

Town of Dover
PO Box 428
West Dover, VT 05356
802/464.8720

**DOVER DEVELOPMENT REVIEW BOARD
NOTICE OF DECISION**

I. PROCEDURAL HISTORY & APPLICANT REQUEST

1. Application Number: 13-RT067-01
2. Owner: Town of Dover, Vermont
3. Applicant: Ken Black, Sarah Daniels
4. Brief Description of Request: Request for a change of use for the creation of an outdoor recreation area in the Commercial (COM) District
5. A copy of the application was received by the Zoning Administrator on March 20, 2013.
6. A copy of the Notice of Hearing was mailed to the Applicant by the Zoning Administrator on March 21, 2013, along with a sample letter and abutter's list for notifying all abutters.
7. Public notice of the hearing was posted on March 21, 2013 at the following locations:
 - a. Dover Town Clerk's Bulletin Board
 - b. Dover Town Meeting Room Bulletin Board
 - c. Dover Free Library & Dover Elementary School via email
 - d. East Dover Post Office via regular mail

Notice of hearing was also published in The Deerfield Valley News on March 28, 2013 and in The Brattleboro Reformer on March 26, 2013.

8. At the outset of the hearing, the Chair afforded all persons wishing to establish status as an Interested Party the opportunity to do so. Sharon Klass, secretary for the Swiss Alps Condo Association, was granted Interested Party status as an abutter. A letter from Ms. Klass, addressed to the Zoning Administrator, dated April 2, 2013 (Exhibit B) was submitted and constituted the entirety of her participation in the hearing.
9. A public hearing was held on April 11, 2013 and was closed that same night.
10. A complete list of exhibits and attendees is included in the meeting minutes. Minutes, Application, and exhibits are available for viewing in the Dover Town office through the Zoning Administrator.
11. The current Zoning Bylaw is dated December 4, 2012.

II. FINDINGS OF FACT:

Based on the application, testimony, exhibits and other evidence, the Dover DRB finds as follows:

1. Applicant's property is located at 2 Country Club Rd. in West Dover, Vermont abuts Route 100. It is located within the Commercial District (COM).
2. The hearing was properly warned by the Zoning Administrator.
3. All abutters were notified in a timely manner by the Applicant.

4. The applicants were properly sworn prior to providing testimony.
5. The applicant was provided with a copy of the Application Summary prepared by the Zoning Administrator; with the exception of one minor correction ("Valley" changed to "Valley Trail") the Summary was approved by the Applicant.
6. The property is not within the Flood Hazard Zone.
7. There are; currently, multiple uses approved or pre-existing, non-conforming on the property:
 - outside storage – pre-existing, non-conforming
 - parking lot – pre-existing, conforming
 - food service cart – permitted conditional use, approved by DRB
8. The outdoor recreation area will include 8-10 parking spaces along Country Club Rd, partly within the Town right-of-way; an area with a variety of play structures with appropriate ground protection; picnic tables; a gazebo; benches; a path connecting the lot to the Valley Trail; and four light poles, which are dark-sky compliant. The descriptions and specifications for these items are provided in the Exhibits.
9. A "no-mow" buffer will be maintained between the property and 7-11 and the property and the Swiss Alps Condo Association property. These buffers, as well as the Rt 100 and Country Club Rd frontages will be enhanced with plantings as described in Exhibit C.
10. The letter from abutter Klass contained a number of questions. Those questions and the Applicant's responses are provided:
 - a. *Will there be lighting at all times or will the lights be used for a set period of time?* The only lighting on the property will be the pole lighting, located along Country Club Rd. These will be photo-sensitive and operate essentially from dusk to dawn. The lights are dark-sky compliant.
 - b. *Will cars be allowed to park there overnight?* Overnight parking will not be permitted, with enforcement by the Dover Police Department.
 - c. *Will buses stopping at 7-11 be allowed to park there and run their motors while they wait for people to get back onto the bus? What about trucks?* Buses and trucks having business at 7-11 will not be permitted to use the property's parking.
 - d. *Will the parking spots be plowed in winter or only used 3 seasons?* The parking spaces will be plowed in winter.
 - e. *Will there be trash receptacles near the picnic tables?* There will be 2 receptacles; one for trash, one for recycling.
 - f. *Will the town be picking up the trash, from receptacles or the ground?* The town will maintain the trash and recycling.
 - g. *Will there be recycle bins?* See e, above.
 - h. *Will there be BBQ grills in the park or allow people to bring them into the park?* BBQ grills will not be provided; however, individuals will be permitted to bring and use them on the property.

i. *Will a leash be required for dogs in the park?* The town ordinance requires that dogs be "in control" on town property; there will not be a separate policy applied to this property.

j. *Will battery operated flying toys be allowed? (helicopters/planes/rockets/etc)* Use of such toys will conform to the town by-law; again, a separate policy will not be applied.

k. *Will there be a night curfew in the park?* Use of the park is limited to dusk to dawn and will be enforced by the Dover Police Department.

l. *What other types of activities or events might happen at the park?* As there are only 8-10 parking spaces and no bathroom facilities, the property will not be geared to large-scale events or programs. There will be no system in place that would allow a group or individual to reserve the park for their exclusive use.

m. *Will vendors be allowed at the park? (hot dog truck/flea market?)* Vendors could only operate on the property with pre-approval by the Town, and there is no intention to do so at this time.

n. *Will there be quiet hours at the park and will they be enforced in any way?* The park will only be open for use between dawn & dusk; additionally, State ordinance limiting noise to 7 am to 10 pm would apply. Enforcement would be handled by the Dover Police Department.

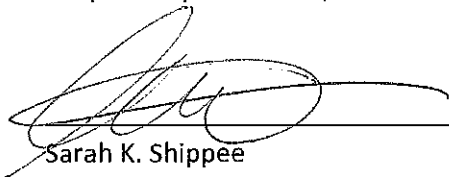
11. Alcohol use in the park will follow State statute.

III. DECISION

Based on the preceding Findings of Fact, the Dover Development Review Board unanimously approves the Application. The Change of Use is granted with the following conditions:

1. The outside storage use of the property shall be abandoned.
2. Parking shall be limited to the 8-10 spaces as delineated on the site plan; the property's use as a parking "lot" is abandoned.
3. The buffer plantings shall be as specified on the site plan.

Respectfully submitted,



Sarah K. Shippee

Acting Chair, Dover Development Review Board

4/25/13
Dated

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested party who participated, through oral or written testimony, in the proceeding(s) before the DRB. Such appeal must be taken within 30-days of the date of this decision, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

NOTICE: Additional State permits may be required for this project. Call 802/885.8850 to speak to the regional Permit Specialist before beginning any construction.