

TOWN OF DUMMERSTON

Development Review Board

Conditional Use, Right of Way and Site Plan Review Application Findings and Decision

Permit Application Number: 3750

Date Received: December 14, 2023

Applicant: Shaun McCaffery

Mailing Address: PO Box 10048, Fort Smith, AR 72917

Local Contact: Adam Hubbard, 492 Beebe Rd., Putney, VT 05346

Location of Property: Parcel #828, 830 US Rt. 5, Dummerston, VT 05346

Owner of Record: Arcbest Property Management LLC

Application: Conditional Use Application, Right of Way and Site Plan Review.

Date of hearing: January 16, 2024

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a Conditional Use Application for a Commercial Use, Right of Way and Site Plan Review under the Town of Dummerston Zoning Bylaw sections 602, 720 and 724.
2. On December 20, 2023, notice of a public hearing was published in The Commons.
3. On December 26, 2023, notice of a public hearing was posted at the following places:
 - The Dummerston Town Office.
 - The West Dummerston Post Office.
4. On January 6, 2024, notice of a public hearing was posted at the following place: 830 US Rt. 5, 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, 2023, a copy of the notice of a public hearing was mailed to the applicant.
6. On December 26, 2023, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:
 - a. Echo Farm LLC, 853 US Rt 5, Dummerston, VT 05301
 - b. Gangloff Shane & Short Anna Gangloff, 7 Oak St, Gill, MA 01354
 - c. Town Of Dummerston, 1523 Middle Rd, E Dummerston, VT 05346
 - d. Town of Putney, PO Box 233 , Putney Vt 05346
 - e. Echo Farm Llc, 853 US Rt 5, Dummerston, VT 05301
 - f. Whetstone Station Llc, 36 Bridge St, Brattleboro, VT 05301

- g. Windham Community Chapel, 850 US Rt 5, Dummerston, VT 05301
7. The application was considered by the Development Review Board (DRB) at a public hearing on January 16, 2024.
8. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended May 22, 2019.
9. Present at the hearing were the following:
 - a. Members of the Development Review Board:
 - b. In person: Alan McBean(Chair).
Via Zoom:Cami Elliott ,Peter Doubleday, Alan McBean(Chair).
 - c. Others:
Via Zoom: Wayne McDevitt (Applicant), Adam Hubbard (Applicant), Karen Astley (Town of Putney), Roger Jasaitis (Zoning Administrator).
10. Present at the site visit were the following:
 - a. Members of the Development Review Board:
Cami Elliott ,Peter Doubleday, Alan McBean (Chair).
 - b. Others:
Adam Hubbard (Applicant).
11. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application for Zoning Permit, number: 3750.
 - b. Application to the Development Review Board for a Conditional Use Permit and Site Plan Review, number: 3750.

FINDINGS OF FACT

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

1. The applicant seeks a Conditional Use permit for Commercial Use, Right of Way and Site Plan Review under the Town of Dummerston Zoning Bylaw sections 602, 720 and 724.
2. The subject property is a 4.6 acre parcel located at 830 US Rt. 5, in the Town of Dummerston (tax map parcel #000828). The property is more fully described in a Deed recorded at Book 105, Page 313, in the Town of Dummerston Land Records.
3. The property is located in the Rural Commercial District as described on the Town of Dummerston Zoning Map on record at the Town of Dummerston municipal office and Section 235 of the Zoning Bylaw.
4. Conditional Use approval is requested for Commercial Use as that term is defined in Article 8, Page 2, of the Zoning Bylaw. Establishment of a Right of Way is requested as that term is defined in Article 8, Page 8, of the Zoning Bylaw. The application requires review under the following sections of the Town of Dummerston Zoning Bylaw:
 - a. Article 6, Section 602 Required Frontage on, or Access to, Public Roads or Waters
 - b. Article 7, Section 720 Development Review Board.
 - c. Article 7, Section 724 Site Plan Approval.

5. Adam Hubbard (Applicant) acknowledged his presence to answer any questions.
6. Adam, representing ArcBest Property Management, presented a site plan and showed the businesses and residences surrounding ABF Freight. He noted the north west corner proposed for storing storage containers (4x7x8 U-Pack cubes). He believes the existing vegetation will screen the containers.
7. The Applicant is requesting a 7.10 x 3.10 ft sign to be installed on the front of the building under the existing overhead light. No additional lighting will be added.
8. The Applicant is also asking for a 40 ft ROW through the existing parking lot. It has been used as access to the Town gravel pit for several years.
9. Cami Elliott (DRB) asked about the number of containers. Adam responded it would be 40 maximum, all stored outside are empty, loaded ones are inside. There is extra storage in the shed in the eastern corner of the property for empty containers.
10. Peter noted it was generous of ABF to allow this ROW and wondered about the benefit to ABF. Adam responded that this has been used for years as the actual deed goes to the west of the building and is a less desirable route to the gravel pit.
11. Karen Astley wondered how this affects the deeded ROW on record, what needs to happen to formalize this change. Adam said a lawyer would draw up a new deed with the proposed Row.
12. Roger noted that this ROW pre-existed present ownership and that he had sent copies of the deed to all concerned parties.
13. The deeded ROW was put into effect when the property was subdivided and the change in location of the traffic flow is relatively recent.
14. Peter noted the current vegetation is made up of invasive species and that the tree will probably fall soon thus eliminating the cover. Adam agreed that some landscaping was needed.
15. Alan noted that since there are already trucks going in and out the cubes would not create extra traffic.

