

Town of Montgomery
Development Review Board
PO BOX 356 MONTGOMERY VT 05471
(802) 326-4719

FINDINGS AND DECISION

Ivan Illyushchenko and Ludmilla Debord
APPLICATION FOR CONDITIONAL USE PERMIT
Thursday May 23, 2024 (recessed)
(reconvened) Thursday, June 27, 2024

INTRODUCTION AND PROCEDURAL HISTORY

This proceeding involves an application submitted by Ivan Illyushchenko and Ludmilla Debord for Conditional Use Approval to change use from a single family dwelling to a lodging establishment for short term rental, dated March 20, 2024.

1. A Public Hearing was warned for May 23, 2024, recessed and reconvened on June 27, 2024.
2. Notice of the Hearing, including notice to abutting property owners, was posted on April 25, 2024 at Montgomery Village Post Office, Montgomery Public Safety Building, Sylvester's Market, Montgomery Town Website and published in *The St. Albans Messenger*.
3. Wes Skidmore, as president and representative of the Oberland Valley Property Owners Assoc., has requested interested party status as prescribed by 24 V.S.A. § Section 4465(b), and under the 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.
4. This application was considered by the Montgomery Development Review Board at a Public Hearing on May 23, 2024 and June 27, 2024 at the Montgomery Public Safety Building, Conference Room.
5. Present at the Hearing on May 23, 2024 were Development Review Board Members: John Kuryloski (Vice Chair), Suzanne Wilson, Mary Garceau and Barry Kade, Parma Jewett (absent). Lynda Cluba was present as Clerk of the Board. Applicants: Ivan Illyushchenko (present) and Ludmilla Debord (absent). Visitors included: Wes Skidmore, Talia Roberts, Debra Gemme, Sandra Fleckenstein, Mike Abramowitz, Gary Malcolm, Francine Keegan, Joseph Tudryn, and June Abramowitz.
Present at the Hearing on June 27, 2024 were Development Review Board Members: Parma Jewett (Chair), John Kuryloski (Vice Chair), Suzanne Wilson, Mary Garceau and Barry Kade. Lynda Cluba was present as Clerk of the Board. Applicants: Ivan Illyushchenko (present) and Ludmilla Debord (absent). Visitors included: Wes Skidmore, Talia Roberts, Debra Gemme, Toni-Rose Busto and Karen Soule.
6. At the outset of the Hearing on May 23, 2024 John Kuryloski, Vice Chair of The Development Review Board afforded an opportunity for persons wishing to speak to sign and take the oath. He also asked if any Board members felt they had a conflict of interest. No response. At the outset of the Hearing on June 27, 2024 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. All must state their name before speaking.
7. All parties, at each hearing, wishing to offer testimony were sworn in.
8. The hearing on May 23, 2024 was called to order at 5:32 pm and recessed at 7:00 pm. The hearing on June 27, 2024 was reconvened at 5:30 pm.

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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 **1 acre** identified as ****Parcel ID #A18.001X** located at **164 Oberland Valley Rd.** in the **Town of Montgomery Center, 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 of the **Town of Montgomery Zoning By-Laws and Regulations.**
3. ****The parcel ID and physical address have been corrected from the Development Review Board application.**
4. The application requires review under the following sections of the **Montgomery Zoning By-Laws.**
 - a. Article 4, Section 4.1 Zoning Permits (A) Applicability
 - b. Article 5, Section 5.1 Conditional Use Approval
 - c. Article 5, Section 5.1 (E) 1-5 Review Standards
 - d. Article 5, Section 5.1 (F) Conditions
 - e. Article 8, Section 8.1 Hazard Area Regulations
 - f. Article 9, Definitions, Lodging Establishment

FINDINGS OF FACT

1. Applicant wishes to apply for Conditional Use approval to change the use of an existing single family dwelling to a lodging establishment for the purpose of short term rental.
2. The existing structure is a 1 story log dwelling with a finished basement which sits on 1 acre of land.
3. Property has a 1000 gallon septic.
4. Dwelling has 1 bedroom and 1 full bath, above grade and 2 bedrooms in the finished basement. One bedroom, in the basement, will be used for rental and the other bedroom will be locked.
5. Property is rented through Airbnb.
6. Applicant has rented in the past but was unaware a Conditional Use permit was required. He was informed of his non compliance by the Zoning Administrator.
7. Property was purchased 2 years ago with his Aunt. He is from Montreal and wanted to purchase a property for the family to retire to in the future.
8. The property was in need of repair and has a new roof and heating system.
9. The property is located in the river corridor.
10. Applicant states the driveway is gravel, approximately 35 feet in length and 15 feet wide at the most narrow point, and a distance of 100+ feet from the river, after a steep 30 foot drop. He states 2 cars can fit side by side in the driveway. (he has provided photos of the driveway and the location of the dwelling).
11. He has provided names of 2 contact persons who reside in Jay Village, which is less than 25 miles from the property.
12. He also provides photos and measurements of the egress windows. First floor (26 inches high by 56 inches wide) and basement (44 inches high by 56 inches wide)

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DECISION

Based upon the findings, the Montgomery Development Review Board **APPROVES** the application for Conditional Use at 164 Oberland Valley Rd. in Montgomery Center, Vermont.

John made a motion and was seconded to **APPROVE** the request for Conditional Use to change the use of a single family dwelling located at 164 Oberland Valley Rd, to a lodging establishment for the purpose of a short term rental with the following conditions:

1. Maximum of 4 overnight guests, including children.
2. Minimum of 3 parking spaces.
3. Must provide rental insurance.
4. No overnight camping.
5. Quiet hours between 10 pm and 6 am.
6. House rules must be posted on the premises.
7. 911 location must be posted in a visual location.
8. Property must be registered with the State of Vermont for rooms and meals tax. If applicant offer the cabin for rent outside of Airbnb (which automatically collects and remits tax to the State on behalf of its operators), applicant shall register with the State of Vermont for rooms and meals tax.
9. There must be a minimum of 1 fire extinguisher, smoke detector and CO detector on each floor. Also a smoke/CO detector in each bedroom.
10. A contact person must be available within a 25 mile radius at times when the property is rented. Contact information must be visibly posted on the premises.
11. All parking must be in designated areas on the premises, when rented.
12. If renters have a dog(s), Montgomery town leash laws must be obeyed.
13. No parties or large events.

The Board finds no impact on the river corridor.

Roll Call Vote: Sue - YES; Mary - YES; John - YES; Barry - YES; Parma - abstains Motion passed 4-0

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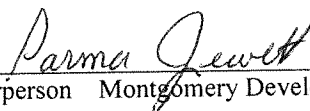
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A copy of this decision shall be mailed to the Applicant by certified Mail, and a copy shall be mailed to every person claiming interested party status at the hearing.

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, Vermont, this 16th day of July, 2024.



Parma Jewett, Chairperson Montgomery Development Review Board