

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **Christina Cullen & Christopher Adams**

Owner/Applicant(s) Mailing Address: **Adams Family Farm, 15 Higley Hill Road, Wilmington VT, 05363**

Address of the subject property: **Adams Family Farm, 15 Higley Hill Road, Wilmington, VT 05363**

Tax Map #**003-03-001.100**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2014-035

Description of Case per Public Notice:

Application # 2014-035: Owners; Christina Cullen & Christopher Adams. Application being made for Conditional Use. The purpose is to install two paint ball courses made of lumber, brush, and old tires; Conditional Use Regulations 811; location: 15 Higley Hill Rd.

Notice for a public hearing was published in the Valley News on: **April 1, 2014**

Notice was posted in three public places on: **April 30, 2014**

A copy of the notice was mailed to the applicant on: **April 29, 2014**

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The public hearing was held on: **May 19, 2014 and June 2, 2014**

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Vermont Environment Court.

Appeal period for this Case expires on: _____

Approval expires on: _____

In *addition* to the Applicant / Agent the following persons were heard by the Board in connection with this request: (Copies were mailed to those persons listed below as having been heard.)

Beth Leggiere	Abutter	Participated in Hearing
Robert Westlake	Abutter	Participated in Hearing
Monique Corbatt-Brooks	Abutter	Participated in Hearing
Dario Lussardi	Abutter	Participated in Hearing
Steven Brooks	Abutter	Participated in Hearing
Thelma Boyd	Abutter	Participated in Hearing
Ryan Todd	Witness	

I. The Board FINDS:

The following are the circumstances which give rise to the request, and the following are facts and opinions presented to the Board at the hearing and developed by the Board in independent evaluation.

EXHIBITS:

- Application (Pages 1,2,3, and 5)
 - A Proposed Site Plan
 - B Setback Summary
 - C Property Information Sheet (printed 05/27/2014)
 - D State of Vermont Land Use Permit Case #2W1320
 - E Property Information Sheet (printed 05/27/2014) (Course site marked by Christopher Adams)
 - F *Levels of Noise*-American Academy of Audiology (Annotations by James Knabe)
 - G Photographs from Leggiere Property (2)
 - H Property Information Sheet (printed 05/30/2014) (Annotations by Beth Leggiere)
 - I Interested Party Sign in Sheet
1. The subject property is in the Commercial /Residential District of the Town of Wilmington. The property is 100+/- acres with 4,752 feet of frontage abutting the east side of State Highway Route 100 and the south side of Higley Hill Road. There are multiple structures on the property; a retail store, barn, farmhouse, slaughterhouse, out buildings for animals and storage, and a log cabin. The property is identified as Tax Map 003-03-001.100 with a street address of 15 Higley Hill Road.
 2. The subject property is currently being used as an agritourism destination for sleigh/wagon rides and petting zoo, farm retail store and slaughterhouse.
 3. Applicants have applied for a conditional use permit to construct and operate a

- paintball course with two fields of play centrally located per Exhibit E on the applicant's property. Both courses would be approximately 100 feet wide and 500-600 feet in length, parallel to each other and encompass approximately 2.5 acres. The course will have natural obstacles such as boulders, brush, trees, stacked logs and land contours. The course will also have manmade obstacles consisting of wooden pallets and tires. No buildings, electrical work or excavation are planned at present. Course boundaries will be clearly marked to prevent participants from wandering across property lines
4. Applicant stated that paintball participants will be a minimum of 12 years of age and all participants will receive a safety orientation and equipment check. Maximum pressure of paintball equipment will be limited to that which is appropriate for the size of the course and age of the applicant. Only paintballs supplied by the applicant will be allowed on the course and they will be non-toxic and bio-degradable. Applicant testified that the noise level of the paintball gun will be equivalent to that of a "cap gun". Participants will walk up a dirt road to the course and there will be a referee/supervisor in attendance during all competitions at a ratio of 1 per 15 participants.
 5. Requested hours of operation would be from 8:30 am to 5:30pm, seven days per week. Applicant anticipates approximately 50-85 participants per day and parking will be in the existing parking lot.
 6. Development Review Board recessed the Hearing until the June 2, 2014 previously warned Development Review Board Hearing and requested that the applicant provide a more detailed site plan for review at the Town Offices by Friday May 30, 2014. Applicant was also requested to bring Act 250 supporting documents that applicant referred to and information on paintball decibel levels.
 7. Hearing resumed on June 2, 2014 with the addition of Christopher Adams, property owner, and Ryan Todd, paintball professional and witness for the applicant. A more detailed site plan (Exhibit C) was delivered to the Town Offices prior to May 30, 2014 for inspection as requested by the DRB. Exhibit C was annotated by Christopher Adams at the hearing (Exhibit E) to indicate the approximate location of the paintball course.
 8. James Knabe presented a Levels of Noise Chart by the American Academy of Audiology annotated to indicate that paintball noise at 10 feet is 45 decibels and ambient at 300 feet. As shown on the Levels of Noise Chart, the 45 decibel level is categorized as less than "Moderate" noise and greater than "Soft" noise.
 9. The Applicant submitted by reference State of Vermont Land Use Permit #2W1320 for the paintball course.
 10. Owner testified that parking lot can accommodate a maximum of 75 cars.
 11. Abutter Beth Leggiere raised concerns about possible noise levels of the paintball guns. The dwelling of Beth Leggiere is approximately 850 feet from the proposed area of play (Exhibit E).

