

# DORSET ZONING BOARD OF ADJUSTMENT

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Date: November 9, 2015  
Hearing: #15-06  
Appellants: Linda B. McGinnis & Lynn O. Bowden  
Location: 3056 VT Route 30, Dorset  
Request: Appeal of Decision of Zoning Administrator to issue zoning permit #043-2015BU to Vermont Mountain Retreats LLC (Barrows House) for an event barn

Board Members Present: J. LaVecchia (Chairman), D. Wilson (Vice Chairman) by conference call, B. Bridges, S. Jones, K. O'Toole, R. Stewart, M. Connors

Board Members Absent: T. Rawls,

Also, Present: Tyler Yandow (ZA), Tracey Mathyas, Doris Streeter, Rosalie Fox, Pamela Gilbert, Nancy Ludlam, Stephen Ludlam, Arnold Gottlieb, Lindy Bowden, Jack Gilbert, Clarissa Lennox, D. Green, Angela Arkway, Luanne Hardy, Suzanne Hittle Richard Hittle, Robin Langstaff-French, Richard French, Lauren Silver, Cindy Loudenslager, Marybeth Heartfield, Robert Menson, Joan Menson, Frank Parent, Steven Bryant, Edward Tanenhaus, Linda B. McGinnis, Vivienne Smith, Ruth Tanenhaus, Austin Chinn, Jane Bridges, Nancy Faesy, Danny Pinsonault, Roger Squire, Gay Squire

J. LaVecchia, Chairman, stated that this was the November 9<sup>th</sup> meeting of the Zoning Board of Adjustment with one member of the Board participating by conference call. The hearing was called to order at 7:34 p.m. The published public notice was read and J. LaVecchia informed the audience that no one should speak from the floor until recognized by the Chairman. He asked the Board members if they were aware of any conflict of interest or ex-parte communication for this particular appeal and there were none. Interested parties were then identified by J. LaVecchia as: Vermont Mountain Retreats LLC (Barrows House), Town of Dorset, Zoning Administrator for the Town of Dorset, any person owning or occupying property in the immediate neighborhood of a property that is the subject of any zoning decision or act who can demonstrate a physical or environmental impact on the person's interest under the criteria review and who alleges that the decision or act if confirmed will violate the municipal plan or bylaw and any 10 persons, either voters or landowners, who signed a petition to the ZBA and allege that that the decision or act if confirmed will violate the municipal plan or bylaw. Petitioners must

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cc: Zoning Administrator, Town Manager, Planning Commission, Town Clerk, Applicant, File

designate one person to speak as their representative. J. Thrasher noted that there were petitioners and the designated representatives were: Rosalie Fox, Austin Chinn, Marybeth Heartfield, and Arnold Gottlieb.

K. O'Toole moved and R. Stewart seconded to accept the four presented petitions as interested parties with the above noted designated representatives. Motion carried 7-0.

J. LaVecchia asked if there were any other interested parties and V. Smith, D. Streeter, Ed & Ruth Tanenhaus, R. Menson as Manager of Maple Hill Cemetery, Linda McGinnis and Lindy Bowden were identified as interested parties. Individual interested parties and representatives of interested parties were then sworn in.

J. Thrasher presented his written document *Barrows House Conditional Use Permit Requirement* (attached) which outlines that the granting of a zoning permit was premature because the definition of "inn" in Appendix A of the ZBL states an inn is considered "public lodging" and would require a conditional use permit from the ZBA. K. O'Toole asked if an additional site plan review by the PC would be needed if a conditional use review is done and J. Thrasher responded that a site plan review decision has been issued and has not been appealed to the Environmental Court. He has already requested reconsideration by the PC of the site plan review which has been denied. J. LaVecchia noted that within the Village Commercial zone, an inn is a permitted use in the ZBL and he asked if this created a conflict between the ZBL section and the definition appendix. J. Thrasher responded it does not create a conflict, but creates an issue where a permitted use normally does not require a conditional use permit, but in this particular case because it is public lodging, it does require a conditional use permit. Listed in the ZBL there is a straight permitted use not requiring ZBA hearing and as well as a permitted use that does require ZBA hearing. K. O'Toole referenced page 35 of the ZBL Section 6.3.4(b)6 Inns saying that inns are listed as permitted uses in the Village Commercial Districts. J. Thrasher responded that there is a specific definition in Appendix A for inns so that it does not have to be included in the referenced ZBL section.

