

TOWN OF DUMMERSTON

Development Review Board

Application for Site Plan Review , Accessory On Farm Business

HEARING SPECIFICS

Development Review Board Application Number: 3707

Date Received: March 1, 2023

Applicant: Noah Hoskins

Mailing Address: 857 Bunker Rd., Dummerston, VT, 05301

Location of Property: Parcel 702, 707 Kipling Rd., Dummerston, VT, 05346

Owners of Record: O Donnell Family Co.

Application: Site Plan Review; Accessory On Farm Business

Date of Hearing: March 21, 2023

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of application #3707 for Site Plan Review; Accessory On Farm Business under the Town of Dummerston Zoning Bylaw Section 726 and Section 660.
2. The subject property is 165.5 acres, located at 857 Bunker Rd., in the Town of Dummerston (tax map parcel no. 000141.4). The property is more fully described in a Deed recorded at Book 114: Page 166-168 in the Town of Dummerston Land Records.
3. The property is located in the Rural 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. On March 8, 2023, notice of a public hearing was published in The Commons.
5. On March 8, 2023 notice of a public hearing was posted at the following places:
 - The Dummerston Town Office.
 - The West Dummerston Post Office.
 - The Dummerston School.

6. On March 15, 2023, notice of a public hearing was posted at the following place: 857 Bunker Rd., which is within view of the public-right-of-way most nearly adjacent to the property for which the application was made.
7. On March 8, 2023, a copy of the notice of a public hearing was mailed to the Applicant.
8. On March 8, 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. Carpenter Judith L, 940 Park Laughton Rd, E Dummerston, VT 05346
 - b. Cassidy Lawrence & Marilyn, 673 Bunker Rd, E Dummerston, VT 05346
 - c. Ferrara Eugene H Trustee Of Revoc. Trst, 1088 Bunker Rd, E Dummerston, 05346 VT
 - d. Greenewalt David L, 1130 Bunker Rd, E Dummerston, VT 05346
 - e. Hamilton Douglas, 988 Park Laughton Rd, E Dummerston, VT 05346
 - f. Hoffman Ruth, 735 Miller Rd, E Dummerston, VT 05346
 - g. Hoitsma Derrik Jr W/ Life Estate, Pivar Marjorie Ellen W/ Life Estate, 980 Miller Rd, E Dummerston, VT 05346
 - h. Knapp Robert B & Diane J, 510 Treasure Rd, Venice, FL 34293
 - i. Knapp Timothy F Trust, 947 Miller Rd, E Dummerston, VT 05346
 - j. Morrison Andrew, Ross Katie E, 147 Greenhoe Rd, E Dummerston, VT 05346
 - k. Noe-Hays Abraham E & Morrow Briony A, 957 Miller Rd, E Dummerston, VT 05346
 - l. Price Will Alexander Iv, 140 Scholes St Apt 5B, Brooklyn, NY 11206
 - m. Scherer John N, PO Box 132, Putney, VT 05346
 - n. Simonds Andrew Revocable Trust, 1126 Park Laughton Rd, E Dummerston, VT 05346
 - o. Wilmott James M & Laura L, 3 Westway, Bronxville, NY 10708
9. The application was considered by the Development Review Board (DRB) at a public hearing on March 21, 2023.
10. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended April 6, 2022.
11. Present at the hearing were the following:
 - a. Members of the Development Review Board:
Alan McBean (Chair), Chad Farnum, Peter Doubleday, Cami Elliott.
 - b. Others:
Roger Jasaitis (Zoning Administrator), Noah Hoskins (Applicant), Judy Carpenter, Simon Renault .
12. A site visit was conducted on March 21, 2023.
13. Present at the site visit were the following:
 - a. Members of the Development Review Board:
Alan McBean (Chair), Chad Farnum, Peter Doubleday, Cami Elliott.
 - b. Others:
Roger Jasaitis (Zoning Administrator) Noah Hoskins (Applicant), Judy Carpenter, Simon Renault.
14. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application # 3707 to the DRB for Site Plan Review; Accessory On Farm Business.

