

**TOWN OF POMFRET**  
**Zoning Board of Adjustment**

Minutes and Memorandum of Decision

Permit Application: #ZP22-12  
Property Address: 384 Cloudland Road, Pomfret  
Parcel No.: 3705  
Parcel Size: 2.2 +/- acres

Property Owner: Patrick Crowl and Stacy Bebo  
384 Cloudland Road  
Pomfret, Vermont

Applicant: Patrick Crowl and Stacy Bebo  
384 Cloudland Road  
Pomfret, Vermont

**I. Introduction and Procedural History**

**A. Application**

Patrick Crowl and Stacy Bebo are seeking conditional use approval for a waiver of Dimensional Requirements in the Rural District (RD) in regards to Minimum Setback from Centerline of a Public Right-of-Way of 65 feet in order to install a two-story, two-car garage (Garage).

The Zoning Permit Application ZP22-12 (the Application) dated April 25, 2022 was referred to the Zoning Board of Adjustment (ZBA) for conditional use review by the Zoning Administrator (ZA) on May 30, 2022 after the Application was deemed complete by the ZA on May 16, 2022. The Application and all supporting documents are on file with the ZA.

On June 7, 2022, notice of a public hearing was posted at the Town Clerk's Office, Teago General Store and the North Pomfret Post Office. On June 9, 2022, notice was published in *The Vermont Standard*. The ZA notified the property abutters of the site visit and hearing.

**B. Site Visit and Public Hearing**

Following a site visit at the property on June 27<sup>th</sup>, 2022 at 5:00 pm, the ZBA considered the Application at a public hearing on June 27<sup>th</sup>, 2022 at 6:00 pm.

- Present at the site visit were all members of the ZBA: Alan Blackmer (Chair), Benjamin Brickner, Shaun Pickett, and Seth Westbrook. Also present were Karen Hewitt Osnoe (ZA), Patrick Crowl (Applicant), Emily Grube (Selectboard Chair), and Jim Potter (Road Foreman).

- Present at the hearing were the following members of the ZBA: Alan Blackmer (Chair), Benjamin Brickner, Phil Dechert, Shaun Pickett, and Seth Westbrook. Also present were Karen Hewitt Osnoe (ZA) and Patrick Crowl (Applicant).
- The meeting was opened at 6:00pm by ZBA chair Alan Blackmer.
- At the outset of the hearing, the ZBA afforded those persons wishing to achieve status as an interested party an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. Patrick Crowl was sworn in by Alan Blackmer (ZBA Chair).
- During the hearing the following testimony was heard from Patrick Crowl:
  - The 28x32 feet Garage would have an extension off the side (away from Cloudland Road) for firewood.
  - The Garage would sit back between 35-40 feet from the Centerline of the Public-Right-of-Way of Cloudland Road.
  - The Garage is a LaValley Modular Structure entitled Studebaker.
  - Second story would be to store wood and tools, a set of stairs to access with a door off the front, would be a 2 car garage. The Garage would be oriented such that the rake of the roof runs toward the Public-Right-of-Way of Cloudland Road.
  - House was built in 2017 with a mudroom addition added that was 45 feet from Centerline of a Public Right-of-Way in accordance with the previous Zoning Bylaws.
  - There are no plans to insulate the building which will help retain snow accumulation on the asphalt shingle roof.
  - Garage will be on a poured slab.
  - Alan Blackmer stated that Jim Potter had no issue with the proximity to the public road but noted a potential conflict with utility lines that run on the near side of Cloudland Road. The Applicant was urged to confirm with Green Mountain Power that no conflict actually exists.
  - Shaun Pickett stated that we should be concerned about lighting and how it's lit to prevent light pollution in the neighborhood.
  - Patrick Crowl stated that lighting would have a cut off feature and face downward. Motion lights are currently on the existing house. No plans to have lights on all night long.

- Patrick Crowl stated that he would like to maintain the cohesive architectural look of the property and for that reason would prefer not to set back the Garage farther from the Public-Right-of-Way of Cloudland Road.
- Alan indicated that the ZBA can waive the required setback to a minimum of 32.5 feet if certain criteria are met.
- Patrick Crowl stated that bare minimum would be 35 feet from Centerline.
- It was noted that while the requested waiver is near the maximum of what the ZBA can allow, conditions specific to this site may mitigate the aesthetic and safety concerns that normally would attend such a large waiver. These include the relatively low volume and slow speed of traffic on Cloudland Road; the positive grade away from Cloudland Road toward the Garage location; and the existing vegetative screening and stonewall barrier between Cloudland Road and the Garage location.
- Seth Westbrook stated that if the Garage was placed farther from the Public-Right-of-Way of Cloudland Road it would be more difficult for vehicles to turn around in the driveway, potentially resulting in additional vehicles backing into Cloudland Road, creating a safety issue.
- Patrick Crowl stated that the building would be 28 width x 32 length with shiplap siding set on a slab floor so would not be excavating into the dirt.

