

1 **Village of North Bennington**
2 **Development Review Board Meeting**
3 **Tuesday, May 16, 2023**
4 **North Bennington Train Station**
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8 **DRB Members Present:** Chris Damon,(DRB Chair), Tara Lowary, Kim Hall, Hugh Crowl &
9 James Williams

10
11 **Absent:** Zoning Administrator, Ron Hachey

12 *Please see attached letter from Mr. Hachey regarding agenda.
13

14 **Others Present:**

15 Jeannie Jenkins, Petitioner, 6 Prospect Street

16 Gary Corey, Centerline Architect re: 6 Prospect Street

17 Ryan Gariboldi, Centerline Architect re: 6 Prospect Street

18 Mary Rogers, North Bennington Planning Commission
19
20

21 **Recorder:** Heather N. Bullock
22

23 *** Denotes out of order agenda items**
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25

26 **1) Call Meeting to Order.**
27

28 *Mr. Damon called the meeting to order at 7:00PM.*
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30

31 *** 3) Review and Approve Previous Meeting Minutes.**
32

33 Mr. Damon requested a motion to approve the meeting minutes from the April 18, 2023 DRB
34 meeting
35

36 *Ms. Lowary made a motion to approve the meeting minutes from the April 18,*
37 *2023 DRB Meeting. (Lowary/Crowl/Unanimous) No further discussion.*
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41

1 *** 2) Query for Public Comment: Revise Agenda if Needed.**

2
3 Mr. Damon queried meeting attendees if anyone had any questions or comments and whether
4 anything on the agenda needed to be amended. No questions, concerns or revisions were
5 brought forth.

6
7 **4) 6 Prospect Street-Application Seeks Waiver to:**

8
9 **Section 13.9 iii of the Village Zoning By-Laws requesting a waiver to the**
10 **side yard setback requirement for the construction of a roof structure over**
11 **an entrance and for a wooden walkway structure connecting this entrance**
12 **to the other side entrance into the home.**

13
14 Mr. Damon read the above by-law and explained that the purpose of the meeting was to
15 consider a waiver for a side yard setback to build a roof structure over a walkway between two
16 exits within a VR20 District.

17
18 Mr. Gariboldi introduced himself and Gary Corey and explained that they work for Centerline
19 Architects. Mr. Gariboldi produced a physical poster presentation board to assist with
20 describing the proposed project at 6 Prospect Street. He added that they were looking for
21 approval to add a walkway with a covered roof between two exits on the house with a small
22 added enclosed area to store ice melt, etc. for walkway maintenance. He described that they
23 hope to connect a platform to an existing walk. He further stated that the area in which they
24 have to work is quite limited and that the proposed plan comes to a very close point and is more
25 aesthetically pleasing.

26
27 Mr. Hall queried as to the purpose of the proposed project and Mr. Crowl asked why it was not
28 accessible.

29 Mr Corey and Mr. Gariboldi both referred to their architectural plans and stated that the area
30 was too steep for wheelchair access should someone need to get to the other door.

31
32 Ms. Lowary asked if the second entrance then was being considered for fire egress to which Mr.
33 Corey confirmed that it was considered for that purpose. Ms. Lowary asked for details
34 regarding size to which Mr. Corey explained that it would be a standard minimum dimension of
35 5 feet x 5 feet and he referred to the physical presentation for further description. Mr. Crowl
36 quired as to how far the project would extend outwards and Mr. Corey and Mr. Gariboldi pointed
37 to the physical presentation to provide more specific details.

38
39 Mr. Damon asked if there were only two entrances to the home to which Mr. Gariboldi replied
40 that there are three, but that only two are accessible. Mr. Damon further queried if the deck on
41 the property was new or a replacement deck to which Mr. Gariboldi replied that it was a
42 replacement deck.

