

TOWN OF DUMMERSTON

Development Review Board

Conditional Use Application for Short Term Rental and Site Plan Review Findings and Decision

HEARING SPECIFICS

Permit Application Number: 3711

Date Received: March 28, 2023

Applicant: Matthew V. Campbell & Amy Pickering

Mailing Address: 17 Littledale St., Roslindale, MA 02131

Location of Property: Parcel 035, 145 Falls Brook Rd., Dummerston, VT

Owner of Record: Matthew V. Campbell & Amy Pickering

Application: Conditional Use Application; Short Term Rental and Site Plan Review.

Date of Hearing: April 18, 2023

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a Conditional Use, Short Term Rental and Site Plan Review under the Town of Dummerston Zoning Bylaw Sections 720 and 724.
2. On April 5, 2023, notice of a public hearing was published in The Brattleboro Reformer.
3. On March 29, 2023, notice of a public hearing was posted at the following places:
 - The Dummerston Town Office.
 - The West Dummerston Post Office.
 - The Dummerston School.
4. On April 4, 2023, notice of a public hearing was posted at the following place: 145 Falls Brook Rd., Dummerston, VT, which is within view of the public-right-of-way most nearly adjacent to the property for which the application was made.
5. On March 29, 2023, a copy of the notice of a public hearing was emailed to the applicant.
6. On March 29, 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. Matava Gary, David Matava Estate, 4913 Berry Dr, Wilmington, NC 28412
 - b. Shippee Lisa, 31 1st Level Dr #17, Brattleboro, VT 05301

- c. Larry Squire Trustee, 300 Berry St Unit 801, San Francisco, CA 94158
 - d. Suplee Lorin J Jr & Mangan Rachel F, 121 Falls Brook Rd, Dummerston, VT 05301
7. The application was considered by the Development Review Board (DRB) at a public hearing on April 18, 2023.
8. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended April 6, 2023.
9. Present at the hearing were the following:
 - a. Members of the Development Review Board:
Alan McBean, Cami Elliott, Chad Farnum (via zoom), Peter Doubleday.
 - b. Others:
Lindsay Richard , Roger Jasaitis (Zoning Administrator) Sheri Bolster, Tamara Gray.
10. A site visit was conducted on April 18, 2023.
11. Present at the site visit were the following:
 - a. Members of the Development Review Board:
Alan McBean, Cami Elliott, Peter Doubleday.
 - b. Others:
Roger Jasaitis (Zoning Administrator) Sheri Bolster, Tamara Gray.
12. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application for Zoning Permit, number: 3711.
 - b. Application to the Development Review Board for a Conditional Use Permit and Site Plan Review, number: 3711.
 - c. Exhibit A; Email letter from Rachel Mangan with photo
 - d. Exhibit B; Email letter from Lisa Shippee

FINDINGS OF FACT

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

1. The applicant seeks a Conditional Use permit for Conditional Use, Short Term Rental, under Sections 720-726 of the Dummerston Zoning Bylaw, at parcel #035, 145 Falls Brook Rd., Dummerston, VT. The subject property is a 1 acre parcel located at 145 Falls Brook Rd., in the Town of Dummerston (tax map parcel no. 000035). The property is more fully described in a Deed recorded at Book 126, Page 17, in the Town of Dummerston Land Records.
2. 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.
3. The Application states Conditional Use approval is requested for:
 - a. Short Term Rental.

