

TOWN OF DUMMERSTON

Development Review Board

Application for Site Plan Review

Addition to Accessory Structure, Accessory On Farm Business

HEARING SPECIFICS

Permit Application Number: 3708

Date Received: March 8, 2023

Applicant: Scott Farm

Mailing Address: 707 Kipling Rd., Dummerston, VT, 05301

Location of Property: Parcel 702, 707 Kipling Rd., Dummerston, VT, 05301

Owners of Record: Landmark Trust USA

Application: Site Plan Review; Addition to Accessory Structure, Accessory On Farm Business

Date of Hearing: March 21, 2023

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of application #3708 for Site Plan Review; Addition to Accessory Structure, Accessory On Farm Business under the Town of Dummerston Zoning Bylaw Section 726 and Section 660.
2. The subject property is 571 acres, located at 707 Kipling Rd., in the Town of Dummerston (tax map parcel no. 000702). The property is more fully described in a Deed recorded at Book 59: Page 337 in the Town of Dummerston Land Records.
3. The property is located in the Productive Lands 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 13, 2023, notice of a public hearing was posted at the following place: 707 Kipling 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. Chamberlin Leon W Jr, 739 Kipling Rd, Dummerston, VT 05301
 - b. Elder Rod W & Alison M, 966 Kipling Rd, Dummerston, VT 05301
 - c. Evans Barbara S Revocable Trust, 518 Kipling Rd, Dummerston, VT 05301
 - d. Landmark Trust Inc (Usa), 707 Kipling Rd, Dummerston, VT 05301
 - e. Schulick Paul & Barbi Trustees, 1064 Kipling Rd, Dummerston, VT 05301
 - f. Stevenson Malcolm/Wilcox Stephen, Barone David, 60 Prospect St, Rockville, Ct, 06066
 - g. Wilcox John W & Cynthia G W/ Life Estate, 125 East Orchard Rd, Dummerston, VT 05301
 - h. World Learning Inc, PO Box 676, Brattleboro, VT 05302
 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), Simon Renault (Applicant).
 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).
 14. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application for Addition to Accessory Structure, number: 3708.

FINDINGS OF FACT

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

1. Simon Renault (Applicant), described the application (#3708) and reason for the request for an addition to the existing Accessory Structure used as a retail market. This market is open from spring to Thanksgiving. This proposed addition would be to the front entryway, 10' wide by 28' long and used for storage and a cooler.
2. Alan McBean asked Simon to clarify if this addition would be open to the public? Simon said it is to be used for storage and not open to the public. Public access would remain the same.
3. Cami Elliot asked if there would be any extra exterior lighting? Simon stated that there would be no extra exterior lighting.
4. Chad Farnum asked The Zoning Administrator to clarify why this permit application is coming before the DRB? Roger stated that this market was in existence before Act 143 was passed with it's relevant Accessory On Farm Business (AOFB) statutes. While he considered the market to be "grandfathered" under these statutes, since it was never ruled an Accessory On Farm Business, he wasn't clear about the expansion being covered and so is seeking approval from the DRB for this addition to be considered part of the market AOFB.
5. Chad Farnum asked Simon Renault to answer the State guidance questions regarding if a Use qualifies as an AOFB and read the following; Farm Responsibilities, A farm is responsible for applying for municipal site plan review and other permits, as necessary. Farms may be asked to provide evidence of the following:
 - a. Is the farm covered by Required Agricultural Practices rule?
The Applicant answered yes.
 - b. Is the business accessory to the primary farm use?
The Applicant answered yes, 2/3s of the qualifying product sales are farm products.
 - 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?
The Applicant answered yes, the market is operated by hired staff of the farm.
 - 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?
The Applicant answered yes.

DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, the Development Review Board approves the application for an Addition to Accessory Structure, Accessory On Farm Business:

1. The DRB finds that this application for an Addition to Accessory Structure, Accessory On Farm Business, as conditioned, meets the requirements of the Town Plan and Zoning Bylaw. The DRB also considers the market to be an Accessory On Farm Business under the State guidance.
2. The application was considered under *Section 726 of the Zoning Bylaw; Site Plan Review Criteria and Section 660 Performance Standards.*

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, parking and loading facilities.

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 required setbacks 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, noise or odors.

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.

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.*

The DRB found this application meets these requirements.

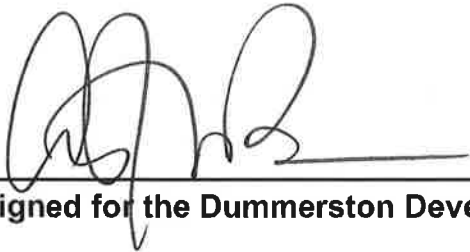
8. *Fire, safety, explosive, or other hazard: No proposed development or use shall create, cause or result in an undue fire, safety, explosive or other hazard which significantly endangers other property owners or which results in a significantly increased burden on town facilities.*

The DRB found this application meets these requirements.

4. 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.
5. 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.