

TOWN OF DUMMERSTON

Development Review Board

Application for Right of Way and Site Plan Review

Findings and Conditions

HEARING SPECIFICS

Permit Application Number: 3727

Date Received: May 30, 2023

Applicants: Johanna Lengfellner / John & Aisha Pandelaki

Mailing Address: 1127 US Rt. 5, Dummerston, VT, 05301

Location of Property: Parcel 628, 1107 US Rt. 5, Dummerston, VT, 05346

Owners of Record: Karin Aisha Pandelaki Revocable Trust, John C Pandelaki Revocable Trust.

Application: Right of Way

Date of Hearing: August 15, 2023

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of application #3727 for Right of Way under the Town of Dummerston Zoning Bylaw Section 602.
2. The subject property is 14.2 acres, located at 1107 US Rt 5, E Dummerston, VT 05346, in the Town of Dummerston (tax map parcel no. 000802). The property is more fully described in a Deed recorded at Book 124: Page 233 in the Town of Dummerston Land Records.
3. The property is located in the Residential District as described on the Town of Dummerston Zoning Map on record at the Town of Dummerston municipal office and Section 225 of the Zoning Bylaw.
4. On July 26, 2023, notice of a public hearing was published in The Commons.
5. On July 26, 2023 notice of a public hearing was posted at the following places:
 - The Dummerston Town Office.
 - The West Dummerston Post Office.
 - The Dummerston School.

6. On July 30, 2023, notice of a public hearing was posted at the following place: 1107 US Rt. 5, which is within view of the public-right-of-way most nearly adjacent to the property for which the application was made.
7. On July 26, 2023, a copy of the notice of a public hearing was mailed to the Applicant.
8. On July 26, 2023, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:
 - a. Burnett Brenda L, Powers Bobbi J & Drake Donna, 53 Monteiro Dr, Hinsdale, N, 03451
 - b. Cavanagh Nancy W/Life Estate, Houle Trevor, 36 Allerton Ave, Brattleboro, VT 05301
 - c. Short Terry D, 1071 US Rt 5, E Dummerston, VT 05346
9. The application was considered by the Development Review Board (DRB) at a public hearing on August 15, 2023.
10. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended April 6, 2022.
11. Present at the hearing were the following:
 - a. Members of the Development Review Board:
Alan McBean (Chair), Chad Farnum, Peter Doubleday.
 - b. Others:
Roger Jasaitis (Zoning Administrator), Karin-Aisha Pandelaki, John Pandelaki (Landowners), Keith Arnold.
12. A site visit was conducted on August 15, 2023.
13. Present at the site visit were the following:
 - a. Members of the Development Review Board:
Alan McBean (Chair), Chad Farnum, Peter Doubleday.
 - b. Others:
Roger Jasaitis (Zoning Administrator), Karin-Aisha Pandelaki.
14. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application for Right of Way, number: 3727.
 - b. Application to the DRB for Right of Way and Site Plan Review number: 3727.

FINDINGS OF FACT

Based on the application, testimony, exhibits, and other evidence the DRB makes the following findings:

1. Karin-Aisha Pandelaki (Applicant), described the application (#3727) and reason for the request for a Right of Way (RoW) to access a future subdivision of the parcel that will be sold to the neighbor, Johanna Lengfellner. This RoW would provide access to a future parcel subdivision that would not have road access. The RoW will run along the northern

parcel boundary with access to Rt. 5. The location of the RoW is currently used for access to the back of the lot.

2. Alan McBean (DRB) clarified that the minimum width for a RoW is 20' wide.
3. Alan McBean (DRB) asked if the State was contacted for the Curb Cut (Access permit) on Rt. 5. No one present was sure about this aspect.
4. Roger Jasaitis (ZA) clarified that the Town permit would not be valid without the State approving access.
5. Chad Farnum (DRB) clarified that this RoW will run on the Pandelaki's parcel providing access to a future subdivision that is proposed to be sold to Lengfellner.

DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, the Development Review Board approves the application for a Right of Way:

1. The DRB finds that this application for a Right of Way, as conditioned, meets the requirements of the Town Plan and Zoning Bylaw.
2. The application was considered under *Section 726 of the Zoning Bylaw; Site Plan Review Criteria*.

1. *Compatibility with adjacent land uses.*

The DRB finds that this application is compatible with the adjacent land uses.

2. *Maximum safety of vehicular circulation between the site and the street network.*

The DRB finds that this application provides adequate safety and vehicular circulation.

3. *Adequacy of circulation, parking and loading facilities with particular attention to safety.*

Not applicable.

4. *Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection of adjacent property.*

Not applicable.

5. *Lighting, noise, odors, protection of renewable energy resources.*

Not applicable.

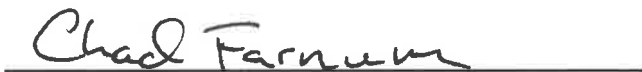
3. *The Zoning Bylaw Section 602* requires that access easements or rights-of-way shall not be less than 20 feet in width. If serving more than two lots or uses, the DRB may require a right-of-way not to exceed 40 feet in width to ensure safe and adequate access. The applicant must comply with this Section.
4. It is the Applicant's responsibility to be in compliance with any and all Town or State required or issued permits at all times or be in violation of the Zoning Bylaw. A State Access Permit will be required for this Right of Way. The Town Zoning Permit will not be valid until the State Access Permit is approved.
5. Expiration: This Zoning Permit approval will expire by limitation two (2) years from the date of approval. All work must be completed as shown on any approved plan before the expiration date.

The following members of the Dummerston Development Review Board participated and concurred in this decision: Alan McBean, Chad Farnum, Peter Doubleday.

Dated at Dummerston, Vermont, this 13th day of September, 2023.



Signed for the Dummerston Development Review Board



Print Name

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.