

**TOWN OF SOUTH HERO, VERMONT
DEVELOPMENT REVIEW BOARD
DECISION DATED May 25, 2022**

APPLICANT

Name: William Deming
Address: 143 Marsett Rd., Shelburne, VT 05482

LANDOWNER

Name: Same

APPLICATION

Type: Request for Setback Waiver

Number: 22-50-LE030

PROPERTY

Location: 30 Lands End Way

Hearing Date: April 13, 2022 and May 11, 2022

William Deming submitted an application on March 1, 2022 requesting a setback waiver per Sec. 305 to replace his camp at 30 Lands End Way. Per Section 805 of the South Hero Development Regulations, a warning for the public hearing appeared in the March 30, 2022 issue of the Islander and was posted in the Town Office, the Post Office, and the Town Library, and abutters to the property were notified. A hearing was held on April 27, 2022 and concluded on May 11, 2022. A list of those present and participating in the hearings is included in the minutes.

During the course of the hearing, the following exhibits were submitted:

- Town of South Hero Development Regulations, effective March 30, 2020
- Setback Waiver Application, dated March 1, 2022; Rec'd March 2, 2022.
- Partial from survey, by Stuart Morrow, date Nov. 2008 (Slide Number 40 of the South Hero Land Records) showing the boundaries of 30 Lands End Way, the location of the existing structure (solid line) and proposed replacement structure (dotted line).

- Site Plan by Bill Deming of the Deming lot with setback distances shown. Existing structure shown with double solid line and dotted dripline; Proposed structure shown as heavy solid line.
- Photographs of existing camp.
- Email by Bruce Deming re wastewater rules for primitive camp, dated July 22, 2021; rec'd March 2, 2022
- Warning ad, Abutters' Notice, and Hearing Letter for April 13, 2022 DRB Setback Waiver Review.
- Staff report for April 13, 2022 DRB hearing.
- Site proposal for May 11, 2022 hearing; rec'd May 1, 2022.
- Staff report for May 11, 2022 hearing.
- Draft minutes from the April 13, 2022 and May 11, 2022 DRB hearings.

Based on the applications, supporting documents, and testimony of Virginia Randlett, the **Development Review Board makes the following Findings and enters the following decision:**

Findings:

1. 30 Lands End Way is a .15-acre pre-existing, non-conforming lakefront lot with a seasonal camp.
2. The triangular lot is in the Shoreland Zoning District, extending from a point at the north end to 107 feet of lakefront. There is no conforming space on the lot.
3. The right-of-way enters the lot near the 'point.'
4. The existing home is 5.6 feet from the east boundary, 9.71 feet from the west boundary, and 53.22 feet from the mean level of the lake. These dimensions were scaled from the Morrow survey (above in submittals).
5. The lakefront face of the structure faces to the southeast. The home has 423sf of living space.
6. The proposed 352sf replacement home is 10 feet from the east boundary, 8.9 feet from the west boundary, and 57 feet from the mean level of the lake. The dimensions include eaves.
7. This structure's new south wall is parallel to the shoreline.
8. The Applicant stated that the camp meets the State's definition of a primitive camp and plans to meet the State's wastewater requirements – one sink and a compostable toilet (no shower facilities).
9. The Applicant stated that he wanted to save a cedar tree on the northwest corner of the existing camp.

DRB Chair Tim Maxham closed the hearing on May 11, 2022.

Conclusions of Law:

- A. 30 Lands End Way is a pre-existing, non-conforming lot. Per Section 305.A.3 (Setback Waiver – Pre-Existing Non-Conforming Structures), the homeowner in the Shoreland zoning district may apply for a setback waiver to reduce the setbacks required by the regulations. There is nowhere on the lot that would increase the conformity of the existing structure.

On May 25, 2022 D. Patterson moved to approve the application for setback waiver, with the findings of fact listed and with the following Conditions; N. Hayward second. Whereas, Final Approval was granted to the application with Conditions, with the following people voting in the affirmative: T. Maxham; D. Patterson; N. Hayward; E. Reid; and J. Brightwell.

Conditions:

1. Applicants shall comply with all evidence as presented at the hearing or as amended by this decision.
2. All construction shall meet the requirements of Sec. 905 (Flood Hazard Area Development Standards) and Sec. 908 (Application Requirements), if applicable.
3. This will remain a primitive camp under the State wastewater rules.
4. The proposed 352sf replacement home will be no less than 10 feet from the east boundary, 8.9 feet from the west boundary, and 57 feet from the mean level of the lake.
5. The Town of South Hero's responsibilities are limited to ensuring compliance with the approvals and permits issued by the Town of South Hero. The Town accepts no responsibility for compliance with the conditions of any permits or approvals issued by any other entity. The Town of South Hero will not be liable for the failure of the applicants to carry out their duties and responsibilities.

Dated: May 25, 2022


For the Development Review Board

APPEAL RIGHTS

Any appeal of this decision must be filed with the Superior Court, Environmental Division (located at 2418 Airport Road, Suite 1, Barre, VT 05641-8701) within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. §1431 and the 5% surcharge required by 32 V.S.A. §1434a(a). A copy of this appeal must be filed with the Zoning Administrator or the Town Clerk within thirty (30) days from the date of issuance.