

## TOWN OF ELMORE

### Development Review Board

### Application for Conditional Use Review Findings and Decision

**In re: Kevin & Heather Browne, Applicant**

**Permit Application No. Z-24-31**

**James R & Christina Van Woert, Landowners**

#### INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for conditional use submitted by **Kevin & Heather Browne, Applicant and James R. & Christina Van Woert, Landowners** under the Town of Elmore Zoning Bylaw. The application is for a proposed single-family residence with a 2-car garage on in the Forest Reserve District. The property is on two lots to be combined into one parcel containing 7.41 acres. Parcel #06/00/21 & 21.1
2. The application was received by the Zoning Administrator on August 8, 2024. A copy of the application is available at the Town of Elmore Zoning Office.
3. On August 22, 2024, notice of a public hearing was published in the News and Citizen.
4. On August 19, 2024, notice of a public hearing was posted at the following places:
  - a. The municipal clerk's office Notice Board
  - b. 3020 Elmore Mountain RD, which is within view of Elmore Mountain RD, the public-right-of-way most nearly adjacent to the property for which the application was made.
  - c. Elmore Town Hall Notice Board
  - d. Town of Elmore Public web site: [www.elmorevt.org](http://www.elmorevt.org)
5. On August 19, 2024, a copy of the notice of a public hearing was mailed to the applicant.
6. On August 16, 2024, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:
  - Keith Dairy LLC, % Keith Turner

- Caroline & Erich Devore Grohse-Holz
  - Elizabeth Paquette & Taylor Bramhall
  - Paul & Susan Rousselle
  - James R. & Christina Van Woert
7. The application was considered by the Development Review Board at a public hearing on September 5, 2024.
8. Present at the hearing were the following members of the Development Review Board:
- Chris Jolly, Chair
  - Caroline Devore
  - Paul Rousselle
  - Jason Cohen
  - Michael Furst
  - Thomas Waldman, Alternate
9. Member DeVore recused as she is an adjoining property owner.
10. At the outset of the hearing, the Development Review Board afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. No persons were identified as persons wishing status as an “interested person”.
11. During the September 5, 2024 hearing the following exhibits were submitted to the Development Review Board:
- Conditional Use Application dated August 8, 2024
  - Applicants narrative dated August 8, 2024
  - Site Plan showing septic system for WW-5-4171-1
  - Aerial depictions from 2000, 2006, 2011 and 2020 showing cleared areas.
  - Proposed site plan dated 8/7/2024
  - First and second floor plans dated 8/7/2024
  - Exterior elevations dated 8/7/2024
  - Illustrations showing views from town highway, section, siding material and color.
  - Town GIS Map showing proposed house site at elevation 1,300msl
- These exhibits are available at the Elmore Zoning Office.
12. The hearing was continued to October 3, 2024 at 6:00PM.
13. Board members conducted a site inspection prior to the October 3, 2024 Hearing. Present were Furst, Devore, Cohen, Waldman and Zoning Administrator Burnham

14. A subsequent public hearing was held on October 3rd, 2024. The Development Review Board reviewed the application under the Town of Elmore Zoning Bylaw, as amended February 11, 2020 (the Zoning Bylaw).
  
15. Present at the hearing were the following members of the Development Review Board:
  - Caroline Devore
  - Jason Cohen
  - Michael Furst
  - Thomas Waldman, AlternateMember DeVore recused as she is an adjoining property owner.
  
16. During the October 3, 2024 Hearing the following supplemental exhibits were submitted to the Development Review Board:
  1. A narrative of added information to the submitted drawings by Kevin Browne, Architect dated September 29, 2024.
  2. A revised site plan, driveway plan and grading plan showing placement of all structures dated September 29, 2024.
  3. Information on building heights showing plan and elevations dated September 29, 2024.
  4. A Plan showing site details and erosion details showing Rain Garden detail, Riffle Pool profile, and driveway culvert details dated September 29, 2024.These exhibits are available at the Elmore Zoning Office.
  
17. A subsequent public hearing was held on October 29th, 2024. The Development Review Board reviewed the application under the Town of Elmore Zoning Bylaw, as amended February 11, 2020 (the Zoning Bylaw).
  
18. Present at the hearing were the following members of the Development Review Board:
  - Caroline Devore
  - Paul Rousselle
  - Jason Cohen
  - Michael Furst
  - Thomas Waldman, AlternateMember DeVore recused as she is an adjoining property owner.

