

Application for a Waiver to setback requirements

TOWN OF DUMMERSTON

Development Review Board

Application for a Waiver to setback requirements Findings and Decision

Applicant: Anne Black
Mailing Address: 890 Park Laughton Rd E. Dummerston, VT 05346
Location of Property: Parcel # 000143 890 Park Laughton Rd.
E. Dummerston, VT 05346
Owner of Record: James R. Ballen and Anne N. Black
Application: Waiver to set back requirements under Section 256 of
the Zoning Bylaw for an existing deck in a Rural
district.

Permit Application No. 3555

Date Received: 5/23/19

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a waiver to setback requirements for an existing deck as submitted by Anne Black under the Town of Dummerston Zoning Bylaw.
2. The application was received on May 23, 2019.
3. On July 2, 2019 a notice for a public hearing was posted at the Dummerston town office, West Dummerston Post Office and the Dummerston School.
4. Notice of a public hearing was mailed to the applicant and the following abutters of 890 Park Laughton Rd E. Dummerston, VT
 - Richard Adams Carter & Aria Silverman, 791 Park Laughton Rd. East Dummerston, VT 05346
 - Norris H & Constance B Evans 684 Park Laughton Rd. East Dummerston, VT 05346
 - Douglas Hamilton 988 Park Laughton Rd. East Dummerston, VT 05346
 - Alan J & Judith H McBean 943 Park Laughton Rd. East Dummerston, VT 05346

- John N Scherer P.O Box 132 Putney, VT 05346
 - Judith Carpenter P.O. Box 4 West Dummerston, VT 05357
5. A site visit was made to 890 Park Laughton Rd, E. Dummerston VT on July 16, 2019.
 6. The application was considered by the Development Review Board at public hearings on July 16, 2019 and on September 17, 2019. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended May 22, 2019.
 7. Present at the hearing on July 16, 2019 were the following members of the Development Review Board. The lack of a quorum of 4 board members present resulted in a reconvening of the hearing to September 17, 2019.
 - Dennis Mewes, acting Chair
 - Josh Pacheco
 - Patty Walior
 8. Present at the hearing on September 17, 2019 were the following members of the Development Review Board
 - Chad Farnum, Vice Chair
 - Cami Elliott
 - Patty Walior
 - Dennis Mewes
 9. Present at the hearing on July 16, 2019 were the following persons:
 - Roger Jasaitis, Zoning Administrator
 - John Sherer
 - Anne Black
 - Alan McBean
 10. Present at the hearing on September 17, 2019 were the following persons:
 - Roger Jasaitis, Zoning Administrator
 - Alan McBean

11. During the course of the hearing the following exhibits were submitted to the Development Review Board:
 - A. Applicant Certification of Notice.
 - B. DRB Hearing Checklist.
 - C. Town of Dummerston "Development Review Board - Attendance Sign-In" sheets dated July 16, 2019 and September 17, 2019.
 - D. Permit Application #3555 dated May 23, 2019.
 - E. Copy of Zoning Administrator report to the members of the DRB re parcel #143 Permit app. #3555.
 - F. Copy of tax map showing property lines

FINDINGS OF FACT

Based on the application, testimony, exhibits, and other evidence the Development Review Board makes the following findings:

1. The applicant seeks a waiver to setback requirements for an existing deck.
2. Deck was previously permitted as attached to the house as part of house renovations in 2006.
3. The deck was moved to its present location without a zoning permit.
4. Abutter John Scherer expressed concern over how close the deck is to the property line.
5. At the July 16, 2019 hearing a suggestion was made to have the property line surveyed.
6. Alan McBean testified at the September 17, 2019 hearing that surveyor Bill Fitzgerald has completed the survey of the property line between Anne Black and John Scherer.
7. The survey has shown that the deck on parcel #143 is 7 feet from the property line.

DECISION

Based upon these findings, the Development Review Board grants the application for the waiver of setback requirement for the existing deck. The DRB determined the applicant meets the requirements of section 256 of the Dummerston Zoning Bylaw.

Waiver Criteria:

1. The waiver is helpful or necessary to allow for reasonable use of the property.
2. The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.
3. There are no adverse effects of the waiver.
4. The need for a waiver was created by past decisions of the applicant.

5. The existing deck still conforms to the town plan.
6. The existing deck still conforms to the purpose of the zoning district (Rural District).
7. The existing deck will not have an undue adverse effect on the following:
 - a. Surrounding properties and property values
 - b. The character and aesthetics of the neighborhood
 - c. Traffic patterns and circulation
 - d. Public health, safety, and utility services
 - e. Storm water management
 - f. Water and wastewater management.

It is the Applicant's responsibility to be in compliance with any State issued permits at all times.

The following members of the Dummerston Development Review Board participated and concur in this decision: Chad Farnum, Cami Elliott, Patty Walior, and Dennis Mewes. The Decision is subject to appeal as provided by Vermont statutes

DUMMERSTON DEVELOPMENT REVIEW BOARD


Dennis Mewes

Dated: October 16, 2019