

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

FINDINGS AND DECISION

John Barnes
APPLICATION FOR HAZARD AREA REVIEW
Thursday, August 22, 2024 (recessed)
(reconvened) Thursday, September 26, 2024

INTRODUCTION AND PROCEDURAL HISTORY

This proceeding involves an application submitted by John Barnes for Hazard Area Review to make substantial changes to an accessory structure. Application is to remove an existing garage and rebuild in the same location at 46 Begnoche Farm Rd, dated May 27, 2024.

1. A Public Hearing was warned for August 22, 2024, recessed and reconvened on September 26, 2024.
2. Notice of the Hearing was posted on August 1, 2024 at Montgomery Village Post Office, Montgomery Public Safety Building, Sylvester's Market, Montgomery Town Website and published in *The St. Albans Messenger on August 1, 2024*.
3. No person has requested status as an interested party 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 August 22, 2024 and September 26, 2024, at the Montgomery Public Safety Building, Conference Room.
5. Present at the Hearing on August 22, 2024 were Development Review Board Members: Parma Jewett (Chair), Suzanne Wilson, John Kuryloski and Mary Garceau. Barry Kade was absent. Applicant John Barnes was present. Visitors included Carrie Roberts, who has permission from the applicant to speak on his behalf. Lynn Locher was also present. Present at the hearing on September 26, 2024 were Development Review Board Members: John Kuryloski, (Vice Chair), Suzanne Wilson, Mary Garceau and Barry Kade. Parma Jewett was absent. Visitors included: Carrie Roberts, who has permission to speak on behalf of the applicant. Lynda Cluba was present as clerk of the Board.
6. At the outset of the Hearing on August 22, 2024, Parma Jewett, Chair of the Development Review Board gave the oath to all the applicants and the guests. She also asked if any Board members felt they had a conflict of interest. All Board members stated no conflict. At the outset of the hearing on September 26, 2024 John Kuryloski, Vice Chair of the Development Review Board gave the oath to the applicant and all who wish to speak on behalf of the applicant. He asked the Board if they had any conflict of interest. Barry Kade spoke and felt he had no conflict of interest, but was not present at the meeting on August 22, 2024, and will read the minutes.
7. All parties, at each hearing, wishing to offer testimony were sworn in.
8. The hearing on August 22, 2024 was called to order at 5:30 pm and recessed at 6:15 pm. The hearing on September 26, 2024 was reconvened at 5:31 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 .40 acre identified as Parcel ID 26.003X located at 46 Begnoche Farm Rd in the Town of Montgomery Center, Vermont.
2. This property is located in the Village 1 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**. The accessory structure is located in the flood hazard area and substantial improvement requires Hazard Area Review.
3. The application requires review under the following sections of the **Montgomery Zoning By-Laws and Vermont State Regulations**
 - a. Article 8: Hazard area Regulations: Section 8.1 Applicability and Interpretation
 - b. Article 8: Section 8.2 Development Review in the Hazard Area
 - c. Article 8: Section 8.5 Hazard Area Development Standards
 - d. Article 9, Definitions, Special Flood Hazard Area

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FINDINGS OF FACT

1. Applicant wishes to make substantial improvement to an accessory structure. He wishes to remove an existing garage and rebuild in the same location.
2. The main dwelling is a 1.5 story single family dwelling with 3 bedrooms, one full bath and one half bath.
3. The accessory dwelling is currently a 36 ft x 30 ft detached garage with a dirt floor.
4. The accessory dwelling will be removed and replaced with a new 2 story 36 ft x 28 ft garage.
5. Applicant states the garage is considered detached and access to the house is by a deck.
6. Accessory structure sits in the flood hazard area which requires Hazard Area Review.
7. The elevation certificate (dated 7/11/2024) and the letter states: Based on a graphical overlay of the FEMA mapping, the northerly 4-5 ft of the existing garage is located in the Regulatory Floodway which is below Base Flood Elevation.
8. Based on analysis per DAY land surveying PLLC the Base Flood Elevation is **525.7** ft.
9. Applicants property is located in Flood Zone AE per FEMA National Flood Insurance Program, Elevation Certificate.
10. Montgomery Zoning Regulations Section 8.5 A) 3 reads: "New construction and existing structures to be substantially improved in Zones A and AE shall be located such that the lowest floor is at least one foot above **BFE**; this must be documented , **in as-built condition**, with a FEMA Elevation Certificate.
11. Applicant states the slab will be built up above the current elevation.
12. Spokesperson for the applicant states the second floor finished area may be used an office, family room or bathroom.

DECISION

Based upon the findings, the Montgomery Development Review Board **APPROVES** the application for Hazard Area Review at 46 Begnoche Farm Rd. to remove an existing garage and rebuild in same location, subject to not receiving an objection from Agency of Natural Resources by September 27, 2024 with conditions:

John Kuryloski made a motion and was seconded to APPROVE the application for Hazard Area Review to make substantial changes to an accessory structure by removing an existing garage and rebuilding in the same location with the following conditions:

1. The second floor of the garage will be limited to use for a home office and game room as stated in the application.
2. As written in the Town of Montgomery Zoning regulations Section 8.5 A), 3, the lowest floor must be raised one (1) foot above the Base Flood Elevation of 525.7 feet.

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

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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 17th day of October, 2024.



Parma Jewett, Chairperson Montgomery Development Review Board