



Town of Bolton Development Review Board

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

Samantha Avant (Applicant)
Appeal of ZA Decision & Setback Waiver
Application #2021-27-DRB
July 8, 2021

Applicant

Samantha Avant
3477 Stage Road
Jericho, VT 05465

Property: 3477 Stage Road, Town of Bolton, VT

Application

(Application materials on file at the Bolton Town Office)

The Applicant requests a setback waiver through the appeal of a zoning administrators decision to construct an approximate 12' x 12' deck and 8' x 8' deck attached to the back of an existing single-family dwelling. The parcel is located at 3477 Stage Road (Tax Map #11-0033477) in the Rural II 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), and as setback waiver request (Sec. 9.6).

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

Decision –Conditional Use Approval

- Denied
- Approved
- Approved with Conditions:**

The Bolton Development Review Board (DRB) hereby approves the construction of the two proposed decks on 3477 Stage Road, and grants a 36% reduction of the 50-foot minimum setback of the northern (side) property boundary (resulting in a 32-foot setback) and a 50% reduction of the 50-foot minimum setback of the southern (side) property boundary (resulting in a 25-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. The project must be developed according to the plans and applications submitted to the DRB.

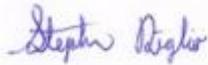
3. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this permit, the permittee agrees to allow authorized representatives of the Town of Bolton to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Approved with conditions (4-0) by the Bolton Development Review Board:

Steve Diglio – yea Adam Beaudry – yea
John Devine – yea Spencer Nowak – yea

Dated at Bolton, Vermont this 8th day of July, 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 the appeal of a zoning administrator's decision and a setback waiver were filed by applicant Samantha Avant on May 19, 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 June 24, 2021 and warned in accordance with Section 9.8(D)(1) of the regulations and 24 V.S.A. § 4464.

No ex parte communications or 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:

- Samantha Avant, 3477 Stage Rd., Jericho, VT 05465

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

1. Avant DRB Coversheet and Appeals Application (2021-27-DRB), received 5/17/2021
2. Avant Waiver Application (2021-27-DRB), received 6/19/2021
3. Avant Site Plan, received 5/17/2021
4. Avant Aerial Imagery, received 6/1/2021

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

Findings & Conclusions

The Applicant's request for conditional use approval and a setback waiver was 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 reversed the Zoning Administrator's denial of application #2021-26-ZP. The DRB has determined that 3477 Stage Road is .52 acres and does not meet the minimum lot size requirement of 10 acres for the Rural II 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 .52 acre lot in the Rural II District does not meet the minimum lot area of 10 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 decks outside of the required setback areas.
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.