**TOWN OF SOUTH HERO, VERMONT**

**DEVELOPMENT REVIEW BOARD**

**DECISION DATED June 8, 2022**

**APPLICANT**

**Name: Dean and Kathy Henry**

**Address: 129 Ferry Rd. (RT 314)**

**LANDOWNER**

**Name: same**

**APPLICATION**

**Type: Subdivision Amendment**

**Number: 22-75-FR129**

**PROPERTY**

**Location: 129 Ferry Rd.**

**Hearing Date: June 8, 2022**

Dean and Kathy Henry submitted an application on May 10, 2022 for an amended subdivision plat that had been originally approved by the DRB on March 9, 2022 (#21-95-FR129). VTrans changed the location of one of the accesses to RT 314, necessitating an amendment, per Sec. 407. Per Article 8 of the South Hero Development Regulations, a warning for the Subdivision Amendment appeared in the May 18, 2022 issue of the Islander and was posted in the Town Office, the Post Office, and the Worthen Library, and abutters to the property were notified. The hearing was held on June 8, 2022. Applicant Dean Henry presented. A list of those present and participating in the hearings is included in the minutes of each meeting.

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

1. Town of South Hero Development Regulations, effective March 3, 2013.
2. Application for Subdivision Amendment review, dated and rec’d May 10, 2022.
3. Subdivision Plat by TDH Surveying and Design, revision date May 12, 2022; rec’d May 18, 2022.
4. Final Plat by TDH Surveying and Design, no revision date, Sheet 1 of 1, rec’d February 20, 2022, accepted into the record at the February 23, 2022 hearing.
5. Final Plat by TDH Survey and Design, revision date January 13, 2022, approved by the South Hero DRB on March 9, 2022.
6. Henry DRB approval #21-95-FR129, dated March 9, 2022.
7. VTrans 1111 Access Permit #44680, dated May 23, 2022.
8. Email from Ed Pierce, VTrans permit coordinator, dated and rec’d May 24, 2022.
9. Warning ad, Abutters Notice, and Hearing Letter for June 8, 2022 hearing published in the May 18, 2022 issue of the Islander.

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

1. The 9-lot Major subdivision was approved by the DRB on March 9, 2022.
2. Ed Pierce, VTrans permit coordinator, stated in a May 24, 2022 email that VTrans no longer requires a Letter of Intent before issuing an 1111 access permit. Review and approval of site plans and subdivisions on State highways still require VTrans review.
3. VTrans had indicated approval of the 2 highway accesses proposed in the final subdivision plan. After the plan was approved by the DRB, VTrans required that the access serving Lots 1-6 be moved further west approx. 40 feet to be directly across RT 314 from the access to 138 Ferry Rd. (VT RT 314).
4. The 50ft. wide right-of-way now fully encompasses the existing driveway to 129 Ferry Rd. In the March 2022 decision, the driveway was going to be eliminated and merged into the new ROW.
5. The edge of the ROW meets the setback requirement for an accessory structure in the Rural Residential Zoning District. The new Plat shows the 25-ft. building envelope for a primary structure and the 15-ft. building envelope for an accessory structure.
6. Common access and utility easements will remain within the new ROW. Once the right-of-way enters Lot 6, there are no further changes.

On June 8, 2022, **T. Maxham** closed the hearing.

**Conclusions of Law:**

1. The Plan, as presented, meets the requirements of Sec. 407 (Subdivision Amendments).

**On June 8, 2022, D. Patterson moved to approve the amendment with the findings of fact listed, and with the following Conditions; L. Kilcoyne second.** **Whereas, Final Approval was granted to the application,** with the following people voting in the affirmative: T. Maxham, D. Patterson, G. Hunt; L. Kilcoyne, N. Hayward, and J. Brightwell; E. Reid.

**Conditions of Approval:**

1. Applicants shall comply with all evidence and testimony as presented at the hearing or as amended by this decision.
2. All other conditions of Decision #21-95-FR129 remain unless specifically amended by this decision.
3. The Final Plat Mylar must be presented to the DRB for approval and signature, and recorded in the Town Land Records, within 180 days of the date of the Board’s approval of the Final Plat.
4. 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: June 8, 2022**

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 **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), which is $262.50 as of January 2011.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.