

Town of Montgomery

Development Review Board

FINDINGS AND DECISION

RORY AND KATHLEEN CUMMINGS APPLICATION FOR CONDITIONAL USE PERMIT

TUESDAY NOVEMBER 16, 2021

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves an application submitted by **Rory and Kathleen Cummings** for Conditional Use to
a) Would like the property listed as a multifamily for purposes of appraisal for refinancing and b) flexibility of renting 2 units as short-term/or long-term dwellings. Section 5.1(A)2 under the **TOWN OF MONTGOMERY ZONING BY-LAWS AND REGULATIONS.**
2. The application was received by the Zoning Administrator on October 1, 2021.
3. A **Public Hearing** was warned for November 16, 2021.
4. Notice of the Hearing was posted on October 29, 2021 at **Montgomery Town Post Office, Montgomery Village Post Office, Montgomery Public Safety Building, Montgomery Town Website** and published in *The St. Albans Messenger*. Notice of hearing was sent to abutting property owners.
5. This application was considered by the Montgomery Development Review Board at a **Public Hearing on November 16, 2021.**
6. Present at the Hearing was **Applicant: Rory Cummings, (Kathleen Cummings was absent); Development Review Board Members: Parma Jewett, Chair, Lynda Cluba, Suzanne Wilson, John Kuryloski and Mary Garceau; Alternate. (Mark Brouillette was absent).** Also, present was **Alice Reighley, Joe Sherman and Ted Jacobs.**
7. At the outset of the hearing, **Parma Jewett, Chair of The Development Review Board** afforded an opportunity for persons wishing to speak to take the oath. All parties wishing to offer testimony were sworn in.
8. The Chair also asked if any Board members felt they had a conflict of interest. No response.

FINDINGS

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

1. The subject property is **1.4 acres located at 1308 South Main St. Parcel ID #S118.065X** located in the **Town of Montgomery, Vermont.**
2. This property is located in the **Village 2 Zoning District** as described on the **Town of Montgomery Official Zoning Map** on record at Town of Montgomery Municipal Office and **Section 3.1 (A)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 4.1 Zoning Permits (A) Applicability.
 - b. Section 5.1 A)2 Conditional Use Approval
 - c. Section 5.1 (E) 1-5 Review Standards
 - d. Section 5.1 (F) Conditions

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Findings of Fact

1. Subject property is a 2 story dwelling which includes the 2 story main dwelling unit; a finished basement. A first floor apartment with 1 bedroom and a second floor apartment with 1 bedroom.
2. Property consists of 1.4 acres in the Village 2 Zoning District
3. Wastewater and Potable Water Supply Permit effective 4/12/2019 approved for an existing three (3) bedroom single family residence with a two (2) bedroom accessory apartment on the existing 1.4 acre parcel.
4. Construction was completed no later than December 1, 2020; a condition of the WW Permit.
5. Applicant wishes to rent the 2nd story apartment as well as the 1st floor apartment and will reside full time in the main dwelling.
6. Applicant was asked if renting long-term or short-term, as both are mentioned in the Application to DRB, as a short term rental unit and multifamily dwelling may contradict one another for approval of a conditional use.
7. Applicant states he would have room for 10 people in the 2 units for short-term rental

DECISION

As the Application stated 2 reasons for Conditional Use approval the Board will make a motion on each request.

1. Moved by Mary and seconded to **Approve** Conditional Use for a 3 unit multifamily dwelling with the conditions as follows:
 - a) A minimum of 6 parking spaces shall be provided.

Based upon the findings, the Montgomery Development Review Board concludes that the request for a Conditional Use is **APPROVED** with conditions.

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

2. Moved by John and seconded to **Deny** the Conditional Use for a 2 unit short term rental, as this would require additional Conditional Use for a lodging establishment.

Based upon the findings, the Montgomery Development Review Board concludes that the request for a Conditional Use is **DENIED**.

Roll Call Vote: Lynda-YES; Parma- 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 go to 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 17 day of December, 2021.

Parma Jewett, Chair Montgomery Development Review Board