19. During the October 29th, 2024 Hearing the following supplemental exhibits were submitted to the Development Review Board:
1. A narrative of added information to the submitted drawings by Kevin Browne, Architect dated September 29, 2024.
  2. A site and grading plan showing revised placement of all structures dated September 25, 2024.
- These exhibits are available at the Elmore Zoning Office.
20. The revised site plan shows the house pulled back up the hill about 80 feet from where it was prior. The driveway and clearing limits have been adjusted so that only seven trees over 10 inches in diameter will be removed versus the ten that were shown prior.
21. Minutes of the previous three meetings are available at the Elmore Zoning Office.

## FINDINGS

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

1. The applicant seeks a conditional use permit to construct a single-family residence with an attached two car garage. The subject property is a 7.41-acre parcel located at 3029 Elmore Mountain Road in the Town of Elmore (tax map parcel no. 06/00/21 and 21.1).
2. The property is in the Forest Reserve District as described on the Town of Elmore Zoning Map on record at the Town of Elmore municipal office and in the Zoning Bylaw. The Board notes that there are existing residential structures on the property and Permits previously issued:
  - A. Todd Marble - Z-12-17 Issued July 17, 2012 for a 12' x 16' Primitive Camp
  - B. Boronkay - WW-4171 3/27/07 3 Bedroom Septic
  - C. WW-4171-1 6/5/08 4-bedroom Septic System\*
  - D. Z-05-12 Gate to "Smiling Corner"
  - E. Z-04-19 Fence and gate
  - F. Z-98-10 Roof over seat
  - G. Z-97-21 Open log structure
  - H. Z-97-20 Garden gazebo
  - I. Z-95-13W Twin Buildings
  - J. Z-94-12 Forest rest
  - K. Z-93-26A 2 Seat outhouse "Privy"

L. Z-90-25

Deck on Cabin

3. Conditional use approval is requested for the project as a single-family Dwelling (below the elevation of 1,500msl only). The application requires review under the following sections of the Town of Elmore Zoning Bylaw:

- Section 2.4, Table 2.4(E) 1-9
- Section 5.3 and 5.4

4. Section 2.4, Table 2.4.E. of the Town of Elmore Zoning Bylaw provides for the following review:

1. Residential Uses: The Board finds that the character of the land is suitable for residential development below the 1,500msl elevation. The lot was created prior to January 1, 2000. The driveway and existing structures occurred prior to January 1, 2000. The project complies with all other standards of this section and Vermont ANR and Federal Regulations.

2. Placement of Structures: The Board finds that the proposed development complies with this section.

3. Clearing and Landscaping: The Board finds that the proposed residence conforms to the dimensional standards, size and density of the Bylaw.

4. Building Design: The Board finds that the proposed residence materials and colors are in keeping with the neighborhood. The dark siding materials will measurably help the structure to blend into the hillside.

5. Erosion Control: The Board finds that the measures as proposed by the applicant minimize the overall disturbance by utilizing existing driveways, ponds and building sites. Additional materials relative to erosion control have been submitted by the applicant and are found to be satisfactory.

6. Forest Management: The Board finds that the proposed residence on the latest submitted plan requires that screening be maintained. Clearing limits are depicted on the plat so that clearing should be restricted to the depicted building envelope and to the approved sewage systems and components to lessen the impacts of the development.

7. Site Restoration: The Board finds that the proposed building site will be restored and maintained in a natural vegetative state.

8. Fire Protection: The Board finds that there are no impediments to improving the existing driveway to allow access by town firefighting equipment. The existing fire pond is noted and a dry hydrant is recommended.

9. Viability of Productive Forestland: The Board finds that the small size of the existing lot and its proximity to existing roads precludes its usefulness to a productive forest enterprise.

## DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, the Development Review Board grants the application for a proposed single-family residence with a 2-car garage in the Forest Reserve District.

1. As conditioned, the proposed development meets the requirements of Sections Section 2.4, Table 2.4(E) 1-9 and Sections 5.3 and 5.4 of the Zoning Bylaw.
2. The Development Review Board approves the application subject to the following conditions:
  1. Existing Parcels #06/00/21 & #06/00/21.1 shall be deemed merged into a single 7.41-acre parcel.
  2. All site development work shall be done in accordance with the latest plan filed with the DRB (Site Plan Detail dated 11/4/2024 attached herein) and as referenced above. Any changes or deviations from the approved plan shall be reviewed and approved by the DRB in a subsequent application and review.

Dated at Elmore, Vermont, this 21st day of November 2024.

\_\_\_\_\_, Acting Chair

**NOTICE:** This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