J. O'Dea, Dorset Town Attorney, stated that the ZBA Board was familiar with the ZBL of the Town and the ZBL's have districts such as the Village Commercial which have a series of uses categorized as permitted and a series of uses categorized as conditional use. The appellants are trying to bootstrap the inn into a conditional use permit by turning to the definitions. The definitions in the ordinance are ambiguous and it is also obvious by the specific provision of the bylaw defining VC that it is not contemplated as a conditional use, but is a permitted use. *We concede there is an ambiguity in the bylaw, but think there is a principle of law that where a statute is ambiguous, it will be interpreted in favor of the applicant and not in favor of maker or Town.* Zoning is effecting property rights and can be strictly interpreted against the Town as far as regulations go. Since zoning affects property rights, J. O'Dea suggested the ZA was correct in issuing the applicant a building permit for a permitted use in the VC zone which does not require a conditional use review.

Discussion ensued regarding the differences of inns, bed and breakfasts, rooming houses and zoning districts. K. O'Toole brought up that an event barn is not an inn and whether it was an accessory use or a mixed use. J. O'Dea said that the event barn was not a mixed use, but an

accessory use which did not require conditional use review. K. O'Toole commented that having a conditional use review is not a denial to the applicant, but just a different procedure. J. Thrasher felt that the language of the ZBL was clear and not ambiguous and it is either an inn or a mixed use – both requiring conditional use. Discussion continued covering mixed use versus accessory use, inviting outside guests, and using tents. S. Jones asked what J. Thrasher definition of tent versus party barn was and J. Thrasher expressed that inviting the general public is equal to a mixed use which overtakes the primary use and must have a condition use permit. S. Jones felt that since the Barrows House has held previous events it is connected to the current situation. J. O'Dea noted that an inn is not a precedent in Dorset as permits were issued without conditional use permits previously. T. Yandow stated that the Barrows House property is not changing because the owner wants to replace tents with a building so there is no change of use as the property has been used for weddings and pre-dates zoning.

The subject of more rigorous standards applying after a conditional review was brought up by J. LaVecchia and K. O'Toole noted that the PC did their job by considering noise levels, glare, etc. along with a conditional approval pending an Act 250 review. J. O'Dea said that the Zoning Administrator upheld the zoning bylaw standards. J. Thrasher said that the ZBA can agree with the PC decision or add additional criteria.

V. Smith expressed that there were different issues addressed in a conditional use permit which were not addressed by the PC and R. Fox asked the Board to err on the side of property owners for the unique character of the area and the health and well-being of the community. T. Yandow noted that the permit issued had conditions of an Act 250 and WWW permit with the Act 250 permit being far more stringent than anything the Town reviews. M. Connors asked J. O'Dea to explain again why a conditional use is not clearly needed. J. O'Dea responded that they concede there is a conflict, but in the actual text defining the VC zone, the regulations tell what can and can't be done and, in the specific area of the Barrows House district, an inn is a permitted use. When you look at the next section of what may be done in the VC district if conditions are met, an inn is not in the conditional use section. An inn is something that you can absolutely do. If the criteria is ambiguous or uncertain, the decision goes to the property owner as it affects their property rights. T. Yandow stated that in the VC district, as in some other districts, there are three categories of uses: permitted uses administratively approved by ZA, uses that require site plan review only (VC District inns are listed in this category), and conditional uses. He pointed out that inns were deliberately put in for site plan review only. J. O'Dea commented that was it fair to take an applicant through a site plan review, approve it and then say it was a mistake and they needed a conditional use review. He noted that there was a conflict in the ZBL, but T. Yandow handled it correctly, it was a fair process and the applicant should be able to live with the decision. J. Thrasher pointed out that the definition was clear and it could be argued that the building is a mixed use which would require a conditional use permit. A. Gottlieb felt that the purpose of the building was an issue and just because a tent was previously used doesn't make it right for a building. S. Jones believed that in the State of Vermont there is a statute of limitations whereby if something has gone on for a certain number of years, it is considered legal. A. Chinn commented that a tent is not like a building and is only used spring to fall. B. Bridges thought it was clear that a tent or a barn is a mix use as opposed to an accessory use. T. Yandow stated that the PC determined that the event barn was an accessory use. L. McGinnis

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cc: Zoning Administrator, Town Manager, Planning Commission, Town Clerk, Applicant, File

noted that the Barrows House was a cluster of buildings and the event barn is a whole new use not for lodging. She indicated that the events held were smaller, but louder.

