. Zoning Permit Application #3280.
2. DRB Appeal
3. Newspaper Legal Notice
4. Appellant's Certification of Notice
5. Interested Persons Record and Service List
6. Exhibit List