

Town of East Montpelier

ZONING PERMIT

NOTICE

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

Date Issued: September 20, 2021

Effective Date: October 5, 2021

Location: 1294 Brazier Road

Owner: Cody & Michelle Blake

For: Approval of the As-Built Building Height
of the Garage/Residence Built under Permit # 20-026

Application # 21-049

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

September 20, 2021

Cody & Michelle Blake
93 Woodland Drive
Barre, VT 05641

Re: East Montpelier Zoning Applications #21-049

Dear Mr. & Ms. Blake:

Please find enclosed the written decision of the East Montpelier Development Review Board approving the building height variance request contained in your zoning application #21-049 as presented subject to the following conditions:

- **The structure shall not constitute a hazard to public safety or adjoining properties;**
- **The portion of the structure above the district maximum height shall remain unoccupied except for normal maintenance;**
- **The structure shall not be used for advertising purposes;**
- **The portion of the structure above the maximum height for the district within which it is located shall not be lighted; and,**
- **The proposed building height and scale shall remain consistent with the character of the immediate surroundings.**

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 #21-049 authorizing the over-height aspect of the garage/residence structure constructed under Zoning Permit #20-026 on your property located at 1294 Brazier Road.

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: Cody & Michelle Blake
 1294 Brazier Road
 Parcel # 05-096.040 Tax Map # 08-03-27.316

East Montpelier Zoning Application #21-049

INTRODUCTION & PROCEDURAL HISTORY

1. On August 9, 2021, Cody & Michelle Blake submitted an application with the Town of East Montpelier for a 4'7" building height standard variance to allow the as-built construction of a 36'x 50' garage & residential structure, originally authorized by East Montpelier Zoning Permit #20-026, at their property located at 1294 Brazier Road.
2. The property in question lies in the Rural Residential/Agricultural District – Zone D, where the building height maximum is 35 feet above average finished grade. The building as constructed is expected, when construction and grounds work is complete, to be 39'7" above average finished grade, 4'7" higher than is allowed. The applicant is requesting an East Montpelier Land Use & Development Regulations Section 7.6 building height standard variance from the Development Review Board.
3. A public notice was duly published in the Times Argus on August 21, 2021 for a hearing, which was conducted on September 7, 2021.
4. Applicants Cody & Michelle Blake, applicant representatives Tom Brazier and Greg Blake, Poulin Lumber representative Mike Blouin and Zoning Administrator Bruce Johnson appeared and participated in the September 7, 2021 hearing. There was no additional public comment.
5. The Board members who voted on this issue at the September 7, 2021 hearing were Kappel, Cueto, Lane, Watson, Cutler, Hill, Justis and Weyant.

FINDINGS OF FACT

1. Applicants request after-the-fact approval through a regulatory variance for an over-allowed-height garage/residence structure constructed under East Montpelier Zoning Permit #20-026. Applicants stopped work on the nearly completed building when the over-height aspect was noted and filed this application for a height variance.
2. The property is located in Zone D – the rural residential & agricultural district. The maximum allowed building height, generally to the highest roof surface point, is 35 feet over the average finished grade of the surrounding grounds. The projected building height of the structure as built is 39'7", over the maximum by 4'7".

