

**TOWN OF DUMMERSTON
DEVELOPMENT REVIEW BOARD
CONDITIONAL USE PERMIT**

Applicant: MVS Associates
Mailing Address: 1200 High Ridge Rd, Stamford Ct, 06905
Location of Property: Parcel #97-100, Route 30, Dummerston, VT 05301
Owner of Record: MVS Associates
Application: Conditional Use Permit to resume operation of property as a four season recreational area

Re: Zoning permit application 3330, 3/15/2013

The matter came before a duly warned public hearing of the Dummerston Development Review Board (DRB) held on April 23, 2013; at the Dummerston Historical Society, Dummerston Center, Vermont. The hearing was preceded by a site inspection by Board members the applicant, and members of the public. Present and participating were the following members of the DRB, Jack Lilly, Chair, Hugh Worden, Patty Walior, Sam Griffis, Clerk, and Lew Sorenson who later recused himself. Also present and participating were Charlotte Neer Annis, Zoning Administrator, Gail Sorenson, Zeke Goodband, Thomas E. Simeon, Margaret Evans, Robert Evans, Beverly Kenney, John Willis, Thomas Zopf, Judy Placey, Mary Louise Nelson, Art Benedict, Mike Faher, Nicholas Mercede, Neil Allen, and Shirley Schultz. No one on the board expressed a conflict of interest or involvement in ex parte communications that could affect the process or the decision.

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

FINDINGS OF FACT

The applicant proposes to resume operation of property as a four season recreational area to include functions at the existing base lodge facility, skiing, and other outdoor activities on the existing property surrounding the base lodge.

1. On March 15, 2013 the applicant applied for a Zoning Permit to reopen the Maple Valley Ski Area as a four season recreation area as described in the application materials. The Zoning Administrator on February 20, 2013 found the development requires Conditional Use approval by the Development Review Board per Bylaw Sections 720 through 722 and Section 727 and Site Plan Approval per Bylaw Sections 245, 724, 725, 726 and 727.
2. The property is in three districts; the base facilities and parking lot in a Rural Commercial (RC) District extending 1000' on the west side of Rt 30, the parking lot on the east side of Rt 30 is in Rural Residential (RR) District, and the interior is in a Reserve (R) District. The eastern parking lot is partially in a Flood Hazard Area (Bylaw Article IV).

3. Maple Valley is a non-conforming use (or structure) which has been discontinued or not used for a period of one year or more. It shall not be re-established except upon the issuance of a Conditional Use Permit by the Development Review Board. Any other future uses or structures shall conform to the Bylaw. (Bylaw Section 255)
4. The applicant indicated that the existing snowmaking and lighting are obsolete and will have to be replaced and the diesel sound proofing is inadequate.
5. The applicant requested permit approvals from the DRB in 2011 for an expanded scope of operation. The Board found the request lacked clarity and application materials were inadequate for review and approval. The Board issued a letter dated June 27, 2011 outlining information needed for Board consideration (Exhibit 8). After several months without response the applicant withdrew the application.
6. Based on applicant testimony, Maple Valley was first opened in the mid-1960s and operated as a family ski area primarily for local residents. It closed about 1995-96 and was reopened for a short period in 1999 when the applicant purchased it. It has not operated since.
7. During the public hearing a number of people testified in favor of reopening Maple Valley although several area residents expressed concern about night time noise and light pollution and impacts on their property values.
8. A Vermont Act 250 permit or permits are required as are a number of other State permits and approvals prior to any use granted in the decision. A permit from the Vermont Department of Environmental Conservation for Floodplain development is also required. The State has special expertise needed for these reviews.

