

Town of Calais
Development Review Board
Zoning Permit Application for Right of Way and Non-Frontage Lot
Findings and Decision

In re: Zoning Permit Application for Ben Knudtson
Permit Application No.: 2023-04

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves an application submitted by Ben Knudtson for a subdivision and right of way referred to the Development Review Board (hereinafter the DRB) by the Town of Calais Zoning Administrator under the Town of Calais Land Use and Development Regulations, as amended March 7, 2017 (the Zoning Regulations).
2. The application was initially submitted February 1, 2023 and considered at a hearing of the Development Review Board (DRB) at the Calais Municipal Office on February 24, 2023 and continued to March 9, 2023 at which time the application was withdrawn and fee refunded. No decision to grant or deny the application was made.
3. On or about May 5, 2023, a revised application was submitted to the DRB under the same permit number. A copy of the application is available on file at the Calais Town Office.
4. A notice of a public site visit and public hearing was posted at the Calais Town Office, East Calais Post Office, Maple Corner Community Store, and the Adamant Co-op, and on the Calais Town website and Front Porch Forum.
5. On June 21, 2023, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the appeal:
 - a. Dan Weston, 3916 North Potsdam Ave #3235, Sioux Falls, SD 57104
 - b. Scott & Charlotte Bassage, 510 Fifers Ride, East Calais, VT 05650
 - c. Peter & Sage Kennedy, 121 Jack Hill Road, East Calais, VT 05650
 - d. Henrigard & Cynthia Bellevue, 379 Jack Hill Road, East Calais, VT 05650
 - e. Christopher Tuller, 322 Jack Hill Road, East Calais, VT 05650
 - f. Kimberly Orr, 436 Jack Hill Road, East Calais, VT 05650
6. The application was considered by the DRB at a public hearing conducted on June 29, 2023, and was reviewed under the Calais Zoning regulations.
7. At the hearing, the following members of the DRB were present:
 - a. Ryan Edwards, Chair
 - b. Dot Helling, Clerk
 - c. Willa Farrell
 - d. Stephanie Kaplan
 - e. Rachel Seelig

- f. Scott Bassage (alternate)
8. At the hearing, in addition to the DRB members, were Ben Knudtson, applicant, and abutters Chris Teller and Cynthia Bellevue.
9. At the hearing, the applicant submitted a revised site plan and verbally amended the application to include the request for non-frontage lot, as well as a right of way in a new location which would not be a shared driveway. The Board took testimony from the applicant and the abutters in attendance.
10. At the conclusion of the hearing, the record was held open to allow the applicant to submit additional documents, and the hearing was continued to a date certain of July 20, 2023.
11. The hearing was rescheduled from July 20, 2023 to August 15, 2023 due to historic flooding that made many town roads unsafe, and the Town of Calais requested residents avoid all unnecessary travel on the roads.
12. A notice of the continued public hearing was posted at the Calais Town Office, East Calais Post Office, Maple Corner Community Store, and the Adamant Co-op, and on the Calais Town website and Front Porch Forum.
13. No certified mailings were sent to the abutters for the continuation of the hearing. The notice of the continued hearing, which is not standard practice, was done to simply provide public notice, specifically to make mention of the “modifications to the originally submitted site plan” since we felt that it would be appropriate to do so given the substantial change.
14. The application was further considered by the DRB at a public hearing conducted on August 15, 2023. The DRB reviewed the appeal under the Zoning Regulations.
15. At the continued hearing, the following members of the DRB were present.
 - a. Ryan Edwards, Chair
 - b. Dot Helling, Clerk
 - c. Willa Farrell
 - d. Rachel Seelig
 - e. Scott Bassage (alternate)
16. At the continued hearing, in addition to the DRB members, present were Ben Knudtson, applicant, Nate Nadeau, witness for applicant, and Chris Smart, attorney for applicant.
17. Testimony was provided by Ben Knudtson, Chris Tuller, Cynthia Bellevue, Nate Nadeau, and Chris Smart during the initial hearing and/or at the continued hearing.
18. The testimony of the applicant, interested parties, and witnesses is contained in the minutes of the DRB meetings and is incorporated by reference into this decision.

