

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

Applicant: Carrie Plankster Estate (applicant for the estate: Dewey Lankford)
Mailing Address: Box 8241, Brattleboro, VT 05302
Owner of Record: Carrie Plankster Estate
Location of Property: 940 Rte. 5, Dummerston, VT
Application: Zoning Permit Application No. 3251

The matter came before a duly warned public meeting of the Dummerston Review Board (DRB) held on February 15, 2011; the public meeting was preceded by a site inspection by the DRB.

Present and participating in the meeting were the following members of the DRB: Herbert Rest, Cynthia Wilcox, John Warren and Patricia Jaquith. Alternate Rick Sullivan participated as a voting member. Preceding the public meeting, the voting Board members, Cindy Wilcox excluded, participated in a site visit re-review. Also present at the DRB meeting were applicant Dewey Lankford and Zoning Administrator Charlotte Neer Annis.

FINDINGS OF FACT

1. Applicant requests a variance and site plan approval for a structure (existing and non-permitted) added to a pre-existing building and within the front yard setback. The property is located in a Rural Commercial zone.
2. 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 a front yard setback variance by the DRB, pursuant to Section 225 of the Dummerston Zoning Bylaw.
3. The shed structure is attached to the rear facing wall of a non-conforming pre-zoning commercial building (1969) located in a Rural Commercial Zone. Historical DRB activity relating to this property include a signage variance approved in response to application #731 dated October 2, 2004, front awning and back patio variances approved in response to application #3001 dated November 21, 2005 and a front porch variance in response to application # 3232 dated October 20, 2010.
4. Site inspection showed that the “proposed” shed porch had already been fully constructed and extends approximately 8 feet into the front yard setback (from the midline of Route 5) and is attached to the rear-most facing wall of the commercial main building. Side yard and rear yard setback requirements are met.

5. The applicant testified that the structure has been in place and in use for approximately 5 years. Access to the structure is from within the commercial building. The interior space is used for storage of recyclable bottles and similar activities related to the daily function of the business.
6. The applicant testified that, while he is willing to relocate the structure to a more remote location on the property, and within zoning guidelines, the functionality of the structure would be seriously compromised and the potential for injury risk to his employees would be increased.
7. Site visit review by the Board establishes the shed structure to be set back from the south-easterly rear corner of the main building, is attached to the rear wall of that building, is not visible from the roadway (route 5), does not interfere with traffic flow around the building and has no exterior lighting.

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 shed, while within the front yard setback area, because of its inset and rear attachment to the pre-zoning non-conforming structure (1969), does not substantially add to the front yard setback footprint nor violate the intent of the front yard setback Bylaw.
4. The need for storage and reasonable functionality of the storage area identify the current location as the most appropriate placement of the shed structure. It is by virtue of the existing non-compliant pre-zoning commercial building that an attached storage area structure will necessarily be located within the same front yard setback as the entire existing commercial structure.
5. To locate the storage structure away from the main building as a zoning-compliant free-standing structure is felt to add to foot traffic across a vehicular access area, add the potential for injuries in adverse weather situations and not represent the best functional solution.
6. The non-conforming building (1969) antedates Dummerston Zoning Bylaws and is situated on the property in such a manner that any addition to the building will create an expansion of the non-conforming footprint. This predates applicant ownership of the

property.

7. The structure is located behind the current main building and is not visible from the front of the property. The addition to the rear dimension is minimal and does not affect the neighboring properties visually or functionally. The character of the neighborhood is not affected.
8. The size and location of the structure provide the needed capacity and pattern of work-flow to expeditiously relieve the storage needs of the business. 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.

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: March 2, 2011

Herbert Rest, Cynthia Wilcox, Patricia Jaquith,
Rick Sullivan and John Warren

DUMMERSTON DEVELOPMENT REVIEW
BOARD

Herbert F. Rest
For the Board