1 Mr. Damon stated that there were 12 ½ feet between the two entrances and an uncovered
2 walkway. Mr. Gariboldi added that the distance to the sidewalk is seven feet.
3
4 A continuing discussion ensued regarding the architectural plans and both architects and DRB
5 board members viewed the physical presentation before then pointing to and discussing various
6 aspects of the proposal. Ms. Lowary asked why the pathway needed to be covered to which
7 Mr. Gariboldi replied that they felt it was appropriate for ease of access for a wheelchair.
8
9 Mr. Damon asked if anyone had any questions regarding the letter and information that had
10 been distributed by the Village Zoning Administrator, Ron Hatchey. Ms. Lowary added that the
11 letter pertains to the roof structure and Mr. Hatchey’s concern regarding the footprint of the
12 building
13
14 Mr. Damon added that the project would be adding density to an already non-conforming
15 property. Ms. Lowary stated that she was unsure if there would be another way to add
16 accessibility without the addition of a larger footprint on the property. Mr. Corey stated that the
17 proposed project added a small percentage to the overall footprint of the buildings.
18
19 Mr. Hall asked for clarification on the allowable building area for the site to which Mr. Damon
20 replied that the setbacks are quite severe. Mr. Gariboldi explained that the rules were different
21 for this project. Mr. Damon added that anything proposed would only increase the already
22 existing non-conformance of the property.
23
24 Mr. Williams asked how the existing structure had been built in the first place to which Mr. Hall
25 replied that the structure was “grand-fathered” as it was built before the bylaws were written.
26 Mr. Williams further queried if the door going to the deck was an option. Mr. Gariboldi stated
27 that Mr. Hatchey had advised them that if they had considered that entrance that it would have
28 been approved, but that it would not work for wheelchair accessibility.
29
30 Mr. Williams asked for confirmation that what they were looking at for consideration was both
31 the connector walkway and the roof. Mr. Crowl clarified for Mr. Williams. Mr. Hall stated that it
32 was appropriate to consider two fire exits.
33
34 Ms. Lowary asked if anyone else wanted to offer more evidence regarding the proposal and
35 asked if Ms. Jenkins would like to contribute any additional information to which she said she
36 did not.
37
38 Mr. Damon stated that he appreciated the presentation and time of Mr. Gariboldi and Mr. Corey.
39 He added that he would entertain a motion to conclude the current discussion and enter into a
40 deliberative session.
41
42 **Mr. Hall made a motion to enter into deliberative session.**
43 **(Hall/Williams/Unanimous)**
44

1 Mr. Damon explained that the DRB was allowed 45 days to make their decision but that it
2 generally was issued much faster than that.

3

4 ***DRB entered into deliberative session at 7:18PM.***

5 ***No further discussion.***

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10 **Deliberative Session Results.**

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12

13 **The Development Review Board approves the application subject to the following**
14 **additional conditions:**

15 **1. None**

16 **After a discussion, a motion was made to approve the application, as proposed,**
17 **for a waiver under Bylaw Section 13.9 to the applicant for a building permit**
18 **submitted by Jeannie Jenkins for construction of a roof structure over an**
19 **entrance with a small enclosed exterior storage closet and for a wooden walkway**
20 **structure connecting this entrance to the other side entrance into the home.**

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NOTICE OF PUBLIC HEARING

VILLAGE OF NORTH BENNINGTON - DEVELOPMENT REVIEW BOARD

The Development Review Board will hold a public hearing on **Tuesday, May 16, 2023 at 7:00 PM** at the Village Depot Meeting Room, North Bennington, VT. A zoom link is not included for this meeting - so please join us in person in Room 1 of the Depot.

AGENDA

- 1) Call Meeting to Order.
- 2) Query for public comment; revise agenda if needed.
- 3) Review and approve previous minutes from the April 18, 2023 meeting.
- 4) 6 Prospect Street - Applicant Seeks Waiver to:

Section 13.9.a. iii of the Village's Zoning By-laws requesting a waiver to the side yard setback requirement for the construction of a roof structure over an entrance and for a wooden walkway structure connecting this entrance to the other side entrance into the home.

- 5) Adjournment.

This hearing is warned in accordance with Section 4464 of the Vermont Planning and Development Act (24 V.S.A. Chapter 117). Please be advised that participation in this proceeding is a prerequisite to the right to take any subsequent appeal. All Village Zoning By-laws may be viewed at villagenorthbennington.org.

