

TOWN OF MARLBORO
Development Review Board

Application for Conditional Use
Findings and Decision

Permit # 20-19 CU

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review, under the Town of Marlboro Zoning Regulations, of an Application for Conditional Use submitted by Celena & Jorge Romo, PO Box 183, Marlboro, VT 05344-0183; Location: 1855 VT Route 9, Marlboro, VT; Tax Map Number 07-04-31; Proposal: Conditional Use; Addition of a deck to an existing shed located within the Surface Water Buffer of the Whetstone Brook.
2. The Application was received by Mary Sargent, Zoning Administrator, on August 10, 2020. A copy of the Application is available at the Marlboro Town Office.
3. On August 31, 2020, and again on October 3, 2020, notice of a public hearing by Zoom videoconference was published in the *Brattleboro Reformer*.
4. On August 31, 2020, and again on October 5, 2020, notice of a public hearing by Zoom videoconference was posted at the following places:
 - Marlboro Town Clerk's Office
 - Bulletin Board outside the Marlboro Town Clerk's Office
 - Marlboro Town Website, marlborovt.us
5. On August 31, 2020, and again on October 5, 2020, a copy of the notice of a public hearing by Zoom videoconference was mailed to the Applicants. On August 31, 2020, and again on October 5, 2020, a copy of the notice of a public hearing by Zoom videoconference was mailed to the following Owners of properties adjoining the property subject to the Application:
 - Jason Gardner, PO Box 371, Hinsdale, NH 03451-0371
 - John McKay, Marlboro Heights LLC, 110 Honey Brim Road, Vernon, VT 05354
 - Alan & Janet Zargo, 32 Tower Hill Road, Killingworth, CT 06419
 - Estate of Robert Selleck, 8 Riparian Way, Milton, VT 05468
 - Ruth C. White Revocable Trust, PO Box 19, Marlboro, VT 05344-0019
 - David Matt, 370 Higley Hill Road, Brattleboro, VT 05301

6. The Application was considered by the Development Review Board at a public hearing by *Zoom* videoconference on September 15, 2020. The Hearing was continued pending receipt of comments from the Marlboro Conservation Commission, and reconvened on October 20, 2020. The DRB reviewed the Application under the Zoning Regulations of the Town of Marlboro, as amended March 6, 2018.
7. Present at the Hearings were the following members of the Development Review Board:
 - Steven John, Chair
 - Jean Boardman, Vice Chair
 - Gail MacArthur (present only on October 20, 2020)
 - John Nevins
 - Brent Seabrook
 - Peter Barus, DRB Administrative Assistant
 - Mary Sargent, Zoning Administrator

Pieter van Loon of the Marlboro Conservation Commission was present on Oct. 20, 2020.

8. At the outset of the Hearing, the Development Review Board 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. The following persons sought Interested Party status:
 - No Interested Parties attended
9. The following exhibits were submitted to the Development Review Board during the course of the Hearing:
 - Permit Application, signed and dated 7/30/20
 - Detailed project sketch, unsigned and undated
 - Town of Marlboro CTI Maps (2): Tax Map Number 07-04-31, showing approximate width of the parcel, and *Ortho Imagery 2015*, printed on August 26, 2020
 - List of Abutters to the Romo property (Tax Map Number 07-04-31), with corresponding Town of Marlboro CTI Map, printed on August 25, 2020
 - Environmental Report submitted by Pieter van Loon, Marlboro Conservation Commission

These exhibits are available at the Marlboro Town Office.

FINDINGS

Based on the Application, testimony, exhibits, and other evidence, the Development Review Board makes the following findings:

1. The Applicants seek a Conditional Use permit to add a deck to an existing shed located within the Surface Water Buffer of the Whetstone Brook.

2. The subject property is a 1.12-acre parcel located at 1855 VT Route 9 in the Town of Marlboro, VT; Tax Map Number 07-04-31. The property is more fully described in a Deed recorded at Book 62, Page 761, of the Town of Marlboro Land Records.
3. The property is located in the *Commercial East District (COM-E)* as described in the Town of Marlboro Zoning Map on record at the Town of Marlboro municipal office, and in *Section 309* of the Marlboro Zoning Regulations.
4. Conditional Use approval is required under *Section 372(2) - Surface Water Buffer Overlay Standards* of the Marlboro Zoning Regulations. As required by *Section 372(4)*, the project site was visited by Pieter van Loon of the Marlboro Conservation Commission, who issued an Environmental Consultant Report in support of approving the proposal. The project meets the requirements of *Section 413(1) - Nonconformities* of the Marlboro Zoning Bylaw.

DECISION AND CONDITIONS

Based upon these findings, the Development Review Board approves the following Conditional Use: the addition of a deck to an existing shed located within the Surface Water Buffer of the Whetstone Brook.

The following Conditions were established at the Hearing:

1. A buffer of healthy trees, shrubs, and ground cover shall be preserved, maintained, and enhanced by appropriate methods. The extent of any planting and/or seeding shall be sufficient to minimize soil erosion and to screen selectively the land use from the shoreline. Supplemental planting and landscaping with appropriate native species of vegetation to achieve these objectives shall be allowed.
2. Within the Surface Water Buffer Overlay District, any areas of this project that are not vegetated or that are disturbed during construction shall be seeded with a naturalized mix of grasses rather than standard lawn grass, and shall not be mowed more than one (1) time per calendar year after establishment.
3. The creation of new lawn areas within the Surface Water Buffer Overlay District is not allowed.

Dated at Marlboro, Vermont, this 27th day of November, 2020.


Steven John, Chair
Marlboro Development Review Board

NOTICE: This Decision may be appealed to the Vermont Environmental Court by an Interested Person who participated in the proceeding(s) 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*.