



Town of Bolton Development Review Board

Bolton Town Office
3045 Theodore Roosevelt Highway
Waterbury, VT 05676
802-434-5075

Kyle Guyette (Applicant)
ZA Decision Appeal / Setback Waiver & Variance
Application #2021-24-DRB, #2021-25-DRB
June 7, 2021

Applicant

Kyle Guyette
175 Champ Lane
Waterbury, VT 05676

Property: 175 Champ Lane

Application

(Application materials on file at the Bolton Town Office)

The Applicant requests a setback waiver through the appeal of a zoning administrators decision and a setback variance to construct an approximate 900 sq. ft. garage accessory to an existing single-family dwelling. The proposed garage will have two vehicle bays and a second story for storage. The parcel is located at 175 Champ Lane (Tax Map #15A-4060175) in the Rural I district.

The proposed project has been reviewed by the Bolton Development Review Board (DRB) as an appeal of a Zoning Administrator's decision (Sec. 9.5), a setback waiver request (Sec. 9.6) and as a variance request (Sec. 9.6).

The Development Review Board's procedural history and relevant findings are attached.

Decision –Appeal of Zoning Administrator's Decision and Setback Waiver Request

- Denied**
- Approved**
- Approved with Conditions:**

The Bolton Development Review Board (DRB) hereby partially reverses the Zoning Administrator's denial of zoning permit application #2021-23-ZP and grants a 50% reduction of the 35-foot minimum front and side setback (resulting in a 17.5 foot setback), subject to the following conditions of approval:

1. The Applicant must obtain a zoning permit from the Zoning Administrator prior to beginning site work and construction. In the event that a zoning permit has not been obtained within two years of the date of this decision, DRB approval shall expire and reapplication shall be required.

2. Prior to obtaining a zoning permit, the Applicant must submit a new site plan depicting the location of the garage in conformance with the 17.5 foot setbacks. The Applicant shall also stake out or otherwise delineate the proposed garage corners, and contact the Zoning Administrator to arrange a time to physically verify that the proposed garage as laid out onsite is in conformance with the 17.5 foot setbacks. The Applicant shall keep the property pins visible and run a string between the eastern property pins to assist the Zoning Administrator with measuring the setback distance.
3. The project must be developed according to the site plan submitted to the Zoning Administrator for obtaining the zoning permit.
4. Upon completion of the garage, the Applicant must contact the Zoning Administrator and arrange a time for the Zoning Administrator to physically verify that the garage was built within the approved setbacks. The Applicant shall keep the property pins visible and run a string between the eastern property pins to assist the Zoning Administrator with measuring the setback distance.
5. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this permit, the permittee agrees to allow authorized representatives of the Town of Bolton to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Approved with conditions (5-0) by the Bolton Development Review Board:

Steve Diglio – yea Adam Beaudry – yea John Devine – yea Rob Ricketson – yea Adam Miller - yea

Decision – Variance

- Denied**
- Approved**
- Approved with Conditions:**

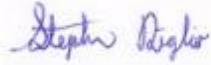
The Bolton Development Review Board (DRB) hereby denies the Applicant’s request for variance to reduce the eastern property line setback from 17.5 feet (as granted in the waiver) to 16.5 feet.

Denied (5-0) by the Bolton Development Review Board:

Steve Diglio – nay Adam Beaudry – nay John Devine – nay Rob Ricketson – nay Adam Miller - nay

Dated at Bolton, Vermont this 7th day of June, 2021.

For the Development Review Board:



Steve Diglio, Chair

NOTICES:

1. In accordance with 24 V.S.A. § 4449(e), applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicant should contact the DEC Permit Specialist for District #4 (802-879-5676) to determine whether state permits are required.
2. The applicant or another interested person may request reconsideration of this decision by the Development Review Board, including associated findings and conditions, within 30 days of the date of this decision by filing a notice of appeal that specifies the basis for the request with the Secretary of the Development Board. Pursuant to 24 V.S.A. § 4470, the board may reject the request within 10 days of the date of filing if it determines that the issues raised on appeal have already been decided or involve substantially or materially the same facts by or on behalf of the appellant.
3. This decision may also be appealed to the Environmental Division of the Vermont Superior Court by the applicant or another interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Division Court Proceedings.
4. In accordance with 24 V.S.A. § 4455, on petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke this permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.

