

TOWN OF ELMORE
Development Review Board

Application for Conditional Use and Variance
Findings and Decision

In re: DREWRY, Michael H. & Amy S.

Application No. Z-25-01

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for Conditional Use and a Variance submitted by **Michael H. & Amy S. Drewry** under the Town of Elmore Zoning Bylaw.
2. The application was received by the Zoning Administrator on January 17, 2025. A copy of the application is available at the Town of Elmore Zoning Office.
3. On January 24, 2025, notice of a public hearing was published in the News and Citizen.
4. On January 24, 2025, notice of a public hearing was posted at the following places:
 - a. The municipal clerk's office Notice Board
 - b. 540 Beach RD, which is within view of 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 under DRB agendas.
5. On January 21, 2025, a copy of the notice of a public hearing was mailed to the applicant and to the following owners of properties adjoining the property subject to the application:
 - William R and Joyce M. Chilton
 - Lynda McCuen
 - Matthew Edward Keenan
 - Jason Burmeister
 - Mark J & Marcia J Moody
6. The application was considered by the Development Review Board at a public hearing on February 4, 2025. The Development Review Board reviewed the application

under the Town of Elmore Zoning Bylaw, as adopted January 20, 2020 (the Zoning Bylaw). The Hearing was broadcast/interactive on Zoom and the participants are listed on the meeting sign-in sheet.

7. Present at the hearing were the following members of the Development Review Board:

- Caroline DeVore
- Jason Cohen
- Thomas Waldman

A copy of the attendance of persons at the Hearing is attached.

8. 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. A record of the name and address of persons wishing status as an interested person, a summary of their evidence with regard to the criteria, and a record of their participation at the hearing is **attached hereto**.

9. During the hearing the following exhibits were submitted to the Development Review Board:

Application Form dated 1-6-25

Cover letter to DRB dated January 6, 2025 with attached 4-page Narrative.

Attached Exhibits:

- A. Site Plan
- B. Deed establishing lot dated 1956 (Pre Zoning)
- C. 1974 Survey showing lot
- D. Example of style of camp to be used
- E. Historical driveway photo
and other supporting photos

These exhibits are available at the Elmore Zoning Office.

FINDINGS OF FACT:

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 14' x 24' primitive camp and a Variance approval for a front yard setback. The subject property is a 0.31-acre parcel located at 540 Beach Road in the Town of Elmore (tax map parcel no. 20/20/32.00). The property is more fully described in a Warranty Deed from Cynthia Langevin to Michael H. Drewry and Amy S. Drewry, dated May 24, 2024 and recorded at Book 89, Page 211, of the Town of Elmore Land Records.
2. The property is located in the Rural - East District as described on the Town of Elmore Zoning Map on record at the Town of Elmore municipal office and in the Zoning Bylaw.

3. Conditional Use approval is requested for the project as a **primitive camp** as that term is defined in section 2.5, Table 2.2 and in Section 9.2 of the Zoning Bylaw:

***Primitive Camp:** An occupied structure located on its own lot with no interior plumbing consisting of no more than a sink with water that is used for no more than three (3) consecutive weeks per year and no more than a total of sixty (60) days per year.*

4. The lot exists under the following Bylaw provision: Article III. General Provisions. Section 3.5. Existing Small Lots — *Any lot... in existence on the effective date of this bylaw may be developed for the purposes permitted in the district...in accordance with all applicable requirements... even though not conforming to minimum lot size requirements.* Evidence was submitted to show that the lot has been in existence since 1956.

5. **CONDITIONAL USE:** The application requires review under the following sections of the Town of Elmore Zoning Bylaw:

- Section 5.3 – Conditional Use Review Process
- Section 5.4 – Conditional Use Review Specific Standards

1. Character of the Land: The Board finds that the character of the land is suitable and is not incompatible with surrounding properties.
2. Conformance with the Town Plan: The Board finds that the proposal is in conformance with the Town Plan.
3. Landscaping and screening: The Board finds that the proposed lot does not require additional screening. Clearing limits are depicted on the plan so that clearing should be restricted to the depicted building envelopes and components to lessen the impacts of the development.
4. Street Lighting: The Board finds that no street lighting is proposed nor required.
5. Subsequent Development Plans: The applicant did not present any future development plans.
6. District Settlement Pattern: The Board finds that the proposed camp is not inconsistent with surrounding properties.
7. Upgrades to Existing Roads: The Board notes that Beach Road (a Town Highway) will not be affected. A Curb Cut Permit has been issued to upgrade an existing driveway and the work is complete to the Town's satisfaction.
8. The Board finds that the proposed improvements as proposed sufficient to provide adequate access to the proposed lots. (Attached herein for reference)

6. **VARIANCE:** The application requires review under the following sections of the Town of Elmore Zoning Bylaw: Section. 8.4. Variances and Setback Waivers — (B) The Board may grant a variance. . . in favor of the appellant, only if all the following five facts are found:

- 1) Unique physical circumstances or conditions, including irregularity narrowness or shallowness of lot size... peculiar to the particular property.

The Board finds that: The lot when transferred in 1956 was 75 ft. in depth. It was created before the road setback requirements and minimum lot size were enacted. The back half of the lot consists of Elmore Mountain with slopes more than 15%. It qualifies as a pre-existing small lot.

- 2) Property cannot be developed in strict conformity with the provisions of the zoning regulations and authorization of variance is necessary to enable the reasonable use of the property.

