

DEVELOPMENT REVIEW BOARD
108 Shed Road
Berlin, Vermont

APPROVED MINUTES
Meeting of November 5, 2019

1. The meeting was called to order at 7:05pm

Members present: Robert J. Wernecke, Chair, Karla Nuissl, John Friedrich, Josh Fitzhugh, Polly McMurtry

Staff present: Tom Badowski, Zoning Administrator

Others present: Evan Hinchcliffe (ORCA), James Cultrera (representative), Ellen Moody (IP).
Meeting is being recorded by ORCA.

Applicant and IP were sworn in at 7:06pm.

2. New Business

- A. 19-060 – Application by Nancy Carpenter** for a Waiver request under Section 4502 to allow encroachment into the Rear Yard Setback for construction of a porch. The property is located at 1758 Scott Hill Road, Tax Map ID: R02-080.000; PID SA1-064. The Property is in the Residential (RES) District.

Ellen Moody, an abutting landowner, requested party status. Mr. Cultrera noted that he and Ms. Carpenter purchased a house with no intention to build a porch on the house. However, they have a potential buyer of the property and the buyer would like to add a porch to the rear of the house. The applicant provided written responses to the waiver criteria.

The potential buyer would prefer a 12' x 16' deck, with the 16' going out from the house. The current setback is approximately 36' from the back property line. The representative noted that they would like a waiver for 20' from the rear setback. The DRB will not grant a waiver for more than what is needed; 20' is needed in order to build the deck plus a set of stairs. There is a 5' difference from the rear property line to the two corners of the house. Ms. McMurtry questioned why the house was built where it was. Mr. Cultrera noted that it fits in with the neighborhood and there is quite a bit of rock on the property. Ms. Moody noted that the south side of the house that faces the cemetery is about 4" over the setback right now. Another concern is that half the driveway is owned by the farm soon to be owned by the Moody's and it needs to be understood by the buyer that farm equipment will be using that access. Ms. Moody would like to negotiate with the neighbors to re-configure the access so that it is clear to all parties.

Mr. Cultrera noted that the driveway is actually shared and his property has included that ROW on the tax map for the last 40 years. He feels that the house is not encroaching on the south setback. Ms. Moody noted that they had their property surveyed, as well, and it shows that the house is encroaching on the setback. Ms. Nuissl requested clarification that there is no easement for the access, though the driveway has been shared for many years. Mr. Wernecke asked Ms. Moody if she objected to the building of the deck. She noted that she has a concern because they don't know what they will be doing with her grandparents' land in the future. Mr. Wernecke noted that the DRB can only act upon zoning decisions and whether the structure will adversely impact abutting landowners. The main concern seems to be about the shared access. Mr. Cultrera feels that because the access has been in existence for many years, there should be some sort of grandfathered status. Mr. Fitzhugh suggested that the two parties come up with an access agreement that shows what is already happening to make it clearer for now and for the future. There was some discussion regarding one of the parties creating another access as there is enough room for two accesses.

Chapter 450 – Appeal Procedures

Figure 4-07 – Waiver and Variance Review Criteria

Criteria 1 – Proposed development will not alter character of area – will not

Criteria 2 – Proposed development will not impair development on adjacent property – will not; proposed porch will be 20 feet from the property line at the closest point

Criteria 3 – Proposed development will not be detrimental to public health and safety – will not

The ZA noted that the applicant needs to revise #3 on the application to show a request of 10 feet for the waiver.

Motion was made by Ms. Nuissl to close the hearing, seconded by Mr. Friedrich; motion passed unanimously

3. Review and approval of the Minutes

The Chair called for the approval of the Minutes of the October 15, 2019 meeting.

Motion was made by Ms. Nuissl, seconded by Mr. Friedrich, to approve the minutes as amended; motion passed 4-0-1 (Ms. McMurtry abstained)

Amendments: clarify easement, spotlight shielding, include LOI from VTrans

Motion was made to go into deliberative session by Mr. Fitzhugh, seconded by Mr. Friedrich; motion passed unanimously

DRB entered deliberative session at 7:28pm; board exited at 7:44pm

4. **Motion was made to adjourn by Ms. Nuissl, seconded by Mr. Friedrich; meeting was adjourned at 7:45pm.**

Respectfully submitted by Kristi Flynn, Recording Secretary