

Town of Montgomery

Development Review Board

FINDINGS AND DECISION

ABRAM BARNARD AND WALTER KNIGHT APPLICATION FOR CONDITIONAL USE PERMIT Thursday, June 17, 2021

INTRODUCTION AND PROCEDURAL HISTORY

This proceeding involves an application submitted by Abram Barnard and Walter Knight for **Conditional Use Permit to build a food service area on the existing footprint; construction of a Volleyball court, Bocce court and parking for an outdoor recreation area. Community outdoor cinema showing films one evening every two weeks and possible 3 day film festival once a year.**

A Public Hearing was warned for June 17, 2021.

1. Notice of the Hearing was posted on June 1, 2021 at Montgomery Town Post Office, Montgomery Village Post Office, Montgomery Public Safety Building, Montgomery Town Website and published in *The St. Albans Messenger*.
2. TOWN OF MONTGOMERY ZONING BY-LAWS AND REGULATIONS, Article 9, interested person (a) the party owning title to the subject property and (b) a person owning or occupying property in the immediate neighborhood who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed.
3. This application was considered by the **Montgomery Development Review Board** at a **Public Hearing on June 17, 2021** at the **Montgomery Town Hall**.
4. Present at the Hearing were **Development Review Board Members: Parma Jewett (Chair), Lynda Cluba (Clerk), Suzanne Wilson, Wendy Howard and John Kuryloski (Alternate) Mark Brouillette (Vice Chair, was absent)**. Also, present was **Ellen Fox, Zoning Administrator**.
5. Interested parties present were Robert and Diane Gendron, Wendell Hughes, Amanda Chapple, Michael and Michaela Ledden and Melinda Swearingen.
6. Members of the public included Brent Godin (constable), Jacqueline Doyle, Lynn Locher and Edward Deptula (ADA by phone).
7. At the outset of the **Hearing, Parma Jewett, Chair of The Development Review Board** afforded an opportunity for persons wishing to speak to sign and take the oath. She also asked if any Board members felt they had a conflict of interest. No response.
8. All parties wishing to offer testimony were sworn in.
9. The meeting was called to order at 6:04 pm.

FINDINGS

Based on the Application, sworn testimony, exhibits, and other evidence the **Development Review Board** makes the following findings:

1. The subject property is a 16.5 acre lot, located at 312 Main St. in the **Town of Montgomery Center, Vermont. Parcel ID #N118.041B**.
2. This property is located in the **Village 1 and Village 2 Zoning District** as described on the **Town of Montgomery Official Zoning Map** on record at Town of Montgomery Municipal Office and Section 3 of the **Town of Montgomery Zoning By-Laws and Regulations**.
3. The application requires review under the following sections of the **Montgomery Zoning By-Laws**:
 - a. Section 4.2 Conditional Use Village 1(o&p), and Village 2 (q&r)
 - b. Section 5.1 Conditional Use Approval
 - c. Section 5.1 (E) 1-5 Review Standards
 - d. Section 5.1 (F) Conditions

FINDINGS OF FACTS

1. The subject property is located in the Village 1 and Village 2 Zoning Districts at 312 Main St, Montgomery Center, Vermont.
2. Property consists of 16.5 acres with driveway, power, water, septic and 3 outbuildings.
3. Applicants wish to build a food service area on the existing footprint; construction of Volleyball court, Bocce court and parking for an outdoor recreation area. Community outdoor cinema showing films one evening every two weeks and possible 3 day film festival once a year.
4. One of the outbuildings will be redesigned for an ice cream stand, bathrooms and a shaded area for the food truck and food court.
5. No paved or concrete surfaces will be installed on the athletic courts.
6. Applicants will consult with abutting property owners regarding planting shrubs or installing fences.
7. Applicants stated the Volleyball court will be at least 37 feet from abutting property owner.
8. Applicants stated movies will not play longer than 11 pm.
9. Applicants stated that the driveway is wide enough to accommodate 2 vehicles at a time.
10. Applicants have submitted a map showing the parking area to be 200 ft by 80 ft.
11. Speakers for the movies will be angled away from the town towards the back of the property or down to the ground. Speaker will be approximately 50 decibels and not to exceed 100 decibels.
12. Applicants stated lighting for the volleyball court will non-broadcasting and will have a funneling down affect on the court and will also be on a timer.
13. Applicants stated the project will not affect the wetlands on the property.
14. Applicants feel erosion control has been addressed in the Land Use Permit, approved in 2007 by the previous owners.

DECISION

Based upon the findings, the **Montgomery Development Review Board** grants approval for a **Conditional Use Permit at 312 Main St in Montgomery Center, Vermont** with the following conditions.

1. **Hours of operation will be from 9:00 am to 10:00 pm daily. Only the outdoor theater will operate until 11:00 pm.**
2. **All parking must be on site, no parking off site on Route 118 (Main St).**
3. **Lighting for the Volleyball court must be non-broadcasting and will have a funneling down affect.**
4. **Lights must be on a locked timer that shuts off at 10:00 pm.**
5. **A sign will be posted with the following rules: Hours of operation, on site parking only, responsible drinking and any other rules that the applicants may have. (e.g. no littering or dumping)**

Roll Call Vote: Parma-YES; Suzanne-YES; Lynda-YES; Wendy-YES; John-YES. Motion passed 5-0.

A copy of this decision shall be mailed to the Applicant by certified Mail, and a copy shall be mailed to every person claiming interested party status at the hearing.

An Interested Person may appeal a decision of the Development Review Board to the Environmental Division, in writing, within thirty days of the date the decision was issued.

If no appeal of the decision is filed within the thirty (30) day appeal period, all parties shall be bound by the decision and shall not thereafter contest it. 24 V.S.A. § Section 4472 (d).

Dated at Montgomery Center, Vermont, this 29th day of June, 2021.

Parma Jewett, Chairperson Montgomery Development Review Board