

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

**Applicant:** Amber Rose  
**Mailing Address and  
Location of Property:** 87 Sugar House Road, Dummerston, Vermont 05301  
**Application:** Variance application to allow an already constructed 11 x  
15 shed within the required front yard setback area.  
**Re:** Application for Variance: Zoning Permit #3202

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The matter came before a duly warned public hearing of the Dummerston Development Review Board (DRB) held on August 18, 2009, at the Town Office, Dummerston Center, Vermont.

Present and participating were the following members of the Development Review Board: Cynthia Wilcox, Regina Rockefeller, Patricia Jaquith, Lew Sorenson, and alternate John Warren, seated as a voting member. Also present and participating in this matter were the applicant Amber Rose, Reed Webster, the applicant's father and builder, and Charlotte Neer Annis, Zoning Administrator.

The public hearing was adjourned following testimony. 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 requests approval of an 11 x 15 shed that has been already completed except for the roof. The walls of the shed are 9 feet above the floor, which in turn is 1-2 feet above grade on the side facing the road. The roof when completed will add an additional 3 feet with the gable end facing the road. The shed is located between the applicant's residence and Sugar House Road within the required setback area. The shed is intended for storage of wood pellets used as fuel to heat the residence and tools including a snow blower and lawn mowers. The shed would be 12 feet in height when completed with a pitched roof with the gable end facing the road.
2. The property is located in a Rural Commercial District. The District allows residential

uses and a wide variety of nonresidential uses by Conditional Use Permit. The Bylaws for this district provide a minimum lot size of 2 acres for a residence, a building set back of 50 feet (75 feet from the road centerline) with sideyard setbacks of 40 feet and a rear yard setback of 50 feet.

3. Sugarhouse Road is a residential street north of the former Maple Valley ski area with small lots about 1/4<sup>th</sup> acre in size, about half of which have residences. The subject property includes three lots plus an additional rear yard area totaling 0.8 acres. It is occupied by a smaller “A-frame” residence; there is no garage. The parcel and residence are nonconforming to current zoning. The property generally slopes up from front to rear, especially at its northeasterly end. Improvements are on a level area slightly above the road. The residence is served by a well and septic system to the left of the residence, and an in-ground propane tank to the front and right of the structure. Parking is directly off of Sugarhouse Road in front of the residence.
4. Applicable Bylaw sections include Section 225 Rural Commercial District that includes use and setback requirements. Section 616 which exempts small accessory structures from the side and rear yard requirements as long as they are more than 6 feet from the property line, but does not exempt such structures from the setback from the road requirement. Section 701 does exempt small residential accessory buildings less than 200 square feet, less than 12-feet in height, and not located in the front yard setback area or within six feet of the rear or side property lines from zoning permit requirements. However, since the structure is in the front yard setback area the structure will require a zoning permit if allowed by this variance request. Section 728 sets standards for variances.
5. The Zoning Administrator contacted the applicant when she became aware of the structure precipitating a July 15, 2009 zoning permit application and this variance application. The Zoning Administrator found that the structure did not require a zoning permit, but is required to meet the front yard setback requirement. The applicant’s father testified that he checked with the Town Office prior to construction and was advised that the structure was exempt from the setback requirement if it was less than 200 square feet.
6. The applicant testified that the shed is needed for the storage of wood pellets close to the front door of the residence to supply two pellet stoves in the home. Other locations on the property for the shed are either constrained by utilities and the house location, or are unsuitable due to distance from the residence.
7. The Board finds that the small size of the parcel, together with its topography and location of water, sewage disposal and gas service constitute a hardship precluding the placement of the accessory building in conformance with the Bylaw’s setback requirements. The proposed shed and its location will not alter the essential character of the neighborhood and a lesser variance is not possible due to the closeness of the

house to the road.

8. The applicant completed the posting requirements and notice to abutters. No objections were received and no abutters were present at the hearing.

## **CONCLUSIONS OF LAW AND DECISION**

The requested variance meets the standards outlined in Section 728 Variances and the Vermont Statute 24 VSA 4464. The Variance is approved as requested.

A Zoning Permit issued by the Zoning Administrator, however, is required as the shed is located within the front yard setback area and therefore does not qualify for the permit exemption allowed by Section 701, paragraph 10.

Members of the Dummerston Development Review Board concurring in this decision: Cynthia Wilcox, Regina Rockefeller, Patricia Jaquith and John Warren; not concurring: Lew Sorenson. The Decision is subject to appeal as provided by Vermont statutes.

**Dated: September 2, 2009**

## **DUMMERSTON DEVELOPMENT REVIEW BOARD**

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Lew Sorenson, On behalf of the Board

## **EXHIBITS**

1. Zoning Permit Application #3202 and Site Plan
2. DRB Application and any Attachments
3. Newspaper Legal Notice

4. Applicant's Public Notice Certification
5. DRB Attendance Sign-in Sheet
6. Interested Persons Record and Services List