

TOWN OF DUMMERSTON

Development Review Board

Waiver Application

Findings and Decision

HEARING SPECIFICS

Permit Application Number: 3762

Date Received: April 9, 2024

Applicants: Natalie Blake

Mailing Address: 156 West St., Dummerston, VT 05301.

Location of Property: Parcel 506, 182 West St., Dummerston, VT

Owner of Record: Lisa Blake

Application: Waiver to parking requirements.

Date of Hearing: May 21, 2024

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a Waiver to parking requirements under the Town of Dummerston Zoning Bylaw Sections 256, 620 and 720.
2. On May 1, 2024, notice of a public hearing was published in The Commons.
3. On April 30, 2024, 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 May 6, 2024, notice of a public hearing was posted at the following place: 182 West St., 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 April 30, 2024, a copy of the notice of a public hearing was emailed to the applicant.
6. On April 30, 2024, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:

- a. Gregory Eve M & John Jr, 179 West St, Dummerston, VT 05301
 - b. Khalsa Gurudharm & O' Callahan Catherine W/Life Estate, PO Box 506, W Dummerston, VT 05357
 - c. Towle Carrie Lee, 184 West St, Dummerston, VT 05301
 - d. Wicker Mace E & Kelly A, 200 West Street, Dummerston, VT 05301
7. The application was considered by the Development Review Board (DRB) at a public hearing on May 21, 2024.
 8. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended April 6, 2022.
 9. Present at the hearing were the following:
 - a. Members of the Development Review Board:
Alan McBean, Cami Elliott, Chad Farnum, Peter Doubleday.
 - b. Others:
Natalie Blake (applicant), Roger Jasaitis (Zoning Administrator), Carrie Towle, Bryan Wittler, Alex Wilson, Paul Chapman, Eric Davis, Kelly Wicker (Via Zoom).
 10. A site visit was conducted on May 21, 2024.
 11. Present at the site visit were the following:
 - a. Members of the Development Review Board:
Alan McBean, Cami Elliott, Peter Doubleday, Chad Farnum.
 - b. Others:
Natalie Blake (applicant), Roger Jasaitis (Zoning Administrator), Carrie Towle, Alex Wilson, Eric Davis, Gurudharm Khalsa, Catherine O' Callahan.
 12. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application for Zoning Permit, number: 3762.
 - b. Application to the Development Review Board for a Conditional Use Permit and Site Plan Review, number: 3762.
 - c. Exhibit A; Email chain from Carrie Towle, John and Eve Gregory, Kelly and Mace Wicker.

FINDINGS OF FACT

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

1. Waiver; Parking Requirements, under the Town of Dummerston Zoning Bylaw Sections 256, 620 and 720, at Parcel 506, 182 West St., Dummerston, VT. The subject property is a .3 acre parcel located at 182 West St., in the Town of Dummerston (tax map parcel no. 000506). The property is more fully described in a Deed recorded at Book 26, Page 117, in the Town of Dummerston Land Records.

2. The property is located in the West Village Settlement Area District as described on the Town of Dummerston Zoning Map on record at the Town of Dummerston municipal office and Section 230 of the Zoning Bylaw.
3. The Application states a Waiver approval is requested for:
 - a. Parking Requirements, decrease Size (length) of Parking Space at front of building facing West St to allow for parking perpendicular to the building.
4. The application requires review under the following sections of the Town of Dummerston Zoning Bylaw: Section 256 Waivers and Section 720 Development Review Board.
5. Applicant: Natalie Blake (applicant) states that she seeks a Waiver for the size of the parking spaces in front of the Grange from 9'x22' to 9'x18' to allow for cars to park perpendicular to the front of the building. Input from the Selectboard may be needed to determine the Right of Way (ROW). She also wants to clarify the restriction of only four parking spaces on the parcel which she believes is in error, that the four parking spaces indicated on the site plan are the minimum required by the Bylaw for two apartments, not the maximum.
6. Alan McBean (DRB) asked Natalie to clarify, will she be going to the Selectboard to discuss the RoW and the parking situation? She affirmed that. Alan continued, the DRB is bound by the Zoning Bylaw. If the Bylaw does not involve the Town RoW then it has no jurisdiction.
7. Chad Farnum (DRB) asked about the original site plan and the number of parking spaces. He clarified with the ZA that there is one space indicated on West St. and three spaces indicated in the back of the building. Chad continued, this makes a total of four spaces allowed. Natalie clarified that she thinks that is the minimum number of spaces allowed by the Bylaw not the maximum. She stated that she confirmed this with the State DEC that the spaces indicated on the site plan are the minimum number not the maximum allowed.
8. Cami Elliott (DRB) asked if there is space to park more than four cars on the property? Natalie stated that there is enough space.
9. Roger Jasaitis (ZA) clarified that the DRB has no jurisdiction over the Town RoW in it's Decisions. The road RoW is the responsibility of the Selectboard. He also said that the Zoning Bylaw does not specify where on the property people can park as long as the isolation distances are met for the well and septic.
10. Alan McBean (DRB) stated that there is not enough space to meet the Bylaw designated parking space size for two cars to park parallel to the building. Roger clarified that Natalie is asking for the Waiver to be able to park perpendicular to the building. The Waiver would be for the distance from the front of the porch to the Town Row to allow for two cars to park nose in. Chad Farnum (DRB) said that the measurements taken at the site were 9 feet from the Town RoW to the porch steps. Alan said the steps themselves were 3.5 feet in width giving a total of 11.5 feet to park in.
11. Natalie Blake (applicant) asked if the DRB granted the Waiver could she go to the Selectboard and ask for permission to park in the Town road RoW. Cami stated that the

