

TOWN OF DUMMERSTON

Development Review Board

Application for Right of Way

HEARING SPECIFICS

Permit Application Number: 3702

Date Received: December 1, 2022

Applicant: Louis Lepporoli Trust / Mark Lepporoli

Mailing Address: P.O. Box 86, West Dummerston, VT, 05357

Location of Property: Parcel 047, 84 Falls Brook Rd., East Dummerston, VT, 05346

Owners of Record: Louis Lepporoli Trust

Application: Right of Way

Date of Hearing: January 17, 2023

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of application #3702 for Right of Way under the Town of Dummerston Zoning Bylaw Section 602.
2. The subject property is 6.28 acres, located at 84 Falls Brook Rd., in the Town of Dummerston (tax map parcel no. 000047). The property is more fully described in a Deed recorded at Book 38: Page 110- 501, Book 39: Page 132, Book 40: Page 242, Book 42:Page 445, in the Town of Dummerston Land Records.
3. The property is located in the Rural Residential District as described on the Town of Dummerston Zoning Map on record at the Town of Dummerston municipal office and Section 220 of the Zoning Bylaw.
4. On December 28, 2022, notice of a public hearing was published in The Brattleboro Reformer.
5. On December 28, 2022 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 January 2, 2023, notice of a public hearing was posted at the following place: 84 Falls Brook Rd., which is within view of the public-right-of-way most nearly adjacent to the property for which the application was made.
7. On December 28, 2022, a copy of the notice of a public hearing was emailed to the Applicant.
8. On December 28, 2022, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:
 - a. Boggess William L Jr, 40 Falls Brook Rd, Dummerston, VT 05301
 - b. Bolster Neal & Sheridan, 75 Falls Brook Rd, Dummerston, VT 05301
 - c. Bricault Alix & Christine, 16 Travis Dr, Dummerston, VT 05301
 - d. Gray Gerald J & Tamara J, 97 Falls Brook Rd, Dummerston, VT 05301
 - e. Mtg Holdings Llc, 30 Bradford Dr, Brattleboro, VT 05301
 - f. Romanoff Richard Estate, 110 Carolina Nooseneck, Wyoming, RI 02898
 - g. Shippee Lisa, 31 1st Level Dr #17, Brattleboro, VT 05301
 - h. Shippee Thurman N, 36 Travis Dr, Dummerston, VT 05301
 - i. Sparks James C, Alexandros Sophia P, 109 Melrose St, Brattleboro, VT 05301
 - j. Suplee Lorin J Jr & Mangean Rachel F, 121 Falls Brook Rd, Dummerston, VT 05301
 - k. Wall Kathleen A, 78 Falls Brook Rd, Dummerston, VT 05301
9. The application was considered by the Development Review Board (DRB) at a public hearing on January 17, 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, Cami Elliott, Peter Doubleday, Via Zoom:
Natalie Pelham-Starkey.
 - b. Others:
Roger Jasaitis (Zoning Administrator), Paula Lepporoli, John Bogdanski, Kathleen Wall, Danielle Lacroix, Via Zoom: Mark Lepporoli (Applicant), Tami Gray, Rachel Manegan, Sheri Bolster.
12. A site visit was conducted on January 14, 2023.
13. Present at the site visit were the following:
 - a. Members of the Development Review Board:
Chad Farnum, Peter Doubleday.
 - b. Others:
Paula Lepporoli (Applicant), Danielle LaCroix, John Bogdanski.
14. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application for Right of Way, number: 3702.

FINDINGS OF FACT

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

1. Mark Lepporoli (Applicant), described the application (#3702) and reason for the request for a Right of Way (RoW) to access a future subdivision of the parcel. This RoW would provide access to a future parcel that would not have easy road access and provide access to the existing home on the upper portion of the lot. The RoW would be on the existing driveway that was created in 1998 to serve this house. It runs past the existing log cabin.
2. The Zoning Administrator clarified that this parcel has multiple deeded rights of way but that none of them are legally clear in the deeds and the one that is clear is not practically accessible.
3. The RoW will extend to the edge of the future property line subdivision.
4. The question was raised by an abutting landowner why an existing RoW was not being used? The Applicant stated that those rights of way were explored in the deeds by an attorney and found to be not viable as access to the upper portion of the lot for various reasons.
5. Alan McBean clarified that in the Bylaw there is no obstruction to holding multiple rights of way on a lot. Any future rights of way would have to come before the DRB for approval.
6. Sheri Bolster raised the concern of erosion by water coming off of the existing driveway onto her parcel. It was clarified by the DRB that this is not an issue that is under consideration in this application. There is no new construction planned. This RoW will be on the existing driveway. The DRB considers drainage a separate issue that the landowners should take up with the Town Road Foreman or Town Selectboard.
7. Kathy Wall stated that she has no issue with the creation of a RoW.
8. Cami Elliott clarified that this RoW is the first step towards the subdivision of the parcel, and not a decision for the subdivision itself. That will be a separate application for Land Division.

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.*

Being that this is an existing driveway with an approved Access Permit (Curb Cut), and that the proposed Right of Way will be on that driveway, 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.*

Being that this is an existing driveway 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.

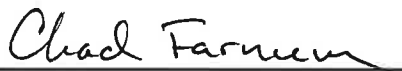
3. *The Zoning Bylaw Section 602* requires that access easements or rights-of-way shall not be less than 20 feet in width. If serving more than two lots or uses, the DRB may require a right-of-way not to exceed 40 feet in width to ensure safe and adequate access. The applicant must comply with this Section.
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.
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: Chad Farnum, Cami Elliott, Alan McBean, Peter Doubleday, Natalie Pelham-Starkey.

Dated at Dummerston, Vermont, this 7th day of February, 2022.



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.

