

TOWN OF DUMMERSTON
DEVELOPMENT REVIEW BOARD
LAND USE DECISION

Applicant: F. Nicholas Marchese
Mailing Address: 156 West Street
West Dummerston, VT 05357
Location of Property: 154 West Street
West Dummerston
Application: Variance - #3230
Addition to Single Family Residence

The matter came before a duly warned public hearing on June 16, 2010, continued to July 1, 2010.

Present and participating were the following members of the Development Review Board: Patricia Jaquith, Lew Sorenson, seated alternates Rick Sullivan and John Warren, and Herb Rest, Chair. Also present at the hearing was DRB member Cindy Wilcox who chose not to participate in this case as she did not attend the site visit. Also present and participating in the hearing was applicant, Nick Marchese.

FINDINGS OF FACT

The Board finds as follows:

1. This application was noticed for hearing by the DRB for June 16, 2010 by publication in the *Brattleboro Reformer* and posting at three established locations in Town. The required Posting Notice by the appellant and notification of the adjacent property owners was completed and certified by the applicant (Exhibits 3 & 4). On June 14th the Chair determined that a quorum of DRB members, including alternates, would not be available for the scheduled hearing and therefore scheduled a special DRB meeting for July 1, 2010. DRB member, John Warren, appeared at the June 16th scheduled time and place, found that no other DRB members or members of the public in attendance, and consequently declared that no quorum was available and continued the hearing to July 1. The replacement July 1st meeting was properly noticed.
2. The Applicant, F. Nicholas Marchese, applied on May 20, 2010, for a zoning permit to enlarge an existing single family residence at 156 West Street in the West Dummerston Village District. The footprint of the structure would be increased by a 24' by 5' addition. The Zoning Administrator on May 21 found that the proposed development did not meet the front and side yard setbacks of Section 235 of the Dummerston Zoning Bylaw, and the application therefore could not be approved without a variance under Bylaw Section 728 and DRB approval for the nonconforming structure as provided by Bylaw Section 255. The applicant on May 20 also applied to the DRB for a variance and approval of the proposed development.
3. The applicant proposes to reconstruct, renovate and expand an existing single residence in the Village of West Dummerston. The applicant has started the process of renovating and substantial reconstruction of the 3 bedroom, one bath residence. It will be of an open design and continue to have 3 bedrooms, but with an additional bath. The applicant testified there will be no business use of the property. Water supply will continue to be from an existing spring across West Street. The applicant intends to use the existing on-site sewage disposal system in the rear yard, a septic tank and dry well, which has existed for an unknown number of years. The applicant believes the State will accept the existing

system, even with the additional bath, as long as it continues to function. Two off-street parking spaces are proposed parallel and adjacent to the road.

4. The applicant testified that the original post and beam structure dates to approximately 1859, and over the years, two additions were constructed , a small single car garage that now constitutes the southern portion of the structure, and a small connecting structure that at one time was identified as the West Dummerston barber shop. The applicant submitted building elevations and building section drawings.
5. The subject property is 63.7 feet wide by 100 feet deep and slopes away from West Street. The existing three part structure is set back 27 feet from the centerline of West Street, 2 feet from the northerly property line and 11 feet from the southerly property line. The proposed addition would not reduce these minimal setbacks, but would add to the structure's footprint within the setback area, and would also add building height and volume within the setback areas.
6. The property is located in the Zoning Bylaw's West Dummerston Village District (Section 235) which is intended to "maintain the traditional social and physical character and scale of the village including its historic and scenic resources, and which will not exceed the capacity of the lands, waters or town services or facilities. . . ." Requirements for residential uses include the following minimum dimensional standards: one-half the lot area, 150-foot lot frontage, 200-foot depth, 50-foot road setback (75-feet from the centerline), and 30-foot side and rear yard setbacks.
7. West Dummerston is characterized by mixed residential, public, institutional and home business uses. Many if not most of the parcel sizes and setbacks are non-conforming. The Town Planning Commission has recognized the need to update the dimension standards of the Bylaw, but has yet to do so.
8. The applicant testified that the size and configuration of the structure and parcel has created a hardship, specifically the height and steepness of the stairway which the additional footprint will allow to be redone to a safe and functional standard. Further, the historic small village lot width and closeness to the road constitute a hardship which was further intensified when, according to the applicant's testimony, a southerly portion of the parcel, once occupied by a horse barn, was transferred for use as the new access to the West Dummerston School, now the West Dummerston Community Center.

9. The Board received no testimony at the hearing other than the applicant's. However, the Chair did share comments made to him during the site visit from one citizen who did not attend the hearing but expressed concern regarding the use of the Community Center driveway for access.

10. The Board concurs with the applicant's testimony regarding the physical hardship described above. The Board also finds that the application of the required 30-foot side yard and 50-foot road setback to this 64x100 foot parcel would not allow a reasonable use, and renovation of the structure in its present location will not alter and rather would help retain the historic village character of West Dummerston.

11. Because of the minimal setbacks, there is not vehicular access to the rear of the property except from the driveway to the Community Center. While this has been used for access in the past, the applicant is unaware of any property right to the access. The Board suggests that the applicant, if he so desires, -work with the Town to obtain access off the Community Center driveway- to provide access to the rear of the property for maintenance.- Consideration of off street parking at that location might be taken up at that time as well.

CONCLUSION AND DECISION

The five required findings set out in the State Statute and Bylaw Section 728 for granting a variance being found in the affirmative, the Dummerston Development Review Board hereby approves the variance, with the following conditions:

1. The project conforms to the application materials and testimony of the applicant as set out in this decision;

2. The applicant obtain all necessary state permits and approvals.

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.

Pat Jaquith, Rick Sullivan, John Warren, Lew Sorenson and Herb Rest

July 13, 2010

Herb Rest, Chair,

For the Board

Marchese Variance Application

EXHIBITS

1. Zoning Permit and Application and Site Plan #3230
2. DRB Application #3230V

3. Applicant's elevation and Section drawings submitted at hearing
4. Newspaper Public Hearing Notice.
5. Applicant's Certification of Posting and Notice to adjacent property owners
6. Attendance Sign-In & Exhibit List
7. Interested Persons Record and Service List

--Forwarded Message Attachment--