

# Town of East Montpelier

# ZONING PERMIT

# NOTICE

[To Be Displayed on the Property in Full View of the Public Right-of-Way]

Date Issued: December 6, 2018

Effective Date: December 21, 2018

Location: 835 Dodge Road

Owner: Michael & Jamie O'Hare

For: 4-Lot Subdivision: Lot 1 - 10 acres  
Lot 2 - 10 acres  
Lot 3 - 10 acres & dwelling  
Lot 4 - 10 acres

Application # 18-042

Approved by: C. Bruce Johnson, ZA

Do not start project or commence use prior to the Effective Date. If this permit is based upon a Development Review Board approval, be advised that any appeal of that approval could affect the validity of this permit – do not start project or commence use until that DRB approval is final and clear of any state or local appeal process. This application is available for inspection at the Town Office. This poster must be displayed on the property in full public view for 15 days.

**APPEALS TO DRB:** A notice of appeal, including the \$150 fee, must be filed with the East Montpelier Town Clerk or Zoning Administrator at the Town Office by the listed Effective Date.

**WARNING:** State permits may be required for this project. Contact the state Permit Specialist, at (802) 505-5367, before beginning any construction.

# TOWN of EAST MONTPELIER

P.O. Box 157  
East Montpelier, VT  
05651-0157

C. Bruce Johnson, ZA  
eastmontadmin@comcast.net  
(802) 223-3313 ext. 204

December 6, 2018

Michael & Jamie O'Hare  
835 Dodge Road  
East Montpelier, VT 05651

Re: East Montpelier Zoning Application #18-042

Dear Mr. & Ms. O'Hare:

Please find enclosed the written decision of the East Montpelier Development Review Board approving your subdivision application #18-042 as presented. You have the right to appeal the decision of the Development Review Board. 10 V.S.A. §8504, 24 V.S.A. §4471 and V.R.E.C.P. 5 provide guidance on appeals to the Environmental Division of the Vermont Superior Court, but should you wish to appeal you should seek the advice of an attorney to determine your rights and duties in this particular situation. Generally any appeal must be filed with the Environmental Division within 30 days of the issuance of the decision.

Based on the above-referenced DRB approval I have issued East Montpelier Zoning Permit #18-042 for a 4-lot subdivision of your 835 Dodge Road property. You have 180 days to duly file and record a mylar copy of the approved subdivision plat with the East Montpelier Town Clerk as required by the East Montpelier Land Use & Development Regulations Section 6.6 coupled with 24 V.S.A. §4463(b). The mylar must be certified by me, the zoning administrator, as a true copy of the approved subdivision plat prior to recording.

Feel free to contact me if you have any questions concerning this matter.

Sincerely,



C. Bruce Johnson  
East Montpelier Zoning Administrator

**TOWN OF EAST MONTPELIER  
DEVELOPMENT REVIEW BOARD**

**FINDINGS & DECISION**

In the matter of:       Michael & Jamie O’Hare  
                                  835 Dodge Road  
                                  Parcel # 06-056.000   Tax Map # 08-03-01.000

East Montpelier Zoning Application #18-042

**INTRODUCTION & PROCEDURAL HISTORY**

1. On September 12, 2018, Michael and Jamie O’Hare filed an application with the Town of East Montpelier to subdivide their property located at 835 Dodge Road. The proposal would divide the 40-acre parcel into four 10-acre lots: Lot 1 with frontage on Dodge Road; Lot 2 served by an access easement over Lot 1; Lot 3 with existing structures and frontage on Dodge Road; and Lot 4 served by an access easement over the land of Barry Rufenacht at 585 Dodge Road.
2. The property in question is located in the Agricultural/Forest Conservation District – Zone E, where the minimum lot size is 7 acres and subdivisions require approval from the Development Review Board.
3. Applicant representative Kris Jurentkuff appeared before the DRB on September 4, 2018 for an East Montpelier Land Use & Development Regulations Section 6.3 sketch plan review of the proposed subdivision. The DRB determined that this would be considered a major subdivision for regulatory purposes, which requires multiple hearings and DRB approval of a preliminary plan and then, subsequently, a final plan.
4. A public notice for the preliminary plan hearing was duly published in the Times Argus on September 15, 2018, which was conducted on October 2, 2018.
5. Applicants Jamie & Michael O’Hare, Applicant representative Craig Chase, neighboring property owners Bernadette Cleland, Albert Miller, Pat Fitzsimmons, and Barry Rufenacht, and Zoning Administrator Bruce Johnson appeared and participated in the October 2, 2018 hearing. There was no additional public comment.
6. The Board members who voted on this issue at the October 2, 2018 hearing were Curtis, Kappel, Welch, Lange, Dworkin, Watson, and Lane. The DRB gave preliminary plan approval by written decision on October 8, 2018.
7. On November 14, 2018, applicants submitted a revised subdivision plat and requested that the application move forward to the final plan review.

