

FOR OFFICE USE ONLY

If Applicable

- On-Site Sewage Permit
- Access Permit
- 60 Ft. R-O-W
- Site-Plan
- Sub-division

*Final*  
*09-22-00*

*P2153*

### Town Of East Montpelier Application For Zoning Permit

FOR OFFICE USE ONLY

Application No. *04-087*  
 Date Rec'd *9/21/04*  
 Zone *C*  
 TR # ..... TM # *12-02-04.000*

- A. 1. Name of Landowner..... *Rubin Bennett* Phone No. *223-7695*  
 2. Address of Landowner..... *80 Carleton Blvd E. Mpls 05651* *W 223-4448 C 249-1101*  
 3. Applicant (other than owner)..... Phone No. *223-0214*  
 4. Address of Applicant .....  
 5. Location of Property .....

B. Application is made (check appropriate boxes)

To  erect

- repair
- alter
- extend
- remove
- change use

- For  one  two family dwelling
- commercial/business
  - light industrial
  - industrial
  - accessory building
  - other

For  land development (land development is defined as the division of a parcel into two or more parcels)

Describe work to be performed..... *Build Garage/Workshop (20 x 26)*

C. Lot description:

1. acreage..... *1.10*  
 2. road frontage... *122.92* Ft.  
 3. depth front yard... *265* Ft. (R-O-W to building)  
 4. depth side yards..... *93* Ft. *18* Ft. (building to lot lines)  
 5. depth rear yard..... *18* Ft. (building to lot line)

**Important** — Submit site location map which describes the property on which the proposed land or building development is to occur. The map should indicate the length in feet of each boundary, the location and dimensions in feet of the development within the property, the distance from that development to all adjacent property lines and the distance to the public R-O-W. Each parcel created by land development should be clearly described.

- D. Is lot a sub-division?.....; Is lot two or more parcels less than ten acres?.....  
 State Environmental Permit No.....; If three or more parcels, ten acres or less, is town plot plan provided?.....

\* E. Zoning Permit Fee \$ *3500* Cash \_\_\_\_\_ Check  Date *9/21/04* Rec'd by *mae*  
 \* Hearing Fee \$ *75.00* Cash \_\_\_\_\_ Check  Date *10/4/04* Rec'd by *TC*  
 Make checks payable to Town of East Montpelier.

**READ CAREFULLY** No land or building development may commence, nor shall any land or structure be used or extended in any way, until a Zoning Permit has been duly issued as provided in Section 4443 of the Act.

The undersigned requests a zoning permit as described above, understanding that the permit will be voided and penalties imposed, if the land development is not completed as described. The permit will be voided if development is not begun within one year from date of issue. The undersigned hereby applies on the basis of the representations contained herein, and to the best of his/her knowledge believes them to be true.

Landowner..... *[Signature]* Date *21 September 04*  
 Applicant..... Date .....

F. Action by Administrator:

- 1.  Granted  Denied 10/4/04 date Reason Does not meet setbacks
- 2. Appealed to Board of Adjustment 10/4/04 Date [Signature]  
 Applicant Note: Appeal from decision or act of Administrator must be made in writing to the Secretary of the Board of Adjustment within 15 days of the decision or act.
- 3. Final Action: Permit No. 04-087 Date Issued Nov. 4, 2004  
 Effective Date Nov. 19, 2004 DO NOT start this project prior to the effective date, as the statutes require a 15 day appeal period.

[Signature]  
 Acting Zoning Administrator

G. Planning Commission Action:

- 1. Public Notice Date ..... Date of Hearing .....
- 2.  Granted  With conditions as follows: .....
- 3.  Denied, Reason: .....
- 4. Date Approved ..... Date of Denial .....

.....  
 Chairman, Planning Commission

H. Board of Adjustment:

- 1. Public notice date 10-7-04 Date of hearing 10-25-04
- 2. Action by Board:  Granted  With conditions as follows: .....
- 3.  Denied: Reason ..... Date of Denial .....

[Signature]  
 Vice - Chairman, Board of Adjustment

Important

An appeal from a decision or act by the Board of Adjustment must be made within 30 days from the date of action shown on line H3 above. Said appeal is to the County Court under 24 V.S.A., Sec. 4471.

TOWN OF EAST MONTPELIER  
BOARD OF ADJUSTMENT

In the matter of:

Rubin Bennett  
80 Carleton Blvd. 1495 Colburn Road  
East Montpelier, VT 05651

ZONING PERMIT APPLICATION NO. 04-087  
REQUEST FOR A VARIANCE

A hearing was held on October 25, 2004 on the application of Rubin Bennett to determine whether or not he shall be granted a permit to build a garage at his property on Carleton Blvd. The property is in Residential/Commercial Zone C, where the set-back requirement is 25 feet. The proposed set-back is 18 feet.

On October 7, 2004 a public notice was duly published in the Times Argus for a hearing, which was conducted on the above stated date. The applicant was present. No other people were present to present evidence.

The Board members which considered the application were Kappel, Conti, Cueto, King, Strong and Biggam, acting as Chair.