K. O'Toole moved and B. Bridges seconded to close the hearing at 8:50 p.m. Motion carried 7-0.

K. O'Toole moved and B. Bridges seconded to move to Deliberative Session at 8:55 p.m. Motion carried 7-0. Deliberative Session ended at 9:42 p.m. with a motion by R. Stewart and seconded by S. Jones. Motion carried 7-0.

K. O'Toole stated that the Board respects the arguments of both sides and all opinions expressed. By a vote of 5 to 2, the ZBA Board finds that the event barn does not meet the definition of accessory use and finds that it is a mixed use as recreational facility and an inn; and, therefore, demands and requires a conditional use permit. There being no additional criteria for site development review under ZBL Section 3.8, we do not find an additional review by the PC is necessary and remand this matter to the ZBA to hear the merits of the application as a conditional use permit. This decision will be finalized in writing by a findings of fact document.

B. Bridges moved and R. Stewart seconded to adjourn the meeting at 9:45 p.m. Motion carried 7-0.

Respectfully submitted,

Nancy Aversano, Secretary

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cc: Zoning Administrator, Town Manager, Planning Commission, Town Clerk, Applicant, File

## BARROWS HOUSE CONDITIONAL USE PERMIT REQUIREMENT

- \* The Vermont Mountain Retreats LLC property at 3156 Route 30 Dorset contains the Barrows House.
- \* The Barrows House is defined as an Inn. See Planning Commission Site Plan Findings of Fact in September 30, 2015 decision.
- \* Dorset Bylaws define an Inn as Public Lodging. See Page A-6 of the bylaws.
- \* Dorset Bylaws clearly state the Public Lodging is a conditional use requiring **BOTH** site plan review and review and approval by the Zoning Board of Adjustment. See A-9
- \* A permit was issued for the property without obtaining review and approval of the Zoning Board of Adjustment.
- \* Ordinances are to be interpreted according to the basic rules of statutory construction and enforced in accordance with their plain meaning. See *Houser v Town of Waitsfield*, 162 Vt. 476, 479; 648 A2d. 864, 865 (1994) *Wesco v. State* 090399 VTSc 98-454
- \* Obligation to give effect if possible to **all** portions of the ordinance and to avoid interpreting any portion as surplusage. In re *Martin & Perry LLC ENC 222-10-08 (2010)*
- \* If the meaning is plain, the Court has the duty to enforce the ordinance according to its terms and there is no need for construction. *Kalakowski v John A. Russell Corp.* 137 Vt. 219, 223 (1979)

### IF NOT AN INN THEN WHAT IS IT?

- \* The zoning permit is for a 35 foot by 55 foot building that has been termed an "Event Barn" and a revised patio/outdoor seating and congregating place the purpose of which is to host weddings and other large planned events inviting people from off site to attend functions at the property.
- \* These activities are not related to "providing lodging for persons with or without meals" which is how an Inn is defined in your regulations. So if the entertainment venue that is being created not an Inn it **MUST** be some other type of activity.
- \* The closest type of activity is recreation type activity that occurs within or without a building. And this type of use requires a conditional use permit

**CONCLUSION:** The issuance of a zoning permit is premature where there has not been a hearing and conditional use permit issued for the proposed entertainment venue be constructed on the Barrows House property.

DORSET ZONING BYLAW-APPROVED AUGUST 28, 2013 BY THE SELECTBOARD OF  
THE TOWN OF DORSET, VERMONT

**Functionally dependent use:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

**Historic structure:** Any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

\* [ **Inn:** A building providing lodging for persons with or without meals, and intended for accommodation of transients, and so designed that normal ingress and egress occur from a central lobby, as opposed to individual entrances to separate units from the outdoors. No cooking facilities are available to guests. An inn is not a dwelling unit. An Inn is considered Public Lodging.

**LESA:** LESA stands for Land Evaluation and Site Assessment. It is a program developed by the U.S. Soil Conservation Service. LESA is a system that numerically rates agricultural land. The Land Evaluation is based on the quality and slope of the soil. The Site Assessment is based on the size of the parcel, its location, and certain other criteria appropriate to this community. LESA is a planning tool; guidelines for use by the Planning Commission, the Zoning Board of Adjustment, and the Selectboard.