The Board finds that: Section 3.7 requires a 50 ft setback from centerline of Beach Rd. Section 3.4 prohibit building envelopes on slopes in excess of 15%. The historical building pad is 42 ft. from existing centerline of the road. To adhere to the 50 ft. setback, the pad would have to intrude 8 ft. into slopes more than 15% and require the cutting of approximately nine trees.

- 3) The hardship has not been created by the appellant.

The Board finds that: The lot was created in 1956 by Gordon Smith before the enactment of the current zoning requirements. (Ex. B). The building pad and driveway were constructed on Elmore Mt. slope during same period. In 1956, the deed described the property as being 75ft. in depth. A plat created for Gordon Smith in 1974 shows the roadway to lot back property line as being reduced to 68 ft. and narrower than currently existing roadway. (Ex. C 1-3). The current roadway likely encroaches into the original lot a minimum of 7ft. The current owners did not create the narrow original lot, construct the existing building pad or the current location of the roadway encroachment.

- 4) Variance will not alter the character of the neighborhood or impair the use of adjacent property.

The Board finds that: The historical building pad is buffered by existing forest — 29 ft. along roadway; 32 ft. from back property line; 30 ft from southern property line; and 96 ft. from northern property line. The primitive camp design will be Vermont Vernacular (Ex. D) and buffered from public view by existing forests. Surrounding properties consist of residential, seasonal camps and forest.

- 5) The Board finds that: a variance represents the minimum that will afford relief and represent the least deviation possible from zoning regulations.

The Board finds that: A setback variance will allow the use of an existing historical building envelope without any new earthwork involved; encroachment on adjacent slopes; and cutting of mature trees. The variance will allow the adherence of Elmore Bylaw requirements: to minimize impact on forest resources; screening from neighboring properties and public roads; non-development on steep slopes. A variance will afford minimal relief for reasonable use of an existing small lot.

6) In addition, the Board finds that the proposed camp does not provide for an increase in allowable density.

DECISION AND CONDITIONS

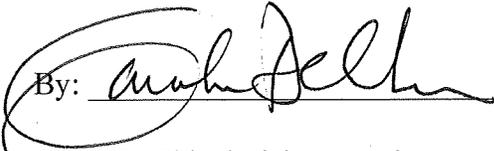
Based upon these findings, and subject to the conditions set forth below, the Development Review Board **grants** the application for a primitive camp as presented.

As conditioned, the proposed development meets the requirements of the above referenced Sections of the Zoning Bylaw.

The Development Review Board approves the application subject to the following conditions:

1. The parcel shall not be used as a single-family dwelling or any other use except as a primitive camp.
2. Section 8.2 A. of the Elmore Zoning Bylaw requires the completion of a **Certificate of Compliance** as a condition of approval issued pursuant to Article V. It shall be unlawful to use or to occupy said land or structure, or part thereof, until a Certificate of Compliance is issued by the Zoning Administrator stating that the proposed use of the structure or land conforms to the conditions and/or requirements of the Conditional Use Approval and any zoning permit issued in accordance with these regulations.

Dated at Elmore, Vermont, this 12 day of February 2025.

By:  _____, Chair

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the [planning commission/zoning board of adjustment/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.

Attachments:

DRB Meeting of 2/4/2025 Attendance sign-in sheet

List of Interested Persons

Certificate of Compliance Form.

APPLICANT: DREWRY

DATE OF HEARING: z141ts

APPUCATUON #: Z 25

TOWN OF ELMORE
"INTERESTED PERSONS"
RECORD AND SERVICE UST

Name	Address	Participated in Hearin ?	Evidence/Statement of Concer«Offered
<u>Chilton, Jay Bull</u>	<u>0804 89</u> <u>211 Elm St, UT</u> <u>05657</u>	es	
		Yes	
		O Yes	
		O Yes	
		O Yes	
		O Yes	
		Yes	

	<hr/> <hr/> <hr/>	<input type="radio"/> Yes	<hr/> <hr/> <hr/>
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The Development Review Board (DRB) has certain administrative obligations with respect to interested persons, At any hearing, there must be an opportunity for each person wishing to achieve interested person status to demonstrate compliance with the applicable criteria. 24 V.S.A. 54461(b). The DRB must keep a written record of the name, address and participation of each person who has sought interested person status. A copy of any decision rendered by the DRB must be mailed to every person or body appearing and having been heard by the DRB. Upon receipt of notice of an appeal to the Environmental court, the DRB must supply a list of interested persons to the appellant in five working days.

This Interested Persons Record and Service List is intended to be used by the Clerk, or designated staff of the DRB, to record information regarding persons who have sought interested person status. This to be used in conjunction with a separate sign in sheet.

Town Of Elmore
Meeting Attendance Record

ENTER MEETING DATE: FEB 4, 2025

ENTER MEETING NAME: DRB - WARNED HEARINGS

CHECK ALL THAT APPLY
REASON FOR ATTENDING

Reason for Attendance

YOUR NAME (printed)	Observer	Interested Party	Principal Party	Expert or Consultant	WHY ARE YOU ATTENDING?
CHARLES BURRMAN			✓		ZA
TOM WARDMAN			✓		DRB (Alternate)
Caroline DeVore			✓		DRB Member
Greg Dewey		✓			Applicant
Michael Dewey		✓			Applicant
Tim Monahan			✓		Sis Div. PERMIT
Jason Cohen			✓		DRB
Jay Bull Chilton		✓			Zoom
Robert Ashley Kotaris			✓		Zoom
BRAD ROBERTSON ✓					Neighbor
Rachel Seidl		✓			attorney for neighbor Fred Marti