

**TOWN OF POMFRET
Zoning Board of Adjustment**

Minutes and Memorandum of Decision

Permit Application: #ZP23-14
Property Address: 538 Skyline Drive, Pomfret
Parcel No.: 2200-F
Parcel Size: 11.6 +/- acres

Property Owner: Robert Baskett
538 Skyline Drive
Pomfret, Vermont

Applicant: Robert Baskett
538 Skyline Drive
Pomfret, Vermont

I. Introduction and Procedural History

A. Application

Robert Baskett is seeking conditional use approval and a waiver of the minimum setback from centerline of a public right-of-way of 65 feet in the Rural District in order to build a woodworking shop.

The Zoning Permit Application ZP23-14 (the Application) dated September 9, 2022 was referred to the Zoning Board of Adjustment (ZBA) for conditional use review by the Zoning Administrator (ZA) on August 10, 2023 after the Application was deemed complete by the ZA on August 10, 2023. The Application and all supporting documents are on file with the ZA.

On August 15, 2023, notice of a public hearing was posted at the Town Clerk's Office, Teago General Store and the North Pomfret Post Office. On August 13, 2023, notice was published in *The Valley News*. On August 17, 2023, 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 August 30, 2023 at 5:30 pm, the ZBA considered the Application at a public hearing on August 30, 2023 at 6:30 pm.

- Present at the site visit were all members of the ZBA: Benjamin Brickner, Shaun Pickett, and Susan Burgess. Also present were Karen Hewitt Osnoe (ZA), and Robert Baskett (Applicant).

- Present at the hearing were the following members of the ZBA: Benjamin Brickner, Susan Burgess, and Shaun Pickett. Also present were Karen Hewitt Osnoe (ZA) and Robert Baskett (Applicant).
- The meeting was opened at 6:30pm by ZBA member and acting chair Shaun Pickett.
- 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. Kathy Archibald Clarkson was granted interest party status based on an email sent to the ZA requesting status. Robert Baskett was sworn in by Shaun Pickett (ZBA Acting Chair).
- During the hearing the following testimony was heard from Robert Baskett that the proposed woodworking shop would:
 - Come to 45 feet from the centerline of Skyline Drive, a public right-of-way.
 - Have a 20x22-foot footprint and reach 16 feet at its highest point.
 - Have electrical power but no plumbing.
 - House a planer and other woodworking tools.
 - Be used for timber processing.
 - Be made of sheeted pine over timber rafters, siding material would be vertical shiplap pine.

II. Applicable Regulations

- Section 2.2.2.2 of the Pomfret Zoning Ordinance (the Zoning Ordinance) requires a minimum setback from centerline of a public right-of-way of 65 feet. Waivers from dimensional requirements of the Zoning Ordinance may be granted as provided in Article 3 thereof.
- The proposed siting of the woodworking shop within 65 feet of a public right-of-way is neither exempt from permitting nor eligible for a waiver from the ZA (and thus is not eligible for an administrative permit). Therefore, review and a waiver by the ZBA under Section 3.2 is required.
- Section 3.2 of the Zoning Ordinance states in part that:

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

- The proposed woodworking shop would be located in the Rural District.
- The proposed woodworking shop would not meet the minimum setback from centerline of a public right-of-way of 65 feet in the Rural District.
- The proposed woodworking shop is not eligible for a waiver under Section 3.2 as the applicable criteria have not been met. In particular, the proposed woodworking shop is not consistent with existing development patterns of the zoning district or of neighboring properties, nor does it satisfy the clustering or affordable housing interests described in Section 3.2. As none of criteria 2 through 6 of Section 3.2 are satisfied, it is not necessary for the ZBA to determine whether criterion 1 is satisfied.
- While the Applicant did not explicitly seek a variance under Section 6.7 of the Zoning Ordinance, for completeness, the ZBA also finds that the circumstances required to

grant a variance have not been met. In particular the Applicant is already able to make reasonable use of his property without a variance.

IV. Decision

Based on information presented to the ZBA, the findings and conclusions described above, the ZBA makes the following decisions:

- A. A waiver of the minimum setback from centerline of a public right-of-way of 65 feet in the Rural District for the proposed woodworking shop is **denied**.
- B. Conditional use approval the proposed woodworking shop is **denied**.

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This Decision approved at Pomfret, Vermont, as of this 8th day of October, 2023, and signed by the acting chair of the Pomfret Zoning Board of Adjustment on its behalf pursuant to 24 V.S.A. 1141.



Shaun Pickett, acting chair
Zoning Board of Adjustment

ZBA members Benjamin Brickner, Susan Burgess and Shaun Pickett voted in the affirmative. ZBA members Alan Blackmer and Seth Westbrook did not participate in this Decision.

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.