

TOWN OF DUMMERSTON

Development Review Board

Application for Variance; School and Site Plan Review Findings and Decision

Permit Application Number: 3795

Date Received: December 4, 2024

Applicant: Andree C. Zaleska

Mailing Address: 204 Kelly Rd., Dummerston, VT 05301.

Location of Property: Parcel 464, 204 Kelly Rd., Dummerston, VT

Owner of Record: Andree C. Zaleska

Application: Variance; School and Site Plan Review

Date of Hearing: January 21, 2025

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a Variance; School and Site Plan Review under the Town of Dummerston Zoning Bylaw Sections: 720-728, at parcel #000464.
2. On January 1, 2025, notice of a public hearing was published in The Commons.
3. On December 31, 2024, notice of a public hearing was posted at the following places:
 - The Dummerston Town Office.
 - The West Dummerston Post Office.
 - The Dummerston School.
4. On January 1, 2025, notice of a public hearing was posted at the following place: 204 Kelly Rd., Dummerston, VT, which is within view of the public-right-of-way most nearly adjacent to the property for which the application was made.
5. On December 26, 2024, a copy of the notice of a public hearing was emailed to the applicant.
6. On December 26, 2024, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:
 - a. Leary Sandra Kim, Ballantine Ricky Donald, 283 Kelly Rd, Dummerston, VT 05301
 - b. Rjae Llc, 225 Rye St., Broadbrook, CT 06016

7. The application was considered by the Development Review Board (DRB) at a public hearing on January 21, 2025.
8. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended April 6, 2022.
9. Present at the hearing were the following:
 - a. Members of the Development Review Board:
Patty Walior, Alan McBean, Cami Elliott, Chad Farnum, Peter Doubleday.
 - b. Others:
Andree Zaleska (applicant), Kelsy Allan, Roger Jasaitis (ZA).
10. A site visit was conducted on January 18, 2025.
11. Present at the site visit were the following:
 - a. Members of the Development Review Board:
Patty Walior, Alan McBean, Cami Elliott, Chad Farnum, Peter Doubleday.
 - b. Others:
Andree Zaleska (applicant), Roger Jasaitis (ZA).
12. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application for Zoning Permit, number: 3688.
 - b. Application to the Development Review Board for a Variance; Registered Childcare Facility and Site Plan Review #3795.
 - c. Exhibit A: Letter from Kathy Rybick (RJAE, LLC, abutter).
 - d. Exhibit B: Email letter from Taylor Franklin, Guilford, VT (parent of program participants).

FINDINGS OF FACT

Based on the application, testimony, exhibits, and other evidence the DRB makes the following findings:

1. The applicant seeks a Variance; School and Site Plan Review under the Town of Dummerston Zoning Bylaw Sections: 720-728, at parcel #000464.
2. The subject property is 10.3 acres, located at 204 Kelly Rd., in the Town of Dummerston (tax map parcel no. 000464). The property is more fully described in a Deed recorded at Book 122, Page 564-566, in the Town of Dummerston Land Records.
3. The property is located in the Conservation District as described on the Town of Dummerston Zoning Map on record at the Town of Dummerston municipal office and Section 205 of the Zoning Bylaw.
4. The DRB Application states Variance; School approval is requested for the parcel.
5. The application requires review under the following sections of the Town of Dummerston Zoning Bylaw: 720-728.
6. Applicant: Andree Zaleska offered a general overview of the application and presented a proposal for a small nature-based educational program for children on a residential