**Letter of Map Amendment (LOMA):** A letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

**Lot:** A plot or parcel of land occupied or intended for occupancy by a use or a principal building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this Bylaw. In the case of public, institutional, commercial, industrial, or agricultural buildings, a group of buildings on the same or contiguous premises, all under the same ownership, may be considered as occupying the same lot.

**Lot, Corner:** A lot at the intersection of and abutting on two or more streets where the angle of intersection is not more than 135 degrees, or where the intersection is rounded by a curve having a radius of less than one hundred feet. All lines dividing the lot from streets shall be considered front lot lines.

DORSET ZONING BYLAW-APPROVED AUGUST 28, 2013 BY THE SELECTBOARD OF  
THE TOWN OF DORSET, VERMONT

**Public Lodging:** Public lodging is a conditional use requiring site plan review by the Planning Commission, and review and approval by the Zoning Board of Adjustment. Public lodging is not considered a Customary Home Occupation. Public lodging is an Inn, Rooming House or Tourist Home as defined in this Bylaw. Public lodging shall accommodate more than two guests, but no more than two guests per bedroom in the existing dwelling (excepting children under 12 years of age) provided that:

- a. the residential character of the neighborhood is maintained;
- b. there is no noticeable glare off-site from outdoor lighting;
- c. noise levels will not create an objectionable impact off-site;
- d. off-street parking is provided, consistent with the requirements of Section 10 and screened as appropriate from neighboring properties;
- and
- e. all applicable State requirements are met.

A dwelling meeting this definition, regardless of its name, is deemed to be a Tourist Home for the purposes of this Bylaw.

**Public Sewer:** A system of sanitary sewers owned and operated by a municipality or other governmental unit.

**Public Water Supply:** A system of water supply owned and operated by a municipality or other governmental unit, or by a corporation authorized and regulated by the State of Vermont for purposes of public water supply.

**Recreational vehicle:** A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**Retail:** Refers to a shop or store for the sale of goods, commodities, products or services directly to the consumer, as opposed to wholesale.

**Rooming House (Boarding House):** A dwelling wherein rooms in the principal dwelling house are offered for hire for residential purposes, with or without meals. Transients may not be accommodated. Meals may be served only to residents. Any dwelling meeting this definition, regardless of its name, is deemed to be a Rooming House for the purposes of this Bylaw. A Rooming House is considered Public Lodging.

**Sawmill/Logyard:** A mill or machine for sawing logs. Operation includes the shipment of raw wood products to and from the sawmill facility. The material is generally unfinished in nature. Examples of raw wood products include: bark, boards, chips, dust, mulch, slabs, firewood for home heating etc. Trans-shipment and storage of raw wood products on the site of a Sawmill/Logyard is considered subordinate and must be screened from adjacent properties and public roadways.

## II. CONSTRUCTION OF ZONING ORDINANCES

### § 5:10 Ordinance definitions control

Where the ordinance defines the terms used therein, the meaning to be given to those defined words in the context in which it is found in the ordinance is that which is set forth in the definition, this being the sense in which the legislative body intended the word or terms to be used.<sup>1</sup> It has been stated that, in the first instance, resolution of a zoning dispute "must be determined by the definitions contained in the ordinance itself; for the legislative body may furnish its own definitions of words or phrases in order to guide and direct judicial determinations of the intentions of legislation, and such definitions may be different from ordinary usage."<sup>2</sup> A local legislative body has the power to define a term to serve the requirements of the particular community, and the court will not overrule the classification unless it is clearly discriminatory, or unless the basis upon which it rests is clearly unreasonable.<sup>3</sup>

### § 5:11 Ordinary meaning applied

Where a word or term is not defined for the purposes of the ordinance, it will usually be given its plain, ordinary, and usually

#### [Section 5:10]

<sup>1</sup>See, e.g., *Dupont v. Planning and Zoning Commission of Town of Stratford*, 156 Conn. 213, 240 A.2d 899 (1968); *Carroll v. City of Miami Beach*, 198 So. 2d 643 (Fla. Dist. Ct. App. 3d Dist. 1967); *Abington Tp. v. Dunkin' Donuts Franchising Corp.*, 5 Pa. Commw. 399, 291 A.2d 322 (1972).

<sup>2</sup>*Klein v. Lower Macungie Tp.*, 39 Pa. Commw. 81, 395 A.2d 609 (1978).

