

STATE OF VERMONT  
ENVIRONMENTAL BOARD  
10 V.S.A. CHAPTER 151

Re: Evans Products Company -  
Grossman's  
200 Union Street  
Braintree, MA 02184  
Application #1R0329-EB

Findings of Fact,  
Conclusions of Law,  
and Order

This is an appeal of Land Use Permit #1R0329 issued by the District #1 Environmental Commission on May 28, 1979 for the construction and operation of a 16,800 square foot retail home improvement store and lumberyard located at the intersection of Route 7 and Windcrest Road in the Town of Rutland, Vermont. An appeal of that permit was brought to the Environmental Board by the permittee, Evans Products Company on June 13, 1979. At issue in the appeal were the findings of fact and conditions of the permit that related to Criteria 5 (highway safety and congestion) and 8 (aesthetics and scenic and natural beauty). The Environmental Board convened the hearing on July 24, 1979 without taking evidence, and after postponements requested by the appellant, heard oral argument on a procedural issue on October 23, 1979. On November 8, 1979, the appellant withdrew this appeal.

On October 19, 1979, Evans Products Company filed an additional appeal with the Environmental Board from the final decision of the District Environmental Commission relative to Condition #6 of Land Use Permit #1R0329. Pursuant to that condition, on September 24, 1979, the District Environmental Commission had approved a landscaping plan for this development. At issue in this appeal was the amount and extent of landscaping required by the District Environmental Commission.

A public hearing on this second appeal was held on November 19, 1980 in Montpelier, Vermont before Margaret P. Garland, Chairman presiding as hearing officer. Parties to this proceeding were Evans Products Company by Bartley J. Costello, Esq. and the Agency of Environmental Conservation by Stephen B. Sease, Esq.

FINDINGS OF FACT

Criterion 8 - This project will not have an undue adverse effect on the scenic beauty, natural beauty, or aesthetics of the area if the site is adequately landscaped.

1. The landscaping plan approved by the District Environmental Commission specified that the permittee must plant a large number of trees in the area between the parking lot and Route 7 and in the area between the umbrella storage shed and Route 7, all in addition to the plantings specified on the permittee's proposed landscaping plan as revised on

5/28/80  
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August 31, 1979.

2. Having appealed the requirements of this landscaping plan, the permittee agreed to work with the Agency of Environmental Conservation to produce a final revised plan acceptable to all parties.
3. After the review and discussion of two additional landscaping proposals, the Agency of Environmental Conservation and the appellant submitted a stipulation to the Environmental Board dated April 24, 1980 in which they agree that the landscaping plan as revised on March 20, 1980 satisfies the requirements of Criterion 8 of Act 250.
4. In addition to the plantings originally proposed, this revised plan calls for planting additional honey locust, flowering crabapple, red pine and juniper in the area between the parking lot and Route 7; and the addition of red pine in the area between the umbrella shed and Windcrest Road.

CONCLUSIONS OF LAW

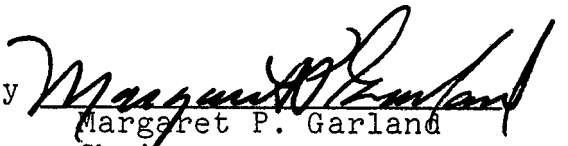
1. Under the provisions of the Administrative Procedure Act, 3 V.S.A. §809(d), the parties to a contested case may make informal disposition of the case by stipulation, unless otherwise precluded by law. The stipulation of the parties to this case does not conflict with the requirements of Act 250 and are therefore accepted and incorporated into this order and Land Use Permit #1R0329-EB.
2. Based on the Findings of Fact above, the Environmental Board concludes that the landscaping plan prepared by Larson Associates of Lexington, Massachusetts as revised on March 20, 1980 constitutes adequate landscaping for this project, and that if the project is completed and maintained in conformance with the terms and conditions of the application and with Land Use Permit #1R0329 as amended, it will not cause or result in a detriment to the public health, safety, or general welfare under the criteria in 10 V.S.A. §6086(a) and that pursuant to that section, a permit amendment is therefor issued.

ORDER

Accordingly, it is hereby ordered that all appeals in this case are dismissed, and that Land Use Permit #1R0329 shall be amended to eliminate Condition #6 and to incorporate an additional condition to require the installation and maintenance of landscaping on this project as herein approved. Jurisdiction over this permit shall be returned to the District Commission.

Dated at Montpelier, Vermont this 28th day of May, 1980.

ENVIRONMENTAL BOARD

By   
Margaret P. Garland  
Chairman

Members voting in favor  
of this decision:  
Margaret P. Garland, Chairman  
Ferdinand Bongartz  
Dwight E. Burnham, Sr.  
Melvin H. Carter  
Michael A. Kimack  
Daniel C. Lyons  
Roger N. Miller