- property. The program plans to have a maximum of 10 students and around 6 vehicle trips per day. The property has some existing, built, natural play structures from trees felled on the land but no major modifications are planned. The program does not require a state license as it falls under recreational programming according to the Child Development Division at the State. It will operate during daylight hours from 9am to 3pm, mostly staying on the property with occasional walks to neighboring properties with permission.
7. Alan McBean (DRB); I know I saw on the field visit that the boundary between your property and the abutters who were objecting to the business is a stone wall. It's kind of a hard boundary. Andree; the kids respect that. And yeah, they're old enough to know what that boundary is.
 8. Roger Jasaitis (ZA) Andree, you're just using the one yurt for the program at this point? Andree; that's right. It's the only one that's insulated and has a wood stove.
 9. Cami Elliott (DRB); Do you have a sign at the end of the driveway to tell people it's a school? Andree; it's just our symbol, which is 2 red "S"s. They are salamanders. The sign is about 18 inches square. Cami; So there's actually no writing on it? Andree; correct.
 10. Cami Elliott (DRB); Asked the ZA to clarify the situation with the former Variance granted for the Daycare Facility on this parcel. The ZA answered; if the permit had been executed and the daycare was running, then that permit would still be valid. But this was an instance where the permit was granted by the DRB but it was never executed, they moved the daycare off site before it actually took effect after the 30 Day appeal period and so the permit was never valid on that property. It's been longer than 2 years since that permit was issued, and that's the cutoff. The 2 year period. That permit is null and void.
 11. Alan McBean (DRB); As for lighting, you said, it's basically just motion activated lights in the yard. And that's just the parking lot. Andree; those are there. Yeah, regardless, and the programs mostly run during daylight hours, anyway.
 12. Alan McBean (DRB); Anything associated with the program that would generate noise? Andree; Occasional use of a power drill, that's about it.
 13. Alan McBean (DRB); Anything associated with the program that would generate smoke? Andree; Smoke from a wood stove, and campfire smoke.
 14. Roger Jasaitis (ZA); Is this program year round 4 seasons? Andree; pretty much. We plan to take about 6 weeks off in the summer.
 15. Chad Farnum (DRB) What time do the kids show up? And what time do they typically leave? Andree; 9am to 3pm. We try to have a staggered window on each end so that there isn't a big issue with traffic, like 20 min in the morning and 20 min in the afternoon for pick up and drop off.
 16. Alan McBean (DRB) Also, I just wanted to have it on the record. There was plenty of parking, 8 spots.
 17. Alan McBean (DRB) Any parting words? Andree Zaleska; I hope that this is small enough, that it won't be a problem for the town. We're not trying to create a large program.

DECISION AND CONDITIONS

The Development Review Board (DRB) finds that this application meets the requirements of the Town Plan and the Zoning Bylaw and Approves the application with conditions.


1. The DRB approves the Variance for School.
2. In addressing the criteria of *Section 728 Variances*, the DRB finds the following:
 - a. Criteria #1; This criteria is not applicable to the application because it is a Use.
 - b. Criteria #2; This criteria is not applicable to the application because it is a Use.
 - c. Criteria # 3; This criteria is not applicable to the application because it is a Use.
 - d. Criteria #4; This Variance will not alter the essential character of the neighborhood or district or substantially or permanently impair the appropriate use or development of adjacent property. Access to renewable energy resources will not be affected. The DRB feels that this Variance will improve the public welfare in the District by providing a much needed resource for young children by providing environmental education.
 - e. Criteria #5; The DRB, by applying Conditions to this approval, will effect the minimum restrictions that will afford relief to the applicant and the least deviation from the Zoning Bylaw and Town Plan.
 - f. The application meets the requirements of *Sections 720-728* of the Zoning Bylaw.
 - g. The application meets the requirements of *Sections 205 of the Zoning Bylaw* for the Conservation District; permitted land uses in these areas should be limited primarily to forestry, agricultural, low density residential, and accessory uses to the permitted uses on the same lot. The DRB considers this a low density accessory use on the same lot.
 - h. The proposed development meets the requirements of *Sections 726 of the Zoning Bylaw Site Plan Review Procedure*.
 - i. The proposed development meets the policies and goals of the Town Plan specifically; Education Vision and Goals: Policy 1.4: Promote lifelong learning, including supporting Dummerston Conservation Commission educational programs.

The following conditions apply to this approval:

1. The maximum number of children allowed on site under this approval is ten (10).
2. The maximum number of car trips per day to the site is twelve (12). Carpooling is encouraged.
3. The days and hours allowed for this program are as follows: 9am to 3pm, three (3) weekdays per week.
4. This approval "runs with the land" and is not transferable to other properties or locations in the Town of Dummerston.
5. The existing 18 inch diameter sign (with no writing) is authorized by this approval. Any change to signage requires further permitting.
6. Expiration: All activities authorized by this approval shall be commenced within two years of the date of issue, or the zoning permit shall become null and void and re-application to implement any activities shall be required. (Section 703)
7. It is the Applicant's responsibility to be in compliance with any and all Town or State required regulations or issued permits at all times or this approval is null and void.,

The following members of the Dummerston Development Review Board participated and concurred in this decision: Patty Walior, Alan McBean, Cami Elliott, Chad Farnum, Peter Doubleday.

Dated at Dummerston, Vermont, this 28th **day of** January, 2025.



Signed for the Dummerston Development Review Board

ALAN J. MCBEAN

Printed Name

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.