

**TOWN OF SOUTH HERO, VERMONT  
DEVELOPMENT REVIEW BOARD  
DECISION DATED December 14, 2022**

**APPLICANT**

**Name:** Eagle Camp, Inc./Alan Perry  
**Address:** 05 West Shore Rd., South Hero, VT 05486

**LANDOWNER**

**Name:** Same

**APPLICATION**

**Type:** Request for Waiver from Lake Setback

**Number:** 23-31-WS505

**PROPERTY**

**Location:** 505 West Shore Rd.

**Hearing Date:** December 14, 2022

Alan Perry, representing Eagle Camp, Inc. submitted an application on November 9, 2022 requesting a setback waiver per Sec. 305, to expand the footprint of the camp dining hall within the lake setback. Per Section 805 of the South Hero Development Regulations, a warning for the public hearing appeared in the November 23, 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 December 14, 2022. A list of those attending and participating in the hearing 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
- Application for Setback Waiver, dated November 5, 2022 and rec'd November 9, 2022.
- Site Plan prepared for Shoreland Protection application by Jeff Sikora, revision date October 24, 2022; rec'd November 17, 2022.
- Six Photographs of existing structure and site.
- Four Renderings of deck with roof addition for expanded dining hall seating.
- Warning ad, Abutters' Notice, and Hearing Letter for December 14, 2022 DRB Setback Waiver Review.
- Email from neighbor David Johnson (WS491) supporting the proposal.
- Letter from neighbor James Hodgson (WS541) supporting the proposal.

- Shoreland Protection permit #3844-SP, date November 28, 2022; rec'd December 6, 2022.
- Staff report for December 14, 2022 DRB hearing.
- Updated site plan by Jeff Sikora, rec'd at the December 14, 2022 hearing.
- Draft Minutes from the June 22, 2022 hearing.

Based on the applications, supporting documents, and testimony of Alan Perry and Jeff Sikora, the **Development Review Board makes the following Findings and enters the following decision:**

**Findings:**

1. 505 West Shore Rd. is a 174.28-acre property on both sides of West Shore Rd. The northern boundary of the parcel is Eagle Camp Rd. The property is in both the Rural Residential and Shoreland Zoning Districts. The area under review for this hearing is in the Shoreland Zoning District.
2. The existing dining hall could not maintain recommended distances between tables during the Covid pandemic. The camp used a large tent for the dining facilities for the past 2 seasons as a temporary solution. The Applicant proposes adding a permanent covered deck to the north end of the dining hall to allow for continued use of the facility, allowing seating to be spread out more. No additional seating is proposed.
3. The dining hall is 3,240sf (68'x34'). Approximately ¼ of the structure is within the lake setback. The closest point of the structure is 65 feet from the mean level of the lake.
4. The Shoreland Protection permit #3844-SP for this project includes the following conditions – a) All new cleared area and new impervious surface shall not expand towards the mean level of the lake; b) All new development shall be located on a slope less than 20%; c) New impervious surface created by this development shall not exceed 1200sf; and d) All new cleared area shall not exceed 2sf.
5. The lakeside wall of the addition will maintain the 65-ft. distance to the lake, following the contour of the shoreline. No part of the proposed deck will encroach further into the lake setback than the existing structure.
6. A new roofline will extend from the existing dining hall over the proposed deck.
7. Approximately 700sf of the new deck will be within the lake setback.
8. A slope and ledge in the conforming space on the east side of the dining hall prevents expansion of the structure in that direction. Existing buildings on the south end of the dining hall, in addition to the lake setback, prevent expansion of a conforming addition into that area.
9. The area to the north of the dining hall has a slope less than 20% and would require the removal of only one tree. There is no additional vegetation in this area.
10. Abutting landowner David Johnson (WS491) sent an email supporting the application. Abutting landowner James P. Hodgson (WS541) sent a letter in support of the project.

DRB Chair Tim Maxham closed the hearing on December 14, 2022.

**Conclusions of Law:**

- A. Per Section 305 (Setback Waiver), structures in the Village and Shoreland Zoning Districts are eligible for setback waivers.

Using the 5 Variance (Sec. 306) criteria as a guide:

- B. *Unique physical circumstances* exist due to the slope of the lot, Shoreland Protection's limits on the removal of vegetation, and ledge in the conforming space.
- C. The request is a *reasonable use of the property*.
- D. *No hardship has been created* by the Applicant.
- E. The addition *will not alter the character of the neighborhood*.
- F. Conditions of approval for the Shoreland Protection permit include restrictions on the removal of vegetation and development only on slopes less than 20%. The only remaining area that meets Shoreland's requirement is at the north end of the dining hall. The design follows Shoreland's requirement not to encroach any further into the existing setback from the lake. By following these restrictions, *the proposal represents the least deviation possible from the bylaw* and is allowed, with DRB approval, in Sec 305 (Setback Waiver) of the Development Regulations.

**On December 14, 2022, L. Kilcoyne moved to approve the setback waiver of 10 feet, with the findings of fact listed and with the following Conditions; M. Welch second. Whereas, Final Approval was granted, with Conditions, with the following people voting in the affirmative: T. Maxham; E. Reid; M. Welch; L. Kilcoyne; D. Patterson; and N. Hayward.**

**Conditions:**

1. Applicants shall comply with all evidence as presented at the hearing or as amended by this decision.
2. No part of the new construction may extend any closer than the existing lake setback of 65 feet.
3. Prior to issuance of a building permit, a final design drawing delineating the edge of the foundation and the roofline shall be provided to the zoning administrator.
4. Copies of all required permits for this structure shall be provided to the ZA.
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: December 14, 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 [over] 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.