

Town of Danville, Development Review Board

Permit 2023-41, Appeal of Permitted Use

Applicant: Andrew and Katy DiPasquale

Site: UW002-060.003, Old Bayley Hazen Rd, West Danville VT 05873

Zoning District: Conservation

Project Description: After the fact permit for a 7 by 10 awning for the yurt, a 6 by 6 shed, and an 8 by 12 shed.

Warning: 01 September 2023.

Hearing Date: 20 September 2023.

Development Review Board Members Present: Terry Hoffer (Acting Chair), Bob Magro, Craig Morris, Larry Rossi.

Development Review Board Members Absent: Mickey Bullock, Brian Henderson (chair), Bruce Palmer, Theresa Pelletier, Wes Standish (Alt)..

Interested Parties Present: Dennis Marquise (Zoning Administrator), John Reiss.

Correspondence from Interested Parties:

1. Letter of appeal from John Reiss
2. Copies of surveys showing ROW.
3. Deed description defining ROW.
4. Email response from applicant to the appeal.

Disclosure of Conflict of Interest: None.

Disclosure of *Ex Parté* Communication: None.

Continuation

Hearing Date: 04 October 2023

Development Review Board Members Present: Mickey Bullock, Brian Henderson (Chair), Bob Magro, Craig Morris, Bruce Palmer, Larry Rossi, Wes Standish.

Development Review Board Members Absent: Terry Hoffer, Theresa Pelletier.

Interested Parties Present: Andrew DiPasquale, Dennis Marquise (Zoning Administrator), John Reiss (Party Appealing)

Applicable Bylaws:

This application requires a review by the DRB under the following section of the Danville Bylaws:

Sec 202, page 4, Definitions

Sec 517, page 51, Conservation District

Findings of Fact:

Sec 202, Definitions:

ROAD LINE: Right-of-way of a public road as dedicated by a deed of record. Where the width

of the public road is not established, the road line shall be considered to be twenty-five (25) feet from the center line of the public road.

ROAD, PUBLIC: Publicly owned and maintained right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

SETBACK: The distance measured horizontally from a road right-of-way, lot line, boundary, or other delineated feature (e.g., a stream bank or channel, shoreline, or wetland area) to the nearest point of a building or other structure on a lot. For a setback from a road, the distance shall be measured from the edge of the mapped road right-of-way (road line) or, where the right-of-way is uncertain, from a distance of 25 feet from the existing road centerline. Setbacks from a road are considered “front” setbacks and other setbacks are considered “side” setbacks. Parcels may have more than one front setback. For purposes of these regulations, the required setback area defines a minimal yard area. *See also ROAD LINE, YARD.*

The ROW in question is by definition not a “Public Road” as it is not maintained by the public for their use. It is a private driveway/ROW.

517.3 Minimum Area and Dimensional Requirements.

Minimum Lot size: 10 acres

Minimum Lot Frontage: 300 feet

Minimum Setback Front: 25 feet

Minimum Setback Side: 35 feet

Front setback shall be computed from the street right-of-way line.

For the purpose of this district, every street shall be considered as having a 50-foot right-of-way and the boundary shall be considered as 25 feet from the existing center line of the street.

As the ROW in question is not a “Public Road”, the setback is therefore 35’.

Summary of Discussion:

Andrew DiPasquale briefed the board on his history with John Reiss, including the filing of a *No Trespass* order with the Caledonia Sheriff.

John Reiss presented many drawings showing the ROW of concern and explained his reason for appealing the “Road Setback”. There was some disagreement between the parties about what this ROW serves and its condition.

A legal ROW (NOT a Public Road) exists connecting Bailey Hazen Rd and Rt-2. The bylaws are quite clear in defining a Public Road vs a Private ROW, and the setback requirements relative to each.

Decision and Conditions:

After a brief discussion, Larry Rossi motioned to sustain the permit, as the appeal has no merit in the bylaws. Bruce Palmer seconded the motion. With unanimous approval, the permit was sustained.

While the Danville Bylaws are quite specific in their definitions, John Reiss is entitled to appeal this matter to VT Environmental Court for their consideration.

Signed:

Brian F Henderson

Brian Henderson, Chair, Danville Development Review Board

Date of Decision: 04 October 2023

Final Appeal Date: 03 November 2023

NOTICE:

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceedings (in person or in writing) before the Development Review Board. Such appeal must be made 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.