Review Process

(Application materials, hearing notices, meeting minutes on file at the Bolton Town Office)

Applications for an appeal of a Zoning Administrator's decision / setback waiver request and variance request were filed by applicant Kyle Guyette on April 22, 2021. The applications were accepted as administratively complete by Bolton Zoning Administrator Jon Ignatowski, and referred to the Bolton Development Review Board for a public hearing. A public hearing of the DRB was scheduled for May 27, 2021 and warned in accordance with Section 9.8(D)(1) of the regulations and 24 V.S.A. § 4464.

No ex parte communications and conflicts of interest were reported by DRB members. The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Kyle Guyette, 175 Champ Lane, Waterbury, VT, 05676

The following materials were submitted in support of the application and entered into the hearing record:

1. Applications to the Development Review Board (2021-24-DRB, 2021-25-DRB), received 4/21/2021 and 4/22/2021, respectively;
2. Site Plan, received 4/29/2021;
3. DRB Coversheet, received 4/29/2021;
4. Property boundary photos, received 4/29/2021

The DRB adjourned the hearing that evening, following the submission of testimony and evidence.

Findings & Conclusions

The Applicant's appeal of a Administrator's decision and associated setback waiver request, and variance request were reviewed by the Bolton Development Review Board (DRB) for conformance with applicable requirements of the Bolton Land Use and Development Regulations (BLUDR) in effect as of January 5, 2005, and amended through May 24,2021 including the following:

- Section 9.5 – Appeals
- Section 9.6 – Waivers and Variances

DRB findings and conclusions under each of these are presented as follows.

Appeals (Section 9.5)

Conclusion: Based on the following findings, the DRB has partially reversed the Zoning Administrator's denial of application #2021-23-ZP. The DRB has determined that 175 Champ Lane is .67 acres and does not meet the minimum lot size requirement of 2 acres for the Rural 1 District. As stipulated in Section 9.6, the Applicant is entitled to a setback waiver request.

1. **Interested Person.** The Applicant is an interested person as defined by Vermont state statute and appealed within 15 days of the date of the denial.
2. **Lot Area.** The .67 acre lot in the Rural I District does not meet the minimum lot area of 2 acres. However, the lot is an existing, legally established nonconforming lot.
3. **Setback Waiver.** According to Sec. 9.6, nonconforming lots are entitled to setback waiver requests.

Waivers (Section 9.6)

Conclusion: Based on the following findings, the Board concludes that the Applicant has provided clear and convincing evidence that the standards for allowing a waiver have been met.

4. This setback waiver will allow for the reasonable development and use of a nonconforming lot.
5. Due to physical site and lot line constraints, no reasonable alternative exists for siting the garage outside of the required setback area.
6. The waiver will not alter the essential character of the neighborhood.

7. The waiver will not substantially or permanently impair or interfere with the use or development of, or access to, an adjacent property, right-of-way, surface water or wetland.
8. The waiver will not reduce access to renewable energy resources.
9. The waiver will not be detrimental to the public welfare.
10. The waiver represents the minimum setback reduction necessary to allow for the proposed development.
11. The waiver will not create adverse impacts to adjoining properties, rights-of-ways, surface waters or wetlands.

Variances (Section 9.6)

Conclusion: Based on the following findings, the Board concludes that the Applicant has not provided clear and convincing evidence that all the standards for allowing a variance have been met.

12. It was determined that, due to lot narrowness and size, unnecessary hardship is a result of these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located.
13. However, it was determined that it was possible for the applicant's property to be developed in strict conformance with the Bolton Land Use and Development Regulations, and that a variance did not need to be authorized to enable reasonable use of the property.
14. It was determined that the hardship, particularly lot narrowness and size, was not created by the applicant.
15. It was found that, if the variance was authorized, it would not have altered the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
16. It was found that the variance, if authorized, would not have represented the minimum that would have afforded relief and would not have represented the least deviation possible from these regulations and from the plan.