

**TOWN OF SOUTH HERO, VERMONT  
DEVELOPMENT REVIEW BOARD  
DECISION DATED May 10, 2023**

**APPLICANT**

**Name:** Russell Barone  
**Address:** PO Box 1135, Williston, VT 05495

**LANDOWNER**

**Name:** Same

**APPLICATION**

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

**Number:** 23-57-RD054

**PROPERTY**

**Location:** 54 Richards Rd.

**Hearing Date:** May 10, 2023

Russell Barone submitted an application on April 13, 2023 requesting a setback waiver per Sec. 305 to place a garden shed within the lake setback at his seasonal home at 54 Richards Rd. Per Section 305 of the South Hero Development Regulations, a warning for the public hearing appeared in the April 19, 2023 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 May 10, 2023. 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 30, 2023; rec'd April 13, 2023.
- Site Plan for wastewater system design by Willis Design Associates, showing topography of lot and the proposed shed location added by the Applicant, dated 10/7/19; rec'd April 13, 2023.
- Photo of proposed garden shed style.
- Letter of support by Michael Wells and Alejandra Bertorini, neighbors at 52 Richards Rd.
- Letter of support by Bob Buermann, 21 Richards Rd.

- Warning ad, Abutters' Notice, and Hearing Letter for the May 10, 2023 DRB Setback Waiver Review.
- Staff report for the May 10, 2023 DRB hearing.

Based on the applications, supporting documents, and testimony of Russell Barone and Sue Lindberg, **the Development Review Board makes the following Findings and enters the following decision:**

**Findings:**

1. 54 Richards Rd. is a .31-acre lot in the Shoreland Zoning District with 100 feet of frontage on Lake Champlain.
2. There is a 3BR seasonal home within the lake setback. The Applicant received a change in conditional use (reduction of non-conforming space) from the DRB in June 2019.
3. The pre-existing, non-conforming lot slopes steeply from the road, levels within the 75-ft. lake setback, then drops again sharply to the lake.
4. A shared driveway also provides access to the neighboring home to the south (RD052). The Applicant proposes to place an 8'x12' shed in the level space on the southeast corner of the lot between the driveway to RD052 and the top of the bank above the lake. The proposed location is approximately 17.5' above the mean lake level of 95.5'.
5. The dripline of the shed will be 5' from the south boundary and 39' from the mean level of the lake.
6. Abutting neighbors Michael Wells (RD052) and Bob Buermann (RD021) submitted emails in support of the proposal.

DRB Chair Tim Maxham closed the hearing on May 10, 2023.

**Conclusions of Law:**

- A. Per Section 305. (Setback Waiver), structures in the Village and Shoreland Zoning Districts are eligible for setback waivers.
- B. Per Section 305.D, the steep slope of the lot, the existing and replacement septic locations, and the driveway to the neighboring property limit placement of the shed to a space within the lake setback. No undue adverse effect on the character of the neighborhood will result, nor on public health or safety.

**On May 10, 2023, M. Welch moved to approve the application for a setback waiver, with the findings of fact listed and with the following Conditions; N. Hayward second. Whereas, Final Approval was granted, with Conditions,** with the following people voting in the affirmative: T. Maxham; D. Patterson; M. Welch; J. Brightwell, and N. Hayward.

**Conditions:**

1. Applicants shall comply with all evidence as presented at the hearing or as amended by this decision.

2. The structure's dripline shall be no closer than 5' from the south boundary and 39' from the mean level of the lake.
3. The Board does not require any screening of the structure from neighboring properties.
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: May 10, 2023**

  
**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.