

DORSET ZONING BOARD OF ADJUSTMENT

P. O Box 715
East Dorset, VT 05253-07145

802-362-4571
Fax: 802-362-5156

Date: May 13, 2013
Hearing: #13-01
Applicant: Walter G. Gilbert
Location: 2279 Dorset West Road, Dorset
Request: Variance based on ZBL 4.2.4 (Dimensional Requirements in the A & RR District)

Board Members Present: D. Wilson (Vice Chairman), B. Bridges, T. Rawls, S. Jones, K. O'Toole, R. Stewart, M. Connors,
Board Members Absent: J. LaVecchia (Chairman), D. Baker
Also, Present: Tyler Yandow (ZA), Jane M. Bridges, Art Gilbert, Pam Gilbert, Walt Gilbert

D. Wilson, Vice Chairman, stating the application is for a variance under 4.2.4 of the Zoning By-Laws for the construction of an accessory building (shed) in the A & RR district, called the hearing to order at 7:32 p.m.

S. Jones was asked if he thought he might have any conflict of interest as a notified adjoining neighbor to the W. Gilbert property. S. Jones stated that he was comfortable participating in the proceedings and that he did not think he had any conflict of interest.

W. Gilbert explained that his existing shed was severely damaged in Tropical Storm Sandy by a large tree limb that fell on it. The proposal for replacement of the shed is to make it slightly larger to store equipment and extra wood as he is planning to use wood as a primary source of heat. The old shed was within 3 feet of the property line, but the new proposed shed would be 10 feet from the property line, improving the distance and appearance of the shed. The house was built in 1895 and, at that time, they did not give consideration to property line setbacks. W. Gilbert noted that there is no other location on the property which would conform to a 40 foot setback.

B. Bridges asked what was on the other side of the stone wall and W. Gilbert responded that the neighbor (Frost) in that direction was approximately ¼ mile away. W. Gilbert presented photographs of the area. R. Stewart complimented W. Gilbert on his well-prepared permit application and asked if he were to replace the existing structure exactly as is, would he need a building permit. T. Yandow replied yes, but he would not need a variance. R. Stewart questioned a discussion held at the PC meeting regarding pre-existing, non-conforming

structures and T. Yandow answered that this was in reference to flood hazard zones. R. Stewart commented that the new structure would be more conforming than the original shed and W. Gilbert added that the property line also tapers away from the shed moving north to south, providing more than a 10 foot setback at the south end of the shed. Discussion ensued regarding “grandfather clauses” and T. Yandow read ZBL Section 10.1.3.2 ~ Reconstruction of Non-complying Buildings, which says that a non-complying, pre-existing structure can be taken down and replaced in the original site and with original dimensions and only requires a demolition permit and must be completed in three years.

M. Connors stated that he felt W. Gilbert has improved the situation as the shed is a further distance from the property line bringing the shed more into compliance with the ZBL’s. K. O’Toole felt it was important that there was an existing building located there already. W. Gilbert noted that he could not locate the shed on the north side as it would be in the middle of the driveway and the south side is extremely rocky, hilly terrain. It was also noted that there are no objections from the neighbors and the shed would house equipment so that it is not an eyesore to the neighborhood. R. Stewart asked if it was possible to extend the garage to store the equipment and wood. W. Gilbert stated that it would be extremely difficult and expensive to do as that entire area is ledge. M. Connors remarked that it was very expensive to build on ledge as it would require blasting as opposed to locating the shed in the rear of the property. K. O’Toole suggested that it be looked at differently from new development as he is replacing something that is already there and asking for a lesser variance. T. Yandow stated that the proposed structure will not have any foundation ~ only a gravel base.

K. O’Toole moved and R. Stewart seconded to close the hearing at 8:00 p.m. Motion carried 7-0.

K. O’Toole distinguished this from other cases by noting that there is an existing building already there which is proposed to be replaced with a larger, but more conforming structure requiring less of a variance. S. Jones felt that sometimes common sense should be used as the proposed location is the best place to build the shed, it does not impact anyone, and it would not be a financial burden to the homeowner.

Based upon Dorset Zoning ByLaw §12.9 ~ Appeal; variance, it was the consensus of the Board members that the application satisfied all the criteria.

In reviewing criteria #4469, K. O’Toole stated:

1. The unique physical conditions include the shape of the lot, existing driveway & house location and the inability to build in many areas due to large areas of ledge.
2. The physical circumstances or conditions are the rocky, hilly ledges that cover much of the property.
3. The hardship was not created by the appellant, but was caused by an act of nature.
4. The variance will not alter the essential character of the neighborhood.
5. The variance will represent the minimum variance and is actually less than the original setback.

K. O'Toole moved and R. Stewart seconded to approve the permit application of W. Gilbert for a thirty (30) foot variance from the rear setback requirements as it meets all the criteria necessary. Motion carried 7-0.

This variance will be valid for one year from date of issuance and subject to a thirty (30) day appeal period.

Respectfully submitted,

Nancy Aversano, Secretary

Town of Dorset ~ Zoning Board of Adjustment
 Date 5/13/13
 Regular Meeting X
 Special Meeting

(Please Print)			
Name	Address	Representing	Testifying (Yes or No)
Jane M. Bridges	159 Danby Mtn. Rd, Dorset	—	No
Art Gilbert	2171 West Rd	—	No
Pam Gilbert	2171 Dorset West Rd	—	No
Walt Gilbert	2279 Dorset West Rd	—	Yes
TYLER YANDOW	126 DORSET HOLLOW RD	TOWN	YES