3. In 2020 East Montpelier Zoning Administrator Bruce Johnson issued Zoning Permit #20-026 for a new garage with a second story apartment, the now-constructed building at issue in this case. A complicating factor with this variance application is that the original permit anticipated a 5/12 pitch and a roof ridgeline running with the length of the building, with an expected finished height of 29 feet. The original intent was to utilize the second floor as a temporary residence while constructing a separate house structure. The second floor would then become office space. In 2021 the owners decided, due to construction costs, to make the second floor the permanent residence. The new plans called for the 7/12 roof pitch and a ridgeline running the width of the building, increasing the height to 35 feet. Although the changed plans were not presented to the ZA, structure alterations occur frequently and, as long as the regulatory setback and use expectations continue to be met, permit amendments are easily procured after-the-fact. Other than the over-height aspect, there are no known regulatory issues with the structure as constructed.
4. Applicants acknowledge their plan amendments drove the building height up to approximately 35 feet above finished grade, but allege contractor error by Poulin Lumber resulted in the additional 4-plus feet of height to the structure.
5. The DRB initially reviewed this request under the standard Section 7.6 variance provision, but was uncomfortable with the fit of this scenario with the mandatory five criteria in the Section 7.6 regulation. The DRB shifted review to the Section 3.6 (B) provision which authorizes the DRB to allow over-height structures in certain situations subject to conditional use review.
6. Findings on the Section 3.6 (B) criteria:
 - (1) The structure does not constitute a hazard to public safety, or to adjoining properties.
 - The structure is not a hazard
 - (2) That portion of the structure above the district maximum height shall remain unoccupied except for normal maintenance.
 - No one will be living in the attic, which is the only over-height area
 - (3) The structure is not to be used for advertising purposes.
 - The over-height area will not be used for advertising
 - (4) The portion of the structure above the maximum height for the district within which it is located shall not be lighted.
 - The top of the house will not be lit on the exterior
 - (5) The proposed building height and scale are consistent with the character of the immediate surroundings.
 - The height of the structure is not out of character for the neighborhood where several older structures appear to be over the 35' level and the structure does not obstruct views from the neighboring properties

CONCLUSIONS

The standards for authorization of over-height structures are set forth in Section 3.6 (B) of the East Montpelier Land Use & Development Regulation. It is found that the five criteria have been reviewed and the proposal is in accord with all five criteria.

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 proposal 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 as Conditional Use Permit #21-049, granting an after-the-fact Section 3.6 (B) building height variance for the garage/residential structure constructed under Zoning Permit #20-026, subject to the following conditions:

- **The structure shall not constitute a hazard to public safety or adjoining properties;**
- **The portion of the structure above the district maximum height shall remain unoccupied except for normal maintenance;**
- **The structure shall not be used for advertising purposes;**
- **The portion of the structure above the maximum height for the district within which it is located shall not be lighted; and,**
- **The proposed building height and scale shall remain consistent with the character of the immediate surroundings.**

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 20th day of September, 2021.



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.

Permit # 21-049

ZONING PERMIT APPLICATION

Date Received: 8/9/21

Zoning District D

TOWN OF EAST MONTPELIER

Parcel # 05-096-040

Overlays

PO Box 157, East Montpelier, VT 05651

Tax Map # 08-03-27.316

A. 1. Name of Landowner: Cody & Michelle Blake Phone No. 802-371-9735

2. Address of Landowner 93 Woodland Drive, Barre Vt. 05641

3. Applicant (other than owner) Phone No.

4. Address of Applicant

5. Location of Property 1294 Brazier Rd Montpelier, 05602 (East Montpelier)

B: Application is made (check appropriate boxes):

To:

For:

For:

- ☐ Construct ☐ One ☐ Two-family dwelling
☐ Repair ☐ Multi-family dwelling
☐ Alter ☐ Accessory Structure
☐ Extend ☐ Commercial / Business
☐ Remove ☐ Light Industrial
☐ Change use ☐ Industrial

- ☐ Subdivision of land
☐ Boundary adjustment
☐ Extraction of earth resources
☐ Ground water withdrawal
☐ Landfilling
☒ Other

*Variance for
Request # 20-006
Permit*

Describe work to be performed

Requesting a Variance from the 35 foot height for Zone D.

After the trusses were installed we discovered the truss design was changed by the supplier to deal with the snow load that changed the over all building Height from 35.27 feet from garage floor to 39.07. This will be 39.7 from outside. Average ground level or 4.7 feet over height. This change was done without our consent. To change truss design, order new trusses, take down existing trusses would cause considerable hardship on us with costs and delays.

We feel this is a reasonable request as most of the other buildings in the area are around the same height and this would fit into the character of the area. Please see addendum materials!

