

TOWN OF DUMMERSTON



Development Review Board

Application for Waiver

Permit Application Number: 3656

Date Received: June 15, 2021

Applicant: Kathleen Fleischmann

Mailing Address: 251 Camp Arden Rd., Dummerston, VT 05301

Parcel Number: 000103

Location of Property: 251 Camp Arden Rd., Dummerston, Vermont

Owner of Record: William & Kathleen Fleischmann

Application: Application: Waiver under Section 256

Date of hearing: September 21, 2021

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a Waiver to setback requirements submitted by Kathleen Fleischmann under the Town of Dummerston Zoning Bylaw.
1. The application was received by the Zoning Administrator on June 15, 2021.
2. On August 30, 2021, notice of a public hearing was published in The Commons.
3. On September 1, 2021, notice of a public hearing was posted at the following places:
 - a. The Dummerston Town Office.
 - b. The West Dummerston Post Office.
 - c. The Dummerston School.
4. On September 1, 2021, notice of a public hearing was posted at the following place: 251 Camp Arden Rd., Dummerston, Vermont, which is within view of the public-right-of-way most nearly adjacent to the property for which the application was made.
5. On September 1, 2021, a copy of the notice of a public hearing was mailed to the applicant.
6. On September 1, 2021, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:
 - a. Barrett Michael C, 113 Taylor St, Granby, MA 01033
 - b. Cavanaugh Claire A 2012 Revocable Trust, 103 Tucker Farm Rd, N Andover, MA 01845
 - c. Green Mountain Camp, 565 Green Mt Camp Rd, Dummerston, VT 05301
7. The application was considered by the Development Review Board (DRB) at a public hearing on September 21, 2021.
8. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended May 22, 2019.
9. A site visit was conducted on September 21, 2021. Present at the site visit were the following:
 - a. Members of the Development Review Board :

Alan McBean, Josh Pacheco, Cami Elliott, Chad Farnum

b. Others: Roger Jasaitis (Zoning Administrator), William & Kathleen Fleischmann (Applicants), Michael Barrett (Abutter).

10. Present at the hearing were the following:

a. Members of the Development Review Board:

Alan McBean, Josh Pacheco (via Zoom), Chad Farnum, Cami Elliott.

b. Others: Roger Jasaitis (Zoning Administrator), William & Kathleen Fleischmann (Applicants) (via zoom).

11. During the course of the hearing the following exhibits were submitted to the DRB:

a. Application for Waiver, number: 3656.

b. Application to the Development Review Board for a Waiver under Section 256.

FINDINGS OF FACT

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

1. The applicant seeks a Waiver to setback requirements for an accessory structure (carport). The subject property is a 1.1 acre parcel located at 251 Camp Arden Rd. in the Town of Dummerston (tax map parcel no. 000103). The property is more fully described in a Deed recorded at Book 116, Page 241, of 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 210 of the Zoning Bylaw.
3. Waiver approval is requested for the project for Land Development as that term is defined in Article VIII of the Zoning Bylaw. The application requires review under the following sections of the Town of Dummerston Zoning Bylaw:
 - a. Article II, Section 256 Waivers
4. The application seeks a Waiver for an accessory structure (carport).
5. The applicants seek to construct a carport over the driveway to shelter their vehicles.
6. The applicants state that there are no viable alternative sites on the parcel.
7. The Town Road Foreman (Lee Chamberlin) has not inspected the site.
8. The proposed structure would be 12.5 feet from the road center.
9. The applicants request a Waiver of 17.5 feet of setback for the structure from the road center.
10. The applicants purchased the property with the current structures in place.
11. The proposed structure is 18' wide by 20' long by 7' in height.
12. There will be no exterior lighting on the structure.
13. The structure will cover the gravel portion of the driveway.
14. The structure will be open sided.
15. If granted the approval would apply to the footprint of the structure allowing for options for type of foundation or supports.
16. Michael Barrett (abutter) is in favor of the project.

DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, The Development Review Board grants the application for Waiver.

As conditioned, the proposed development meets the requirements of *Sections 256 of the Zoning Bylaw Criteria*:

1. *The waiver is helpful or necessary to allow for reasonable use of the property.*

The DRB determines that there are no viable alternative sites for the structure on the parcel.

2. *The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.*

It is evident the house sits so close to the road that there is not enough space to fit the structure without the proposed Waiver to setback from the road center. Because this parcel is under 2 acres in size (1.1 acres), Section 616 allows for a reduction in setback requirements to 30 feet from the road center. This setback allowance however is not adequate to fit the structure in front of the house. The DRB grants a Waiver of 17.5 feet of setback allowing for the structure to be 12.5 feet from the road center.

3. *Any adverse effects of the waiver are mitigated by design, screening, or other remedies.*

Because the Waiver allows the applicant to place the structure within the Town road right of way, the applicant, by building the structure as stated in the application, agrees to forego the right to seek money damages from the Town or it's employees if the structure is damaged by road maintenance. The applicant shall consult with the Town Road Foreman to seek ways to minimize adverse effects or damage to the structure from Town maintenance, snowplows, etc.

4. *The need for a waiver was not created by past decisions of the applicant.*

The need was not created by the applicant.

5. *The proposed project will still conform to the Town Plan.*

This project conforms 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 still conform to the purpose of 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 management*
 - f. *Water and wastewater capacity.*

The project will have no adverse effect on these criteria.

8. The information included in the Application must be adhered to or the related Zoning Permit is null and void.
9. Expiration: Waiver approvals shall expire by limitation if work is not completed within two (2) years from the date they are approved. All work must be completed as shown on any approved plan before the expiration date. One year extensions of this deadline may be granted by the Administrative Officer prior to expiration. Requests for extensions must be made in writing.
10. 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 the approval is null and void.

Dated at Dummerston, Vermont, this 30th day of September, 2021.



Signed for the Dummerston Development Review Board

The following members of the Dummerston Development Review Board participated and concur in this decision: Joshua Pacheco, Cami Elliott, Alan McBean, Chad Farnum

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