

**TOWN OF DUMMERSTON
DEVELOPMENT REVIEW BOARD**

LAND USE VARIANCE DECISION

Applicant:	Lisa Shippee
Address:	31 First Level Drive Apt#17 Brattleboro, VT 05301
Location of Applicant's Property:	Falls Brook Road, Dummerston, VT (Lot #42 as recorded in Book 63 Page 114 of the Dummerston Land Records)
Zoning District:	Rural Residential
RE: Permit Application #3058	Application for a variance under Section #728 of the ordinance requesting a setback of 35 feet from rear yard setback to develop an existing small lot with a single family home.
Application Date:	October 27, 2006
Property owner(s) of record:	Thurman Shippee/ Lisa Shippee
Property Dimensions:	250 feet X 200 feet

The matter came before a duly warned public hearing of the Dummerston Development Review Board held on December 19, 2006 at the Dummerston Town Offices, Dummerston Center, Vermont. The Board also conducted a site inspection on Saturday, December 16, 2006. After the taking of testimony, the Board granted the applicant's request for a continuance of the hearing until January 16, 2007 to allow her to obtain additional information and arrange for the attendance of the applicant's engineer.

Present and participating at the December 16, 2006 public hearing were the following members of the Development Review Board: Cynthia Wilcox, Lew Sorenson, Andrew McFarland, Regina Rockefeller and voting alternate Herb Rest (seated for Pat Jaquith who recused herself). Also present were: Development Review Board alternate Rick Sullivan, Zoning Administrator Alan McBean, property owner/permit applicant Lisa Shippee and neighbor Jeremy L Quinn.

The January 16, 2007 continued public hearing was held in the downstairs Town Community Room of the Dummerston Center Congregational Church, Dummerston Center. Present and participating were the following members of the Development Review Board: Cynthia Wilcox, Lew Sorenson, Andrew McFarland, Regina Rockefeller and voting

alternate Herb Rest. Also present were: Development Review Board alternate Rick Sullivan, Zoning Administrator Alan McBean, property owner/applicant Lisa Shippee, Jason Waysville, Beck Engineering, David Magnant, Paul Normandeau and Arthur D. LaFleur.

FINDINGS OF FACT

The Board finds as follows:

1. The applicant requests a variance for a 35-foot rear yard setback be granted under sections 728, 220 and 601 of the Dummerston Zoning Bylaw.
2. Permit application #3058 was submitted to the Zoning Administrator on October 27, 2006 to construct a 52-foot by 30-foot, 2-story, four bedroom home, estimated completion date of May 2007.
3. The property is in a Rural Residential zone where Section 220 of the Bylaw specifies minimum rear yard setbacks of 75 feet.
4. The property is in accordance with Section 601 of the Bylaw as an existing small lot.
5. The property is generally rectangular in shape, wooded and slopes up from the road. It is traversed by an access drive that traverses the property from bottom to top and also provides access to another parcel to the rear of the subject property. The applicant intends to change the access to the proposed residence and the parcel to the rear with a new drive that will follow the northerly property line.
6. The neighborhood is partially developed rural residential with many of the parcels also being undersized.
7. The testimony of Jason Waysville, Beck Engineering, confirmed that there is only one location for the septic system to be placed, therefore further restricting the siting of the proposed residence.
8. In order to grant the variance requested by the applicant the Board must find in the affirmative each of the five criteria set out in Section 728 of the Bylaw and 24 VSA Section 4469(a) of the Vermont statutes.

CONCLUSIONS OF LAW AND DECISION

1. In accordance with Section 728 of the Dummerston Zoning Bylaw, the Dummerston Development Review Board concludes that although the lot size and shape are challenging for the construction of a fairly large 52-foot by 30-foot four bedroom home, these conditions do not preclude that the structure could be built within the conformity of the provisions and regulations.

2. The Board concludes a variance is not necessary in this case to enable the reasonable use of the property.
3. Even if a variance was necessary to allow a reasonable use of the property, the Board concludes that the variance requested would not be the minimum that would afford relief.
4. The Board is unable to make the required affirmative findings and therefore denies the requested rear yard setback variance for permit #3058.

The following members of the Dummerston Zoning Board of Adjustment participated and concur in this decision. The Decision is subject to appeal as provided by Vermont statute.

Dated: February ____, 2007

Lew Sorenson, Cynthia Wilcox, Regina Rockefeller,
Andrew McFarland and Herb Rest.

DUMMERSTON DEVELOPMENT REVIEW BOARD

Regina A. Rockefeller
For the Dummerston Development Review Board

EXHIBITS:

1. Application for Appeal to DRB for a variance of 35-feet dated October 27, 2006, Permit # 3058, the related Zoning Permit Application and a copy of the site map of the proposed structure.
2. Newspaper Legal Notice
3. Applicants' Certification of Notice for posting at the property and notification of neighboring property owners.
4. Letter submitted by Larry R. Squire, Ph.D., a neighbor at 165 Falls Brook Road, supporting the variance.
5. Copy of Beck Engineering drawing #SK1 dated 8/31/05, submitted by Jason Waysville, describing the septic system and house site location.