

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

Applicant:	Eugene A. and Melissa G. Whitney
Location of Property	35 Day Road Dummerston, Vermont 05301
Mailing Address:	P.O. Box 57 West Dummerston, Vermont 05357
Project:	Attached garage within setback area
Re:	Variance; Zoning Permit Application #3188

This matter came before the Dummerston Development Review Board (DRB) at a public hearing held on June 23, 2009 in the Dummerston Town Office, Dummerston Center, Vermont. Present and participating were DRB members Pat Jaquith, Cindy Wilcox, Regina Rockefeller, and Lew Sorenson, chair; John Warren, Alternate, was seated as voting member.

Also present were Herb Rest, member not voting, Rick Sullivan, Alternate; Charlotte Neer Annis, Zoning Administrator, and Jon Binhammer. The Board conducted a site inspection preceding the meeting. Applicant, Eugene Whitney, was present for the site inspection and attended the hearing.

FINDINGS OF FACT

The Board finds as follows:

1. The applicants filed Application for Zoning Permit #3188 on May 13, 2009 for an attached 30' x 32' garage accessory to an existing residence at 35 Day Road. On May 14, 2009, the Zoning Administrator denied the application finding that the proposed construction does not meet the setback requirements of Section 220 of the Zoning Bylaw. On May 19 the applicants filed this application for a variance.
2. 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'.
3. The surrounding neighborhood is residential in character
4. The requested development authorization would result in a variance of 52' to the Bylaw's minimum required 75' rear yard setback, and a variance of 30' to the required 40' side yard minimum setback.
5. The applicant's testimony addressed the variance findings required by Title 24 VSA, Section 4464 and Bylaw Section 728. The Board finds that:
 - a. The parcel's location just at the northeast of an existing sharp curve in the East-West

- Road and an intersection with Quarry Road, together with the steep bank in the back limit the possibility of siting the garage elsewhere on the property.
- b. Because of these limitations there is no possibility that the property can be developed with any structural use that conforms to the Bylaw's setback requirements;
 - c. The resulting hardship is due to the physical terrain and dimensions of the property, and not by any action of the applicants;
 - d. The requested proposed development will not alter the character of the neighborhood, will not impair use of adjacent properties and will not be detrimental to the public welfare.
 - e. The construction of a 32' x 30' foot garage exceeds the minimum dimensions for reasonable use.

CONCLUSIONS OF LAW AND DECISION

The variance findings required by Bylaw Section 728 and Vermont Statutes (24 VSA 4464) are met with the exception of requirement #5 which reads, "*The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.*" The Board finds that a garage of 24' x 24' would provide reasonable use of the property while providing the least deviation possible from the zoning setback regulations.

The construction of an attached garage with dimensions of 24' x 24' is approved, resulting in a side yard variance of 24 feet and a back yard variance of 44'.

Development Review Board members Pat Jaquith, Regina Rockefeller, John Warren, Cindy Wilcox and Lew Sorenson concurred in this decision. This decision is subject to appeal as provided by Vermont Statute.

Dated: June 29, 2009
DUMMERSTON REVIEW BOARD

Patricia R. Jaquith
For the Board

EXHIBITS

- 1. Zoning Permit Application #3044 with Site Plan and Zoning Administrator's denial
- 2. Development Review Board variance application Newspaper legal notice of Public Hearing
- 3. Applicants' Certification of Notice

