

TOWN OF DUMMERSTON

Development Review Board

Right of Way and Site Plan Review Application Findings and Decision

Permit Application Number: 3749

Date Received: December 12, 2023

Applicant: Whitman Wheeler

Mailing Address: 620 East West Rd, Dummerston, VT 05346

Location of Property: Parcel #279.1, 620 East West Rd, Dummerston, VT 05346

Owner of Record: Jesper Brickley & Cara Meinke

Application: Right of Way and Site Plan Review.

Date of hearing: January 16, 2024

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a Right of Way and Site Plan Review under the Town of Dummerston Zoning Bylaw sections 602, 720 and 724.
2. On December 20, 2023, notice of a public hearing was published in The Commons.
3. On December 26, 2023, notice of a public hearing was posted at the following places:
 - The Dummerston Town Office.
 - The West Dummerston Post Office.
4. On January 6, 2024, notice of a public hearing was posted at the following place: 620 East West Rd, which is within view of the public-right-of-way most nearly adjacent to the property for which the application was made.
5. On December 26, 2023, a copy of the notice of a public hearing was mailed to the applicant.
6. On December 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. Miller D Read III & Malah A, 193 Miller Rd, E Dummerston, VT 05346
 - b. Pluhar Annamarie, 621 East West Rd, E Dummerston, VT 05346
 - c. Wilmott J Michael & Susan W/ Life Estate, 53 Miller Rd, E Dummerston, VT 05346
7. The application was considered by the Development Review Board (DRB) at a public hearing on January 16, 2024.
8. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended May 22, 2019.
9. Present at the hearing were the following:

- a. is more fully described in a Deed recorded at Book 120, Page 368, in the Town of Dummerston Land Records.
1. 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.
2. Establishment of a Right of Way is requested as that term is defined in Article 8, Page 8, of the Zoning Bylaw. The application requires reMembers of the Development Review Board:
 - a. In person: Alan McBean(Chair).
Via Zoom:Cami Elliott ,Peter Doubleday, Alan McBean(Chair).
 - b. Others:
Via Zoom: Whitman Wheeler (Applicant), Roger Jasaitis (Zoning Administrator).
3. Present at the site visit were the following:
 - a. Members of the Development Review Board:
Cami Elliott ,Peter Doubleday, Alan McBean (Chair).
 - b. Others:
None
4. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application for Zoning Permit, number: 3749.
 - b. Application to the Development Review Board for a Conditional Use Permit and Site Plan Review, number: 3749.

FINDINGS OF FACT

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

5. The applicant seeks a Right of Way and Site Plan Review under the Town of Dummerston Zoning Bylaw sections 602, 720 and 724.
6. The subject property is a 5 acre parcel located at 620 East West Rd, in the Town of Dummerston (tax map parcel #000279.1). The property view under the following sections of the Town of Dummerston Zoning Bylaw:
 - a. Article 6, Section 602 Required Frontage on, or Access to, Public Roads or Waters
 - b. Article 7, Section 720 Development Review Board.
 - c. Article 7, Section 724 Site Plan Approval.
7. Whitman Wheeler (Applicant) acknowledged his presence to answer any questions.
8. Peter Doubleday (DRB) asked the Applicant to outline the Right of Way request. Whit Wheeler stated that he lived at 672 East West Rd. and part of their acreage is across the stream. They have a pool installed in that location. Whit Wheeler explained that the pool was built 20 years ago and is used by themselves and neighbors. The only access is through a neighbor's property. The current owners of this property (Cara Mienke and Jesper Brickley) are in consent for the ROW. It will only be used by Reed Miller for sugaring in the spring and neighbors for access to the pool. It is off the current Mienke & Brickley driveway so no Access Permit is needed. There is no plan to improve the road other than some gravel if the road is extra muddy in summer.
9. Roger Jasaitis (Zoning Administrator) advised the Applicant that if the right of way is to be improved, he must contact the ZA for a Zoning Permit.
10. Alan McBean (DRB) noted the ROW must be a minimum 20 feet in width and specified in the deed.

DECISION AND CONDITIONS

Based upon these findings the Development Review Board **APPROVES** the application for a Right of Way with the following condition:

1. Any improvement to the Right of Way, other than the occasional application of gravel to keep it from getting too muddy, requires a Zoning Permit per Section 701, (8).

The proposed development meets the requirements of *Sections 721 of the Zoning Bylaw General Standards*:

1. *The capacity of existing or planned community facilities;*
 - a. The application meets this requirement.
2. *The character of the area affected;*
 - a. The application meets this requirement.
3. *Traffic on roads and highways in the vicinity;*
 - a. The application meets this requirement.
4. *By-laws then in effect;*
 - a. The application meets this requirement.
5. *Utilization of renewable energy sources;*
 - a. The application meets this requirement.
6. *Furtherance of the provisions of the Dummerston Town Plan.*
 - a. The proposed development conforms to the Town Plan.

The proposed development meets the requirements of *Sections 722 of the Zoning Bylaw Specific Standards*:

1. *Section 240 Commercial / Light Industrial District*
 - a. The proposed project will still conform to the purpose of the zoning district (as stated in *Sections 205-240* of these Bylaws) in which the land development is located.
2. *Section 615 Setback Requirements*
 - a. The proposed development meets the requirements for the district.
3. *Section 620 Off-Street Parking Requirements*
 - a. No parking is proposed.
4. *Section 635 Landscaping Requirements*
 - a. No Landscaping is proposed.
5. *Section 640 Erosion and Sediment Control*
 - a. The proposed development meets the requirements.
6. *Section 660 Performance Standards*
 - a. The proposed development meets the requirements.
7. *Section 669 Permittable On-Premise Signs*
 - a. No signage is proposed.

The proposed development meets the requirements of *Sections 726 of the Zoning Bylaw Site Plan Review Procedure*:

1. *Compatibility with adjacent land uses.*
 - a. The proposed development meets the requirements.
2. *Maximum safety of vehicular circulation between the site and the street network.*
 - a. The proposed development meets the requirements.
3. *Adequacy of circulation, parking and loading facilities with particular attention to safety.*
 - a. The proposed development meets the requirements.
4. *Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection of adjacent property.*
 - a. The proposed development meets the requirements.
5. *Lighting, noise, odors, protection of renewable energy resources.*
 - a. The proposed development meets the requirements.

Expiration: Zoning Permit approvals shall expire by limitation if work is not completed within two (2) years from the date they are approved. All work must be completed as shown on any approved plan before the expiration date. One year extensions of this deadline may be granted by the Administrative Officer prior to expiration. Requests for extensions must be made in writing to the Administrative Officer.

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 this approval is null and void.

**The following members of the Dummerston Development Review Board participated and concurred in this decision: Cami Elliott ,Peter Doubleday, Alan McBean (Chair).
Dated at Dummerston, Vermont, this 3 day of February, 2024.**



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.