And see *Carroll v. City of Miami Beach*, 198 So. 2d 643 (Fla. Dist. Ct. App. 3d Dist. 1967) (where the ordinance defines the term "family," the court is bound by the definition and cannot determine whether a proposed use is use by a "family," by ascribing to the term the meaning customarily conferred on it by the public in general).

See *Nasca v. Board of Appeals of Medway*, 27 Mass. App. Ct. 47, 534 N.E.2d 792 (1989) ("street" as defined in zoning board bylaw, included a way that was approved by planning board and was suitable for use as street in the subdivision in question); *Town of Libertyville v. Blecka*, 180 Ill. App. 3d 677, 130 Ill. Dec. 60, 536 N.E.2d 1271 (2d Dist. 1989) (land may be considered "open" if it is a part of 50-acre parcel or larger rather than 50-acre parcel on its own).

<sup>3</sup>*Dupont v. Planning & Zoning Comm'n*, supra. However, the definition given a term in one legislative enactment, e.g., a state statute, is irrelevant in determining the meaning intended in another enactment, e.g., a local zoning ordinance, absent a "manifest intent" to incorporate such meaning. *Pioneer Trust and Sav. Bank v. Cook County*, 71 Ill. 2d 510, 17 Ill. Dec. 831, 377 N.E.2d 21 (1978).

# Town of Dorset ~ Zoning Board of Adjustment

Date 11 / 9 / 15

Regular Meeting X

Special Meeting       

(Please Print)

Testifying

Name	Address	Representing	(Yes or No)
Tracey Mathyas	799 Kirby Hollow Rd, Dorset	Self	?
Doris Streeter	77 Dorset Hollow Rd	self	no
Rosalie Fox	125 Fox Lane	Self + petition	Yes
Theresa Gilbert	2171 Dorset West Rd	Self	NO
HEN GIUBERT	597 Church St	SELF	NO
Nancy Ludlam	140 Mad Tom Rd, E. Dorset	Self	No
Stephen Ludlam	140 Mad Tom Rd, E. Dorset	self	NO
ARWOOD GORTZOS	3458 Rt 30 Dorset	SELF	YES
Lindy Bowden	3092 Rt. 30 Dorset	self	?
Jack Gilbert	2427 West Rd Dorset	self	?
Christina Lisano	Lower Hollow	u	NO
DGREEN	PO Box 881	u	?
Angela ARKWAY	379 out's Head Hill Lane	self	?
Lucianne Hardy	27 Lane Rd.	self	?
Suzanne Hittle	68 Church St., Dorset	self	?
Richard Hittle	68 Church St., Dorset	self	?
ROBIN LANGSTAFF-FRENCH	375 LANE RD	self	no
RICHARD FRENCH	375 LANE RD	self	no
Lauren Silver	798 N. Hills Hill Rd	self	no
Cindy Loudenslager	144 Spring Hill Lane Dorset	self	NO



## **Appeal of Zoning Permit 043-2015 BU issued to Vermont Mountain Retreats, LLC: 3156 Route 30, Dorset, Vermont (The Barrows House)**

On Monday, November 9, 2015, the Dorset Zoning Board of Adjustment heard an appeal of the Zoning Administrator's issuance of Zoning Permit 043-2015 BU to Vermont Mountain Retreats, LLC for the proposed construction of an "event barn" on the Barrows House property at 3156 Route 30 in Dorset, Vermont. The Zoning Administrator treated the matter as an application for a permitted use with required site development plan review by the Planning Commission, instead of as an application for a conditional use permit. For the reasons set forth below, the Board reverses the Zoning Administrator's decision, and remands the permit application to the Zoning Board of Adjustment for consideration as a conditional use.

Seven of the eight members of the Zoning Board of Adjustment attended, namely, Bill Bridges, Ruth Stewart, Mike Connors, David Wilson, Steve Jones, Kevin O'Toole and John LaVecchia. David Wilson attended via conference telephone. Board member Tuck Rawls was unable to attend the meeting.

Representing the appellants, Linda McGinnis and Lynn Bowden, was attorney John Thrasher. Representing the appellee, Town of Dorset Zoning Administrator Tyler Yandow, was Town of Dorset attorney Joseph O'Dea.

Board Chairman John LaVecchia opened the meeting by granting interested party status to several individuals who either owned property adjoining The Barrows House or immediately in its vicinity, namely, Linda McGinnis, Lynn Bowden, Vivienne Smith, Dorothy Streeter, and Edward Tanenhaus. In addition, interested party status was granted to the signatories of four separate petitions with ten or more signatures. Each petition named a spokesperson. The spokespersons for the petitioners were Arnold Gottlieb, Rosalie Fox, Austin Chinn, and Mary Beth Hartfield.

