

Application for a Zoning Waiver

TOWN OF DUMMERSTON

Development Review Board

Application for a Zoning Waiver Findings and Decision

Applicant: EZ Moo Acres Mike Barrett
Mailing Address: 2905 S. Diamond St Santa Ana, CA 92704
Location of Property: Parcel 824.1 281 Dummerston Station Rd
Dummerston, VT
Owner of Record: Mike Barrett
Application: Zoning Waiver to setback requirements from existing structures to
facilitate land division

Permit Application No. LD389

Date Received: 11/02/2020

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a Zoning Waiver submitted by EZ Moo Acres / Mike Barrett under the Town of Dummerston Zoning Bylaw.
2. The application was received on Nov. 2, 2020.
3. On Nov. 4, 2020 notice of a public hearing was published at the municipal clerk's office, and post office.
4. Notice of a public hearing was mailed to the applicant and the following abutters of EZ Moo Acres/ Mike Barrett Dummerston Station Rd Dummerston, VT
 - Bell, Graham Edward 63 Winter Bell Dr Dummerston VT 05346
 - Brooks, Juanita L 294 Dummerston Station Rd Dummerston VT 05346
 - Derrig, Ellis & Rosalie. Trustee 41 Houghton Brook Rd Putney VT 05346
 - Etzweiler, Robert & Natasha 210 Dummerston Station Rd Dummerston VT 05346.
 - Gabriel, Kelly 256 Dummerston Station Rd Dummerston VT 05346.
 - Kaiser, Alonzo & Karen 220 Dummerston Station Rd Dummerston VT 05346.
 - Lahey, Shaun & Katie 290 Dummerston Station Rd Dummerston VT 05346.
 - Manix, Frances 61 Jones Rd Putney VT 05346
 - Ortlieb, William 230 N. tatge Bartlett, IL 60103

5. A site visit was made to 281 Dummerston Station Rd Dummerston on November 14, 2020 at 9:30 am.
6. The application was considered by the Development Review Board at a public hearing via Zoom meeting on February 16, 2021. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended May 22, 2019
7. Present at the hearing via Zoom meeting were the following members of the Development Review Board
 - Alan McBean, Chair
 - Cami Elliott
 - Josh Pacheco
 - Cami Walior
 - Chad Farnum
8. Present at the hearing via Zoom meeting were the following persons:
 - Roger Jasaitis, Zoning Administrator
 - Mike Barrett, applicant
9. During the course of the hearing the following exhibits were submitted to the Development Review Board:
 - A. Applicant Certification of Notice.
 - B. DRB Hearing Checklist.
 - C. Permit Application # LD389 dated Nov. 2, 2020

FINDINGS OF FACT

Based on the application, testimony, exhibits, and other evidence the Development Review Board makes the following findings:

1. The applicant seeks a zoning waiver to setback requirements from existing structures to new boundary lines to facilitate land division.
2. The property is located in a Rural Commercial District
3. The land was conserved by the owner using a Conservation Easement Agreement with the Vermont Land Trust.
4. Potential septic system sites have been identified and tested by SVE Associates of Brattleboro, for both potential lots.
5. Act 250 permit for the existing airstrip will expire July 2021.
6. Rental Unit on proposed Lot #3 contains 4 rental units.
7. Garage on proposed Lot#3 is unusable for automobiles
8. Total land coverage in a Rural Commercial District is 15% for residential uses and 50% for non-residential uses.

9. Currently proposed Lot# 2 has 33% coverage while proposed Lot# 3 has 25% coverage.

DECISION AND CONDITIONS

The board deliberated to determine if the waiver requested meets the Waiver Criteria as listed below.

Section 256 Wavier Criteria.

- 1) The waiver is helpful or necessary to allow for reasonable use of the property.
 - The waiver will be helpful to divide the property.
- 2) The waiver is the minimum reduction in the dimensional requirements that will enable the reasonable use of the property.
 - The applicant has not met the burden of proof that the proposed reduced setbacks are necessary for all existing structures. If approved, setbacks would be too close to existing structures for normal and reasonable use of the proposed divided properties.
- 3) Any adverse effects of the waiver are mitigated by design, screening, or other remedies.
 - Not applicable since the wavier is for property line setbacks.
- 4) The need for a waiver was not created by past decisions of the applicant.
 - It was discovered that subdivision lot sizes where limited and determined by the Conservation Easement Agreement made between EZ MOO Acres and the Vermont Land Trust. Only 5 acres can be divided from the entire parcel.
- 5) The proposed project will still conform to the Town Plan.
 - The proposed project will still confirm to the Town Plan.
- 6) 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.
 - The proposed project will conform to the zoning district
- 7) The proposed project will not have an undue adverse effect on the following:
 - a. Surrounding properties and property values
 - b. The character and aesthetics of the neighborhood
 - c. Traffic patterns and circulation
 - d. Public health, safety, and utility services
 - e. Stormwater managements
 - f. Water and wastewater capacity
 - It was determined that the waiver to the setback requirements would not have an undue adverse effect on these requirements.

The Dummerston Development Review Board has determined that total land coverage would exceed the allowable maximum amount for residential use if approved in this zoning district on Lot #2 and Lot# 3. It was also determined that the setbacks would be too close to the existing structures for normal and reasonable use of the proposed divided properties.

The need for the waiver was created by past decisions by the applicant under the agreement made between EZ Moo Acres and The Vermont Land Trust. Therefore, it does not satisfy the requirements of Section 256 #4 "The need for the waiver was not created by past decisions of the applicant."

Based on these findings the DRB denies the application for a waiver to the setback requirements.

It is the Applicant's responsibility to be in compliance with any State issued permits at all times.

The following members of the Dummerston Development Review Board participated and concur in this decision. Alan McBean, Cami Elliott, Patty Walior Josh Pacheco and Chad Farnum.

DUMMERSTON DEVELOPMENT REVIEW BOARD



Chad Farnum

Dated: 3/24/2021

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.