8. A public notice for the final plan hearing was duly published in the Times Argus on November 17, 2018, which was conducted on December 4, 2018.
9. Applicants Jamie & Michael O'Hare, Applicant representative Craig Chase, neighboring property owners Bernadette Cleland, Albert Miller, Richard Davidian, and Barry Rufenacht, and Zoning Administrator Bruce Johnson appeared and participated in the December 4, 2018 hearing. There was no additional public comment.
10. The Board members who voted on this issue at the December 4, 2018 hearing were Kappel, Welch, Cueto, Dworkin, and Lane.

## **FINDINGS OF FACT**

1. Michael & Jamie O'Hare own a developed 40.0-acre parcel located at 835 Dodge Road. The current proposal is to subdivide the property to create three 10-acre lots for future development, leaving a 10-acre remainder lot with the existing structures.
2. The property is located in Zone E – the Agricultural & Forest Conservation District, where a conforming lot requires 7 acres and 350 feet of road frontage. Lot 1 contains 10.0 acres with 1,129 feet of frontage on Dodge Road. Lot 2 contains 10.0 acres served by a 60-foot-wide access easement over Lot 1. Lot 3 contains 10.0 acres and 867 feet of frontage on Dodge Road. Lot 4 contains 10.0 acres served by a 60-foot-wide access easement of the property of Barry Rufenacht at 585 Dodge Road.
3. As part of the DRB's preliminary plan approval applicants agreed to make alterations to minimize the concerns of abutting neighbors with respect to the access easements. The revised subdivision plat includes a curve to the north at the eastern end of the easement serving Lot 2.
4. On December 3, 2018, the East Montpelier Selectboard approved a new multi-residential curb cut off Dodge Road for the use of Lots 1 & 2. Also on that date the Selectboard authorized a shift in the existing Rufenacht curb cut to multi-residential status for the benefit of Lot 4.
5. As authorized by the DRB's preliminary plan approval, building envelopes are not included on the subdivision plat. No development of the proposed new lots is currently contemplated, but the lots are clearly intended for development at some point in the future.
6. Lots 1, 2 & 4 are expected to become building lots. At this point, however, there is no intention of obtaining state water & wastewater permits. All three lots have been evaluated for such purposes and there are known areas that should support the necessary permitting for single-family residential use.

7. There are significant wetland areas on Lot 1. The wetland boundaries have been delineated. Both the boundaries and the regulatory buffer areas are shown on the subdivision plat.

## CONCLUSIONS

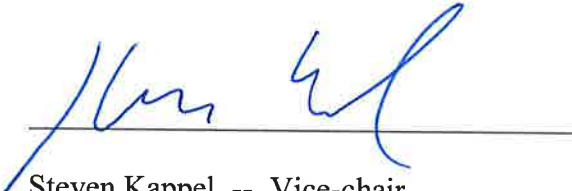
The standards for the issuance of a subdivision permit are set forth in Sections 6.7 through 6.10 of the East Montpelier Land Use & Development Regulations. It is found that the standards in Sections 6.7, 6.8, & 6.9 have been reviewed, and the proposed subdivision meets all applicable requirements. It is further found that Section 6.10 does not apply to this project.

## DECISION

By unanimous vote, the DRB approves Zoning Permit #18-042 to allow the subdivision of the O'Hare parcel located at 835 Dodge Road as presented.

**Warning:** State permits may be required for this project. The applicant or permittee retains the obligation to identify, apply for, and obtain relevant state permits for this project. Call (802) 505-5367 to speak to the state Permit Specialist before beginning any construction.

Dated this 6<sup>th</sup> day of December, 2018.



Steven Kappel -- Vice-chair  
East Montpelier Development Review Board

**Notice:** The applicant, appellant or other interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the DRB within 30 days of the issuance of such decision, to the Environmental Division of the Vermont Superior Court, in accordance with 24 V.S.A. §4471.

