

# TOWN OF DUMMERSTON

## Development Review Board

### Application for Conditional Use; Short Term Rental Findings and Decision

**Permit Application Number: 3751**

**Date Received: December 19, 2023**

**Applicant: Jonathan Benney**

**Mailing Address: 15 Leverwood Ln., Dummerston , VT 05301**

**Location of Property: Parcel #186, 15 Leverwood Ln., Dummerston , VT 05301**

**Owner of Record: Jonathan Benney**

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

**Date of hearing: February 20, 2024**

#### 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 220, 720 and 724.
2. On January 25, 2024, notice of a public hearing was published in The Commons.
3. On January 31, 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 February 6, 2024, notice of a public hearing was posted at the following place: 15 Leverwood Ln., which is within view of the public-right-of-way most nearly adjacent to the property for which the application was made.
5. On January 31, 2024, a copy of the notice of a public hearing was mailed to the applicant.
6. On January 31, 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. Arzt Rev Living Trust, 11 Burrows Hill Rd, Amston, CT 06231
  - b. Brown Gregory G Trustee &, Mayo-Brown Carolyn Trustee, 431 Holland Hill Rd, Putney, VT 05346
  - c. Carruthers Matthew, 81 Leverwood Ln, Dummerston, VT 05301
  - d. Gordon Mary, Hudd P, 555 Hague Rd, Dummerston, VT 05301
  - e. Nickerson Pamela Wass, 23 Draper Lane, Brattleboro, VT 05301

- f. Pelletier Gary S & Fryncko Lesley A, PO Box 103, Bellingham, MA 02019
  - b. Renfro Christopher L Revocable Trust & Renfro Linda E Revocable Trust, 45 Warde Dr., Dummerston, VT 05301
7. The application was considered by the Development Review Board (DRB) at a public hearing on February 20, 2024.
  8. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended May 22, 2019.
  9. 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 and is more fully described in a Deed recorded at Book 126, Page 345-347, in the Town of Dummerston Land Records.
  10. Present at the hearing were the following:
    - a. Members of the Development Review Board:  
In person: Alan McBean(Chair), Cami Elliott, Peter Doubleday, Chad Farnum.
    - b. Others:  
In person; Roger Vincent Jasaitis (Zoning Administrator), Jonathan Benney (Applicant), Lucy Pullan (Applicant).  
Via Zoom:, Lesley Fryncko, Glenn Jurgen, Brad Palonen.
  11. A site visit was conducted on February 20, 2024.  
Present at the site visit were the following:
    - a. Members of the Development Review Board:  
Cami Elliott, Peter Doubleday, Alan McBean (Chair), Chad Farnum.
    - b. Others:  
Jonathan Benney (Applicant)
  12. During the course of the hearing the following exhibits were submitted to the DRB:
    - a. Application for Zoning Permit, number: 3751.
    - b. Application to the Development Review Board for a Conditional Use Permit and Site Plan Review, number: 3751.

## **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 220, 720-726 of the Dummerston Zoning Bylaw, at Parcel #186, 15 Leverwood Ln., Dummerston, VT 05301
2. 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.

3. Jonathan Benney (Applicant) introduced the application stating they bought the house, their dream home, in October of last year (2023). Prior to this they had traveled extensively for the past three years. Since they work remotely and still love to travel they'd like to use their home as a Short Term Rental in order to afford to travel. The main house only is included as a rental, all out buildings are not rented. .
4. Lesley Fryncko had a question about public safety. She stated that since Leverwood Lane was a private road, she wondered who maintained it during the winter? Jonathan stated his neighbor (Matthew Carruthers) plows the hill for them or they would hire someone else if they needed to have snow cleared if Matthew is away.
5. Lesley also asked if pets were allowed and if so are they required to be on a leash? Jonathan said pets are allowed and their policy is that if a renter felt unsure if their dog would come when called then a leash is required. Also that they clean up dog waste. They are willing to restrict pets if it becomes an issue for neighbors.
6. Lesley asked how often they plan to rent the house out? Lucy Pullan (Applicant) said they only plan to rent it when they are away, typically 3 to 4 weeks a year. As of now they only plan to rent it next December through January for 4 weeks.
7. Cami Elliott(DRB) asked if they had any plans for signage? Jonathan said only the existing house number.
8. Cami Elliott(DRB) asked if they could explain the parking situation? Jonathan said there was room for 4 cars in the main lot, 8 spaces across the street and 10 to 20 spaces in two other areas up the hill. Lesley Fryncko asked how could there be parking across the street, was that their land? Roger Jasaitis (ZA) showed the property map which showed the property extended across the street. Lesley stated that their lot is not available for parking.
9. Alan McBean (DRB) asked about lighting on the site? Jonathan stated that there is one motion sensor flood light (solar powered) aimed at the main parking lot and string lights extending from the house to the parking area that are on 24 hours 7 days a week. Alan asked if the string lights are on a timer? Jonathan said they are not but they would consider doing that if requested. Alan asked if the neighbors minded the lights being on all the time. They responded no.
10. Roger Jasaitis (ZA) asked about the number of occupants they plan to rent to. Jonathan said the house rents as 2 bedrooms for up to 4 people. They don't allow children under 17 years of age, parties or smoking indoors. They require guests to observe quiet hours from 10 pm to 6 am.
11. Alan McBean(DRB) asked how they plan to advertise the rental. Lucy Pullan said on Airbnb and possibly Vrbo.
12. Jason Doubleday(DRB) asked if the septic had been inspected. Jonathan said it had been inspected for a seller that backed out prior to them buying it. He said it passed and they didn't have it inspected again. Alan McBean (DRB) said the minimum State septic size requirement is for two bedrooms and this system would be grandfathered for 2 bedrooms.

## 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. This rental does not increase the traffic any more than if the owners were present.
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.

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.
2. *Section 615 Setback Requirements*
  - a. The proposed development meets the requirements for the district.
3. *Section 620 Off-Street Parking Requirements*
  - a. The application meets this requirement.
4. *Section 635 Landscaping Requirements*
  - a. No Landscaping is proposed.
5. *Section 640 Erosion and Sediment Control*

- a. The proposed development meets the requirements.
- 6. *Section 660 Performance Standards*
  - a. **The proposed development meets the requirements with the condition 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.**
- 7. *Section 669 Permittable On-Premise Signs*
  - a. No signage is proposed.

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)*).**
- 2. **Rental occupancy is limited to 2 persons per bedroom per State wastewater rules. The State Wastewater requirements for the septic system on site are no more than 4 persons maximum occupancy.**
  - 3. **The State of Vermont Residential Rental Housing Health & Safety Code requires ongoing potable water testing. (Act 181: 5.4.2)**
  - 4. **All pets present must abide by 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.**

5. This Conditional Use permit will be reviewed by the Zoning Administrator in 5 years (March 2029) per Section 727.

**Expiration:** Zoning Permit 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 to the Administrative Officer.

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: Cami Elliott, Peter Doubleday, Alan McBean (Chair), Chad Farnum.

Dated at Dummerston, Vermont, this 13<sup>th</sup> day of March, 2024.



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Signed for the Dummerston Development Review Board

ALAN J. McBEAN

Print 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.