

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

DOVER DEVELOPMENT REVIEW BOARD
NOTICE OF DECISION
Application 17-HI072-01

A. PROCEDURAL HISTORY & APPLICANT REQUEST:

1. Landowner: James Sutter
2. Applicant: Merrill Mundell, Jr.
3. Brief Description of Request: Request for Variance from the setback requirement to Route 100, pursuant to Sections 475 and 1140 of the Dover Zoning Bylaw. The property is known as 18 Catamount Lane.
4. A copy of the application was received by the Zoning Administrator on July 6, 2017.
5. On July 6, 2017, 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 July 10, 2017:
 - 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.comPublic notice of the hearing was also published in the Deerfield Valley News on July 13, 2017.
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; Peter and Tarun Bertolami, 15 Catamount Lane (parcel HI070), submitted written testimony, which was read into the record.
8. At the outset of the hearing, the Applicant was given and accepted the opportunity to review the application summary submitted by the Zoning Administrator, Exhibit A. The Applicant agreed with the summer provided by the ZA.
9. A public hearing was held on July 27, 2017 and continued to and closed on August 10, 2017.
10. 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 as follows:

1. The property is located at 18 Catamount Lane, in West Dover VT. It is located in the Vacation Zone (Resort Overlay) District (VAC).
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. The Applicant is requesting a variance of 21.1 feet from the corner of the porch to Route 100. The setback requirement is 100 feet; the corner of the porch will be 78.9 feet from the centerline of Route 100.
6. The Applicant acquired the subject property prior to the establishment of wetlands setback requirements.
7. The house has been re-designed to create a smaller footprint to accommodate the various setback requirements; this plan represents the smallest practical design for development of the parcel.
8. Pursuant to the Specific Standards for Issuance of a Variance in accordance with Bylaw Section 1140, there are five conditions to be considered, all of which must be met in order for a variance to be granted:
 1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size and shape, or exceptional topographical or other physical conditions peculiar to the particular property, and the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning regulations in the neighborhood or district in which the property is located;
 2. That because of such physical circumstances or condition, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Bylaw and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 3. That the unnecessary hardship has not been created by the appellant.
 4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located; will not substantially or permanently impair the appropriate use or development of adjacent property; will not reduce access to renewable energy resources; not be detrimental to the public welfare.
 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulations and from the plan.
9. The Board finds that the subject property meets the Specific Standards for a Variance:
 1. The addition of a setback requirement to wetlands created a unique physical condition on the parcel, after the parcel was purchased by the Landowner;
 2. The addition of the wetlands setback to the opposing setback from Route 100 meant that the property could not be practically and reasonably developed in strict conformance with the Bylaw;
 3. The hardship was created by the imposition of the wetlands setback, subsequent to the purchase of the parcel;
 4. The construction of a single-family residence will not alter the essential character of the neighborhood, will not substantially or permanently impair the use or development of adjacent property, will not reduce access to renewable energy resources, and will not be detrimental to the public welfare;


5. The variance represents the minimum variance that will afford relief and represents the least deviation possible from the zoning regulations and the plan.

C. DECISION

Based on the evidence presented, by a vote of 5-0-0, the Board approves this Application with the following conditions:

1. The Applicant shall be responsible for returning the road to its current condition at the completion of construction.
2. The Applicant shall maintain a wooded buffer between the house and Route 100.

Respectfully submitted,



Sarah K. Shippee
Chairperson, Dover Development Review Board

September 12, 2017

Date

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested party who participated, through oral or written testimony, in the proceeding(s) 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 802-282-6488 to speak to the regional Permit Specialist before beginning any construction.