

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

Applicant: Dewey Lankford
Mailing Address: Box 8241, Brattleboro, VT 05302
Owner of Record: Dewey Lankford
Location of Property: 940 Rte. 5, Dummerston, VT
Application: Zoning Permit Application No. 3232

The matter came before a duly warned public meeting of the Dummerston Review Board (DRB) held on July 20, 2010; the public meeting was preceded by a site inspection by the DRB. The matter was carried over to October 21, 2010

Present and participating in the meeting and the site inspection were the following members of the DRB: Herbert Rest, Lew Sorenson, Cynthia Wilcox, and Patricia Jaquith. Alternate John Warren participated as a voting member. Subsequent to the initial meeting, John Warren was appointed to the Board and voted as a full Board member. Also present were applicant Dewey Lankford and Zoning Administrator Charlotte Neer Annis.

FINDINGS OF FACT

1. Applicant proposes to add to the existing commercial structure a porch across the length of the building as a “beautification project”.
2. The property is located in a Rural Commercial zone.
3. The Zoning Administrator denied the application, citing the need for Site Plan Approval by the DRB, pursuant to Section 724 of the Dummerston Zoning Bylaw and citing the need for front and side yard setback variances by the DRB, pursuant to Section 225 of the Dummerston Zoning Bylaw.
4. The commercial structure is a nonconforming building (1969) that preceded the Town Zoning Bylaws, with signage variance approved in response to application #731 dated October 2, 2004 and with front awning and back patio variances approved in response to application #3001 dated November 21, 2005.
5. Site inspection showed that the “proposed” porch had already been fully constructed and extends approximately 8.5 feet toward Route 5 about 60 feet from the front property line and extends the permitted awning structure approximately 29.5 feet across the front of the building ending at the building’s side, about 40 feet from the side property line.
6. The site inspection showed a number of additional zoning violations including signage,

traffic safety issues, multiple trailers used for storage and/or habitation and construction of an attached storage area to the rear of the building without permit and possibly requiring a side yard variance.

7. The applicant proposes no changes to the use of the property and testified that neither food nor beverage would be allowed at the tables/seating included in the porch construction. He testified that the establishment's security employee would assure that such would be enforced. Further, the applicant's testimony stipulates that there will be no additional lighting.
8. The applicant testified that the parking area has been unaffected by the porch construction and identified faded parking painted parking space lines on the asphalt in the front of the porch that supports his testimony. A subsequent DRB member site re-review confirms this to be accurate and therefore a non issue.
9. Expanded signage is the result of a "sandwich board" in the roadside area, venue announcements added to the permitted sign and lighted beverage advertisements in the front windows directed toward Route 5. The total of the signage areas exceed the signage area permitted by variance on October 2, 2004.
10. Traffic safety issues result from unfettered egress from the property across the entire front property line.
11. Six on-site vehicular structures were identified and include an occupied Recreational Vehicle, a trailer used as a recording studio, a trailer used for habitation by visiting musician groups and several large trailers allegedly used for storage.

CONCLUSIONS OF LAW AND DECISION

1. The DRB determines that the application materials and public notice are proper and timely.
2. The DRB finds that Section 724 Variances and Section 225 Site Plan Approval apply.
3. The DRB finds that the porch addition is constructed within the variance-granted allowance defined for the "awning" attached to the non conforming pre zoning building. The porch addition represents an extension of the granted front yard setback without further forward encroachment on the front property line. The side yard setback is identical to that of the established non conforming structure.
4. Because of the nonconforming nature of the building and the entrance location, the porch addition can only be located as described, adds minimally to the non conformity and is architecturally appropriate.

5. The non conforming building (1969) antedates Dummerston Zoning Bylaws and is situated on the property in such a manner that any frontage facing beautification construction will necessarily be out of compliance with the current zoning regulations.
6. The addition of the porch is a pleasing aesthetic addition to a commercial structure that has been a part of this neighborhood for many years. No negative neighborhood impact will be realized.
7. The granted variance would represent a minimal expansion of the non conforming footprint and the minimum deviation that allows for functionality of the addition.

. The DRB therefore approves the application for variance and grants site plan approval subject to compliance with the Board's conditions for correction of all of the noted zoning violations within the specified timeframes and to the standards stipulated in ATTACHMENT A . Monitoring and confirmation of compliance is referred to the Zoning Administrator.

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, 2010

Herbert Rest, Lew Sorenson, Cynthia Wilcox,
Patricia Jaquith, and John Warren

DUMMERSTON DEVELOPMENT REVIEW
BOARD

Herbert F. Rest
For the Board