

Town of Dover
P.O. Box 428
West Dover, VT 05356
(802) 464-8720

**DOVER DEVELOPMENT REVIEW BOARD
NOTICE OF DECISION
Notice of Appeal 13-VD100-13**

A. PROCEDURAL HISTORY & APPLICANT REQUEST

1. Landowner: Brady Sullivan LLC
2. Applicant: Brady Sullivan LLC
3. Brief Description of Request: Appeal of Zoning Administrator's Notice of Violation regarding the use of property as a helipad without a permit. Violation of 24 VSA Section 4449(a) and Section 120 of the Dover Zoning Bylaw.
4. The Notice of Violation was issued by the Zoning Administrator on March 22, 2013.
5. On June 18, 2013, a copy of the Notice of Hearing was mailed to the Applicant, along with a sample letter and abutter's list for notifying all abutters.
6. Public notice of the hearing was posted at the following locations on June 18, 2013:
 - 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 mailPublic notice of the hearing was also published in the Deerfield Valley News on June 20, 2013 and in the Brattleboro Reformer on June 20, 2013.
7. At the outset of the hearing, the Chair afforded all persons wishing to establish status as an interested party the opportunity to do so, and accepted letters from abutters establishing their IPS. IPS was granted to:
 - i. Cathy & Jarlath Byrne, 16 Snow Vidda Lp, unit 6, West Dover VT; 5-0-0
 - ii. Daniel Friedman, Trustee, Friedman Family 2005 Irrevocable Trust II, 14 Snow Vidda Lp, West Dover VT; 5-0-0
 - iii. Lewis & Alice Pulliam, 48B Hammer Beam Lp, West Dover VT; 5-0-0
 - iv. Joe Lanzetta, 3C Tenon Lane, West Dover VT; 5-0-0
 - v. Karen & Frank Cangialosi, 3F Tenon Lane, West Dover VT; 5-0-0
8. A public hearing was held on August 8, 2013 and continued to August 22, 2013. The hearing was closed on August 22, 2013.
9. 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.

B. FINDINGS OF FACT:

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

1. Brady Sullivan LLC (Applicant) is located at Snow Vidda Lp in West Dover VT and is known as Snow Vidda Condominiums (parcel VD100).
2. The property is located in the Resort District (RST).
3. The hearing was properly warned.
4. All abutters were notified by the Applicant.
5. The Applicant was properly sworn prior to providing testimony.
6. All individuals granted Interested Party status were sworn prior to providing oral testimony.
7. 24VSA 4449(a): no land development may be commenced within the area affected by the Bylaws without a permit issued by the Administrative Officer (Z.A.). No permit may be issued by the Administrative Officer except in conformance with the Bylaws.
8. Section 120: Application of Regulations

Except as hereinafter provided, no land development as defined herein may occur unless in conformity with the regulations herein specified for the district in which it is located. Any use not permitted in this Bylaw shall be deemed prohibited, except as provided in Section 490.

9. From Article 2: Definitions

Land development:

The division of a parcel into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure; or of any mining, excavation, or landfill, *or any change in the use of any building or other structure, or land, or extension of use of land.* (italics for emphasis)

Note that the definition makes no reference to frequency of use; intermittent or sporadic use does not alter the application of the definition.

Accessory Use: A use subordinate to and incident to the principal use of land or building.

From Merriam-Webster:

Subordinate: less important than someone or something else

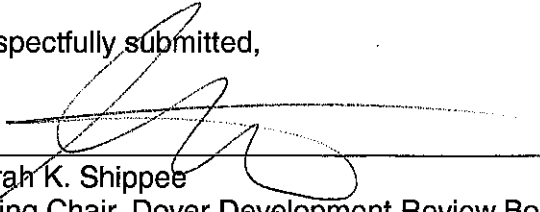
Incident: something dependent on or subordinate to something else of greater or principal importance.

10. The parcel in question is permitted under Article 7: Planned Unit Development as a condominium, or residential, development. Use of any portion of the parcel for a use other than residential development therefore constitutes a change of use and so the PUD must be amended to permit the change.

C. DECISION

Based on the evidence presented, the VSA regulation, and the sections of the Bylaw noted above, by a vote of 4-0-0, the Board unanimously upholds the Notice of Violation issued by the Zoning Administrator. The Board finds that use of a portion of the property as a helicopter landing does not qualify as an accessory use but instead constitutes land development and therefore an application for an amendment to the original PUD is required.

Respectfully submitted,



Sarah K. Shippee
Acting Chair, Dover Development Review Board

Date

9/30/13

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: State permits may be required for this project. Call 802-885-8850 to speak to the regional Permit Specialist before beginning any construction.