

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

**Applicant:** William L. Boggess Jr.  
**Mailing Address and  
Location of Property:** 40 Falls Brook Road, Dummerston, VT 05346  
**Application:** Variance application to construct a 24 x 28 two car garage.  
Requesting relief for a 38' variance of the rear yard setback.  
**Re:** Application for Zoning Permit #3179

The matter came before a duly warned public hearing of the Dummerston Development Review Board (DRB) held on April 21, 2009, at the Town Office, Dummerston Center, Vermont.

Present and participating were the following members of the Development Review Board: Cynthia Wilcox, Lew Sorenson, Regina Rockefeller, Patricia Jaquith; seated as voting member was alternate Rick Sullivan. Also present: John Warren, alternate, Charlotte Neer Annis, Zoning Administrator; William Boggess Jr. and Nancy Page.

The public hearing was adjourned following testimony of the applicants. Following the public meeting, deliberations and motions of the Development Review Board took place.

**FINDINGS OF FACT**

The Board finds as follows:

1. The applicant proposed the construction of a 24 x 28 two car garage. The new construction will replace an existing garage structure of the same dimensions that fell in 2008 due to excessive ice and snow load. The existing structure was non-compliant with current zoning requirements of a 75' rear yard setback as well. However, it was constructed pre-zoning.
2. The applicant filed the Zoning Permit on March 29, 2009.
3. The Zoning Administrator denied the application for permit #3179 on March 31, 2009, after finding the owner needed a variance under section 220 of the Town of Dummerston Zoning Ordinance.
4. The Dummerston Development Review Board conducted a site visit on the property on April 21, 2009, at 6:00 p.m.
5. The property is located in a Rural Residential District. Section 220 of the Zoning Bylaw requires a 75 foot rear-yard setback, thus the development cannot proceed as proposed unless

**a variance is granted.**

**6. The applicant testified that there will be no services associated with the garage. This includes water, sewer and electricity.**

**7. The garage will be placed on a “floating slab” with no basement below.**

**8. Falls Brook Road divides the property. The other side of the road is a swamp area. The only other flat sight on the property that the garage could go is to the south. It is an old stump and gravel deposit that could make the garage not structurally sound.**

**9. The applicant agreed during the hearing that he could place the garage 8’ closer to his circular drive. Thus relief would only be 30’ from the rear yard setback.**

**10. The Board received a letter from Eric Davis on behalf of the Katherine LaPalme Property Trust an abutter on the West side of the property. Mr. Davis wrote to support the permit as long as the new garage’s intent was for residential use only, no commercial use.**

**7. The posting requirements for notices to abutters were delivered by the applicant. No objections were received before the hearing, except the letter from Mr. Davis stated above. No abutters were present at the hearing.**

## **CONCLUSIONS OF LAW AND DECISION**

**The Board finds that the steep slopes of the topography at the house site limits the possibilities for development on the parcel.**

**The Board finds that replacing the old garage with the construction of a new structure will have no adverse effect or alteration to the existing character of the neighborhood.**

**The Board finds that the Variance will be 30’ from the rear yard setback.**

**The Board finds that the new garage will be for residential use only with no water, sewer and electricity.**

**The Board finds that the proposed use shall meet the Specific Standards outlined in Section 728 Variances and the Vermont Statute 24 VSA 4464. The Variance is approved as altered during the hearing.**

**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 statutes.**

**Lew Sorenson, Cynthia Wilcox, Regina Rockefeller,**

**Patricia Jaquith, Rick Sullivan**

**Dated: May 1, 2009**

**DUMMERSTON DEVELOPMENT REVIEW BOARD**

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**Regina A. Rockefeller**  
**On behalf of the Board**

## **EXHIBITS**

- 1. Zoning Permit Application #3179 and Site Plan**
- 2. DRB Application and any Attachments**
- 3. Newspaper Legal Notice**
- 4. Applicant's Public Notice Certification**
- 5. Letter from Eric Davis on behalf of the Katherine LaPalme Property Trust**
- 6. DRB Attendance Sign-in Sheet**
- 7. Interested Persons Record and Services List**