

**TOWN OF DUMMERSTON  
DEVELOPMENT REVIEW BOARD  
LAND USE DECISION**

**Applicant:** Samuel T. Garland  
**Mailing Address and  
Location of Property:** 162 Carpenter Rd., Dummerston, VT 05301  
**Application:** 162 Carpenter Rd., Dummerston, VT 05301  
LD 346  
Application to establish right of way access across two  
parcels of a proposed land sub-division.

The matter came before a duly warned public hearing of the Dummerston Development Review Board (DRB) held on September 20, 2011 at the Town Office, Dummerston Center, Vermont.

Present and participating were the following members of the Development Review Board: Cynthia Wilcox, Lew Sorenson, , Patricia Jaquith, John Warren, Herbert Rest. Also present: alternate, Rick Sullivan and alternate Jack Lilly; Charlotte Neer Annis, Zoning Administrator; Carlton Garland; Samuel T. Garland, applicant.  
The public hearing was adjourned following testimony of the applicant. Following the public meeting, deliberations and motions of the Development Review Board ensued.

**FINDINGS OF FACT**

The Board finds as follows:

1. The applicant proposed the establishment of a right of way easement across two of the three parcels to be created by the proposed subdivision of the Carpenter Road property.
2. The applicant filed the Zoning Permit for land development on July 28, 2011.
3. The Zoning Administrator denied the application for permit # LD 346 on August 9, 2011 citing the need for the creation of a right of way easement, prior to subdivision approval, under section 602 of the Town of Dummerston Zoning Ordinance.
4. The Dummerston Development Review Board conducted a site visit on the

property on September 20, 2011 at 6:00 p.m.

5. **The property is located in a Rural Commercial District.**
6. **Section 602 of the Zoning Bylaw requires, as condition of land development, that an appropriate width easement or right of way be established for the purpose of establishing adequate access to the respective subdivision parcels. The subdivision development cannot proceed as proposed unless such right of way is approved by the DRB granted in accordance with section 722 of the bylaw (conditional use permits/standards).**
7. **The applicant testified that the 3 parcel subdivision configuration will require parcel 1 be accessed through parcel 2 and access to parcel 3 be accessed through parcel 2 and 1.**
8. **The applicant testified that lot 1 dimensions allow for potential further subdivision, though none is planned.**
9. **The property to be subdivided is a flag lot with 118 ft. public roadway frontage. Subdivision will result in lot 2 as the only parcel with frontage on the maintained public roadway. Public roadway access to lot 1 requires right of way through lot 2. Public roadway access to lot 3 requires right of way through both lot 2 and lot 1. The eastern property line of lots 1 and 3 abut the interstate highway.**
10. **Lot 1 dimensions are such that the potential for additional subdivision of this lot exists, though the topography makes this unlikely. Dimensions of lots 2 and 3 allow for no further subdivision.**
11. **Posting of the public notice and written notice to adjoining property owners were appropriately completed per applicant certification dated August 20, 2011. Abutting property owner Carlton Garland was in attendance. No verbal or written testimony opposing the application was provided. One abutting property owner (not under oath) attended the site visit and stated that she had no objections to the subdivision as proposed.**

## **CONCLUSIONS OF LAW AND DECISION**

**The Board finds that the proposed land development should be permitted subject to the conditions of public road access set forth below, under section 602 and in accordance with section 722 of the bylaw.**

**Conditions for subdivision of the 162 Carpenter Road property into 3 parcels as proposed are:**

- 1. Permanent easement or right of way of no less than 20 feet be established through lot 1 to provide access between lot 3 and 2 .**
- 2. Permanent easement or right of way of 40 feet be established through lot 2 and between the public roadway and lot 1.**

**The following members of the Dummerston Development Review Board participated and concur in this decision. The Decision is subject to appeal as provided by Vermont statutes.**

**Lew Sorenson, Cynthia Wilcox,  
Patricia Jaquith, John Warren, Herbert Rest**

**Dated: October 14, 2011**

**DUMMERSTON DEVELOPMENT REVIEW BOARD**

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**Herbert F. Rest  
On behalf of the Board**

## **EXHIBITS**

- 1. Zoning Permit Application #3179 and Site Plan**
- 2. DRB Application and any Attachments**
- 3. Newspaper Legal Notice**
- 4. Applicant's Public Notice Certification**
- 5. Letter from Eric Davis on behalf of the Katherine LaPalme Property Trust**
- 6. DRB Attendance Sign-in Sheet**
- 7. Interested Persons Record and Services List**