

Town of Danville, Development Review Board
Permit 2025-36, Waiver Hearing

Applicant: Sharon Parker and Gerald Robert Boardman III

Site: UW002-056-005, 129 Point Comfort Rd, West Danville VT 05873

Zoning District: Medium Density Residential-II with Shoreland Overlay

Project Description: Install 3' high retaining wall facing pond. Extend existing porch 10' by 4' to meet top of the retaining wall.

Warning: 18 July 2025 (Caledonia Record).

Hearing Date: 06 August 2025.

Development Review Board Members Present: Mickey Bullock, Brian Henderson (Chair), Bob Magro, Craig Morris, Bruce Palmer, Larry Rossi.

Development Review Board Members Absent: Terry Hoffer, Wes Standish.

Interested Parties Present: Dennis Marquise (Zoning Administrator), Sharon Parker (Applicant).

Correspondence from Interested Parties: None

Disclosure of Conflict of Interest: None by board.

Disclosure of *Ex Parté* Communication: None by board.

Applicable Bylaws:

This application requires a review by the DRB under the following section of the Danville Bylaws:

Sec 304, page 17. Waivers

Sec 515, page 47, Medium Density Residential II

Sec 531, page 52, Developed Shoreland Overlay

Sec 603, page 68, Non-conforming Structures

Findings of Fact:

Sec 304.2 B, Waivers:

May approve waivers that authorize an adjustment of up to 50% to a dimensional standard (as established for the applicable zoning district) of these regulations for proposed development on a residential property. Note- Wetlands are not subject to the 50% reduction. All wetland incursions and setback incursions must be approved by the State.

Sec 531, Developed Shoreland Overlay

Sec 531.4, Dimensional Requirements:

Minimum setback from mean high water (if applicable): 25 feet.

The proposed retaining wall is 12 to 15' from the edge of the lake. The proposed porch extension is on top of this retaining wall.

Sec 531.5, Waiver Considerations:

The proposed development maintains the maximum possible setback distance from the mean high-water level of the lake.

The proposed construction decreases the lakeside setback. Per Sec 304.2, a waiver of

50% of the standard (25' setback), could possibly be granted. This equates to 12-1/2' feet from the lake

Sec 603.1, Non-Conforming Structures:

B) Does not increase the degree of non-conformance and meets the requirements regarding expansion of a non-conforming use.

The as-built un-permitted retaining wall intrudes on the required lake setback and increases the non-conformance of this structure. The addition of a porch further increases to the non-compliance of the structure, while also increasing the impermeable area.

Summary of Discussion:

The applicant applied for and was granted a zoning permit in 2003 to construct a foundation and to level the existing structure. An ANR Shoreland Permit review was also requested and it was determined that a permit for the foundation (only), with no change in footprint, was not required.

During construction, groundwater was a problem, and the building was ultimately raised 18". It was then revealed that 4' of the foundation would be exposed on the lakeside of the building. Calkins Excavating suggested that a retaining wall would ease this transition, so a 3' dry block retaining wall was constructed without a zoning permit or a Shoreland review. This retaining wall intrudes on the 25' lakeside setback and is only 12' from the water's edge. A review of the photos further revealed a sump for the footing drains, on the west end of the structure, which the applicant noted pumps directly into the lake. This is likely a violation of the Shoreland standards.

The construction left a 10' alcove porch, on the lakeside, which collects rainwater. The applicant is before the board today to seek a permit to extend this porch 4' onto the new, un-permitted retaining wall, and to enclose this porch with a roof and walls. This porch construction would intrude on the lakeside setback and increase the impermeable surface. The board noted that this type of dry block retaining wall is normally constructed on a crushed stone footing and is not a proper foundation for a building.

This building is part of a condominium development and as such, it is difficult to determine a lot size for footprint and permeability calculations.

The applicant has recently applied for an ANR Shoreland permit for the retaining wall and porch addition. ANR has asked for clarification on some issues but has not yet issued a decision.

Decision and Conditions:

This is a troublesome project with several likely violations of local and state regulations. It generated much deliberation and resulted in two motions to resolve.

The Chair motioned to grant a waiver for the as-built retaining wall setback violation. This waiver is subject to either Shoreland Protection approval or determination that the wall must be removed. Larry Rossi seconded the motion. With the majority of the board in favor, and Brian Henderson and Bruce Palmer dissenting, the motion passes with a vote of 4-2.

The Chair then motioned to grant a waiver for the enclosed porch to be built on top of the as-built retaining wall, reducing the lakeside setback for the building. Larry Rossi again seconded the motion. The board vote was unanimous, 6-0, to deny the waiver for the porch expansion.

The applicant **must** seek a permit from the Zoning Administrator for a change of use from seasonal dwelling to full time dwelling. This will require a review of the wastewater system before a Certificate of Occupancy can be granted.

Signed:

Brian Henderson

Brian Henderson, Chair, Danville Development Review Board

Date of Decision: 06 August 2025

Final Appeal Date: 05 September 2025

NOTICE:

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceedings (in person or in writing) before the Development Review Board. Such appeal must be made 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.