To be posted and published Thursday, May 4, 2023 by Ron Hachey - Zoning Administrator

North Bennington Vermont
Development Review Board
Findings of Fact and Decision

Property Owner: Jeannie Jenkins

Applicant: Jeannie Jenkins

Address: 6 Prospect Street

North Bennington, Vermont 05257

Location of Property: 6 Prospect Street North Bennington, Vermont

Parcel ID# 14-50-59 Zoning District: VR 20

Date of Hearing: May 16, 2023

Findings

This proceeding involved review of an application for a waiver, dated April 2023; a public hearing of the Development Review Board makes the following findings:

1. The applicant seeks a waiver to the side yard setback requirement for the construction of a roof structure over an entrance and for a wooden walkway structure connecting this entrance to the other side entrance into the home.
2. The property is located within the village residential VR20 district.
3. Per Bylaw section 13.9, a. Requests for waivers of setback requirements are considered by the Development Review Board. The purpose of waivers is to allow for minor additions to a principal or accessory structure that would not be counter to the purpose of this Bylaw or the Village Plan, but which might not meet the standards for the granting of a variance. A waiver may be granted only to reduce dimensional requirements as provided below, and compliance with all other requirements of this Bylaw is required. The Development Review Board may grant a waiver provided all of the following conditions are satisfied:
 - i. The proposal is for an addition to an existing principal or accessory structure and said addition does not increase the footprint of the structure by more than 5 percent, provided that the addition shall not increase the building footprint by more than 200 square feet. *The proposed project area is approximately 150 SF (which includes the small enclosed exterior storage closet on the platform).*

ii. The addition is the minimum size that is necessary for it to serve its intended function.
The proposed design is the minimum size needed to allow for a person in a wheelchair to navigate the proposed walkway.

iii. The addition is specifically intended to improve access for disabled persons, or to improve fire safety, or for a porch, deck, entryway, stairway, similar structure, or other minor addition to an existing building. *The owners request to construct this walkway is to provide a second accessible means of escape from the residence in the event of an emergency.*

Conclusion and Decision

Based upon these findings and subject to the conditions set forth below, the Development Review Board finds that the proposed side yard setback requirement for the construction of a roof structure over an entrance and for a wooden walkway structure connecting this entrance to the other side entrance into the home constitutes an allowable waiver under section 13.9 of the Zoning Bylaw.

Permit applicant Jeannie Jenkins is hereby granted an APPROVAL for a Waiver to side yard setback.

As conditioned, the structure meets the requirements of a permitted Waiver in that it will also conform with other provisions on plans, ordinances, regulations, and bylaws of the Village, whether expressly implied or not.

The Development Review Board approves the application subject to the following additional conditions:

1. None

After a discussion, a motion was made to approve the application, as proposed, for a waiver under Bylaw Section 13.9 to the applicant for a building permit submitted by **Jeannie Jenkins** for construction of a roof structure over an entrance with a small enclosed exterior storage closet and for a wooden walkway structure connecting this entrance to the other side entrance into the home.

The vote was 5 to 0.

Chris Damon, Chair On behalf of the Development Review Board

Date

NOTICE: An interested person who has participated in the proceeding(s) before the Development Review Board may appeal this decision to the Vermont Environmental Court. Such appeal must be taken within 30 days if the date of this decision, pursuant to 24 V.S.A. 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

**Village of North Bennington
Office of the Zoning Administrator
P. O.Box 323
North Bennington, VT 05257
802-430-3168**

To: DRB Members

From: Ron Hachey, Zoning Administrator 

Date: 5/4/23

Re: DRB Meeting on 5/16/23

The Case

I just wanted to provide a brief summary of the variance request that will be before you on 5/16.

Ms. Jenkins and her husband recently purchased their new home on 6 Prospect Street. They have made some improvements to it such as a new access walkway at one of the two side yard entrance locations as well as a new deck out back. These were in compliance with the Village's Zoning Bylaws and I issued Zoning Permits for both of these projects this past winter.

However, the second access covered access walkway and wooden structure connecting the 2 side yard access walkways does not meet the setback requirement and the owners are now asking for a variance to allow them to undertake this project. I have hi-lighted the proposed project area on the attached site plan for your consideration of their request.

My Attendance

As some of you know, I serve on the Town of Bennington's DRB. During my interview/hiring for the Village's Zoning Administrator's position, we discussed the fact that I would need to attend the Town's DRB meeting if both localities had DRB meetings on the same night. Since this is the case once again this month, I will need to attend the Town's DRB meeting on 5/16.

And as previously stated, I know that the Village's DRB meeting on 5/16 will be in good hands with your review.

