

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

Applicant: Paul Sather and Laurie Merrigan
Mailing Address: 319 Hague Road, Dummerston, VT.
Location of Property: Same
Variance Application: Zoning Permit #3109, "Not Approved" August 30, 2007
Re: Construction of a deck and entryway to a home dwelling
deviating from zoning bylaw requirements for
construction setbacks from roadways.
DRB Appeal no. 3109V
Date of DRB Hearing: September 18, 2007

The matter was publicly warned in a notice dated August 31, 2007, from Lew Sorenson, chair of the DRB, and published in the Brattleboro Reformer on said date. The applicant posted the Public Notice provided by the Town on September 1, 2007, and notified the 6 adjoining property owners, on September 1 and 2, 2007 as was attested to by Paul Sather on September 2, 2007. The Board has received no objections or concerns from the identified adjoining property owners as of the hearing date.

Present and participating were the following members of the Development Review Board: Cindy Wilcox, Patricia Jaquith, Reggie Rockefeller, Herbert Rest, Rick Sullivan and John Warren. Lew Sorensen recused himself because of a potential appearance of fairness and John Warren acted as an active voting member in his stead. Cindy Wilcox chaired the hearing. Mssrs. Sullivan and Warren are alternatives on the Board. Chad Farnham of 35 Johnson Curve Rd., Dummerston, attended as the applicant's contractor representative and presented the case for the applicants.

FINDINGS OF FACT

The Board finds as follows:

1. The application proposes to build a five (5) foot extension entryway to the south side of the existing house structure in a line that is continuous with the south wall of the existing structure. This will require a reconfiguration of the roofline at that location. Also proposed is a deck carrying the south building line to a point that meets the eight (8) feet beyond the west wall of the current building, continues as an eight (8) foot wide deck paralleling the west building wall to a point that meets a line six (6) feet off and parallel to the north building wall and continues as a six (6) foot wide deck along the north wall ending at the west side of the existing chimney.
2. The property is located in a Rural Residential District; Section 220 of the

- Dummerston Zoning Bylaw (July 6, 2007) applies.
3. The original permit application was denied on August 30, 2007, because the proposed structures do not meet the zoning set-back requirements.
 4. A site visit by the voting Board members and alternate took place on August 18, 2007. It was found that the closest setback from the center of Hague Road is approximately forty one (41) feet on the south side and somewhat under forty two and one half (42.5) feet from the center of Falls Brook Road on the north side of the building
 5. There were no objections from 6 adjoining property owners.
 6. The required Posting Notice by the appellant was made 17 days prior to the hearing; as stated on the Posting Notice
 7. SECTION 728 - REQUIREMENTS FOR VARIANCE: The Board found as follows in the five requirements for the granting of a Variance:
 - a. There are unique physical circumstances...peculiar to the property. The existing structure was constructed prior to existing zoning and is out of compliance with current setback requirements. Any addition to the structure will violate current setback requirements. This finding was in the affirmative.
 - b. Because of these physical circumstances, there is no possibility that the property can be developed in strict conformity...and that...a variance is necessary for reasonable use of the property. Reconfiguration/relocation of the entryway will direct the approach to the building away from highest road traffic areas and improve the building's functionality. Proposed deck areas will provide access to the entry area as well as extension space to the building. It is generally directed away from the roadways and adjoining homes. This finding was in the affirmative.
 - c. The unnecessary hardship was not created by the appellant. The appellant bought the property with the existing nonconforming structure that predates current zoning requirements. This finding was in the affirmative.
 - d. The variance...will not alter the essential character of the neighborhood. The proposed construction will redirect ingress/egress to the building to a more westerly location on Hague Road, thus decreasing vehicle and pedestrian traffic near the Hague/Falls Brook Roads intersection. The structures and proposed landscaping will be unobtrusive visually. This finding was in the affirmative.
 - e. The variance...will represent the minimum that will afford relief and will represent the least deviation possible from the regulations. In order to make the building functionally efficient, the entry relocation is desirable and will improve its setback from the roadway center. The deck area functionality requires that it be adjoined to the existing building. Decking on the south side of the building will be used both for entryway access and access to the main part of the deck to the west and not as a leisure area. No deck enclosure is proposed. This finding was in the affirmative.

CONCLUSION AND DECISION

The five required conditions for granting a variance being found in the affirmative, the Dummerston Development Review Board hereby approves the variance with the following condition:

1. There will be no enclosure of the deck areas.

October 16, 2007

DUMMERSTON DEVELOPMENT REVIEW BOARD

Herbert F. Rest
For the DRB

EXHIBITS

1. Zoning Permit # 3109
2. DRB Application # 31109V, with copy of Zoning Permit Application
3. Newspaper Public Hearing Notice.
4. Applicant's Certification of Notice
5. List of Adjoining Property Owners
6. Attendance Sign-In
7. Interested Persons Record and Service List