4. The application requires review under the following sections of the Town of Dummerston Zoning Bylaw: Article 7; Section 720 Development Review Board and Article 7; Section 724 Site Plan Approval.
5. The Applicant was not present for the hearing.
6. Tami Gray stated her concern that out of State vehicles are speeding on the road. This puts children and pets in danger. She shared that her cat was run over. She is also concerned that the rental allows people to bring their pets and they are not on leash and roam. Also the concern that there is already a Short Term Rental property nearby on Old Coach Rd. (recently permitted) and the VAST trails are at the end of Falls Brook Rd. which means that renters need to use Falls Brook Rd. to access the trails, causing more traffic. Perhaps a "dead end" sign will help.
7. Alan McBean asked if the lighting from the Oliveria rental is obtrusive. Tami said no, he is respectful and is following the conditions of his permit.
8. Sheri Bolster added that Oliveria has improved the lighting at the property with motion lights, timers and re-directing lighting downwards so that it doesn't shine on her house. In the case of the Cambell / Pickering property the spot lighting is on 24 hours a day with the string lighting being on from dusk to dawn. The whole yard is lit up all night and the glare is constant.
9. Sheri Bolster also stated her concerns about the amount of traffic and that the cars are speeding. Her house is close to the road and she has had to put up a fence to protect her children and pets.
10. Sheri Bolster said that the noise levels have been reasonable when the place is rented.
11. Sheri Bolster asked what internet platforms the property will be listed on.
12. The Zoning Administrator said that the application does not specify particular platforms.
13. Sheri Bolster and Tami Gray both expressed concerns about strangers being present in the neighborhood and they now have to lock their doors.
14. Alan McBean stated that since the Applicant was not present to answer questions, the DRB will have to rely on the information in the application in its decision.

DECISION AND CONDITIONS

1. **Based upon these findings, and subject to the conditions set forth below, the Development Review Board approves the application for a Conditional Use permit for Short Term Rental:**

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. The DRB noted the testimony given by neighbors regarding traffic and speeding. The DRB has no authority to require speed or other Town signage on roads.
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.
 - i. *Housing Goals, Policies, and Action Steps*
 1. *Goal 1: To create flexibility and diversity in Dummerston's housing stock.*

As conditioned, the proposed development meets the requirements of *Sections 722 of the Zoning Bylaw Specific Standards:*

1. *Section 220 Rural Residential 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.
 - a. *Section 615 Setback Requirements*
 - i. The proposed development meets the requirements for the district.
 - b. *Section 620 Off-Street Parking Requirements*
 - i. The proposed development meets the requirements.
 - c. *Section 635 Landscaping Requirements*
 - i. The proposed development meets the requirements.
 - d. *Section 640 Erosion and Sediment Control*
 - i. The proposed development meets the requirements.
 - e. *Section 660 Performance Standards*
 - i. The proposed development meets the requirements with the note that under *Section 660 (8) Fire, Safety, explosive , or other hazard*, Short Term Rental properties are considered Public Buildings by the State of Vermont and fall under the State Fire Regulations. This structure will be subject to inspection

by the State Fire Marshal and must conform to State Fire Regulations for Public Buildings.

- f. *Section 665 Outdoor Advertising Signs*
 - i. No signage is requested.

As conditioned, 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 with the condition that all exterior lighting must be shielded to prevent glare to adjoining properties (Section 660, (6)). The DRB noted at the site visit that the exterior spotlights were on even though it was still daylight. They also noted Exhibit A showing excessive glare from this property at night. This condition includes spotlights on the house and string lighting.**
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2. **Rental occupancy is limited to 2 persons per bedroom per State wastewater rules. The house is a 2 bedroom house so the maximum occupancy is 4 persons.**
 3. **All pets present must abide the Town of Dummerston Animal Nuisance Control Ordinance (24 VSA 1971, 2291). All pets must not be allowed to run at large. They must either be on a leash or in the presence of the owner and obedient to their commands. Violations of the Ordinance are subject to a penalty of up to \$300 per day.**
 4. **This Conditional Use permit will be reviewed by the Zoning Administrator in 5 years (May 2028) per Section 727.**

- a. **Section 727 Conditional Use /Site Plan Permit Review:** *Conditional Use and Site Plan permits shall be reviewed every five (5) years by the Administrative Officer for compliance to the conditions granted in the permit.*

5. **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: Chad Farnum, Peter Doubleday, Cami Elliott, Alan McBean.

Dated at Dummerston, Vermont, this 3 day of May, 2023.


Signed for the Dummerston Development Review Board

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.