CONCLUSIONS OF LAW AND DECISION

- A. The Board determined that the persons listed in Exhibit 6 of this decision meet the standards for "interested persons" as defined in Vermont Statute, 24VSA, Section 4465(b)
- B. The Maple Valley Ski Area prior to its closing was a valuable community resource for Dummerston and a significant contributor to the Town's economic and diverse land uses.
- C. Recreational facilities are among the listed Conditional Uses of the Bylaw's Rural Commercial District, and Maple Valley Ski Area at its historic use level can fit within the district's general description and purpose statement. While downhill ski trails are not among the listed Permitted or Conditional Uses of the Reserve District, they may be considered as an unspecified use under the new Bylaw Section 121.
- D. The application materials currently submitted do not meet the minimum requirements of Bylaw sections 725 and 726 and, at this time, do not provide sufficient basis for DRB Site Plan Review Approval. These deficiencies were also reported to the applicant in the Board's June 27, 2011 letter.
- E. The State of Vermont has jurisdiction and special expertise in several areas of significance in opening the ski area including West River water withdrawal, snow making, nighttime slope-side lighting, lift line operation, nose impact abatement, traffic

control, public food service and building use. It is appropriate for the DRB to have the benefit of State reviews prior to making a final decision.

- F. The DRB therefore approves the Conditional Use Permit for the uses listed below subject to the following conditions. Any additional uses shall require new permit applications and construction permits.
- 1) Activities are approved as follows:
 - a) Winter skiing, with snow making, trail lighting, diesel sound proofing, and other obsolete or inadequate equipment upgraded or replaced; and hours of lift operation limited to 8:00 am to 5:00 pm; (approval for night skiing is contingent on approval of and lighting design)
 - b) Spring, summer, and fall hiking, mountain biking, and nature programs.
 - c) Retail sales in support of normal operations for such things as ski rental and repair, bicycle rental and repair, beverage and food preparation and cafeteria service, during normal skiing hours;
 - d) Special functions such as wedding receptions, family or school reunions, dances and conferences; Applicant shall contract for sheriff coverage as recommended by the Windham County Sheriffs' Department: Indoor functions no later than 1:00 am; Outdoor functions limited to six a year ending no later than 10:00 pm and 1:00 am on January 31st.
 - e) Activities not approved are motorized off-road activities, lodging or camping, unpermitted fires.
 - 2) Prior to opening, the applicant shall provide copies of all Vermont Act 250 application materials and a copy of the issued permit.
 - 3) The Applicant shall submit final site plan for DRB approval showing the location, height and spacing of buildings, lighting, ski lift towers and loading and unloading structures, septic tanks and leach fields, potable water wells, site drainage, diesel engines, open space and their landscaping, streets, driveways and off-street parking spaces, unique natural or man-made features, and physical conditions of the site (bylaw Section 502) prior to opening.
 - 4) After an Act 250 noise analysis of final equipment is completed and an Act 250 permit is obtained, the applicant shall present a final noise analysis of noise impacts on properties beyond Maple Valley boundaries and obtain DRB approval prior to opening.
 - 5) After an Act 250 lighting analysis of lights for night skiing is completed and an Act 250 permit is obtained, the applicant shall present a final lighting analysis of lighting impacts on properties beyond Maple Valley boundaries and obtain DRB approval prior to opening.
 - 6) The applicant shall provide a list of other permits required and advise the DRB when applications have been submitted and when approval or denials have been received.
 - 7) If the DRB determines that any of the information received relevant to these conditions represents a significant impact, a new application and public hearing may be required.

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.

Hugh Worden, Patty Walior, and Jack Lilly, Chair

Dated: May __23__, 2013


DUMMERSTON DEVELOPMENT REVIEW BOARD

Original signed by 
By: Jack Lilly, Chair

EXHIBITS

1. 3/15/13 Zoning Permit Application 3330 and DRB application with Exhibit 1
2. Permit Application, 4/3/13
3. Sound Analysis Systems, July 23rd, 2011 memo
4. Savoy Engineering Letter, December 15, 2012 letter
5. Preliminary Site Plan by Dauchy-Creamer Associates LLC, 7/22/2011
6. DRB Interested Persons Record and Service List, 4/23/13
7. 2/15/1999 Brattleboro Reformer supplement
8. DRB letter dated June 27, 2011

DUMMERSTON TOWN CLERK'S OFFICE
RECEIVED FOR RECORD

June 12, 2013 at 2:10 pm
Recorded in Vol. 117 Page 139-142

Town Clerk _____