DECISION AND CONDITIONS

Based upon these findings the Development Review Board APPROVES the application with Conditions for a Conditional Use permit for Commercial Use-Warehouse, Sign and Right of Way.

The proposed development meets the requirements of *Sections 721 of the Zoning Bylaw General Standards*:

1. *The capacity of existing or planned community facilities;*
 - a. The application meets this requirement.
2. *The character of the area affected;*
 - a. The application meets this requirement.
3. *Traffic on roads and highways in the vicinity;*

- a. The application meets this requirement.
- 4. *By-laws then in effect;*
 - a. The application meets this requirement.
- 5. *Utilization of renewable energy sources;*
 - a. The application meets this requirement.
- 6. *Furtherance of the provisions of the Dummerston Town Plan.*
 - a. The proposed development conforms to the Town Plan.

The proposed development meets the requirements of *Sections 722 of the Zoning Bylaw Specific Standards:*

- 1. *Section 240 Commercial / Light Industrial District*
 - a. The proposed project will still conform to the purpose of the zoning district (as stated in *Sections 205-240* of these Bylaws) in which the land development is located.
- 2. *Section 615 Setback Requirements*
 - a. The proposed development meets the requirements for the district.
- 3. *Section 620 Off-Street Parking Requirements*
 - a. The proposed development meets the requirements for the district.
- 4. *Section 635 Landscaping Requirements*
 - a. **See Conditions below (#2-a,b).**
- 5. *Section 640 Erosion and Sediment Control*
 - a. The proposed development meets the requirements.
- 6. *Section 660 Performance Standards*
 - a. The proposed development meets the requirements.
- 7. *Section 669 Permittable On-Premise Signs*
 - a. The proposed sign, mounted on the front of the building (7'-10" x 3'-10"), meets the requirements of this Section. (Section 669 (5) (a))

The proposed development meets the requirements of *Sections 726 of the Zoning Bylaw Site Plan Review Procedure:*

- 1. *Compatibility with adjacent land uses.*
 - a. The proposed development meets the requirements.
- 2. *Maximum safety of vehicular circulation between the site and the street network.*
 - a. The proposed development meets the requirements.
- 3. *Adequacy of circulation, parking and loading facilities with particular attention to safety.*
 - a. The proposed development meets the requirements.
- 4. *Adequacy of landscaping, screening and setbacks in regard to achieving maximum*

compatibility and protection of adjacent property.

- a. The Applicant must comply with *Section 635 Landscaping Requirements*. (See below, 2 (a).)
5. *Lighting, noise, odors, protection of renewable energy resources.*
 - a. **See Conditions below (#3).**

CONDITIONS

1. The maximum number of storage units present on the site at any one time shall be 40, 4' x 7' x 8' U-Pack cubes.
2. ***Section 635 (2) Landscaping Requirements***
 - a. The Applicant must plant a vegetative screen (minimum 15 feet in width) along the front of the parcel shielding Rt. 5 from the site. Landscaping will be installed and maintained in the front and shall take the form of shade trees, evergreen or deciduous shrubs, evergreen trees, well-kept grassed areas or ground cover. The landscaping shall be installed and maintained so as to not interfere with or impair visibility for entering or departing the premises.
 - b. The screening on the north half of the parcel along Rt. 5, in order to screen the cube storage, shall consist of evergreen trees or bushes with a minimum height at planting of 6' and to reach a minimum of 16' at maturity. Trees or bushes should be planted in such a way as to create a solid barrier. Spacing at the time of the planting shall be done so that plantings will create the solid barrier within 2 years. Vegetation shall be monitored and replaced if they fail to thrive.
3. All existing lighting (including on the sign) must be shielded to prevent glare to adjoining property and the highway. Light pools must not extend beyond the property boundaries. (Section 660 (6) Performance Standards)

The Conditions of Conditional Use permit # 0925 remains in effect on this parcel. These Conditions are as follows:

1. The maximum number of tractors to be present on the site at any one time shall be twenty. The maximum number of trailers present on the site at any one time shall be thirty.

Expiration: Zoning Permit approvals shall expire by limitation if work is not completed within two (2) years from the date they are approved. All work must be completed as shown on any approved plan before the expiration date. One year extensions of this deadline may be granted by the Administrative Officer prior to expiration. Requests for extensions must be made in writing to the Administrative Officer.

It is the Applicant's responsibility to be in compliance with any and all Town or State required 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: Cami Elliott ,Peter Doubleday, Alan McBean (Chair).

Dated at Dummerston, Vermont, this 13 day of February, 2024.



Signed for the Dummerston Development Review Board



Print 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.