

**Town of Londonderry, Vermont  
100 Old School Street  
South Londonderry, VT 05155**

**Development Review Board  
AGENDA  
Wednesday, October 16, 2019**

The Londonderry Development Review Board will meet at **5:30 PM on Wednesday, October 16, 2019 at the Twitchell Building/ Town Office**, 100 Old School Street, South Londonderry.

1. Call Meeting to Order
2. Additions or Deletions to the Agenda
3. Minutes Approval – Meeting of September 18, 2019
4. Public Hearings as warned:

**Application 2019-40 by Daniel and Patricia Finkelman for review and approval of land development** (structural alteration to existing garage attached to existing single-family dwelling) located at 543 Mountain Lake Road on Parcel 019010.131, being a lot without frontage on a public road that requires DRB approval per Zoning Bylaw Section 402(A).

Application materials are available for inspection at the Town Office or by email from the Zoning Administrator at [townadmin@londonderryvt.org](mailto:townadmin@londonderryvt.org) . Pursuant to **24 V.S.A. Sections 4464(a)(1)(C) and 4471(a)**, participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

5. Other Business
6. Next regular meeting date – Wednesday, November 20, 2019
7. Adjourn.

Posted and distributed October 10, 2019

**Town of Londonderry, Vermont  
Development Review Board**

**Regular Meeting Minutes**

**Wednesday, October 16, 2019**

**Twitchell Building - 100 Old School Street, South Londonderry, VT**

**Board Members Present:** Esther Fishman Co-Chair, Denis Pinkernell Co-Chair, Sven Federow, Terry Hill and Bob Maisey.

**Board Members Absent:** John Lancaster, Chris Laselle

**Others in Attendance:** Town Officials – Shane O’Keefe, Zoning Administrator Sharon Crossman, Assistant to the Zoning Administrator. Members of the Public – Dan Bowen, Rob Hulem, Marlene Boyaner and Conrad Construction.

1. **Call the meeting to order.** DRB Co-Chair Denis Pinkernell called the meeting to order at 5:32 PM.

2. **Additions or deletions to the agenda** (to occur as ‘Other Business.’)

The Board approved two additions to the agenda. as follows:

Preliminary discussion regarding permit application 2019-45 for construction proposed at 563 Spruce Hill Road along private road, subject to Zoning Bylaw Section 402(a). (Terry Hill abstained; Esther Fishman voted ‘no.’)

Consideration of revision to Zoning Bylaw Section 402(a) as proposed by Shane O’Keefe.

3. **Minutes Approval.** Motion by Denis Pinkernell to approve the minutes of the September 18, 2019, as drafted. Motion passed unanimously.

4. **Public Hearings as warned.**

**Application 2019-40 by Daniel and Patricia Finkelman for review and approval of land development** (structural alteration to existing garage attached to existing single-family dwelling) on Parcel 019010.131, located at 543 Mountain Lake Road, being a lot without frontage on a public road that requires DRB approval per Zoning Bylaw Section 402(A).

Dan Bowen, Mad Tom Builders, appeared on behalf of the Finkelmans. He described the proposed project as multiple, minor additions/expansions to an existing single-family home, specifically expansion of existing rear deck, screened porch and mudroom as well as the addition of a dormer to existing garage roof. He said he and the owners were unaware these minor improvements would require a public hearing until notified by the Zoning Administrator after submitting a zoning permit application.

The Board discussed the specifics of the Bylaw requirement for DRB approval of the access, including the possibility that this standard could be revised to not require DRB approval, upon a

recommendation from the Planning Commission to the Select Board. ***A motion was made by Sven Federow, seconded by Bob Maisey, to approve the existing access to Parcel 0, 19010.131 at 543 Mountain Lake Road, being a lot without frontage on a public road that requires DRB approval per Zoning Bylaw Section 402(A). The motion passed unanimously.***

5. Other business: As agreed in Agenda Item 2.

- a. The Board heard the comments of Marlene Boyaner and Rob Hulem regarding the Town's requirement for a public hearing and decision by the DRB prior to adding a 15' x 16' screened porch to their existing single-family home at 563 Spruce Hill Road. They expressed their 'surprise' that DRB review and approval is required and that the possible hearing date and appeal period would delay their project beyond the construction season. They further stated their frustration that the standard and process seemed unnecessarily onerous and lengthy, compared to their experience elsewhere.

The Board explained that the applicable Town's Zoning Bylaw standard, Section 402 (A) requiring DRB approval must be followed, and that a public hearing could be scheduled for its November Meeting. The Board then described the process of appeal as an alternative, which the property owners decided to decline. The Board agreed that a hearing on this matter would be warned for 11/20/2019.

- b. Shane O'Keefe presented draft language for revision of Bylaw Section 402(A), specifically to eliminate the need for DRB approval of this standard. After discussion, the consensus of the Board was favorable as to the changes proposed, subject to review and discussion with the Planning Commission.