C. Lot description:

1. acreage3.98.....
2. road frontage336.4..... Ft.
3. depth Rear yard100+..... Ft.
(Road centerline to building)
4. depth side yards58..... Ft.150+..... Ft.
(building to lot lines)
5. depth Front yard300+..... 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 Michelle Blake Date 8-9-21

Applicant Date

Zoning Permit Fee: \$ 150.00 Cash ☐ Check 838 Date 8/9/21 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

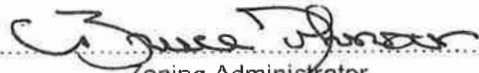
Notice: Appeal from a decision or act of the Zoning Administrator must be made in writing to the Development Review Board &/or Town Clerk within 15 days of the decision or act. The appeal fee is \$150.00.

3. Final Action: Permit # 21-049 Date Issued 09/20/21 Effective Date 10/05/21

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 08/21/2021

2. Date(s) of Hearing 09/07/2021

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

4. ☐ Denied (See written decision for reasoning)


Chairman, Development Review Board

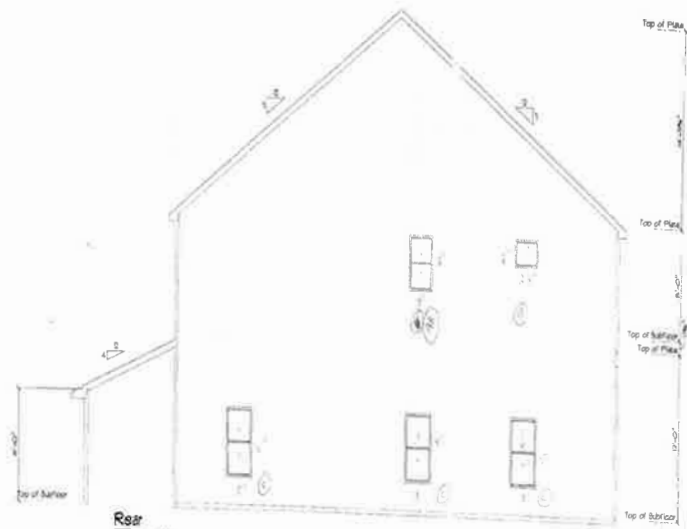
The DRB's written decision was issued on: September 20, 2021

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.

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.



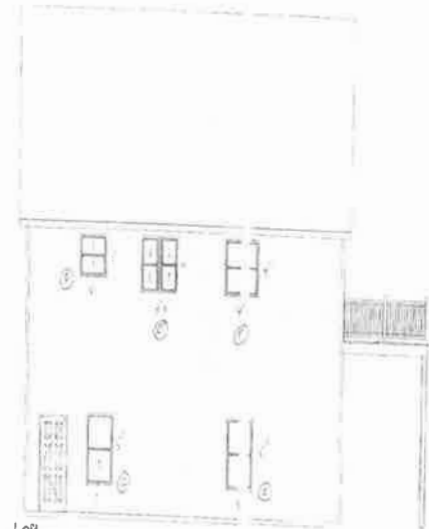
Right
SCALE 1/4" = 1'-0"



Rear
SCALE 1/4" = 1'-0"



Front
SCALE 1/4" = 1'-0"



Left
SCALE 1/4" = 1'-0"

| | | | |
|---|--|---|-----|
| SOFTPLAN <small>SOFTWARE FOR ARCHITECTS</small> | | DATE: Thursday, April 1, 2021 SCALE: 1/4" = 1'-0" DRAWN BY: | 1/1 |
| NAME: | | INDEX: | |