II. The Board CONCLUDES:

1. The Board concludes that a paintball course is an Outdoor Recreation Facility and is a Conditional Use in the Commercial/Residential District under Section 270, Subsection D4 requiring Conditional Use review.
2. The Board concludes that sufficient and potential parking areas exist to comply with the Wilmington zoning ordinance requirement of "At least two hundred (200) square feet of parking space outside the public road limits for every three persons to be accommodated on the premises".
3. The Board concludes that the proposed use meets the Commercial Use site criteria of Section 270, Subsection D5.

With regards to the criteria for a conditional use permit, the Board concludes that this proposal *will* conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

- A. Will the proposed Conditional Use have an undue adverse effect on the capacity of existing or planned community facilities?** No. The applicant has not requested the addition of, or increase in town water or sewer facilities in this application
- B. Will the proposed Conditional Use have an undue adverse effect on traffic on roads and highways in the vicinity?** No. The property abuts a busy state highway and will generate minimal additional traffic.
- C. Will the proposed Conditional Use have an undue adverse effect on the character of the area, as defined by the purpose or purposes of the zoning district within which the project is located?** No. The property is in a rural section of the Commercial /Residential District which includes residential housing, business establishments, open fields and woods.
- D. Will the proposed Conditional Use comply with specifically stated policies and standards of the Town Plan?** Yes
- E. Will the proposed Conditional Use comply with other sections of the Zoning Bylaw?** Yes
- F. Will the proposed Conditional Use have an undo adverse effect on the utilization of renewable energy resources?** No

III. CONDITIONS:

The permit is granted subject to the following restrictions, requirements, limitations or specifications.

1. Hours of competitive play shall be limited to the hours 9:00am – 5:30pm at the locations shown on Exhibit E.
2. Noise level of paint ball equipment shall be limited to not louder than 50 decibels at 10 feet from the muzzle of the paintball gun. Air horns are prohibited. Other noise generating devices used to signal participants shall not exceed 70 decibels.
3. Minimum of one safety officer/ referee shall be in attendance during each paintball game.
4. All paintballs used on the course shall be sold or supplied by the applicant. All paintballs sold or supplied by the applicant shall be non-toxic and bio-degradable.
5. Paintball participants shall receive a safety orientation prior to participating in the outdoor recreation. Safety orientation shall include, but not be limited to, inspection of protective gear and paintball equipment. Equipment pressure shall be limited to that which is appropriate for the type and size of course and age of participant.
6. Consumption of alcohol by participants shall be strictly prohibited. Persons appearing to be “under the influence” or intoxicated shall not be allowed on the course.
7. Spectators shall not be allowed on the course or in the surrounding area.
8. Course boundaries shall be clearly marked to prevent course participants from wandering beyond applicant’s property.
9. Policies and Procedures for the safe and efficient operation of the paintball course shall be developed by the applicant and prominently posted in the safety orientation area and reviewed with participants during the safety orientation.

The Development Review Board **approves** the application for a **Conditional Use allowing the establishment of an outdoor recreation facility commonly known as a “paintball course” in the Commercial Residential District subject to the conditions in III above.**

If unused, this Approval expires 2 years from the date of issue. A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit *must* be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval *does not relieve you*, as applicant, from obtaining any and ALL applicable State and other local permits.

Town of Wilmington, Zoning Administrator reserves the right to monitor compliance with this decision and all decisions issued by the Development Review Board

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Paul Tonon
Peter Wallace
Wendy Manners
Fred Houston
Debby Dorsett

OPPOSED:

None

ABSTAINING:

None

For the Board: Peter Wallace, Chairperson

Date: _____

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.