FINDINGS OF FACT

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

1. Noah Hoskins (Applicant), described the application (#3707) and reason for the request for the designation of an Accessory On Farm Business (AOFB) for events held at the Bunker Farm. He stated that this application is for approval of the farm hosting events as an AOFB. Under consideration is if the AOFB statutes apply to the farm hosting what amount to community building and marketing events. Noah outlined the business model of the farm as a relationship based business. The goal in creating relationships with the customers is not high volume of low frequency purchases, but instead in creating relationships with 100 or 200 customers that repeatedly return to the farm as a provider of food products. Marketing for us is about relationship building, not about getting our name out there with signs and such. Getting someone that doesn't know us to see our operation and talk about our practices and philosophy is huge and can be a substantial part of the maintenance and growth of our business. To host an event where 100 people show up and 20 to 40 are new to the farm is a big opportunity to create a relationship as customers. We have been in business for 10 years and many of our current customers have been with us from the beginning. As such, these community building events which can include concerts, musical events, other cultural events like the "Bread & Puppet" theatre, etc.. Events that create a community feeling and get people outdoors to engage in the agricultural landscape gives us the opportunity to get folks on the farm and talk about what we are doing, do some one on one relationship building and give immediate access to our products for sale. There are open questions about what that would mean as far as other vendors on site. Can we have a food truck present? What if that food truck uses our products in it's offerings? What we need is some clarity from the Board.
2. Our events all happen in the summertime. They generally are fair weather events and family oriented. We want to make sure that these events are not raising issues for the Town in regard to permitting. Clarity and guidelines would be helpful so we do not need to come back and review for further permitting. I feel our goal is to go through this review process and be on the same page going forward.
3. Alan McBean clarified that the application before the Board is to determine whether the activity proposed is considered an AOFB. A key part of this in his mind is that farm products are available for sale during these events.

4. Noah Hoskins clarified that the farm stand is always open for sales. He reiterated the farm's marketing strategy outlined above.
5. Alan McBean gave, as an example, a wedding hosted on site, would not fall under this category of event. Noah Hoskins agreed with this, that a wedding would not fall under the AOFB statute. He added they have no intention of being a wedding venue.
6. Roger Jasaitis (Zoning Administrator) clarified that other farms in town do hold Conditional Use or Act 250 permitting to commercially host weddings and are not considered AOFBs.
7. Roger Jasaitis (Zoning Administrator) offered that, for process, if the DRB asks the Applicant the questions provided by the State regarding AOFBs and follows the Site Plan criteria, the Board will fulfill it's responsibility in gathering evidence.
8. Alan McBean raised the question to the Zoning Administrator " if the Board determines that this Use does not qualify as an AOFB, would the Applicant have to come back to the DRB for a Conditional Use permit?" Roger answered that this application would cover either scenario. The Board could grant Conditional Use if the Use does not qualify as an AOFB.
9. Alan McBean asked the Applicant the State AOFB guidance questions:
 - a. *Is the farm covered by Required Agricultural Practices rule?*
Noah Hoskins replied that the farm is covered by the RAPs.
 - b. *Is the business accessory to the primary farm use?*
Noah Hoskins replied that the proposed business is accessory.
 - c. *Is the business operated by farm owner, one or more persons living on the farm, or a lessee of a portion of the farm?*
Noah Hoskins replied yes.
 - d. *Do the business activities include educational, social or recreational events that feature agricultural practices or qualifying products, or does the business sell qualifying products?*
Noah Hoskins replied yes it does.
10. Chad Farnum asked the Zoning Administrator hypothetically if a food truck was on site that did not sell food that contained products from the farm would that Use not fall under the AOFB statutes. Roger responded that he asked the Secretary of Agriculture that very question and did not get a definitive answer.
11. Alan McBean asked if the Applicant plans on holding other types of events where the farm is rented out for the event. Noah responded that they have no interest in doing that. He considers the farm a community space not an event venue.
12. Chad Farnum asked what the farm uses for sanitary facilities during events. The Applicant responded that they own a "port-a-potty" and also rents an additional one if needed.
13. Alan Mcbean asked if the farm charges for tickets to events. Noah said that they do not but, for example, last year NextStage charged admission to cover the cost of the artists. He said they would accept donations for costs by organizations. He feels it is important to support the local non-profits and they can work hand in hand with these events.

14. Alan Mcbean asked how many attendees they expect at these events. Noah said they expect 100 to 150 people and about 75 cars more or less. He feels they don't have the infrastructure to host more.
15. Judy Carpenter asked about time frame for events regarding noise levels. Alan McBean remarked that he can hear the music from his house. Noah said that they would host events as they have in the past. One to four events per summer.
16. Alan McBean asked about hours of operation. Noah requested, at maximum, noon to midnight.
17. The Applicant reiterated his request that the DRB provide clarification that, if approved, he would not have to come before the Board for the same type of event.

DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, the Development Review Board approves the application for an Accessory On Farm Business: Events held on site.

1. The DRB finds that this application for an Accessory On Farm Business; Events held on site, as conditioned, meets the requirements of the Town Plan and Zoning Bylaw and State Statute as an Accessory On Farm Business.
2. The application was considered under *Section 726 of the Zoning Bylaw; Site Plan Review Criteria and Section 660 Performance Standards* per State Statute 24 V.S.A. § 4412.

1. *Compatibility with adjacent land uses.*

The DRB finds that this application is compatible with the adjacent land uses.

2. *Maximum safety of vehicular circulation between the site and the street network.*

The DRB finds that this application provides adequate safety and vehicular circulation.

3. *Adequacy of circulation, parking and loading facilities with particular attention to safety.*

The DRB finds that this application provides adequate safety and vehicular circulation. In regard to parking, no parking, including vendors, shall take place on any Town road.

4. *Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection of adjacent property.*

The DRB finds that this application meets the requirements for this Zoning District.

5. *Lighting, noise, odors, protection of renewable energy resources.*

The DRB finds that this application meets the requirements and will produce no additional light pollution or odors and will not impact renewable energy resources. In order to limit noise, the DRB requires all music must stop by 11:00pm and events must end by 12:00am.

3. The application was considered under *Section 660 Performance Standards:*

1. *Noise: No noise which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the development, so as to be incompatible with the reasonable use of the surrounding area, shall be permitted.*

The DRB found this application meets these requirements. (See the condition under #2 (5) above.)

2. *Vibration: No proposed development use, under normal conditions, shall cause or result in any noticeable, clearly apparent vibration of or on the property of another landowner.*

The DRB found this application meets these requirements.

3. *Smoke, dust, odor, noxious gases, or other forms of air pollution: No proposed development or use, under normal conditions, shall cause or result in smoke, dust, odors, noxious gases, or other forms of air pollution, which constitute a nuisance to any other landowner.*

The DRB found this application meets these requirements.

4. *Heat, cold or moisture: No proposed development or use, under normal conditions, shall cause, create or result in releases of heat, cold, moisture, mist, fog, precipitation, or condensation beyond the property lines of the property on which located or to a height likely to be detrimental to public safety, health, or welfare.*

The DRB found this application meets these requirements.

5. *Electronic signals or Emissions: No proposed development or use, under normal conditions, shall create, transmit, or release any electronic emission or signal which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals beyond the lines of the property on which located.*

The DRB found this application meets these requirements.

6. *Glare, lights, reflections: No proposed development or use shall create, cause, or result in glare, lights, or reflections which constitute a nuisance to other property owners or tenants or which are detrimental to the public safety, health or welfare.*

The DRB found this application meets these requirements.

7. *Liquid or solid wastes or refuse: No proposed development or use shall create, cause or result in liquid or solid wastes or refuse which cannot be disposed of by available or existing methods without any undue burden on town facilities.*

To facilitate sanitary conditions, the DRB requires that the applicant shall supply on site one (1) "port a potty" per 50 attendees for all events.

8. *Fire, safety, explosive, or other hazard: No proposed development or use shall create, cause or result in an undue fire, safety, explosive or other hazard which significantly endangers other property owners or which results in a significantly increased burden on town facilities.*

The DRB found this application meets these requirements.

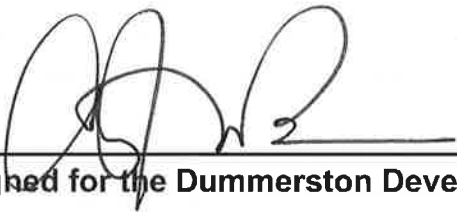
4. The DRB limits the maximum number of events under this application to five (5) per year. Additional events will require further review by the DRB.
5. The DRB limits the maximum number of attendees to 150 per event. An increase in attendee numbers will require further review by the DRB.

6. 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 be in violation of the Zoning Bylaw.

7. Expiration: This Zoning Permit approval will expire by limitation two (2) years from the date of approval. All work must be completed as shown on any approved plan before the expiration date.

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

Dated at Dummerston, Vermont, this 18th day of April, 2023.



Signed for the Dummerston Development Review Board

ALAN J McBEAN

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.