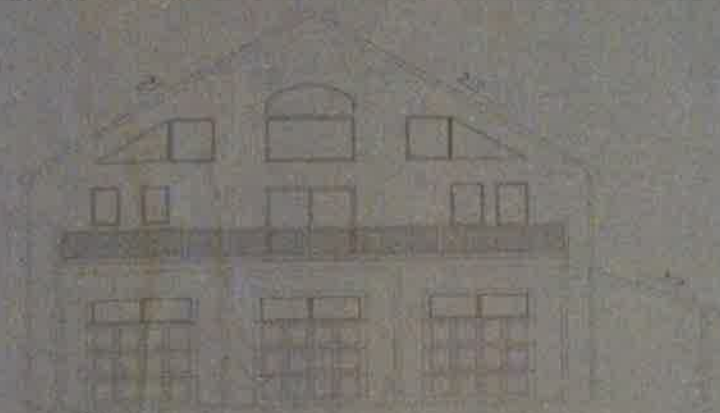
Right
ELEVATION



Rear
ELEVATION



Left
ELEVATION



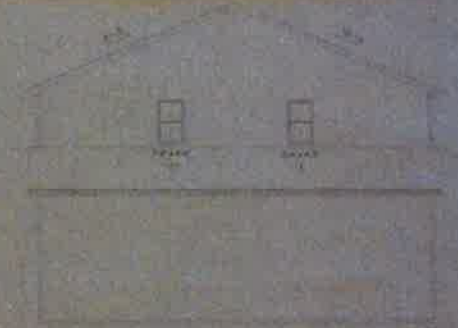
Front
ELEVATION

Final Sign off for roof trusses

| | | | |
|------------------------------|--|--|---|
| SOFTPLAN | | | Project: Date: Drawn by: Checked by: |
| 1/2" = 1'-0" 1/4" = 1'-0" | | | |



Rear
ELEVATION



Right
ELEVATION



Front
ELEVATION

Original drawing when we were going to build house next to this



Left
ELEVATION

| | | | |
|------------------------------|--|--|---|
| SOFTPLAN | | | Project: Date: Drawn by: Checked by: |
| 1/2" = 1'-0" 1/4" = 1'-0" | | | |





40' 5" to ground
after Driveway is complete
it will be 39' 7"



10' 2" Rough opening Garage Door



Road side approximately median ground level



tom brazier <brazierins@gmail.com>

Fwd: FW: blake

Cody Blake <getup2code@gmail.com>
To: brazierins@gmail.com

Mon, Aug 9, 2021 at 1:18 PM

----- Forwarded message -----

From: **Dan Fortin** <dfortin@poulinlumber.com>
Date: Fri, Aug 6, 2021, 9:00 AM
Subject: FW: blake
To: getup2code@gmail.com <getup2code@gmail.com>
Cc: Mike Blouin <mblouin@poulinlumber.com>

From: Mike Blouin
Sent: Thursday, August 5, 2021 6:51 AM
To: Dan Fortin <dfortin@poulinlumber.com>
Subject: FW: blake

Cody I write this e mail in response to your looking to see how this project went and why we ended up above the 35' maximum height.

We had an Employee draw up an elevation plan showing first floor wall height of 12' from slab height, with an 11 7/8 " floor system drawn in the plans then with a 8' wall height for the living space on the 2nd floor.

Then in the elevations we drew in a 7/12 scissor pitch roof truss adding 13'.035 6inches in height making total height of 35.27 to peak . The floor system needed to change in order to free span using no post on 1st floor new Floor truss was 22" high, trusses came in at 8/12 (missed in the sign off) which made a difference of approx. 12" to help with keeping within snow load requirements , which added 26" more to the overall height of the structure. Poulin Lumber was not aware of any height restriction at this time , and this was brought to our attention after trusses were installed.

You had asked to see what a cost would be to have the trusses removed and to install new trusses . First of all we would have to eliminate the scissor truss and go to a maximum truss pitch of 6/12 pitch and keep ceiling height flat no cathedrals . The truss would have to be made to handle the snow load on a lower pitch . Cost from Poulin Lumber would be as follows there is no labor included in this estimate as that would be by others .

