

**Town of Danville, Development Review Board**  
**Permit 2023-61, Conditional Use Hearing**

**Applicant:** Edwin Sedell

**Site:** VB002-014.000, 1139 Parker Rd, Danville VT 05828

**Zoning District:** Low Density Residential.

**Project Description:** Construct 42” high fence in front of the house. Applicant would like to put the fence in the front ROW.

**Warning:** 29 September 2023 (Caledonia Record).

**Hearing Date:** 18 October 2023.

**Development Review Board Members Present:** Mickey Bullock, Brian Henderson (Chair), Terry Hoffer, Bob Magro, Craig Morris, Theresa Pelletier, Larry Rossi.

**Development Review Board Members Absent:** Bruce Palmer, Wes Standish.

**Interested Parties Present:** Dennis Marquise (Zoning Administrator), Edwin Sidell (Applicant)

**Correspondence from Interested Parties:** None.

**Disclosure of Conflict of Interest:** None.

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

**Applicable Bylaws:**

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

Sec 202, page 4, Definitions

Sec 403, page 21, Construction and Plantings in Public Right of Way

Sec 415, page 29, Fences and Retaining Walls

**Findings of Fact:**

Sec 202: Definitions

*ROAD LINE:* Right-of-way of a public road as dedicated by a deed of record. Where the width of the public road is not established, the road line shall be considered to be twenty-five (25) feet from the center line of the public road.

*SETBACK:* The distance measured horizontally from a road right-of-way, lot line, boundary, or other delineated feature (e.g., a stream bank or channel, shoreline, or wetland area) to the nearest point of a building or other structure on a lot. For a setback from a road, the distance shall be measured from the edge of the mapped road right-of-way (road line) or, where the right-of-way is uncertain, from a distance of 25 feet from the existing road centerline. Setbacks from a road are considered “front” setbacks and other setbacks are considered “side” setbacks. Parcels may have more than one front setback. For purposes of these regulations, the required setback area defines a minimal yard area.

Sec 403.1, Only mailboxes are allowed in the rights-of-way along public roads without a waiver or variance, and even with a waiver or variance the Town of Danville is not responsible for any damages to structures or plantings within the right-of-way (e.g., from winter plowing).

Sec 415.1, *No zoning permit is required to erect, enlarge, or alter a fence or wall 5 feet in height or less with the exception of 1) fences erected within the front setback along public rights of way and 2) fences in Design Control Overlays. However, the following shall apply:*  
c) *Fences of any height erected within a front setback along a public right of way shall be a conditional use and must receive a conditional use permit,*

**The applicant proposes to construct a fence within the front setback and therefore requires a conditional use review. Parker Rd is a Vermont State Highway.**

### **Summary of Discussion:**

The applicant explained the purpose of the fence in question. It will be a pre-made picket fence, of pressure treated material, 42" high. The photo presented shows the proposed and desired fence location at 21' from the centerline of the road. The setback of the house is approximately 40' from the centerline, leaving a small front yard.

As Parker Rd is a VT State highway, the applicant was prompted to communicate with the AOT. VTRANS would take precedence over Danville as it is their ROW. Eli Wilder, VTRANS, responded that the ROW is approximately 49-1/2' wide. They prefer to have nothing constructed in their ROW.

### **Decision and Conditions:**

After a brief discussion, Terry Hoffer motioned to deny the permit for a fence at 21' and approve the permit for a fence location at the edge of the ROW, approximately 25' from the center of the road. Larry Rossi seconded the motion. With all in favor, and with no objections, the permit was approved.

An approved permit will be issued once the above conditions are met and the 30-day appeal period has passed, pending any appeals.

### **Signed:**

*Brian F Henderson*

Brian Henderson, Chair, Danville Development Review Board

**Date of Decision:** 18 October 2023

**Final Appeal Date:** 17 November 2023

### **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.