

# 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

May 13, 2019

Kevin Bailey  
86 Curtis Road  
Barre, VT 05641

Re: East Montpelier Zoning Application #19-014

Dear Mr. Bailey:

Please find enclosed the written decision of the East Montpelier Development Review Board approving application #19-014, your request to construct a duplex on your off-US Rte. 2 parcel, 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 #19-014 for construction of a duplex on your property located off US Rte. 2 behind Classic Auto. This permit is specifically conditioned on you obtaining the necessary state water & wastewater permit prior to commencing construction. Also, your lot will need an E-911 street address, a process that will likely result in readdressing of all the lots utilizing the access drive off US Rte. 2. When you're ready to develop the lot, please let me know so that I can get that process in gear (essentially we'll be giving the drive an actual road name and addressing the lots off of that drive).

Please 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:       Kevin Bailey  
                                  Off US Rte. 2/Lot 3 of the 2006 Ken Bailey Subdivision (#05-107)  
                                  Parcel # 10-077.600   Tax Map # 09-00-93.225

East Montpelier Zoning Application #19-014

**INTRODUCTION & PROCEDURAL HISTORY**

1. On April 12, 2019, Kevin Bailey submitted an application with the Town of East Montpelier for conditional use approval to construct a duplex/two family dwelling on his residential property located off US Rte. 2 behind Classic Auto (4243 US Rte. 2), known as Lot 3 of the 2006 Ken Bailey Subdivision (#05-107).
2. The property in question is located in the Commercial District – Zone A, where two family dwelling use requires conditional use review by the Development Review Board.
3. A public notice was duly published in the Times Argus on April 20, 2019 for a hearing, which was conducted on May 7, 2019.
4. Owner Kevin Bailey, owner representative Craig Chase, abutting landowners Norman & Carla Messier, and Zoning Administrator Bruce Johnson appeared and participated in the May 7, 2019 hearing. There was no additional public comment.
5. The Board members who voted on this issue at the May 7, 2019 hearing were Kappel, Cueto, Hill, Justis, Dworkin, Lane, Watson, Cutler, and Weyant.

**FINDINGS OF FACT**

1. Applicant requests approval to construct a 26' x 69', two bedrooms/unit, duplex on Lot 3 of the 2006 Ken Bailey subdivision (#05-107).
2. The property is located in Zone A – the Commercial District, where duplex/two family dwelling use is a conditional use. Any new residential use in Zone A is a listed conditional use, but the 2006 Ken Bailey subdivision (#05-107) approved by the East Montpelier Planning Commission included a 3-bedroom, single family residential use of

this parcel. This application is essentially requesting a shift from single family to two family residential use.

3. Both the regulatory special flood hazard area and river corridor area affect this parcel. The section of the parcel designated for the two family dwelling use, including the structure, driveway, parking area, and water/wastewater infrastructure, is outside of both regulatory zones.
4. The existing water/wastewater permit for the lot is from the 2006 subdivision. The permit contemplates a shared use of the well between Lots 2 & 3. Lot 2 is developed with a single family residence. Applicant will be applying for a permit amendment that will provide a separate well for Lot 3 and a new design for the septic disposal area to meet the needs of the duplex instead of a 3-bedroom house. Applicant understands that there can be no construction under any issued building permit until the updated water/wastewater permit is issued.
5. Lot 3 utilizes a shared drive for access off of US Rte. 2. The Vermont Agency of Transportation is responsible for determining any access improvements required for the project. At this point it does not appear improvements will be required.

## CONCLUSIONS

The standards for the issuance of a conditional use permit are set forth in Section 5.5 of the East Montpelier Land Use & Development Regulations. It is found that the five general standards in Section 5.5 (C) have been reviewed, and the proposed use will not adversely affect any of them. It is further found that the specific standards in Section 5.5 (E) are not applicable to the project. As part of conditional use review Section 5.4 (C) site plan standards have been evaluated and incorporated into this decision.

## DECISION

By unanimous vote, the DRB approves Conditional Use Permit #19-014 to allow as presented the requested duplex/two family dwelling use of the Kevin Bailey parcel off US Rte. 2 known at Lot 3 of the 2006 Ken Bailey Subdivision (#05-107).

