

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 12, 2021

Effective Date:

May 27, 2021

Location:

61 Pauls Square

Owner: Penelope Howard & Tim Smith

For: 8' x 16' Addition to Garage

Application #

21-021

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
manager@eastmontpeliervt.org
(802) 223-3313 ext. 204

May 12, 2021

Penelope Howard
Jim Smith
61 Pauls Square
East Montpelier, VT 05651

Re: East Montpelier Zoning Applications #21-021

Dear Ms. Howard & Mr. Smith:

Please find enclosed the written decision of the East Montpelier Development Review Board approving the setback waiver request contained in your zoning application #21-021 as presented subject to the following condition:

- **The existing, non-permitted portable garage structure located to the south of the garage shall be removed from the property prior to use of the approved garage addition.**

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 #21-021 authorizing the construction of the requested addition to the existing garage on your property located at 61 Pauls Square.

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: Penelope Howard & Jim Smith
 61 Pauls Square
 Parcel # 09-032.000 Tax Map # 21-52-64.000

East Montpelier Zoning Application #21-021

INTRODUCTION & PROCEDURAL HISTORY

1. On April 12, 2021, Penelope Howard and Jim Smith filed an application with the Town of East Montpelier to construct a 16' x 8' addition to their existing garage at their property located at 61 Pauls Square. The chosen location for the addition extends into the south side setback approximately 8 feet and into the rear setback approximately 6 feet.
2. The property in question lies in the Residential and Commercial District – Zone C, where the minimum front setback is 25 feet. Due to the desire to construct the addition closer to the rear and side property lines than normally allowed, applicants are requesting rear and side East Montpelier Land Use & Development Regulations Section 3.14 setback waivers from the Development Review Board.
3. A public notice was duly published in the Times Argus on April 17, 2021 for a hearing, which was conducted on May 4, 2021.
4. Zoning Administrator Bruce Johnson appeared on behalf of the applicants and participated in the May 4, 2021 hearing. There was no additional public comment.
5. The Board members who voted on this issue at the May 4, 2021 hearing were Cueto, Watson, Hill, Justis, Weyant, Lane, and Oates.

FINDINGS OF FACT

1. Applicants propose to construct a 16' x 8' addition to the existing garage on their single-family residential property located at 61 Pauls Square. The proposed site for the addition is on the south side of the garage, running 16 feet along the 25-foot-deep garage from the front (east, roadside) end and extending out 8 feet to the south.
2. The property is located in Zone C – the residential & commercial district, where the side and rear setbacks are 25 feet from abutting property lines. The existing garage, constructed

in 1964 before zoning regulations were established in East Montpelier, is located approximately 10 feet from the property line to the rear of the parcel and 25 feet from the property line to the south side of the parcel. As such the garage is a Section 3.10(A) nonconforming, pre-existing structure that cannot be enlarged in a way that increases the degree of non-conformance absent a finding by the DRB that the increase is necessary due to mandated federal or state regulations. Applicants are not requesting a finding of that nature.

3. Applicants propose to locate the addition at its closest point approximately 19 feet from the rear property line and 17 feet from the south side property line, necessitating a 6-foot rear setback waiver and an 8-foot side setback waiver under the provisions of East Montpelier Land Use & Development Regulations Section 3.14. The maximum rear or side setback waiver the DRB can allow in Zone C is 8.33 feet.
4. Applicants' lot, like all the Pauls Square lots, pre-exists East Montpelier zoning and is severely undersized. The square-shaped, 0.28-acre lot is improved with a single-family house, detached 2-car garage, driveway and septic system infrastructure, leaving little available space for further development.
5. Both the south side and rear abutting properties have fences separating their lots from the Howard/Smith parcel. There is significant landscaping along both sides of the fence lines separating the Howard/Smith parcel from the abutters, providing screening for the garage area.
6. There is an existing portable garage shelter that currently houses garden and lawncare equipment. The shelter does not have a permit and is located within the south side setback. Applicants have agreed to remove this shelter as part of this permit application.

CONCLUSIONS

The standards for the issuance of a setback waiver are set forth in Section 3.14 of the East Montpelier Land Use & Development Regulations. It is found that the requested 8' side setback and 6' rear setback waivers are necessary, due to existing parcel limitations, to allow for a reasonable development of the Howard/Smith lot. It is further found that the requested waivers are in conformance with the Town Plan and the goals of 24 V.S.A. §4302, will not affect the overall character of the neighborhood, and do not exceed one-third of either the required rear setback or the required side setback.

DECISION

By unanimous vote, the DRB approves an 8-foot Section 3.14 side setback waiver and a 6-foot Section 3.14 rear setback waiver to allow the construction of a 16' x 8' garage addition as presented in Zoning Application #21-021 subject to the following condition:

- **The existing, non-permitted portable garage structure located to the south of the garage shall be removed from the property prior to use of the approved garage addition.**

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 12th day of May, 2021.