## **II. Applicable Regulations**

- Under the Pomfret Zoning Ordinance (the Zoning Ordinance), 2.2.2.2 Dimensional Requirements for minimum Setback from Centerline of a Public Right-of-Way is 65 feet in the Rural District (RD). Some dimensional/size requirements may be reduced by waivers as specified in Article 3.
- The dimensional/size requirements are neither exempt from the Zoning Ordinance nor eligible for an administrative waiver from ZA. Therefore, a waiver by the ZBA is required.
- Section 3.2 of the Zoning Ordinance states that “in all zoning districts, waivers under this section for alterations in dimensional requirements may be granted by the ZBA using the same notice and hearing process used for conditional use approval. Before granting a waiver the ZBA shall make written findings for each review criteria including the rationale for each finding. Waivers may be granted by the ZBA as long as they do not result in a greater than 50% decrease in any zoning district dimensional requirement, provided that no development shall encroach on the public right-of-way; the proposed development is at least 10 feet from the edge of

the travelled way; and the development is found to satisfy criterion (1) and at least one other criterion (2-6):

- 1) The proposed development is consistent with the Town Plan
- 2) The proposed development is consistent with existing development patterns of the zoning district or of neighboring properties;
- 3) The proposed development will cluster development and more effectively preserve open land, forestland, or protect water quality or natural areas in perpetuity;
- 4) The proposal will result in permanently affordable housing units;
- 5) In the VD, reductions of lot size to 1 acre is appropriate to enable greater density where potable water supply and wastewater permits allow.
- 6) In all zoning districts, locating more than one principal structure per lot may be allowed by the ZBA by waiver if the placement of the structures could not be subdivided in a manner compliant with Section 4.6, provided the entire lot contains the otherwise required total area for all principal structures, all setbacks are met, the fire department approves the building layout, and that the proposal will cluster development and more effectively preserve open land, forestland, or protect water quality or natural areas. Undeveloped lands used in the density calculation will be precluded from future development by a permit condition."

### **III. Findings and Conclusions**

#### **A. Pomfret Zoning Ordinance**

- Subject to the conditions and limitations provided in Section V below and the Dimensional Requirement waiver granted herein, the garage will meet the applicable general standards in Section 4.1 of the Zoning Ordinance, including setbacks, maximum height, signs, parking, outdoor lighting and reflection, and access to the public right-of-way.
- Subject to the conditions and limitations provided in Section V below, the Garage will meet the applicable conditional use approval standards in Section 4.2 of the Zoning Ordinance.
- As all other uses (parking, etc.) and the structure itself are lawfully existing as of the date hereof, the provisions of Section 4.4 of the Zoning Ordinance are applicable and may continue indefinitely subject to the conditions provided in Section 4.4.2 of the

Zoning Ordinance.

- Criteria (1) and (2) of Section 3.2 of the Zoning Ordinance have been met. The proposed Garage is consistent with the Town Plan and with existing development patterns of the Rural District.

#### IV. Decision

Based on information presented to the ZBA, the findings and conclusions described above, and subject to the conditions and limitations specified in Section V below, the ZBA makes the following decision:

- A. A Dimensional Requirement waiver is **granted** for the placement of the Garage (including eaves, overhangs and other projections) no less than 35 feet from Centerline of a Public Right-of-Way (Cloudland Road).
- B. Conditional use approval is **granted** for the proposed Garage and a permit is **authorized** for such use in the location described herein.

#### V. Conditions and Limitations

This Decision is subject to the following conditions and limitations:

- A. The Contemplated Uses shall conform in all material respects with the Application materials including the Applicant's submissions, plans, written representations to the ZBA, and testimony as reflected in the Minutes, except as expressly modified herein. Any change to the foregoing shall require further review and approval by the ZBA under the then applicable regulations.
- B. Any exterior lighting shall comply with Section 4.1(14) of the Zoning Ordinance.
- C. Applicant shall ensure runoff and drainage from the Garage does not flow onto or otherwise adversely impact the Public-Right-of-Way of Cloudland Road.
- D. Applicant shall maintain the existing vegetation and stonewall between the Garage and Cloudland Road that provide natural screening and a physical barrier between Cloudland Road and the Garage.
- E. The uses approved by this Decision shall conform to all applicable federal, state and local laws, ordinances and regulations, whether or not the same have been expressly referenced herein.
- F. This Decision applies only to the subject matter contained herein. The conformity of any other structures, uses or activities with the applicable zoning bylaws was not considered and is not addressed in this Decision.

\* \* \* \* \*

This Decision approved at Pomfret, Vermont, as of this 10<sup>th</sup> day of July, 2022.



Alan Blackmer, chair  
Zoning Board of Adjustment

ZBA members Alan Blackmer, Benjamin Brickner, Phil Dechert, Shaun Pickett and Seth Westbrook voted in the affirmative.

**NOTICE:** This Decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Zoning Board of Adjustment. 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 Court Proceedings.