

VERMONT ENVIRONMENTAL BOARD
10 V.S.A. Chapter 151

RE: Okemo Mountain, Inc. by Memorandum of Decision
Lawrence G. Slason, Esq. Land Use Permit Amendment
Centennial Arcade, Suite 300 #2S0351-10-EB
Bellows Falls, VT 05101

On April 14, 1989, Okemo Mountain, Inc. (the Applicant) filed a motion with the Environmental Board to reconvene the hearing in this matter to take additional evidence with regard to Criterion 5 (traffic). On April 27, the Board received from the Appellants a Memorandum in Opposition to the Applicant's Motion to Reconvene the Hearing and on May 1 the Applicant filed a Memorandum and Rebuttal in Response to the Appellants' Opposition.

The Applicant believes that the Board should reopen the hearing to hear evidence from an expert in the accident reconstruction field on the safety of the intersection in question, rather than rely on the AASHTO standards which are just general guidelines. The Appellants argue that the Applicant had sufficient time to prepare its case before the hearing and that since good cause does not exist for the Board to reopen the hearing, the Board should deny the Applicant's motion. In the alternative, the Appellants argue that should the Board decide to reopen the hearing, the Applicant should reimburse the Appellants for all of its technical and legal expenses incurred in connection with such reopened hearings, and that the Board should expand the scope of the hearings to cover Criteria 1, 1(B), 8, and 9(K).

The Board will grant the Applicant's motion to reopen the hearings. While the Board is mindful that the Applicant did have an opportunity to present its case, it believes it must balance the need for efficiency against its paramount concern that its decisions be based upon the best evidence available. The Board agrees that the AASHTO standards are general and that site specific information may establish actual conditions more accurately. Because the ramifications to the Applicant of having to meet the 360 foot sight distance are severe, the Board believes that the Applicant should have an opportunity to prove that some lesser sight distance would be safe.

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ORDER

1. The Applicant's motion to reconvene the hearing is hereby granted. The scope of the hearing will be limited to the issue of sight distances at the corner of West Village Road and the access road to the Applicant's subdivision. The date, location, and time of the hearing will be announced at a later date.
2. The Appellants' request to the Board to require the Applicant to reimburse the Appellants for its expenses is denied.
3. The Appellants' request to the Board to expand the scope of the hearings is denied.

Dated at Montpelier, Vermont this 4th day of May, 1989.

ENVIRONMENTAL BOARD


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MD 2W0351-10-EB (APL20)