DRB can not give permission to park in the RoW. Roger clarified that the DRB has jurisdiction over private property and the Selectboard has jurisdiction over the Town roads and RoWs. No matter what the DRB decides to do, the Selectboard has no jurisdiction over their Decision. They could still say “no” even if the DRB says “yes”. Natalie said she gets that. Alan said that if the DRB grants the 11.5 foot Waiver, Natalie could go to the Selectboard and ask to have part of her cars in the RoW.

12. Carrie Towle asked about the sight-line restrictions on parking in the front of the building. The ZA confirmed that Section 631 has restrictions on sight lines in this case. She stated that these restrictions are part of the former permit on this parcel (this finding was reviewed). Roger said that Section 631 lays out the geometry of the corner for sight lines and must be followed. The DRB indicated this area on the site map.
13. Chad Farnum (DRB) clarified that Natalie can park in the back on either side of the septic system, respecting the isolation distances and the neighbor's property lines. Roger confirmed that.
14. Carrie Towle asked for clarification on who enforces the parking on-site. The ZA said that he would be the one to enforce any permit.
15. Alan McBean (DRB) restated that the DRB can't allow for parking in the Town RoW. He recognizes that many residents on West St. do so but the DRB has no power over that. The ZA said that the Town has no parking ordinance for parking in the Town Row and allows it as long as it is not obstructing traffic. Chad Farnum asked why is this coming before the DRB if the Town doesn't enforce not parking in the RoW? Cami Elliott (DRB) said the minimum requirements of the Bylaw must be met.
16. Carrie Towle said the real issue is the sight lines on the corner.
17. Peter Doubleday (DRB) said the DRB can't approve an application that is in violation of the Bylaw whether the RoW is enforced by the Town or not. Natalie clarified that since there is no parking ordinance for the RoW there can't be a violation because there is nothing to violate. It is only the blocking of traffic or sight lines that would be an issue.
18. The DRB clarified that the Town RoW is 25 feet from the center line and the sight line distances are laid out in Section 631. Alan read this Section and clarified that the “road property line” mentioned is the road RoW, not the travel lane. Alan said that the DRB would most likely ask Lee Chamberlin (Road Foreman) to visit the site and mark the Town RoW.

DECISION AND CONDITIONS

The DRB finds that this application does not meet the requirements of the Town Plan and the Zoning Bylaw and Denies the application with clarifications.

1. The DRB denies the application for Waiver to parking space requirements for the parking space in the front of the structure on West St. to allow for perpendicular parking to the structure.
 - a. The DRB deems that approval of this application would have provided for a parking space of 11.5 feet in length. This is not a reasonable size for a vehicle to park in and would have forced the rear of the vehicle to extend into the West St. Right of Way (RoW). The DRB does not hold jurisdiction to allow for parking in the Town RoW.
 - b. The current approved and permitted development on this parcel is for a single family residence with an accessory apartment. The current approved parking spaces for the parcel (1 parking space in front of the structure parallel to the structure and 3 parking spaces in back of the structure) meet the minimum requirements of;
 - i. 24 V.S.A. § 4414; *“...a municipality shall not require an accessory dwelling unit to have more than one parking space per bedroom.”*
 - ii. Section 620 Off-Street Parking Requirements; *“1. Residential: Two parking spaces for every dwelling...”*
 - iii. Section 620 Off-Street Parking Requirements; *“A parking space shall be at least nine feet by twenty-two feet.”*
 - c. The requirements of Section 631 Obstruction of Vision are;
 - i. *In all districts, on a corner lot, within the triangular area formed by the intersection of two street property lines and a third line joining them at points twenty-five feet away from their intersection, there shall be no obstruction to vision between the height of three feet and ten feet above the average grade of each street.*
2. In clarifying the minimum parking allowed on the parcel the following conditions apply to this property:
 - a. Parking spaces;

- i. One (1) Parking space in front of the Structure on West St., parallel to the structure and at minimum 25 feet from the intersection of Lyon St., (*Section 620, Section 631*)
- ii. Two (2) Parking spaces in the rear of the Structure. (*Section 620*)
- iii. The existing State isolation distances for parking must be met.
 1. From the well (5 feet minimum)
 2. From the wastewater system (10 feet minimum)

3. The provisions and conditions of previously approved Zoning and Conditional Use permits remain in effect on this parcel.

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 15th day of June, 2024.



Signed for the Dummerston Development Review Board

ALAN J. McBEAN

Printed 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.