6. Next regular meeting - Wednesday, November 20, 2019 at 5:30pm.

7. Adjourn. The meeting was adjourned at 6:42 PM.

Approved by DRB:  (Co-Chair) November 20, 2019 Date

*Posted and distributed October 24, 2019*

TOWN OF LONDONDERRY, VERMONT

Development Review Board

**Findings of Fact and Notice of Decision  
Property of Dan and Patricia Finkelman  
Parcel 019010.131 at 543 Mountain Lake Road**

**INTRODUCTION AND PROCEDURAL HISTORY**

1. This proceeding involves review of Zoning Permit Application 2019-40 submitted by Dan Bowen, Mad Tom Builders, (the Builder) for land development involving an existing single-family dwelling owned by Dan and Patricia Finkelman, and located along a non-maintained Class 4 Town road, requiring review by the Development Review Board (the Board) per Zoning Bylaw Sections 402 (A).
2. The application for a zoning permit was received by the Town of Londonderry Zoning Administrator on 9/18/2019. A copy of the application is available at the Town Offices in Londonderry.
3. On 9/23/2019, notice of a public hearing for review of the Finkelman application was posted at the following places:
  - The Londonderry Town Clerk's Office
  - The Londonderry Post Office
  - The South Londonderry Post Office
  - 543 Mountain Lake Road, at a location which is within view of the public-right-of-way most nearly adjacent to the subject property.
4. On 9/23/2019, a copy of the notice of public hearing was mailed to the Owners and abutting property owners by first class mail, as shown on the Certificate of Service attached to this decision.
5. On 9/25/2019, notice of a public hearing for the Finkelman application was published in the *Vermont Journal*.
6. The application was considered by the Development Review Board (the Board) at a public hearing opened on 10/16/2019. Present through the proceedings were the following members of the Board: Denis Pinkernell (Co-Chair), Esther Fishman (Co-Chair), Sven Fedorow, Terry Hill, Bob Maisey. On 10/16/2019 the public hearing was closed.
7. During the course of the proceedings, the following exhibits were provided to the Board:

**Exhibit 1:** Zoning Permit application materials filed on 9/18/2019 by the Builder.

**Exhibit 2:** "Pricing Set" Drawings by Id3, dated 3/26/2019 including "Sheet A-102 Main Floor and Roof Plans" and "Sheet A-201 Elevations."

These documents are available at the Town Office.

At the hearing, Dan Bowen, Mad Tom Builders, appeared on behalf of the Owners. He described the proposed project as multiple, minor alterations to an existing single-family home, specifically expansions of an existing rear deck, a screened porch and a mudroom, as well as the addition of a dormer to existing garage roof. He stated that he and the owners were unaware that this project would require a permit until notified by the Zoning Administrator, when they also learned that DRB approval was needed for the access.

8. A Notice of Violation was issued by the Zoning Administrator on 9/3/2019 noting that construction activities had commenced without a valid Zoning Permit having been issued.
9. No one else appeared or spoke at the public hearing and no written comments were received regarding this proceeding.
10. After discussion in the open meeting, the Board approved a decision on the application.

## **FINDINGS**

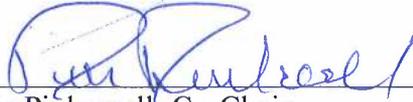
Based on the application, exhibits and other testimony presented at the public hearing, the Board makes the following findings:

1. The Owners of Record of Parcel 019010.131 located at 543 Mountain Lake Road are Dan and Patricia Finkelman, according to a deed recorded in Book 81, Page 201 of the Londonderry Land Records.
2. This parcel consists of 13.50 acres accessed by Mountain Lake Road, a non-maintained Class 4 Town road.
3. The property is located in the R3 Zoning District as described on the Town of Londonderry Zoning Map and Article II of the Bylaw.
4. The proposed land development – renovation of an existing single-family dwelling- is permitted in the R3 Zoning District per Zoning Bylaw Section 200 and subject to Zoning Permits and Procedures per Section 601 B.
5. Land development on a non-maintained Town road requires review and approval by the Development Review Board per Section 402 (A) of the Bylaw.
6. The Board noted that several identical situations regarding existing access were recently referred to and approved by the Board per Section 402 (A). Board members agreed that this standard, specifically the requirement for DRB approval, which requires a public hearing per State statute, should be studied by the Planning Commission for sensible revision that would allow such cases to be handled by the Zoning Administrator.

## DECISION AND CONDITIONS

Based upon the Findings above, the Board decided unanimously to *grant approval of the proposed renovations on Parcel 019010.131 at 543 Mountain Lake Road, being a lot without frontage on a public road that requires DRB approval per Zoning Bylaw Section 402(A), as submitted.*

Dated at Londonderry, Vermont, this 31<sup>st</sup> day of October 2019.



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Denis Pinkernell, Co-Chair

**NOTICE OF RIGHT TO APPEAL:** This decision may be appealed to the Vermont Environmental Court by an 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 Court Proceedings.

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