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

Applicant: DiSanto Propane (Jet Gas Inc.)
Mailing Address: 11098 Clyde-Savannah Rd, Clyde, NY 14433
Property Owner: Alex DiSanto
Mailing Address: 11098 Clyde-Savannah Rd, Clyde, NY 14433
Agent: Alex DiSanto
Location of Property: Parcel #000525, 374 Old Ferry Road, Dummerston, VT
Application: Conditional Use Permit & Site Plan Review
Re: Application for Zoning Permit #3290

This matter came before a duly warned public hearing of the Dummerston Development Review Board (DRB) held on January 17, 2012 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: Herb Rest chair, Patricia Jaquith clerk, Cynthia Wilcox, Lew Sorenson, alternate Hugh Worden and seated alternate Jack Lilly.

Also present at the hearing and representing the applicant were Alex and Jonah DiSanto; Thomas Rothermei, associate; Willis Fogg, associate; Joe Kowalski, neighbor; Stub Thomas, neighbor; and Zoning Administrator, Charlotte Annis.

FINDINGS OF FACT

The Board finds as follows:

1. The applicant proposes the installation of a 30,000 gallon propane storage tank for delivery of propane for heating and cooking at the location of their existing propane distribution business.
2. The existing business is for 20# (pound) propane exchange tanks. Filled 20# tanks are brought to this location where they are transferred to distribution trucks that distribute the tanks to convenience stores and other retail locations. The distribution trucks return with empty tanks which are then transferred from the property. Facilities on the subject property 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 has stated that a maximum of 8,000 tanks are on the property at any given time. Filled tanks are brought to site in semi tractor-trailers containing up to 1200 tanks. The trailers are left at the site and a two-

person evening crew transfers the filled tanks to distribution box trucks which leave on their routes in the morning. The evening crew also unloads empty tanks from the distribution trucks and transfers them to tractor-trailers. The transfer structure accommodates four semi trailers and four distribution trucks at any one time. Propane is delivered to the site via semi tractor-trailer about once a week during the summer; fewer deliveries are made in the winter. The applicant does not presently transfer gas between tanks. Other improvements to the property include a 10'x20' portable office structure, gravel improved surface for vehicle maneuvering areas, and additional parking for distribution trucks and employees. Presently there is no outdoor storage. A 6' chain link fence is installed along the south and east property lines and across the east and north sides with an entry gate at the southwest corner of the property to fully enclose the site. There are also pole-mounted security lights and a sign at the entrance gate. The office bathroom is connected to a septic system.

3. The existing development was reviewed by the Dummerston Development Review Board and a Conditional Use Permit, Site Plan Approval and Sign Permit were issued on July 31, 2009 and the conditions continue to be applicable.
4. An application for a zoning permit for the addition of a 30,000 gallon propane storage tank was submitted December 12, 2011 to the Zoning Administrator who on the same date referred it to the DRB, finding that this installation requires a conditional use permit and site plan approval pursuant to Bylaw Sections #230 & #724. Other applicable bylaw provisions are contained in sections 620-640, 660, 705, 721, 722 & 727. Prior to the public hearing the applicant submitted a revised site plan, drawings of the tank and the foundations, and photographs of a similar tank installation at their Canastota, NY facility, and a similar delivery truck (bob tail) at their Clyde NY facility. The applicant expects employee count to grow from 2 full-time employees, with 3 part-time to 10 in the future with corresponding increase in vehicle traffic and parking. The applicant will offer one of the current seasonal employees a full-time job and hire a new part-time employee for the current business. Truck traffic will increase by virtue of the bulk delivery of propane to the site and the local delivery truck which will be stored at the site overnight and filled at least once a day. At the hearing, the applicant distributed copies of a Fire Safety Analysis for the proposed facility. The Board findings and decision is based on this material together with the applicant's testimony referenced in these findings.
5. 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 graded with graveled surfaces for truck traffic. Structures have been installed as shown on the site plan submitted. 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 water supply is from the Town of Brattleboro. The property to the south is used for storage of dumpsters.

- 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.
6. The applicant indicated that he expects to establish between 100 and 200 accounts to be serviced from this location. The applicant testifies that traffic to and from the site will start low and increase as heating and cooking business accounts are established. Traffic will also have a seasonal aspect, as the dominant demand for 20# propane tanks is summertime residential grilling and the dominant demand for heating and cooking is during the winter months. Increased traffic as a result of the installation of the proposed tank will be bulk delivery of propane by semi-tractor trailer probably once a week and delivery vehicle traffic at least once a day. Semi tractor-trailer trips for the existing business have been projected not to exceed 4 round trips per week.
 7. The applicant also testifies that the property will be kept in a neat condition and is agreeable to landscaping at the entry area and along Ferry Road prior to it turning downhill. Beyond this point the Board finds that landscaping is not needed due to the wooded slope adjacent to the road.
 8. The applicant indicated that the West Dummerston Fire Department has been apprised of the proposed tank addition and has been promised appropriate training which will also be available to other fire department companies likely to be called in the event of a fire.
 9. Employees will be provided the Nation Propane Gas Association Certified Employee Training Program (CETP) and the CETP Certification
 10. The Board finds that, with conditions, the proposed use complies with the performance standards of Section #660. 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 in 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 Conditional Use Permit, and Site Plan Approval is issued subject to the following conditions:

1. All conditions of the original Conditional Use Permit, Site Plan Approval and Sign Permit issued on July 31 continue to apply.
2. No more than 25 new and 25 used tanks greater than #20 shall be kept on the site at a time and they shall be stored at the designated location on the east side of the property away from Old Ferry Road.
3. Landscaping shall be provided at the entry and sign areas and along Ferry Road for 100 feet north of the entry in accordance with Dummerston Bylaws which require a strip of land at least 15 feet in width which shall be maintained as a landscaped area.

4. The Fire Safety Analysis submitted at the hearing shall be submitted to the West Dummerston Fire Department and a letter in response shall be obtained and submitted to the board indicating that no additional fire protection equipment will be required for the Fire Department.
5. No additional lighting shall be installed.

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.

Herb Rest, Lew Sorenson, Pat Jaquith, Cynthia
Wilcox, Jack Lilly

Dated: February 13, 2012

DUMMERSTON DEVELOPMENT REVIEW BOARD

Herb Rest, Chair
For the Board

EXHIBITS:

1. Application for Zoning Permit #3290
2. DRB Conditional Use Permit, Site Plan Review and Sign Permit application including outline of proposed feature and limitations submitted by Alex DiSanto.
3. Newspaper Public Hearing Legal Notice
4. Applicants Public Notice Certification.
5. Applicants' Posting and Adjoining Property Owner Notice Certification.
6. Additional application materials submitted at the site inspection and at the public hearing.
7. DRB Attendance Sign-in Sheet