

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

DOVER DEVELOPMENT REVIEW BOARD NOTICE OF DECISION

I. PROCEDURAL HISTORY & APPLICANT REQUEST

1. Application Number: 13-RT068-01
2. Owner/Applicant: David & Heather Kelly
3. Brief Description of Request: Variance of 13-ft from the center line of road set-back requirement, reduction from 50-ft to 37-ft
4. A copy of the Notice of Hearing was mailed to the Applicant on April 30, 2013, along with a sample letter and abutter's list for notifying all abutters.
5. Public notice of the hearing was posted at the following locations on April 30, 2013:
 - a. Dover Town Clerk's Bulletin Board
 - b. Dover Town Meeting Room Bulletin Board
 - c. Dover Free Library
 - d. East Dover Post Office
 - e. Dover Elementary SchoolPublic notice of the hearing was also published in the Deerfield Valley News on May 2, 2013 and in the Brattleboro Reformer on May 3, 2013.
6. At the outset of the hearing, the Chair afforded all persons wishing to establish status as an Interested Party the opportunity to do so. No such requests were made.
7. A public hearing was held and closed on May 23, 2013.
8. 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.
9. The current Zoning Bylaw is dated March 5, 2013.

II. FINDINGS OF FACT:

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

1. The project is located at 210 Route 100 within the Commercial District (COM). The variance is requested for the residential structure, not the Sticky Fingers bakery structure.
2. The hearing was properly warned by the Zoning Administrator.
3. All abutters were notified in writing and in a timely manner by the Applicants.
4. No parties were granted Interested Party status.
5. The Applicants were given an opportunity to review Exhibit A, a memo from the Zoning Administrator. The only clarification made was that the variance was

- requested for the residential structure, not the Sticky Fingers Bakery structure.
6. The Applicants did not construct the house. The original portion of the house was built in 1825; the rest of the house was built in 1980.
 7. The total lot size is approximately 2-acres. The parcel is long and narrow, sitting between Route 100 and the Deerfield River. The original part of the house predated the road construction.
 8. The proposed covered porch will have a concrete floor to provide the children a paved playing surface. Exhibit C depicts the porch as proposed.
 9. The proposed porch will be set within an existing building jog and will not extend any closer to Route 100 than the existing footprint of the building.

III. DECISION

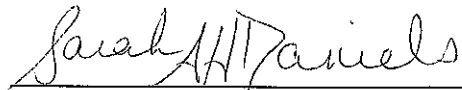
Every variance request must demonstrate specific conformance with Section 1140 of the Bylaw. As required by Section 1140 and Vermont statute, it is the responsibility of the Applicant to demonstrate clear and specific conformance with each of the five criteria. If any single criterion is not clearly and specifically met, the variance must be denied. The Applicant has provided testimony to demonstrate conformance with five of the five criteria, specifically found as follows.

- Criterion 1 – That the property has unique physical characteristics or geometric conditions: There is a river which follows the rear of the property and Route 100 is nearly on top of the house at the front. The house, originally constructed before Zoning regulations were implemented, is sited roughly in the center of the lot and already encroaches upon the 50-ft centerline setback requirement on the west side. *Criterion 1 is met.*
- Criterion 2 – That the lot cannot be developed in conformance with the Bylaw due to the unique circumstances presented in Criterion 1: On the west side of the house, the existing building footprint is already encroaching 13-ft into the 50-ft centerline setback. No additions to the front of the house could be accommodated without a variance and a front porch cannot be added to the back of the house, which would likely require a stream setback variance. *Criterion 2 is met.*
- Criterion 3 – The hardship has not been created by the Applicant: The Applicant did not construct the house. In fact, the road was constructed after the house. *Criterion 3 is met.*
- Criterion 4 – That granting of the variance would not alter the character of the neighborhood: All but two of the nearby Route 100 properties are commercial structures; there are two single family homes. The front porch addition and associated landscaping improvements are intended to improve aesthetics of the property and bring it up to the character of the neighborhood. *Criterion 4 is met.*
- Criterion 5 – That the variance would be the minimum variance to provide relief:

By adding the porch within an existing jog in the building and maintaining the porch footprint within the overall building footprint, the Applicant is not increasing the encroachment nor the degree of non-conformity. In fact, the addition of a front porch avoids the need for a stream setback variance on the back of the house. *Criterion 5 is met.*

The Dover Development Review Board **approves** application 13-RT068-01 by a vote of 5-0-0.

Respectfully submitted,



Sarah A. H. Daniels
Chair, Dover Development Review Board

6/13/13
Dated

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 802-885-8850 to speak to the regional Permit Specialist before beginning any construction.