

DEVELOPMENT REVIEW BOARD

TOWN OF UNDERHILL, VT

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Denis Poley
683 VT Route 15
Underhill, VT 05489

August 1, 2016

During the July 18th, 2016 meeting, the Development Review Board reviewed your variance application for the construction of a kitchen within the rear setback located at 683 VT Route 15 in Underhill, VT. Upon hearing a variance request, a letter notifying the applicant of the DRB's decision is provided per Section 5.5.C.1 and Section 10.5.A of the Underhill Unified Land Use & Development Regulations.

This application was reviewed under the Underhill Unified Land Use & Development Regulations (ULUDR) adopted March 2011, as amended through March 4, 2014. Prior to issuing a variance, the DRB needs to find that all of the requirements of Section 5.5.C.2 have been satisfied. As explained below, the DRB has found that a variance is not required for the abovementioned project, and therefore, a building permit can be issued without the Board's review.

During the hearing, Mr. Poley explained that the existing deck was constructed prior to the adoption of the ULUDR. According to Mr. Poley, the deck was constructed in the early 1990s. The Development Review Board acknowledged that structures built prior to March 1997 (fourteen years before the adoption of the ULUDR) that do not conform to the regulations are given grandfather status, and therefore, considered a preexisting nonconforming structures and subject to Section 3.9.A.

Section 3.9.A of the ULUDR allows a nonconforming structure to *"be structurally . . . modified . . . with the issuance of a zoning permit under Section 10.3, provided that the . . . modification . . . does not increase the degree of nonconformance, and meets all other applicable requirements of the regulations."* The Development Review Board has determined that the construction of a kitchen in place of the deck will not increase the degree of nonconformance since the proposed kitchen will only encroach on the setback by two feet, whereas the existing deck already encroaches on the setback by four feet.

Due to the evidence presented at the hearing, the Development Review Board finds that the kitchen will not increase the degree of nonconformance under § 3.9.A.3, and orders the issuance of a building permit by the Zoning Administrator under § 10.3 upon the completion of a building permit application. Once approved by the Zoning Administrator, the permit will be posted for 15 days from the date of issuance, which will serve as the appeal period. Construction may commence if the 15 day period passes without an appeal.

If you have any questions or need assistance, please feel free to contact me by phone: (802) 899-4434, ext. 106; or by email: astrniste@underhillvt.gov.

Sincerely,

Andrew Strniste
Planning Coordinator

cc: Jim Baker, Town of Underhill Zoning Administer

encl: Building Permit Application