**Village of North Bennington
Office of the Zoning Administrator
P. O.Box 323
North Bennington, VT 05257
802-430-3168**

April 18, 2023

Jeannie Jenkins
6 Prospect Street
North Bennington, VT 05257

Re: Proposed Improvements on Property I.D. # 14-50-59

Dear Ms. Jenkins,

I have reviewed your Zoning Permit Application that includes the new deck, walkway and the proposed structural component that attaches the 2 handicapped accessible walkways. Based upon my review of the Village's Zoning By-laws, I offer the following comments:

1. The new deck can be permitted since its construction does not result in an increase in the degree of noncompliance to the existing side and rear yard setbacks.
2. A slightly sloped walkway - similar in design that you recently constructed at the front entrance - can be permitted.
3. The construction of the structural components of the roof over the back door/walkway as well as the wooden structure connecting the two walkways cannot be permitted since they would increase the nonconformity of the already existing nonconforming side yard setback.

As per Section 13.9.a of the Zoning By-laws, you can apply for a waiver from the side yard setback requirement from the Village's Development Review Board (DRB). Section 13.9.a. goes on to list 3 conditions that the DRB will look at when determining whether or not to grant a waiver.

Based on those items noted above, please let me know if you would like me to schedule a meeting of the Village's DRB to review a waiver request. The next DRB meeting can be held on May 16, 2023 at 7:00 pm at the Village Depot Office Building.

If you want to go before the DRB in May, I will need a short written request to do so along with a brief description of how your request for a waiver complies with the intent of the language in Section 13.9.a. of the Village's Zoning Bylaws by May 1st.

Please contact me if you have any questions.

Sincerely,

Ron Hachey

Zoning Administrator

C: Ryan Gariboldi, Centerline Architects

SEND TO: Village of North Bennington
Zoning Administrator - Ron Hachey

RE: 6 Prospect Street Residence -
Permit Application

Date: 04.24.23

FROM: Centerline Architects & Planners, P.C.

URGENT

REPLY ASAP

PLEASE REVIEW

PLEASE
COMMENT

FOR YOUR USE

To Whom It May Concern,

We would like to request a waiver to the Zoning Administrators review of the residence located at 6 Prospect Street in North Bennington, VT. Specific to this review (see document attached) we are asking for a waiver of comment number '3' in the document.

We believe a waiver should be granted, due to the project meeting the requirements from 13.9A i., ii. and iii. of the Zoning Bylaws as described below:

- i. **The proposal is for an addition to an existing principal or accessory structure, and said addition does not increase the footprint of the structure by more than 5 percent, provided that the addition shall not increase the building footprint by more than 200 square feet.**

Response: The proposed design does not add to the existing building's net floor area. A small, unconditioned, un-insulated, and enclosed exterior storage closet, is proposed on the walkway's platform. This would be located directly outside from the building's entrance. We are also proposing to cover this entrance's platform with a roof, to keep the platform clear of snow debris in the event of an emergency. The proposed project area is approximately 150 SF (which includes the enclosed storage on the platform).

- ii. **The addition is the minimum size that is necessary for it to serve its intended function.**

Response: The proposed design is the minimum size needed to allow for a person in a wheelchair to navigate the proposed walkway.

- iii. **The addition is specifically intended to improve access for disabled persons, or to improve fire safety, or for a porch, deck, entryway, stairway, similar structure, or other minor addition to an existing building.**

