

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

Applicant: Elizabeth Davis
Mailing Address: P.O. Box 38, W. Dummerston, VT 05357
Location of Property: 202 West Street, W. Dummerston
Re: Application for Site Plan Approval for backyard
fence; Zoning Permit #3291

The matter came before a duly warned public hearing of the Dummerston Development Review Board (DRB) held on March 20, 2012, at the Town Office, Dummerston Center, Vermont. The public hearing was adjourned, followed by deliberations and motions.

Present and participating were the following members of the Development Review Board: Herb Rest, Cynthia Wilcox, Lew Sorenson, John Warren, and Hugh Worden. Board member Jack Lilly was present but did not participate.

FINDINGS OF FACT

The Board finds as follows:

1. The applicant requests a permit for a fence enclosing a square 32 feet on a side, 5½ feet tall, attached to the rear of the house. The fence was built at about 2001; the applicant testified under oath that she did not realize at the time the fence was built that she needed a permit for it. The applicant further testified that the fence needed to be as high as it is in order to adequately confine her dog.
2. The property is in a Village District.
3. The Zoning Bylaw in effect at the time of the construction of the fence defined fences over four feet high as structures requiring a Zoning Permit.
4. The lack of a permit for this fence was brought to the attention of the Zoning Administrator by Harold Newell, owner of an abutting property. He stated in sworn testimony before the Board that he did not object to the presence of the fence, but only wanted the bylaw enforced.
5. Section 616 (“Exceptions to Set-Back Requirements”) of the current Zoning Bylaw

(June 20, 2007; amended Nov. 19, 2008) states, "Fences...exceeding four feet in height in the Village District...require a Zoning Permit and are subject to Site Plan Approval by the DRB."

6. Section 726 of the current Zoning Bylaw governs Site Plan Review.

CONCLUSIONS OF LAW AND DECISION

1. The applicant did need a Zoning Permit at the time of the construction of the fence, and is still required to have such a permit under the current Bylaw, Section 616, which also requires Site Plan Approval from the DRB.

2. The fence results in none of the potential problems listed in Section 726, nor any others that became apparent to the DRB through its investigation or sworn testimony before it.

3. The DRB therefore grants Site Plan Approval, without conditions, and instructs the Zoning Administrator to issue the appropriate Zoning Permit.

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.

Herb Rest, Cynthia Wilcox, Lew Sorenson,
John Warren, and Hugh Worden.

Dated: April 4, 2012

DUMMERSTON DEVELOPMENT
REVIEW BOARD

Herb Rest, Chair
For the Board