Trusses estimate: 9500.00
5/8 ZIP SHEATHING 5600.00
Truss bracing 2x4 600.00

| | |
|-----------------------|-------------|
| Zip tape | 780.00 |
| Misc. nails and Screw | 800.00 |
| Wall zip for gables | 1100.00 |
| Total | \$18,380.00 |

Dan Fortin
Poulin Lumber/ USLBM
Director of sales and Business Development
Sales manager
802-673-6877
Derby, Hardwick, Williamstown, Milton

*** Due to the current market conditions, all quotes and pricing are good for 5 days. ***



Blake -- 1294 Brazier Road

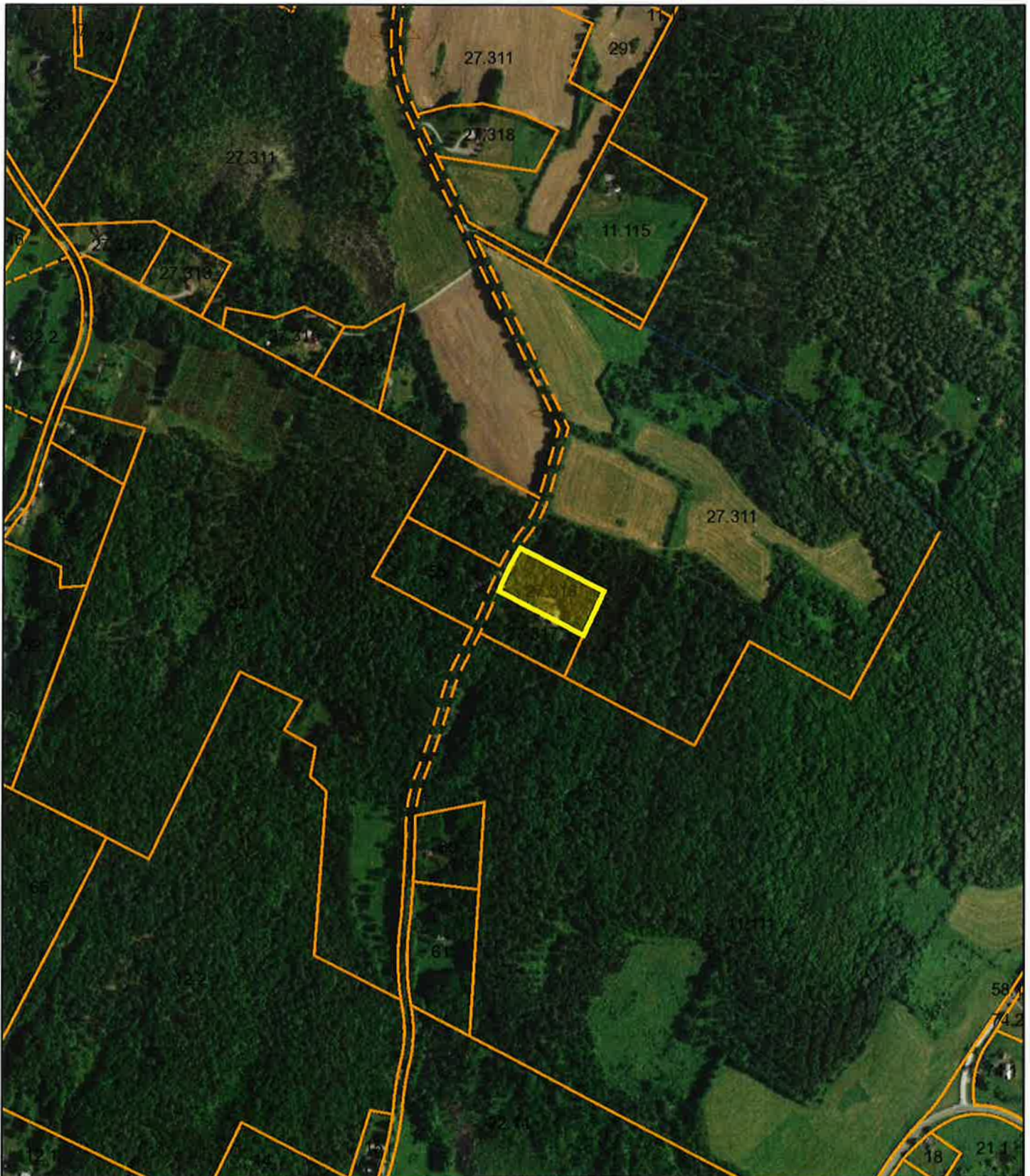
East Montpelier, VT

1 inch = 754 Feet



August 20, 2021

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.