Section 6.3 of the Dorset Zoning Bylaw contains three uses for which a permit may be issued in the Village Commercial District:

1. Permit for a permitted use issued by the Zoning Administrator without Site Development Plan review by the Planning Commission;
2. Permitted use with prior Site Development Plan review by the Planning Commission; and
3. Conditional use with prior Site Development Plan review by the Planning Commission.

Set forth in §6.3.4(b)(6) of the Dorset Zoning Bylaw, as one of the permitted uses with prior Site Development Plan review by the Planning Commission, are "Inns." On September 25, 2015, the Planning Commission held its hearing on the Site Development Plan presented by Vermont

Mountain Retreats, LLC. Among its findings, the Planning Commission, pursuant to Section 3.8 of the Dorset Zoning Bylaw, determined that The Barrows House was an inn and that the proposed event barn was an accessory use. “Accessory use” is defined under the definition section in Appendix A of the Dorset Zoning Bylaw as “a use incidental and subordinate to the principal use on the same lot.”

Speaking for the appellants at the hearing, attorney Thrasher argued that under the definition contained in Appendix A of the Dorset Zoning Bylaw, an inn is considered “public lodging,” and therefore the proposed event barn should have been considered not by the Zoning Administrator but by the Zoning Board of Adjustment as a conditional use under Section 3.5 of the Dorset Zoning Bylaw, as well as the definition of public lodging in Appendix A. Alternatively, Mr. Thrasher argued that the Planning Commission erred in finding that the proposed event barn was an accessory use to The Barrows House. Instead, the proposed event barn should have been considered a “mixed use” and therefore also should have been considered by the Zoning Board of Adjustment as a conditional use.

During the hearing, the Board heard testimony from Arnold Gottlieb, Austin Chinn, Vivienne Smith, Rosalie Fox and Edward Tanenhaus. In response to Attorney Thrasher’s arguments, Attorney O’Dea stated that the Dorset Design Bylaw obviously says one thing (classifying inns as a permitted use in a Village Commercial District with Site Development Plan Review) and something else entirely in the definitions section found in Appendix A (classifying an inn as public lodging and requiring a conditional use permit.) Attorney O’Dea further stated that when faced with the ambiguity of the Zoning Bylaw, the Board must find in favor of the applicant Vermont Mountain Retreats, LLC. On behalf of his clients, Attorney Thrasher conceded this point.

Attorney O’Dea further argued that the Dorset Zoning Bylaw clearly classified inns as a permitted use in a Village Commercial District and simply used the term “inns,” while it classified tourist homes and rooming houses (bed and breakfasts) as conditional uses, adding the language “as defined under Public Lodging in Appendix A.” Attorney Thrasher argued that the additional reference to Appendix A was unnecessary for inns, as the definition in Appendix A expressly stated that it was to be considered public lodging. Board Member Kevin O’Toole contributed that the definitions in Appendix A of rooming houses and tourist homes also contained language stating that they were to be considered public lodging. Following further testimony concerning the classification of the proposed event barn as a mixed use rather than as an accessory use to an inn, the Board, upon motion made, seconded and passed, closed the hearing.

Upon motion made, seconded and passed, the Board then went into deliberative session. Emerging from deliberative session, the Board determined as follows: While the classification of an inn as a permitted use and the definition of an inn as public lodging requiring a conditional use permit in the definition section of Appendix A of the Dorset Zoning Bylaw are in conflict, the Board does not find there to be an ambiguity that must be resolved in favor of applicant Vermont Mountain Retreats, LLC. The Board does find the classification by the Planning Commission at the September 25, 2015 hearing of the proposed event barn as an accessory use to

The Barrows House to be in error. Instead, the Board finds that the proposed event barn, to be used for weddings as well as other events for guests at the inn and others not staying at the inn, to be a mixed use of a recreational facility and an inn.

Accordingly, the Board, in a vote of five in favor and two opposed, reverses the decision of the Zoning Administrator and remands this matter for consideration by the Zoning Board of Adjustment as a conditional use. Because the Site Development Plan review under §3.8 of the Zoning Bylaw required for a conditional use has been completed, no further action of the Dorset Planning Commission is required.