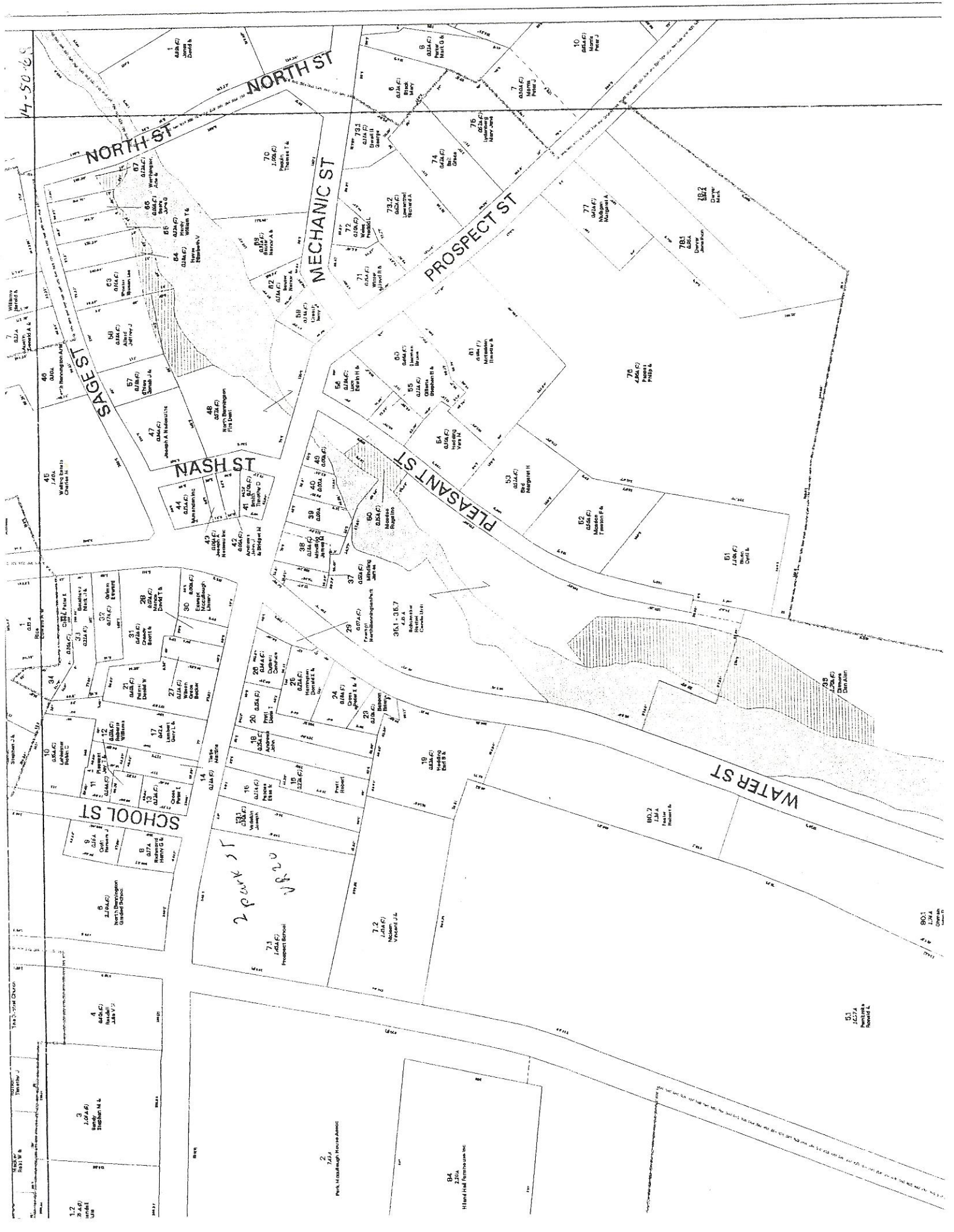
Response: The Owners request to construct this walkway is to provide a second accessible means of escape from the residence, in the event of an emergency.

Please contact our office with any questions about this request.

Sincerely,

Ryan Gariboldi

14-50-68



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Howard A.

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Park, Inc. 10000

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Hiland Hill Farms Inc.

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circumstances,

13.7 Enforcement

Any person who violates the provisions of this Bylaw shall be subject to the penalties and remedies prescribed in 24 V.S.A. Section 4451 to 4454.

13.8 Variances

- a. The Development Review Board shall hear and decide upon requests for variances. The Board may grant a variance, and render a decision in favor of the appellant, only if *all* of the following facts are found, and the findings are specified in its written decision:
 - i. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
 - ii. That because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;
 - iii. That the unnecessary hardship has not been created by the appellant;
 - iv. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
 - v. That the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.
- b. On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Development Review Board may grant such variance only if it finds that all of the facts listed in 24 V.S.A. Section 4469(b) are found in the affirmative and specified in its decision.

13.9 Waivers

- a. Requests for waivers of setback requirements are considered by the Development Review Board. The purpose of waivers is to allow for minor additions to a principal or accessory structure that would not be counter to the purpose of this Bylaw or the Village Plan, but which might not meet the standards for the granting of a variance. A waiver may be granted only to reduce dimensional requirements as provided below, and compliance with all other requirements of this Bylaw is required. The Development Review Board may grant a waiver provided all of the following conditions are satisfied:
 - i. The proposal is for an addition to an existing principal or accessory structure,