FINDINGS OF FACT

1. The appellant proposes to construct garage on his 1.10 acre parcel, which is a pre-existing small lot in a zone which requires 3.0 acres for each dwelling.

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2. The property is located in Commercial Zone A.
3. The proposed garage is 26 feet by 20 feet.
4. The house was built towards the rear of the lot in the early 1960's.
5. The use of the garage will be for vehicles and woodworking. The existing garage will be converted to office space.
6. The west and south side of the property is bounded by commercial users. The east side is bounded by property which is residential.

## CONCLUSIONS

A variance from the regulations can only be granted if the Board determines that the proposal meets the five criteria set forth in state law (24 V.S.A. Section 4468).

The Board's conclusions with respect to each criterion follow:

Criterion 1: *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.*

This criterion is met because the lot is a sub-sized lot developed before zoning, and the home is built near the rear property line. (Vote: unanimous)

Criterion 2: *That because of such physical circumstances or 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 therefore necessary to enable the reasonable use of the property.*

This criterion is met because in order to have reasonable use for a garage, it is limited to occupying the proposed space. (Vote: unanimous)

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Criterion 3: *That the unnecessary hardship has not been created by the appellant.*

This criterion is met because the space pre-existed zoning. (Vote: unanimous)

Criterion 4: *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.*

This criterion is met because the character of the neighborhood is mixed, commercial and residential, and the garage would be a compatible use. (Vote:

unanimous)

Criterion 5: *That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.*

This criterion is met because the application represents minimum deviation from the setback, required to support the proposed use.

(Vote: unanimous)

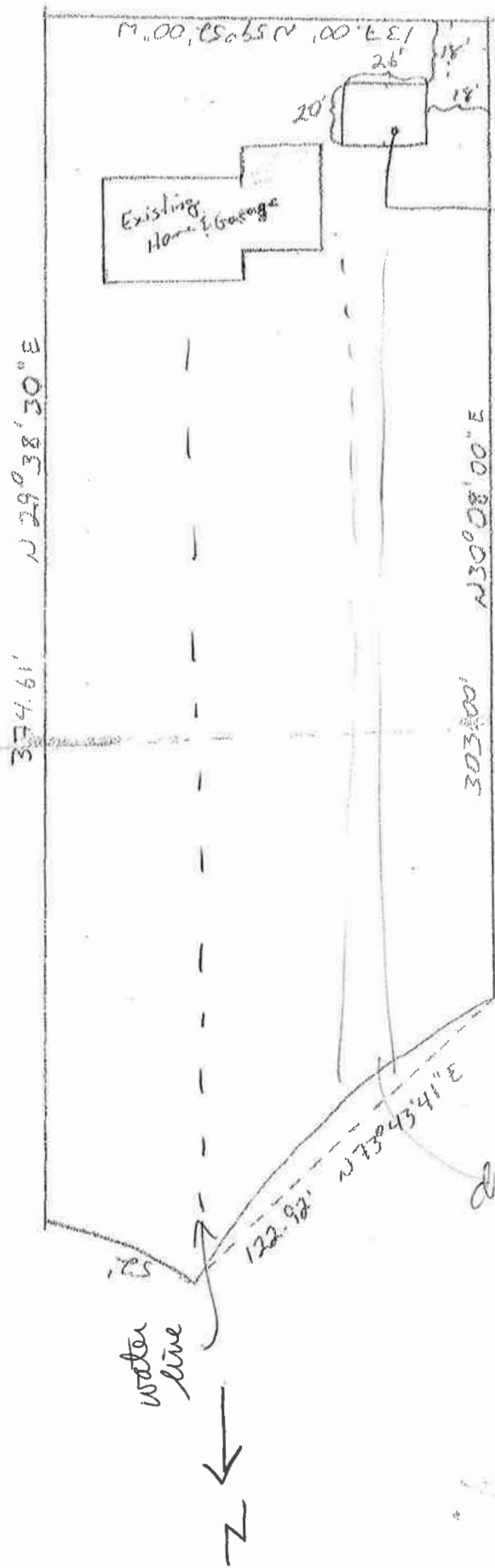
DECISION

By unanimous vote, the Board grants the Variance for the construction as proposed with the special conditions as noted above.

Dated this 26<sup>th</sup> day of October, 2004

  
\_\_\_\_\_  
Patrick Biggam - Vice-Chair  
Board of Adjustment

6' between



New Structure 20'x26'  
 Distance to R. Property Line 18'  
 Distance to W Property Line 18'

driveway

water line





TOWN OF EAST MONTPELIER

# BUILDING PERMIT

Permit No. 04-087 Date Issued Nov. 4, 2004

Tax Map No. 12-02-04 Effective Date Nov. 19, 2004

DO NOT Start Project Prior To The Effective Date As  
The Statutes Require a 15 Day Appeal Period in this Permit

Location 80 CARLETON BLVD.

Owner RUBIN BENNETT

For Construction of: 20 x 26 Garage / workshop  
As Described In Application No. 04-087

By: Deborah Jellin Acting Zoning Administrator

THIS PERMIT TO BE POSTED IN FULL VIEW AT ALL TIMES DURING CONSTRUCTION