

Town of Moretown Development Review Board
P.O. Box 666, Moretown, Vermont 05660

Minutes of Hearing Held February 13, 2014

Application No. 13-38: David Stapleton and Joyce Manchester for variance at 1425
Cobb Hill Road

Present for the Board were John Riley, Erick Titrud, Tom Badowski, Jim O'Neill and Dave Russo. Present for the Applicants was David Stapleton. John called the meeting to order at 7:02 PM.

The Board reviewed the site plan. David Stapleton and Joyce Manchester own a 20 acre parcel on Cobb Hill Road. At their driveway entrance Cobb Hill Road is a Class 3 road. As the road winds around on the southerly side of the parcel Cobb Hill Road becomes a Class 4 road. There is an existing residence and guest house. This application is for a two story garage structure, 24 feet by 34 feet, and which would be located between the driveway and residence.

The location is in the Preserve District which requires a 65 foot front yard setback, 100 yard side setbacks, and a 25 yard rear setback.

The site plan presented by Applicants shows the proposed location as meeting the front yard setback from Class 3 Cobb Hill Road, and side yard setback on the southerly side. On the northerly side, the portion of the garage nearest the neighbor's property line (Whitworth) is a distance of 65 feet and so violates the 100 foot side setback.

Under Section 6.7 the application must meet five criteria to be eligible for a variance. The first requires that there be unique physical circumstances or conditions peculiar to a property and that unnecessary hardship is due to such conditions, and not the conditions created by the zoning regulations.

The second criteria is that because of such physical circumstances there is no possibility the property can be developed in strict conformance with the zoning regulation. As an initial matter, Applicants cannot meet these requirements. There is a location adjacent to the residence which is a possible location for a garage (though not the preferred one from the standpoint of Applicants.) In addition, the property has been developed and has an existing residence and guest house. Although a garage may improve and enhance the value of the property, it has been previously developed and is presently in conformance with zoning regulations.

Despite this finding, the Board reviewed and considered whether the nonconforming yard could be classified as the “rear” side and as such subject only to a 25 yard setback standard. Section 4.7(C) states that setbacks are to be measured as the horizontal distance from the nearest point of a structure to the related front, side or rear property line. Where a lot fronts an existing public right of way the front yard setback is measured from the street centerline to the point on the building closest to the street.

Under Section 4.7(D) any yard adjoining the street shall be considered a front yard. A corner lot is considered to have only front and side yards.

Here, the so called southerly side facing the Class 4 portion of Cobb Hill Road, and the westerly side facing the Class 3 portion, both seem to qualify as “front yard setbacks”. It appears the likely intent of the ordinance be that this lot would be considered a “corner” lot having only front yard, and side yard setbacks. John Riley wondered whether perhaps the Board could conclude that based on topography and terrain that it be inappropriate to treat this as a “corner lot”, and could the Board find the side away from the Class 4 portion of Cobb Hill Road to only need to meet rear setback criteria. Although John believed this a strained reading, he viewed the proposal as a reasonable one as the structure location is shielded from neighboring properties and located further away than the existing driveway is from the Whitworth property line.

Several Board members are concerned that the variance criteria are strict and the Board does not have authority to waive application except in very limited circumstances. Tom Badowski moved to deny the application as presented as failing to meet the variance criteria of the ordinance. Erick seconds. Motion carried 3-1-1 with David Russo dissenting, and John Riley abstaining.

The meeting adjourned at 8:05 PM.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'J. Riley', written over a horizontal line.

John Riley, Acting Clerk