

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

Name of Applicant/Owner: John and Karen Abel
Location of Property: 434 Schoolhouse Road
East Dummerston, Vermont 05346
Mailing Address: 434 Schoolhouse Road
East Dummerston, Vermont 05346
Application Number: #3112V - Variance

The matter came before a duly warned public hearing of the Dummerston Development Review Board (DRB) held on October 16, 2007 at the Dummerston Town Offices, Dummerston Center, Vermont. The hearing was preceded by a site inspection attended by the applicants and Board members, Regina Rockefeller, Pat Jaquith and Cynthia Wilcox.

Present and participating at the hearing were the following members of the Development Review Board: Patricia Jaquith, Cynthia Wilcox, Regina Rockefeller and Rick Sullivan, alternate seated for Lew Sorenson. Present, but recused and not participating, was Board member Herb Rest. Also present were the applicants, John and Karen Abel.

After presentation of the applicant's request for a variance for a small addition on the back of the house within the side yard setback requirements, but not protruding beyond the existing house, the applicants presented a revised plat plan, and a second certified notification of all of his neighbors regarding the revised plan.

The hearing was adjourned followed by deliberations and motions.

FINDINGS OF FACT

The Board finds as follows:

1. The applicants filed Application for Zoning Permit #3112V on August 31, 2007 to construct a small addition on the back of the house within the side yard setback requirements, but not protruding beyond the existing house. This would add 7' x 23' to the sitting room off the northeast, back corner of the house for the purpose of moving the master bedroom and bath downstairs. On September 5, 2007, the Zoning Administrator denied the application, finding that it did not comply with building setback requirements of the Dummerston Zoning Bylaw. The applicants then filed this application for a variance to Sections 220 and 255 of the Zoning Bylaw to encroach into the side yard setback on the east.
2. The property is located in a Rural Residential District (RR). Section 220 of the Bylaw requires a 40-foot building setback from the side property line. Section 255 of the Bylaw provides that a non-conforming structure may be extended with the approval of the Development Review Board if there is a finding that the extension will not be more detrimental to the neighborhood or environs than the existing non-conforming structure.

3. The property is a nonconforming .6 acre, rectangular shaped lot in a relatively dense historic residential neighborhood called “Slab Hollow” which was once a thriving 19th century center of local industry and commerce. The house was built in the 1840s and served as the general store and blacksmith shop as well as a residence. The easternmost portion of the original house is located 22 feet from the property line of its neighbor.
4. The applicants testified that they wish to remain in their house for the foreseeable future, and would like to so configure the interior as to have a bedroom and bath on the ground floor level to suit current and future needs. In order to do so, an addition of 7’ is requested across the rear of the original house (north face) starting 23 feet from the side yard boundary and going west to the corner of an existing wing in the rear, approximately 23 feet total length.
5. The property is not only non-conforming in size (slightly more than ½ acre), its historic siting makes it impossible to comply with the rural residential building side yard setback requirements of 40 feet. The existing structure already extends into the building setback area by 18 feet. “Slab Hollow” is a settlement which pre-dates zoning, in which the pattern is relatively dense and where most of the houses do not conform to Rural Residential setback requirements.
6. The applicant addressed the required variance findings enumerated in 24 VSA Section 4469. Because of the size of the lot and historic character of the property, other options for an addition would have more adverse impact on the neighborhood.
7. Regarding the variance findings required by Sections 728 of the Bylaw and Vermont statutes (24 VSA 4464) the Board finds as follows:
 - a. There are unique physical limitations to the size of the lot and historic siting of the house which cause hardship, and that unnecessary hardship is due to these conditions and not generally created by the provisions of the zoning regulation which post-dated the settlement of “Slab Hollow”.
 - b. Because of these physical conditions, the property cannot be developed in strict conformity with the provisions of the zoning regulation, and the authorization of a variance is therefore necessary to enable the reasonable residential use of the property. The Board finds that an addition to allow for a ground-floor bedroom and bath are reasonable.
 - c. The hardship has not been created by this applicant.
 - d. The variance will not alter the essential character of the neighborhood or district in which the property is located as the addition will not be visible from the public thoroughfare, and it is not in conflict with the character of the other existing structures in the area.
 - e. The siting of the addition at 23’ from the property line is the minimum variance needed that would address the purpose of creating a downstairs bedroom and bath.

CONCLUSIONS OF LAW AND DECISION

1. The requirements of 24 VSA 4464 and the Zoning Bylaw are met.
2. The Board grants applicants a 17-foot variance to the side yard building setback requirement of Bylaw Section 220 as requested.

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

Dated: October 25, 2007

Pat Jaquith, Regina Rockefeller, Rick Sullivan and Cynthia Wilcox,

DUMMERSTON ZONING
BOARD OF ADJUSTMENT

Cynthia G. Wilcox, vice-chair
For the Board

EXHIBITS

Variance, Zoning Permit Application #3112V
John and Karen Abel
434 Schoolhouse Road
East Dummerston, Vermont 05346

1. Application for Zoning Permit #3112 dated August 31, 2007
2. Denial form from Zoning Administrator dated September 9, 2007 (on back of Zoning permit)
3. Application for Variance, Appeal #3112V, with sketch plan of addition location
4. Revised sketch plan of addition – presented at Hearing of October 16, 2007
5. Newspaper Legal Notice
6. Applicants' Certification of Notice on original application
7. Applicants' Certification of Notice on revised application
8. Attendance Sign in Sheet for Hearing
9. Interested persons record sheet and service list (none)