

## **Town of Danville Development Review Board Rules of Procedure**

These Rules of Procedure are based on the Danville Zoning Bylaws dated May 3, 2018.

### **Reasonable Projects and Variances:**

#### **Background:**

For some time the DRB and the ZA, with the full knowledge of the SB and PC, have used a Variance to allow reasonable projects to be permitted that are not allowed in the current Bylaws. The Bylaws, due to recognized flaws, when interpreted literally as required by Vermont statutes, prevent permits for reasonable projects. The Variance Bylaw clearly states that a Variance cannot be used to remedy conditions caused by the Bylaws. As such, the DRB will no longer accept a Variance as a way to approve a permit for reasonable projects.

Reasonable projects not allowed by the 3 May 2018 Bylaws include: Fences on or near property lines due to district setbacks, Development of small lots due to district setbacks, Subdivision of small lots for conveyance to other small lots, and Siting for projects involving fire safety, public safety, ADA access, energy conservation, renewable energy and maintenance due to district setbacks

In the past, these projects have been “permitted” with the improper application of a Variance. The PC is currently in the process of updating the Bylaws. The PC is currently considering changes to the Bylaws to allow the above projects.

#### **Reasonable Projects:**

**Danville Bylaws Section 810.8:** In accordance with 24 V.S.A. §4464(b), the Development Review Board shall issue all decisions within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day.

A reasonable project is a project that, due to recognized flaws in the current Danville Bylaws, when interpreted literally, as required by Vermont Statutes, prevent approval of a permit for the project.

Complete permit applications for reasonable projects may be submitted, scheduled for a hearing and warned.

The DRB shall open the hearing for the complete permit and perform the required site plan review prior to making a decision.

The permit facts and findings shall be documented in the minutes.

The permit decision shall be either approval or denial or recess.

If the the proposed project is not allowed by the Bylaws, the DRB cannot approve the permit.

If the DRB decides to deny the permit the applicant may withdraw the permit or the applicant may resubmit the permit once the Bylaws are amended.

The hearing for the application may be recessed pending submission of additional information in the form of updated Bylaws.

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Absent appeals, if no updated Bylaws are submitted or the DRB does not make a decision other than recess, within 45 days of the date of the hearing, the permit, as documented in the application and minutes, shall go into effect on the 46<sup>th</sup> day.

### **References:**

From the Danville Zoning Bylaws dated May 3, 2018.

Danville Bylaws Section 803.2: The Development Review Board shall adopt **rules of procedure** and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A. §4461(a) and Vermont's Open Meeting Law.

Danville Bylaws Section 808.2: Any Interested Person may appeal a decision or act of the Zoning Administrator or Development Review Board within 15 days of the date of the decision or act by filing a notice of appeal with the Town Clerk, and by filing a copy of the notice with the Zoning Administrator.

Danville Bylaws Section 811.1: In accordance with 24 V.S.A. §4471, an interested person who has offered oral or written testimony in a hearing of the Development Review Board may appeal a decision within 30 days of such decision, to the Vermont Environmental Court.