

**TOWN OF DUMMERSTON
DEVELOPMENT REVIEW BOARD
LAND USE DECISION**

Applicant: Paul and Gladys Brown
Location of Property 20 Meyers Road
Dummerston, Vermont 05301
Mailing Address: 20 Meyers Road
Dummerston, Vermont 05301
Re: Variance; Zoning Permit Application #3084

The matter came before a duly warned public hearing of the Dummerston Development Review Board (DRB) held on June 25, 2007. The DRB conducted a site inspection preceding the public hearing that was held at the Dummerston Town Offices, Dummerston Center, Vermont.

Present and participating were the following members of the DRB: Pat Jaquith, Herbert Rest, Regina Rockefeller, Cindy Wilcox, and Lew Sorenson, chair. John Warren, non-voting alternate member, was also present. The applicants, Paul & Gladys Brown, were present for both the site visit inspection and the hearing and the Zoning Administrator, Alan McBean, was present at for the hearing. No other citizens were present at the DRB hearing.

The public hearing was adjourned following testimony of the applicant. Immediately following the public meeting, deliberations and motions of the DRB ensued.

FINDINGS OF FACT

The Board finds as follows:

1. The applicants request a 46-foot variance of the rear yard setback requirement from 75 feet to 29 feet to allow an addition of a 25x24-foot garage with a 25x12-foot covered entry to an existing 14x20-foot garage. The new garage would be built on an existing foundation that would then include an enclosed 25x24-foot lower level to be used for shop and storage purposes. The new roof for the combined garage and entry would cover about 1200 square feet.
2. The applicants filed Application for Zoning Permit #3084 on May 14, 2007 for modifications to the existing residence garage at 20 Meyers Road. On May 22, 2007, the Zoning Administrator denied the application finding that the proposed construction does not meet the rear yard setback requirements of 75' as stated in Section 220 of the Zoning Bylaw. On May 24, 2007 the applicants filed this application for a variance to Section 220 of said Bylaws for relief to allow the proposed construction.

3. The subject property is about 40,000 square feet in size and is irregular in shape with a frontage of about 300' on Meyer Road and a maximum depth of 195'. The property also has frontage on and access to Wickopee Hill Road on the east and a private road on its westerly boundary. The parcel is currently occupied by a single-family residence and a single car detached garage. The residence is a combination of a singlewide mobile home with additions. The property is also currently occupied by several pieces of equipment including a tractor, snowplows for light trucks and an equipment trailer. The easterly portion of the parcel is somewhat lower than the remainder of the surrounding properties and receives runoff during wet periods.
4. The lack of an adequate site plan as required by Section 702 of the Bylaw makes it difficult to understand the property, its features and improvements, and frustrates the review of this request.
5. The property is located in a Rural Residential District (RR). Section 220 of the Bylaw requires for residential uses a minimum building setback of 50' from the roadway property line (or 75' from the roadway centerline), 40' minimum side yard setback and 75' minimum rear yard setback. The minimum lot area for residential uses is 2 acres, the maximum coverage is 15% and the maximum building height is 35'.
6. The lot is nonconforming as to size and the residence is nonconforming as to setbacks both from Meyers Road and the rear yard setback. The existing garage is nonconforming to the rear yard setback requirement. The applicants testified that the configuration of the lot was created by Mr. Brown's mother who sold off the rear portion of the property prior to deeding it to him. The applicants constructed the foundation (basically a basement room) about four years ago without benefit of zoning permit or variance approval.
7. Section 255 of the of the Zoning Bylaws provides that a nonconforming structure may be extended, altered or rebuilt after destruction with the approval of the DRB if it finds that the proposed construction will not be more detrimental to the neighborhood or environs than the existing non conforming structure.
8. The property contains a right-of-way easement for a water viaduct that carries water for the Town of Brattleboro from Sunset Lake. The waterline goes across the front of the property from the northwest to southeast.
9. The property's irregular rear property line, its small size, the easterly low area receiving neighborhood drainage, the location of existing improvements and existence of the Town of Brattleboro waterline access, all together severely constrict locating of the applicants' proposed new construction. Moving the proposed construction forward to comply with the required rear yard would conflict with the required front setback and possibly the waterline.
10. This rural neighborhood has a mix of smaller and some nonconforming parcels with residences and camps. The property to the rear has its structures several hundred feet away and oriented to Wickopee Hill Road. The proposed garage and construction will not alter the essential character or impair appropriate use of neighboring properties.
11. Responsibility for notice requirements of Vermont Statutes (24 VSA Section 4464) is shared between the Town and the Applicant according to Board procedures. The applicants testified to the DRB that the 15-day minimum posting of notice had not been met and that contiguous property owners had been notified 10 days prior to the hearing rather than the prescribed minimum 15 days. However, the Board received no

testimony or communications from neighboring property owners and finds the deficiency in this case non-substantive.

CONCLUSIONS OF LAW AND DECISION

1. The applicants have addressed the variance finding required by Bylaw Section 728 and Vermont Statutes (24 VSA 4464).
2. The proposed addition to the structure will not be more detrimental to the neighborhood or environs than the existing nonconforming structure as provided by Bylaw Section 255.
3. The variance is approved as requested.

Development Review Board members Pat Jaquith, Regina Rockefeller and Cindy Wilcox concurred in this decision; members Herb Rest and Lew Sorenson did non concur. This decision is subject to appeal as provided by Vermont Statute.

Dated: July 15, 2007
DUMMERSTON REVIEW BOARD

Lew Sorenson, Chair
For the Board

EXHIBITS

1. Zoning Permit Application #3084 with Site Plan and Zoning Administrator's denial and May 22, 2007 letter
2. Development Review Board variance application
3. Newspaper legal notice of Public Hearing
4. Applicants' Certification of Notice