

TOWN OF DUMMERSTON
Development Review Board

**Application for Waiver to Setback
Findings and Decision**

Permit Application Number: 3629

Date Received: February 3, 2021

Applicant: Vernon Grubinger & Tracey Devlin

Mailing Address: 438 Hague Rd., Dummerston, VT, 05301

Location of Property: 438 Hague Rd., Dummerston, Vermont

Owner of Record: Vernon Grubinger & Tracey Devlin

Application: Waiver under Section 256

Date of hearing: March 16, 2021

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a Waiver to setback requirements for an Accessory Structure (Woodshed) submitted by Vernon Grubinger & Tracey Devlin under the Town of Dummerston Zoning Bylaw.
2. The application was received by the Zoning Administrator on February 3, 2021. A copy of the application is available at the Dummerston Town Office.
3. On February 24, 2021, notice of a public hearing was published in The Commons.
4. On February 24, 2021, notice of a public hearing was posted at the following places:
 - The Dummerston Town Office.
 - The West Dummerston Post Office.
5. On March 1, 2021, notice of a public hearing was posted at the following place: 438 Hague Rd, which is within view of Hague Rd., the public-right-of-way most nearly adjacent to the property for which the application was made.
6. On February 24, 2021, a copy of the notice of a public hearing was mailed to the applicant.
7. On February 24, 2021, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:
 - a. Bevis Michelle 33 Warde Dr Dummerston, VT 05301
 - b. Bristol Jeanne F Revocable Trust 210 Hague Rd Dummerston, VT 05301
 - c. Bristol Richard & Erin 258 Hague Rd Dummerston, VT 05301
 - d. Holmquist Karla & Duane 466 Hague Rd Dummerston, VT 05301
 - e. Mills Bertram Richard & Jeanette E 452 Hague Rd Dummerston, VT 05301
 - f. Mowrey Lynwood C 258 School House E. Dummerston, VT 05346
 - g. Sommer John G Estate C/O Paul Sommer Executor 165 Heather Hills Dr Danville, PA 17821

8. The application was considered by the Development Review Board (DRB) at a public hearing on March 16, 2021.
9. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended May 22, 2019.
10. A site visit was conducted on March 16, 2021. Present at the site visit were the following:
 - a. Members of the Development Review Board :
 - i. Alan McBean, Josh Pacheco, Cami Elliott
 - b. Others: Vernon Grubinger (Applicant), Roger Jasaitis (Zoning Administrator)
11. Present at the hearing were the following:
 - a. Members of the Development Review Board:
 - i. Alan McBean, Josh Pacheco, Cami Elliott, Chad Farnum
 - b. Others: Vernon Grubinger (Applicant), Roger Jasaitis (Zoning Administrator)
12. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application for Zoning Permit for Accessory Structure, number: 3629.
 - b. Application to the Development Review Board for a Waiver, number: 3629.

FINDINGS OF FACT

Based on the application, testimony, exhibits, and other evidence the DRB makes the following findings:

1. The applicant seeks a Waiver to setback requirements for an Accessory Structure (Woodshed). The subject property is a 5.3 acre parcel located at 438 Hague Rd. in the Town of Dummerston (tax map parcel no. 000059). The property is more fully described in a Deed recorded at Book 89, Pages 10-22, in the Town of Dummerston Land Records.
2. The property is located in the Rural Residential District as described on the Town of Dummerston Zoning Map on record at the Town of Dummerston municipal office and Section 220 of the Zoning Bylaw.
3. Waiver approval is requested for the Accessory Structure as that term is defined in Article VIII, Page 1, of the Zoning Bylaw. The application requires review under the following sections of the Town of Dummerston Zoning Bylaw:
 - a. Article II, Section 256 Waivers.
 - b. Article II, Section 257 Waiver Application and Review Procedure.
4. The application seeks a Waiver for an Accessory Structure (Woodshed) within the front yard setback.
5. The Zoning Administrator stated that the 5.3 acre lot has a permitted existing house.
5. The applicant seeks to reduce the setback requirement for an Accessory Structure (6x8x16 ft woodshed) on his front lawn between the stone wall and his house, to be able to store cord wood near to the house entrance.
6. The required setback is 50ft. He is asking for a waiver as the structure will be 31ft from the road center.
7. The applicant would like to maintain access to the backyard and have the woodshed close to the house for easy access.
8. There will be no electricity, no water or sewage.

9. There will be no additional lighting.
10. The structure will be sided to match the existing house.
11. The Zoning Administrator stated that an Accessory Structure under 200 sq. ft. can be no more than 12 ft. high.

DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, The Development Review Board grants the application for Waiver.

As conditioned, the proposed development meets the requirements of *Sections 256 of the Zoning Bylaw Criteria*:

1. *The waiver is helpful or necessary to allow for reasonable use of the property.*

The Waiver is helpful to the applicant for reasonable use of the property and access to the backyard.

2. *The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.*

The 19 foot reduction in setback to the road center is the minimum reduction that will enable the reasonable use and circulation on the property.

3. *Any adverse effects of the waiver are mitigated by design, screening, or other remedies.*

The DRB sees no adverse effects due to this Land Development.

4. *The need for a waiver was not created by past decisions of the applicant.*

The need was not created by the applicant.

5. *The proposed project will still conform to the Town Plan.*

This project conforms to the Town Plan.

6. *The proposed project will still conform to the purpose of the zoning district (as stated in Sections 205-240 of these Bylaws) in which the land development is located.*

The Rural Residential District allows for "accommodation of residential growth in a manner that preserves the rural character of the land, and is sensitive to physical limitations on development".

7. *The proposed project will not have an undue adverse effect on the following:*
- a. Surrounding properties and property values*
 - b. The character and aesthetics of the neighborhood*
 - c. Traffic patterns and circulation*
 - d. Public health, safety, and utility services*
 - e. Stormwater management*
 - f. Water and wastewater capacity.*

The project will have no adverse effect on these criteria.

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

1. The Accessory Structure must be located as indicated on the Application.
2. The information included in the Application must be adhered to or the related Zoning Permit is null and void.
3. Expiration: Waiver approvals shall expire by limitation if work is not completed within two (2) years from the date they are approved. All work must be completed as shown on any approved plan before the expiration date. One year extensions of this deadline may be granted by the Administrative Officer prior to expiration. Requests for extensions must be made in writing to the Administrative Officer.
4. It is the Applicant's responsibility to be in compliance with any and all Town or State required or issued permits at all times or this approval is null and void.

Dated at Dummerston, Vermont, this 22nd day of April, 2021.



Alan McBean, Chairperson

The following members of the Dummerston Development Review Board participated and concur in this decision: Alan McBean, Josh Pacheco, Cami Elliott, Chad Farnum

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the 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.