**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 13<sup>th</sup> day of May, 2019.

A handwritten signature in blue ink, appearing to read 'Steve Kappel', is written over a horizontal line.

Steve Kappel -- 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.

# Town of East Montpelier

# ZONING PERMIT

## NOTICE

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

Date Issued: May 13, 2019

Effective Date: May 28, 2019

Location: Lot 3 of 2006 / Off  
Ken Bailey Subdivision / US Rte. 2

Owner: Kevin Bailey

For: 26' x 69' Duplex

See back for water/wastewater condition

Application # 19-014

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.

### **Section 3.18 Water Supply & Wastewater Disposal**

No building or structure intended for human occupancy shall be erected, altered or converted to another use unless adequate water supply and wastewater disposal systems are provided in compliance with all applicable municipal and state regulations.

**No construction may be commenced under an East Montpelier Zoning Permit unless and until proof of issuance of any and all required state wastewater and potable water supply permits is submitted to the Zoning Administrator.** In situations where a state wastewater permit is required, no Certificate of Compliance may be issued under Article 7 Section 7.4 of these regulations until a copy of the pre-cover-up inspection report is submitted to the Zoning Administrator.

Permit # 19-014

**ZONING PERMIT APPLICATION**

Date Received: 4/12/19

Zoning District A

**TOWN OF EAST MONTPELIER**

Parcel # 10-077.600

Overlays SFHA, RC

PO Box 157, East Montpelier, VT 05651

Tax Map # 09-00-93.225

\*\*\*\*\*

- A.**
- Name of Landowner Kevin Bailey Phone No. (802) 272-1343
  - Address of Landowner 86 Curtis Road, Barre, VT 05641
  - Applicant (other than owner)..... Phone No.....
  - Address of Applicant.....
  - Location of Property US Rte 2, East Montpelier, VT 05651

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

- |  |  |  |
|--|--|--|
| <b>To:</b>                                     | <b>For:</b>  | <b>For:</b>  |
| <input type="checkbox"/> Construct             | <input type="checkbox"/> One <input checked="" type="checkbox"/> Two-family dwelling | <input 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 checked="" type="checkbox"/> Change use | <input type="checkbox"/> Industrial  | <input type="checkbox"/> Other                         |

Describe work to be performed.....

To build a two bedroom x two bedroom duplex (26' x 69') instead of a three bedroom single-family residence, as was previously permitted.

- C. Lot description:**
- acreage 1.58 Acres
  - road frontage 60' Easement Ft.
  - depth front yard 111' Ft.  
(Road centerline to building)
  - depth side yards 28' Ft. 240' Ft.  
(building to lot lines)
  - depth rear yard 105' Ft.  
(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 [Signature] Date 4/12/19  
Applicant [Signature] Date .....

\*\*\*\*\*

Zoning Permit Fee: \$ 300.00 Cash [initials] Check #1137 Date 4/12/19 Rec'd by DS.

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) 505-5367 to speak to Peter Kopsco, our region's 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/energy\\_efficiency/rbes](http://publicservice.vermont.gov/energy_efficiency/rbes)  
Commercial Building Energy Standards: [http://publicservice.vermont.gov/energy\\_efficiency/cbes](http://publicservice.vermont.gov/energy_efficiency/cbes)

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**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 # 19-014 Date Issued 05/13/19 Effective Date 05/28/19

**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.**

4. Permittee is required to submit a Certificate of Compliance form to the Zoning Administrator in accordance with East Montpelier Land Use & Development Regulations Section 7.4:

☒ Yes (form included with permit) ☐ No

  
Zoning Administrator

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

1. Public Notice Date 4/20/19

2. Date(s) of Hearing 5/7/2019

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

4. ☐ Denied (See written decision for reasoning)

  
Chairman, Development Review Board

The DRB's written decision was issued on: May 13, 2019

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.

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**CAI Technologies**  
Pittsburgh's Mapping & Geospatial Experts



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# Bailey -- Lot 3 of 2006 Bailey Subdivision

East Montpelier, VT



April 11, 2019

1 inch = 537 Feet

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



PLAINFIELD

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.