FINDINGS

Based on the application materials and testimony the DRB makes the following findings:

1. The applicant seeks in his application approval of a subdivision for a land-locked parcel.
2. The applicant also sought approval of a right-of-way to access the newly created parcel. The location of the right-of-way requested was revised by submission of a new site plan at the June 29, 2023 hearing.
3. The subject property is a 6.41 acre parcel, with 593.6' of frontage, located at 208 Jack Hill Road (Tax Parcel ID No. 330208).
4. The property is located in a Rural Residential District defined in the Town of Calais Zoning District Map on record at the Town of Calais office and in section 2.1 of the Zoning Regulations.
5. The application requires review under the following sections of the Zoning Regulations:
 - a. Article 5, Development Review
 - i. 5.2 Development Review Application
 - b. Article 2, Section 2.2 Zoning District Standards
 - c. Table 2.2 Rural Residential District (RR1)
 - d. Article 3, Requirements and Standards that Apply to All Zoning Permits
 - i. Section 3.2, Access for Nonfrontage lots, Curb Cuts & Driveway Standards
 - ii. Section 3.6, Lot & Yard Requirements
 - iii. Section 3.12, Protection of Natural Resources
6. The requirements of Section 5.2, Development Review Application are satisfied. Applicant provided the necessary application, general location map, plan drawn to scale with the elements required by Section 5.2(A)(3), and the additional information requested by the DRB, including: waste water permit.
7. The proposed non-frontage lot is for a one-story single-family dwelling. The new Lot 2 is not used for agricultural purposes. It is brush hogged, not hayed. An existing pond would be encompassed in the new Lot 2, which will not be affected by development of the proposed dwelling. There are no significant natural communities, deer wintering areas, habitat blocks or wetlands, other than the identified pond noted as a "wetlands advisory layer" on the property.
8. The proposed non-frontage lot meets the purpose of the Rural Residential District (RR1) because it will have minimal impact on the working and natural environment and is compatible with the resources and characteristics of the district. The subdivision will minimally impact water resources, earth resources, contiguous

stretches of forest and undeveloped land or connecting habitat corridors.

9. A single-family dwelling is a permitted use for a Rural Residential District. Table 2.2(B).
10. Non-frontage lots are permitted only on lots which have both the approval of the DRB, and either access to roads or waters by means of a Class IV road or permanent easement or right-of-way at least 20 feet in width. The proposed right-of-way will be 20 feet in width.
11. The intended use of the property is for development of a one-story single-family property.
12. The use is not likely to have a significant impact on safety, traffic or road use because of the size of the planned development.
13. The siting conditions involve creating a driveway from Jack Hill Road through the new Lot 1 that bi-sects the lot and then travels along the border of the new Lot 2 to the proposed house site which is set back from the property lines. The proposed dwelling is a single-story single family dwelling. A waste water system and well would be developed. The site does not include a Class IV road.
14. A wastewater permit is in place for this system (Permit WW 5-9051). It has not yet been recorded with the Town of Calais.
15. The driveway requires a separate application and approval for a curb cut on Jack Hill Road.
16. The driveway to be developed on the requested right-of-way will have a grade not exceeding 12% based on LIDAR of the site, and depending on how the driveway is built, could have a grade less than 12%.
17. The Zoning Regulations Access Standards contain a preference for shared access, but not a requirement. An extension of the existing driveway for Lot 1 would have required a steeper grade than the proposed right-of-way. The existing driveway that serves Lot 1 comes very close to the entrance to the existing dwelling. Extending the driveway onto Lot 2 would impact the privacy of the dwelling on Lot 1. It would be disruptive to the residents of Lot 1, and could pose risks to children or others just steps from the front door from cars traveling past the existing dwelling to and from Lot 2. There is still room around the existing dwelling on Lot 1 including south facing space. The proposed right-of-way still provides Lot 1 options for use of the non-dwelling space.
18. The proposed right-of-way is sited at a location where, if the curb cut application is approved, there are not blinds or obstructions.
19. The property lacks significant natural features, primary and statewide agricultural soils, or historic and cultural resources in need of protection.

20. The property does not require flood hazard consideration.

DECISION

Based on these findings, the application for subdivision to create a non-frontage lot, and for a 20' right of way in the location identified on the map submitted by the applicant in July 2023 prepared by Horizons Engineering is granted with the following conditions:

1. The applicant must record the waste water permit with the town, with the required attachments as mentioned in permit language, within 30 days of this decision.
2. The applicant must apply for and receive approval from the Town of Calais for a curb cut at the intersection of Jack Hill Road and the requested right-of-way within 30 days of this decision.
3. The applicant must demonstrate to the Zoning Administrator that the applicant has ensured the driveway developed on the right of way on Lot 1, and continuing onto Lot 2, meets the requirements of Rule 3.2(D) (Driveway Standards).
4. The applicant must demonstrate to the Zoning Administrator that the applicant has ensured that the setback distance from all property lines must equal the minimum side yard setback for the district, consistent with Rule 3.6(F).
5. The applicant must record the right-of-way document in the Town of Calais land records consistent with this decision and the other conditions identified herein, and provide a copy to the Chair of the DRB, within 30 days of any approval of the curb cut application.

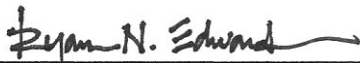
Voting to approve: Ryan Edwards, Willa Farrell, Dot Helling, Rachel Seelig, Scott Bassage

Voting to deny: none

Motion passed: 5-0

Abstentions: none

Dated at Calais, Vermont, this 14th day of September, 2023.



Ryan Edwards, Chair

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.