

Town of Montgomery

Development Review Board

FINDINGS AND DECISION

JOANNE BENNETT

APPLICATION TO SUBDIVIDE A PARCEL AND GRANT ACCESS BY RIGHT OF WAY
September 29, 2022

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves an application submitted by JoAnne Bennett to seek access to Lot C&D by right of way. Under Section 4.3 (A) of the TOWN OF MONTGOMERY ZONING BY-LAWS AND REGULATIONS.
2. The application was received by the Zoning Administrator on **August 31, 2022**.
3. **Reason for Application:** Approval of lots accessed via Right-of-Way of record and road frontage.
4. A **Public Hearing** was warned for **September 29, 2022**
5. Notice of the Hearing was posted on **September 8, 2022** at the **Montgomery Village Post Office, Montgomery Public Safety Building, Sylvester's Market, Montgomery Town Website** and published in *The St. Albans Messenger on September 13, 2022*.
6. This application was considered by the Montgomery Development Review Board at a **Public Hearing on September 29, 2022, at the Montgomery Public Safety Building, Conference Room**.
7. Present at the Hearing were **Development Review Board Members: Parma Jewett, Chair, Lynda Cluba, John Kuryloski, Suzanne Wilson and Mary Garceau. also Zoning Administrator, Ellen Fox.** Applicant, JoAnne Bennett was absent, giving authority to be represented by Hugh Doheny, per letter dated 9/27/2022. Visitors included Michael Scott.
8. Amy Allen, Claudia Renchy Morton and Suzanne Dollois assert status as interested parties prescribed by 24 V.S.A Section 4465, under the TOWN OF MONTGOMERY ZONING REGULATIONS, Article 9: Definitions; interested person (a) the party owning title to the subject property and (b) a person owning or occupying the property in the immediate neighborhood who can demonstrate a physical or environmental impact on the person's interest under the criterial reviewed.
9. At the outset of the **Hearing, Parma Jewett Chair of The Development Review Board** asked if any Board members felt they had a conflict of interest. None claimed a conflict.
10. All parties wishing to offer testimony were sworn in.

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FINDINGS

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

1. The subject property is 62.65 acres which consists of Lot A, Lot B, Lot C and Lot D located at 2099 West Hill Rd in the **Town of Montgomery, Vermont. Parcel ID #11.078X.**
2. This property is located in the **Rural Residential District** as described on the **Town of Montgomery Official Zoning Map** on record at Town of Montgomery Municipal Office and Section 4 of the *Town of Montgomery Zoning Regulations.*
3. Application is for access by Right-of-Way to Lots C and D via proposed right-of-way through other lands owned by interested parties.
4. The application requires review under the following sections of the *Montgomery Zoning Regulations:*
 - a. Article 4; Section 4.2 (D) District Land Use and Development
 - b. Article 5; Section 5.1 Conditional Use Approval
 - c. Article 5; Section 5.1 (A) 5 Applicability
 - d. Article 5; Section 5.1 (E) 1-5 Review Standards
 - e. Article 5; Section 5.1 (F) Conditions

Findings of Fact

1. Applicant wishes to subdivide Parcel 11.078X into three parcels.
2. One of the resulting parcels which includes Lots C & D does not have the minimum road frontage required in this Zoning District.
3. Lots C & D will be retained as one lot by current owner.
4. Lot B is being conveyed with the house to new owner.
5. Deeded easement is to Lot D.
6. Lot C has no deeded easement.
7. Deeded easement is marked by a dashed line on the Town of Montgomery tax map extending from the Creamery Bridge Rd.
8. Lot A will be sold as a separate legal parcel as it meets required road frontage and acreage per Montgomery Zoning regulations.

9. Interested party, Suzanne Dollois submitted evidence showing the current deeded easement runs through her property and also extends through the middle of her barn, which is legally permitted by the town.
10. Suzanne also submitted a map from the Agency of Natural Resources showing the deeded easement to Lot D runs through a wetland area.
11. Evidence submitted by applicant reflects that Lot B has enough road frontage (920 ft) to make Lot C & D come into compliance with Montgomery Zoning requirements in this district.

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DECISION

Moved by Mary and seconded to **DENY** the request for access by Right-of-Way submitted by JoAnne Bennett for Lots C & D.

Based upon the findings, the Montgomery Development Review Board concludes that the request for a access by Right-of-Way be **DENIED**. **Roll Call Vote: Parma - YES; Lynda - YES; John - YES; Suzanne – YES; Mary - 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 or body appearing and having been heard at the Hearing, and the Clerk of Montgomery as a part of the Public Records.

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. Section 4472 (d).

Dated at Montgomery Center, Vermont, this 20th day of October, 2022

Parma Jewett, Chairperson Montgomery Development Review Board