

UNAPPROVED

SELECTBOARD PUBLIC HEARING ON ZONING BYLAW CHANGES

February 27, 2013

This hearing was called to order by Vice-Chair, Zeke Goodband at 7:05pm at the Town Offices in Dummerston, Vermont.

Members present: Tom Bodett, Steve Glabach, Zeke Goodband, Bill Holiday

Absent: Lewis White

Also present: Charlotte Annis, David Blocher, Joe Cook, Brenda Davis, Sam Farwell, Laurie Frechette, Maria Glabach, Harold & Jean Newell, Jody & Paul Normandeau, Mark Whitaker, Mike Faher from *Brattleboro Reformer*, Rich Melanson from BCTV

The following changes to the zoning bylaw were read:

[existing section, insert words in italics]

Section 120 APPLICATION OF BYLAW

The application of this Bylaw is subject to required provisions of the Act. Except as hereinafter provided, no "Land Development" as such term is defined by this Bylaw may be commenced in the Town of Dummerston, unless in conformity with the regulations herein specified for the district in which it is located. Any use not permitted by this Bylaw shall be deemed prohibited, *except as provided for in Section 121.*

[insert new section]

Section 121 UNSPECIFIED USE

If a particular use is not specified as a permitted or conditional use in this Bylaw, the Development Review Board (DRB) may permit conditional use only if it determines the use is consistent with the General Description and Purpose set forth for the district **and** has no greater impact on abutting properties than other permitted or conditional uses.

The Development Review Board will treat such applications as requests for a Conditional Use Permit as defined in Sections 717, 720, 721 and 722 of these Bylaws. The Administrative Officer shall notify the Planning Commission of the application, and the Planning Commission may provide written or oral testimony to the Development Review Board regarding the proposed use.

Section 616 EXEMPTIONS TO SET-BACK REQUIREMENTS

Small accessory structures, less than 200 square feet of floor area and 12 feet or less in height are allowed within setback areas other than those along roadway as provided in Section 615 as long as they are not closer than six (6) feet to the property line. These may not be converted into accessory dwellings, and are prohibited within any 50' streambank buffer.

Fences and brick or stone walls are exempt from setback requirements; however those exceeding four feet in height in the Village District, and six feet in height elsewhere, require a Zoning Permit and are subject to Site Plan Approval by the DRB. [adopted 2008]

Handicap Ramps are exempt from setback requirements provided that they do not obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic. (If there is a question the final determination shall be made in consultation with the Road Foreman.) [adopted 2011]

[insert in Article II]

Section 256. WAIVERS

The purpose of a waiver is to allow for the reduction of dimensional requirements that might not meet the standards necessary to grant a variance.

1. Pursuant to 24 VSA 4414 (8), waivers to dimensional requirements of this Zoning Bylaw may be granted by the Development Review Board (DRB) after considering the Waiver Criteria in Section 256(3) below. The burden of proof is on the applicant to demonstrate that the waiver requested meets the Waiver Criteria.
2. A waiver may be granted to any of the dimensional requirements in this Zoning Bylaw.
3. **Waiver Criteria.** The DRB may grant a waiver(s) to a dimensional requirement(s) after making findings on the following criteria:
 - A. The waiver is helpful or necessary to allow for reasonable use of the property.
 - B. The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.
 - C. Any adverse effects of the waiver are mitigated by design, screening, or other remedies.
 - D. The need for a waiver was not created by past decisions of the applicant.
 - E. The proposed project will still conform to the Town Plan.
 - F. 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.
 - G. The proposed project will not have an undue adverse effect on the following:
 1. Surrounding properties and property values
 2. The character and aesthetics of the neighborhood
 3. Traffic patterns and circulation
 4. Public health, safety, and utility services
 5. Stormwater management
 6. Water and wastewater capacity.

Section 257 WAIVER APPLICATION AND REVIEW PROCESS

- A. Application to the DRB for a waiver shall be made as part of an application for one of the DRB reviews listed in Section 715 of these Bylaws or as a separate application if one of the reviews listed in Section 715 is not required for the application.
- B. The application shall come to the DRB either from the applicant as an appeal of a decision of the administrative officer or a referral from the administrative officer.
- C. Requests for waivers are considered by the DRB. Any request for a waiver will be warned and a public hearing held, subject to procedures set forth in Section 717 of these bylaws.
- D. The DRB shall consider the opinion of abutters in deciding whether to grant the waiver.
- E. In granting a decision in favor of the applicant, the DRB may attach reasonable conditions, including mitigation by design, screening, or other remedy.
- F. Any waiver granted under this section shall be limited to the specific property to which it has been granted. A waiver on one property shall not be construed as a general guideline or standard for any other property.

- G. 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.
- H. Appeals: Any request for a Waiver that is denied may be appealed subject to Section 716 of this bylaw.

Section 715 DEVELOPMENT REVIEW BOARD

There is hereby established Development Review Board, members of which shall be appointed by the Selectboard. ...

The Development Review Board shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- applications for rights-of-way or easements for development lacking frontage
- appeals from any decision, act or failure to act by the Administrative Officer and any associated variance requests
- applications for site plan approval
- applications for conditional use approval
- applications for planned unit development
- applications subject to Flood Hazard Area Regulations
- applications subject to the Dummerston Wireless Telecommunications Facilities Ordinance
- *applications for Waivers*

There were no comments or questions from the public.

On a motion from Tom and second by Bill, the hearing was closed at 7:13pm.

Approved

Zeke Goodband, Vice-Chair

Bill Holiday, Clerk

Submitted by: Laurie Frechette, Selectboard Assistant