1. "Participation" in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
2. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Division of the Vermont Superior Court and by mailing a copy to the East Montpelier Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

Permit # 18-042  
Zoning District E  
Overlays WR/RC

**ZONING PERMIT APPLICATION**  
**TOWN OF EAST MONTPELIER**  
PO Box 157, East Montpelier, VT 05651

Date Received: 9/12/18  
Parcel # 06-056.000  
Tax Map # 08-03-01.000

- \*\*\*\*\*
- A. 1. Name of Landowner Michael & Jamie O'Hare Phone No. 802-229-9217  
2. Address of Landowner 835 Dodge Road, East Montpelier, VT 05641  
3. Applicant (other than owner) \_\_\_\_\_ Phone No. \_\_\_\_\_  
4. Address of Applicant \_\_\_\_\_  
5. Location of Property 835 Dodge Road, East Montpelier, VT 05641

**B: Application is made (check appropriate boxes):**

- |                                     |   |   |
|-------------------------------------|---|---|
| To:                                 | For:  | For:  |
| <input type="checkbox"/> Construct  | <input type="checkbox"/> One <input type="checkbox"/> Two-family dwelling | <input checked="" type="checkbox"/> Subdivision of land |
| <input type="checkbox"/> Repair     | <input type="checkbox"/> Multi-family dwelling                            | <input type="checkbox"/> Boundary adjustment            |
| <input type="checkbox"/> Alter      | <input type="checkbox"/> Accessory Structure                              | <input type="checkbox"/> Extraction of earth resources  |
| <input type="checkbox"/> Extend     | <input type="checkbox"/> Commercial / Business                            | <input type="checkbox"/> Ground water withdrawal        |
| <input type="checkbox"/> Remove     | <input type="checkbox"/> Light Industrial                                 | <input type="checkbox"/> Landfilling                    |
| <input type="checkbox"/> Change use | <input type="checkbox"/> Industrial                                       | <input type="checkbox"/> Other                          |

Describe work to be performed To subdivide PID 06-056 into 4 lots. Lots 1, 2, & 4 have 10.0 acres each with proposed on-site sewer and water. Lot 3 has 10.0 acres with existing on-site sewer and water, and a designated replacement area to serve the existing single family residence. Lot 4 is served by an existing 60' ROW and Lot 2 is served by a proposed 60' ROW across Lot 1 per the included plan. Lots 3 & 4 have frontage on Dodge Road.

- C. Lot description:
- |   |   |
|---|---|
| 1. acreage <u>40.0 +/-</u>  | 4. depth side yards <u>50' (min)</u> Ft. _____ Ft. _____<br>(building to lot lines) |
| 2. road frontage <u>350' (min)</u> Ft. _____                                    |   |
| 3. depth front yard <u>75' (min)</u> Ft. _____<br>(Road centerline to building) | 5. depth rear yard <u>50' (min)</u> Ft. _____<br>(building to lot line)             |

**Important** - Submit site location map which describes the property on which the proposed land development is to occur. The map should indicate the length in feet of each boundary, the location and dimensions in feet of the development within the property, the distance from that development to all adjacent property lines and the distance to the public road centerline. Each parcel created by land development should be clearly described.

**READ BELOW CAREFULLY AND SEE SECTION D ON PAGE 2 OF APPLICATION:**

In accordance with 24 V.S.A. §4446, no development or subdivision of land may begin in the Town of East Montpelier until all applicable municipal land use permits and approvals have been issued. The undersigned requests a zoning permit as described above, understanding that the permit will be voided and penalties imposed, if the land development is not completed as described. The permit will be voided if development is not substantially commenced within one year from date of issue. The undersigned hereby applies on the basis of the representations contained herein, and to the best of his/her knowledge believes them to be true. The undersigned acknowledges the Section D notices on page 2 of this application.

Landowner Jamie O'Hare / Michael Date 9/11/18  
Applicant \_\_\_\_\_ Date \_\_\_\_\_

\*\*\*\*\*

Zoning Permit Fee: \$ 550.00 Cash \_\_\_\_\_ Check \$4787 Date 9/12/18 Rec'd by D.S.  
DRB Hearing Fee: \$ \_\_\_\_\_ Cash \_\_\_\_\_ Check \_\_\_\_\_ Date \_\_\_\_\_ Rec'd by \_\_\_\_\_

Make checks payable to the "Town of East Montpelier"

**D. Warning:** State permits may be required for this project. The applicant or permittee retains the obligation to identify, apply for, and obtain relevant state permits for this project. Call (802) 476-0195 to speak to the state Permit Specialist before beginning any construction.

**Notice:** Your project may be subject to the state's residential or commercial energy code. For more information contact the Energy Code Assistance Center at 855-887-0673 or see the following web pages: Residential Building Energy Standards: [http://publicservice.vermont.gov/topics/energy\\_efficiency/rbes](http://publicservice.vermont.gov/topics/energy_efficiency/rbes) Commercial Building Energy Standards: [http://publicservice.vermont.gov/topics/energy\\_efficiency/cbes](http://publicservice.vermont.gov/topics/energy_efficiency/cbes)

**E. Action by Zoning Administrator:**


1.  Granted  Denied Date ..... Reason.....

2. Appealed to Development Review Board ..... By .....  
Date

**Notice:** Appeal from a decision or act of the Zoning Administrator must be made in writing to the Development Review Board &/or Town Clerk within 15 days of the decision or act. The appeal fee is \$150.00.