Jeffrey Cueto – 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 # 21-021**ZONING PERMIT APPLICATION**Date Received: 4/12/21Zoning District C**TOWN OF EAST MONTPELIER**Parcel # 09-032.000Overlays ---

PO Box 157, East Montpelier, VT 05651

Tax Map # 21-52-64.000

- A. 1. Name of Landowner Penelope Howard & Jim Smith Phone No. 461-7538
2. Address of Landowner 61 Pauls Square, East Montpelier, VT 05651
3. Applicant (other than owner)..... Phone No.....
4. Address of Applicant.....
5. Location of Property 61 Pauls Square

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 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 checked="" type="checkbox"/> Accessory Structure | <input type="checkbox"/> Extraction of earth resources |
| <input checked="" 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 Construct 8' x 16' addition to 20' x 25' garage

Requesting a side setback waiver of 8 feet and a rear setback waiver of 6 feet

Existing pop-up garage will be removed

C. Lot description:

- | | |
|------------------------------------|---|
| 1. acreage <u>0.28</u> acres | 4. depth side yards <u>17'</u> to S. Ft. <u>70'</u> to N. Ft. |
| 2. road frontage <u>None</u> Ft. | (building to lot lines) |
| 3. depth front yard <u>75'</u> Ft. | 5. depth rear yard <u>19'</u> Ft. |
| (Road centerline to building) | (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 Jimmie R. Smith Date 4-9-21

Applicant _____ Date _____

Zoning Permit Fee: \$ 185.00 Cash _____ Check #3385 Date 4/12/21 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
Commercial Building Energy Standards: http://publicservice.vermont.gov/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 # 21-0021 Date Issued 05/12/21 Effective Date 05/27/21

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

F. Action by Development Review Board:

1. Public Notice Date 04/17/2021

2. Date(s) of Hearing 05/04/2021

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 12, 2021

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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Howard/Davis -- 61 Pauls Square

East Montpelier, VT

1 inch = 30 Feet



April 9, 2021



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.



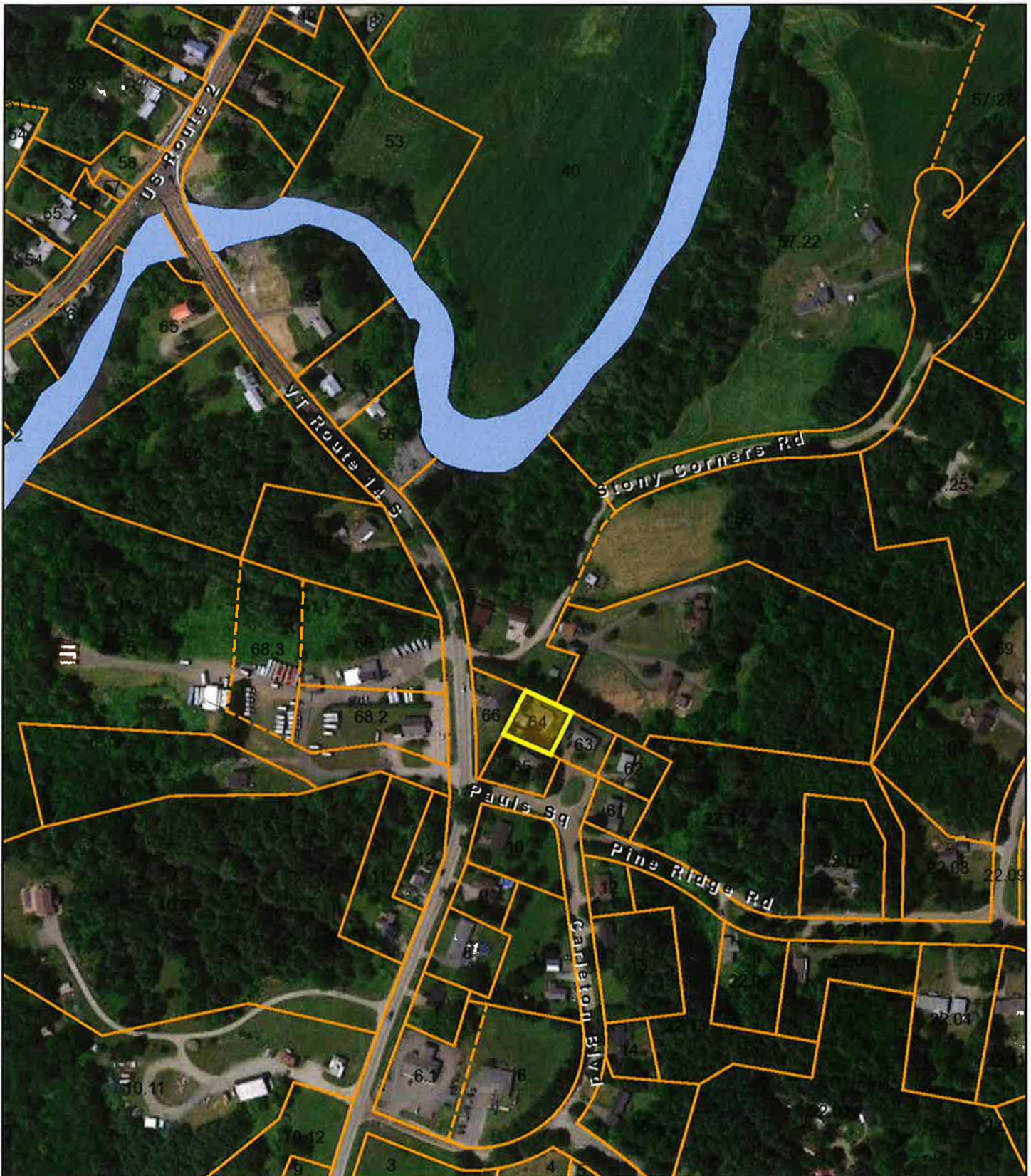
Howard/Davis -- 61 Pauls Square

East Montpelier, VT

1 inch = 305 Feet



April 9, 2021



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