

**Town of Dover**  
**P.O. Box 428**  
**West Dover, VT 05356**  
**(802) 464-8720**

**DOVER DEVELOPMENT REVIEW BOARD**  
**NOTICE OF DECISION**  
**Application 16-RT068-10**

**A. PROCEDURAL HISTORY & APPLICANT REQUEST**

1. Abutting Landowner (Appellant): Marcia Conrad
2. Applicant: Marcia Conrad
3. Brief Description of Request: Appeal of Zoning Administrator decision regarding maintenance work done on Abutting property, in accordance with Sections 332, 405.B, 475, and Article 5 of the Dover Zoning Bylaw (the "Bylaw" herein).
4. A copy of the application was received by the Zoning Administrator on August 12, 2016.
5. On August 19, 2016, a copy of the Notice of Hearing was mailed to the Applicant, along with a sample letter and abutter's list for notifying all abutters.
6. Public notice of the hearing was posted at the following locations on August 18, 2016:
  - a. Dover Town Clerk's Bulletin Board
  - b. Dover Town Meeting Room Bulletin Board
  - c. Dover Free Library & Dover Elementary School via email
  - d. East Dover Post Office via regular mail
  - e. Town of Dover website: [www.doververmont.com](http://www.doververmont.com)Public notice of the hearing was also published in the Deerfield Valley News and in the Brattleboro Reformer on August 25, 2016.
7. At the outset of the hearing, the Chair afforded all persons wishing to establish status as an interested party the opportunity to do so; Heather Kelly, property owner of the subject property, was granted Interested Party status.
8. A public hearing was opened on September 22, 2016, continued to October 13, 2016, and subsequently continued to December 8, 2016. The hearing was closed on December 8, 2016.
9. A complete list of exhibits and attendees is included in the meeting minutes. Minutes, application and exhibits are available for viewing in the Dover Town Office through the Zoning Administrator.

**B. FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

Based on the application, testimony, exhibits and other evidence, the Dover DRB finds and concludes as follows:

1. The subject property is located at 210 Route 100 in West Dover VT and is located in the Planned Commercial District (COM). The property is known as Sticky Fingers.

2. The hearing was properly warned.
3. All abutters were notified by the Applicant.
4. The Applicant was properly sworn prior to providing testimony.
5. Maintenance work was performed on an accessory structure at the northern end of the subject property.
6. The exact date of construction of the accessory structure is not known, but testimony establishes that it was in existence no later than 1997.
7. The subject structure is a pre-existing, non-conforming structure. It does not conform to the required setbacks to the property line (15') and to Route 100 (50') (Section 475).
8. The Appellant contends that the footprint of the accessory structure was increased, thereby increasing its degree of non-conformity.
9. The Appellant contends that there was a change of use, from shed to garage.
10. The Appellant contends that the structure is located in the Flood Plain, and does not conform to the required setback to the stream bank (50') (Section 405.B).
11. The Appellant contends that the maintenance work increased the footprint of the accessory structure, which would increase the degree of non-conformity, and therefore the Zoning Administrator should have issued a Notice of Violation.
12. Pursuant to the Specific Standards for Non-Conforming Structures in Bylaw Section 332, the Board finds and concludes as follows:
  1. No quantitative evidence was presented that demonstrates that the existing footprint of the accessory structure was increased in size, and therefore there is no evidence that the degree of non-conformity was increased. As the footprint has not been demonstrably altered, the accessory structure also does not increase the applicable bulk or coverage requirements.
  2. The applicable height requirements of the non-conforming structure have not been exceeded.
  3. The equalized assessed value of the subject building had not been established; therefore, it cannot be definitively determined that the repair and maintenance work exceeded 75% of its equalized assessed value.
  4. Sections 332.4-332.6 are not relevant to this application.
12. The Bylaw does not distinguish between types of accessory structures; indeed, the Bylaw does not contain definitions for "shed" or garage", therefore there is no change of use.
13. As a pre-existing, non-conforming structure, the accessory structure is not required to conform to Article 5: Flood Hazard Area Regulations.
14. As a pre-existing, non-conforming structure, the accessory structure is not required to conform to the stream setback requirement (Section 405.B).

## DECISION

Based on the evidence presented and the Boards Findings of Fact and Conclusions of Law, by a vote of 0-4-0, the Board denies the Appeal of the Zoning Administrator's decision.

Respectfully submitted,



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Sarah K. Shippee  
Chairperson, Dover Development Review Board

January 20, 2017

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Date

**NOTICE:** This decision may be appealed to the Environmental Division of Vermont Superior Court by an interested party who participated, by offering oral or written testimony, evidence or a statement of concern regarding this application before the DRB. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

**NOTICE:** State permits may be required for this project. Call 802-885-8850 to speak to the regional Permit Specialist before beginning any construction.