3. Final Action: Permit # 18-042 Date Issued 12/06/18 Effective Date 12/21/18

**DO NOT start this project prior to the effective date, as the statutes require a 15-day appeal period. If this permit is based upon a Development Review Board approval, be advised that any appeal of that approval could affect the validity of this permit – do not start project or commence use until that DRB approval is final and clear of any appeal process.**

  
Zoning Administrator

**F. Action by Development Review Board:**

1. Public Notice Date 9/15/2018, 11/17/2018

2. Date(s) of Hearing 12/4/2018

3.  Granted  Without conditions  With conditions (See written decision for conditions)

4.  Denied (See written decision for reasoning)

  
Vice Chairman, Development Review Board

The DRB's written decision was issued on: December 6, 2018

The applicant, appellant or other interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the DRB within 30 days of the issuance of such decision, to the Environmental Division of the Vermont Superior Court, in accordance with 24 V.S.A. §4471.

1. "Participation" in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
2. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Division of the Vermont Superior Court and by mailing a copy to the East Montpelier Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.



Surveyors & Septic Designers, Inc

301 North Main Street, Suite 1  
Barre, Vt. 05641  
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September 12, 2018

Bruce Johnson, Zoning Administrator  
Town of East Montpelier  
P.O. Box 157  
East Montpelier, VT 05651

RE: Proposed 4-Lot Subdivision, Michael & Jamie O'Hare, 835 Dodge Road, Parcel ID #08-03-01.000

Dear Bruce,

Please find attached what we hope to be a complete application for preliminary review of the subdivision of the lands of Michael & Jamie O'Hare. As presented at conceptual review on September 4, the proposal is to subdivide the existing 40 acre parcel as developed with the existing residence into four lots: Lots 1, 2 and 4 of 10.0 acres each for the construction of single-family residences, and Lot 3 of 10.0 acres including the existing single-family residence. As a four lot subdivision, this project was deemed a major subdivision by the DRB at the conceptual meeting.

The "back lot" configuration, with slight refinements to the plan presented at conceptual, has been decided upon by the O'Hare's, eliminating road frontage for Lot 2 and serving it with a 60' wide right-of-way through Lot 1. Lot 1 has benefit of over 1000' of frontage along Dodge Road. Lot 3 with the existing house has adequate frontage along Dodge Road and will be accessed via the existing driveway. Lot 4 does not have frontage along Dodge Road, but will be accessed along an existing right-of-way over lands of Rufenacht. Upon preliminary approval of this subdivision, the access points for Lots 1, 2 and 4 will be reviewed by Road Foreman Guthrie Perry and access permit applications will be submitted to the Selectboard for review and approval...all prior to the hearing for final approval by the DRB.

Lots 1, 2 & 4 are to be served by on-site water supply and sewage disposal systems. Adequate soils for mound-type disposal systems have been identified on each lot, as well as for a replacement area designation for the existing residence on Lot 3. It is the owners wish to market these lots with only the assurance that a viable sewage disposal is available...without pursuing the State Wastewater and Water Supply Permits that will be necessary prior to construction. This final step is to be left to the buyers based on their specific development plans.

A review of the State ANR Natural Resources Atlas reveals no identified protected or endangered natural features. A printout of that review is included here. As part of our normal on-the-ground due diligence, we did identify two areas of potential wetlands. These areas were delineated by Gilman & Briggs Environmental and a mapping of that delineation is shown on the project plan. These wetlands appear to meet the presumptive Class II standard and therefore are subject to an additional 50' no-disturb buffer. This buffer has also been shown on the plan, along with 5-foot interval contours extracted from the VCGI lidar database.

In keeping with the owner's wishes to allow buyers for the lots to determine how the parcels are to be developed, we have not identified building envelopes. Certainly, areas suitable for development will be



controlled by the required setbacks applicable to the zone, as well by other features, such as the wetlands and buffers. But the owner does not believe that further restricting the location of development by simply saying "you must build here", without benefit of knowing the wishes of a given buyer, is not the best way to approach the development of these large parcels.

This proposal reflects the owner's wishes as to how to approach the subdivision of their land. We believe that the subdivision as presented is in full conformance with the Development Regulations and hope that you and the Board agree. As always, if you have any questions or comments about this application, please don't hesitate to call. Thank you.

Sincerely,



Kris Jurentkuff  
Senior Technician





# O'Hare -- 835 Dodge Road

East Montpelier, VT

1 inch = 537 Feet



September 4, 2018



[www.cai-tech.com](http://www.cai-tech.com)



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.