

TOWN OF DUMMERSTON

Development Review Board

Conditional Use and Site Plan Review Application Findings and Decision

HEARING SPECIFICS

Permit Application Number: 3722

Date Received: May 1, 2023

Applicant: Helen R. Hawes

Mailing Address: P.O. Box 42, West Dummerston VT, 05357.

Location of Property: Parcel 589, 183 Bear Hill Rd., Dummerston, VT

Owner of Record: Helen R. Hawes

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

Date of Hearing: June 20, 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.
1. On May 31, 2023, notice of a public hearing was published in The Brattleboro Reformer.
2. On May 31, 2023, notice of a public hearing was posted at the following places:
 - The Dummerston Town Office.
 - The West Dummerston Post Office.
 - The Dummerston School.
3. On June 1, 2023, notice of a public hearing was posted at the following place: 183 Bear Hill 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.
4. On May 31, 2023, a copy of the notice of a public hearing was emailed to the applicant.
5. On May 31, 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. Brody Ann F Trust C/O Karen L Brody, 6401 Saxon Meadow Dr, Leland, NC 28451
 - b. Dunklee Jason R & Deborah L, 31 Hosmer St, Watertown, MA 02472
 - c. Epstein Richard A, 117 Howland Rd, Dummerston, VT 05301-9563

- d. Harlow Elizabeth Trustee, 1915 Main St, E Hartford, CT 06108
 - e. Jackson Betsey D, 150 Walker St, Falmouth, MA 02540
 - f. Momaney Mitchel & Martha, PO Box 563, Brattleboro, VT 05302
 - g. Turner Rebecca Wood, 1309 Wickopee Hill Rd, Dummerston, VT 05301
 - h. Wood Arthur J Jr & Wood Albert J, 511 Stickney Brook Rd, Dummerston, VT 05301
 - i. Wood Richard, 1378 Wickopee Hill Rd, Dummerston, VT 05301
6. The application was considered by the Development Review Board (DRB) at a public hearing on June 20, 2023.
 7. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended April 6, 2023.
 8. Present at the hearing were the following:
 - a. Members of the Development Review Board:
Alan McBean, Cami Elliott, Chad Farnum, Peter Doubleday.
 - b. Others:
Helen Hawes (applicant), Roger Jasaitis (Zoning Administrator).
 9. A site visit was conducted on June 20, 2023.
 10. 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:
Helen Hawes (applicant), Roger Jasaitis (Zoning Administrator).
 11. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application for Zoning Permit, number: 3722.
 - b. Application to the Development Review Board for a Conditional Use Permit and Site Plan Review, number: 3722.
 - c. State Wastewater Permit: WW-2-6736.

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 #589, 183 Bear Hill Rd., Dummerston, VT. The subject property is a 5.1 acre parcel located at 183 Bear Hill Rd., in the Town of Dummerston (tax map parcel no. 000589). The property is more fully described in a Deed recorded at Book 134, Page 347-348, in the Town of Dummerston Land Records.
2. The property is located in the Rural District as described on the Town of Dummerston Zoning Map on record at the Town of Dummerston municipal office and Section 215 of the Zoning Bylaw.
3. The Application states Conditional Use approval is requested for:
 - a. Short Term Rental of Residence and Accessory Structures (3).

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. Applicant: Helen Hawes states that she wants to use the property for Short Term Rental of the "studio" (residence) and 3 "huts" (accessory structures) in order to help pay taxes.
6. Cami Elliott (DRB): How many people will be staying on site at a time? Applicant: Myself in the studio and 3 in the huts. 4 total. Alan McBean (DRB) pointed out that the Wastewater permit does not mention the huts. Helen Hawes acknowledged this fact.
7. Zoning Administrator: The application mentions "permanent" rentals as well as Short Term Rentals, can you clarify what you mean? Helen Hawes; If someone wants to rent space on a permanent basis I would accommodate them if the situation fits.
8. Parking will be at the designated 4 spots at the bottom of the driveway.
9. Lighting: No extra lighting will be added to the site. There is some solar powered lighting on the walkways that is motion sensitive.
10. Cami Elliott (DRB) asked about the use of the outhouse and composting toilets. Helen Hawes; the renters have use of both facilities.
11. Peter Doubleday (DRB); When the waste buckets are used where are they emptied? Helen Hawes: They are emptied in the compost bin. Alan McBean (DRB) stated that this is not mentioned on the Wastewater permit. Was Michael Marquise (Septic Engineer) aware of this activity? Helen Hawes: Yes. I don't have a full septic system, I have a gray water well which is like a leach field. The compost bins are noted on the site plans.
12. Cami Elliott (DRB) asked about the well. Helen Hawes: There is a 180 foot deep drilled well. The pump is solar powered. There are two (2) 60 gallon pressure tanks to hold water. Renters are informed about this.
13. Alan McBean (DRB) clarified that the wastewater permit is for two properties. The Zoning Administrator stated that this application is only for the one property, not both that are on the Wastewater permit.
14. The Zoning Administrator asked when the huts were built? Helen Hawes: I don't know. I would have to look. I remember putting in the permits. The ZA asked which of the structures are listed on the permit report? Helen Hawes: the studio is on the report but not the huts.
15. Alan McBean (DRB) asked the ZA if the huts needed to be permitted? Roger replied that it depends on when they were built because the State Statute of Limitations is 15 years. The Change of Use to Residential is only for the studio.

DECISION AND CONDITIONS

The Development Review Board (DRB) finds that this application does not meet the requirements of the Town Plan and the Zoning Bylaw and Denies the application.

1. The DRB denies the application for Short Term Rental.

a. The DRB found this application does not meet the requirements in the following ways:

i. The site visit and testimony showed:

1. 3 Accessory structures (designated as "huts") that are being used as dormitories on site.
2. An outhouse on site.
3. Composting of human solid waste on site.
4. The number of bedrooms on site is potentially 5.

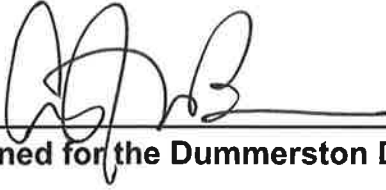
These facts are not included in the State Wastewater permit WW-2-6736 rendering it likely to be invalid. This potentially may invalidate the two previous Town Permits as well, Land Division Permit #LD398 and Zoning Permit #3678 due to the information provided on the site plans and applications as being incorrect. Under State Wastewater permit WW-2-6736: 2. SUBDIVISION 2.2 *"Construction of wastewater systems or potable water supplies, or buildings or structures (as defined by the Wastewater System and Potable Water Supply Rules), or campgrounds, not depicted on stamped plans, or identified in this permit, is not allowed without prior approval by the Drinking Water and Groundwater Protection Division."*

The three (3) Accessory structures are not on the Zoning permit report and hold no permits. The Applicant did not provide proof that these structures pre-date the State Statute of Limitations (15 years) regarding Town permitting as Accessory Dwelling Units or Dormitories. The Use of these structures as satellite bedrooms effectively makes this site a Campground which is a Conditional Use and requires Conditional Use permitting in this Zoning District. The Applicant holds no such permit.

Article 8, Section 1 of the Zoning Bylaw: *CAMPGROUND: land on which is located one or more cabins, trailers, shelters, tent spaces or other accommodations suitable for seasonal or temporary living purposes.*

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 6th day of July, 2023.

A handwritten signature in black ink, appearing to be 'AMB', written over a horizontal line.

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.