

**TOWN OF SOUTH HERO, VERMONT
DEVELOPMENT REVIEW BOARD
DECISION DATED September 13, 2023**

APPLICANT

Name: Joshua Nase (Cedar Ledge Builders)
Address: 328 US RT 2, South Hero, VT 05486

LANDOWNER

Name: Dan and Beth Farr

APPLICATION

Type: Request for Setback Waiver from Side Boundaries

Number: 24-07-KF059

PROPERTY

Location: 59 Kibbe Farm Rd.

Hearing Date: August 23, 2023

Joshua Nase of Cedar Ledge Builders, representing Dan and Beth Farr, submitted an application on July 20, 2023 requesting a setback waiver per Sec. 305 to replace a seasonal home within the side setbacks at 59 Kibbe Farm Rd. Per Section 305 of the South Hero Development Regulations, a warning for the public hearing appeared in the August 2, 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 August 23, 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 3, 2020.
- Application for Setback Waiver by Joshua Nase (Cedar Ledge Builders), dated and rec'd July 20, 2023.
- Project Narrative by Cedar Ledge Builders, dated and rec'd July 20, 2023.
- Existing Site Plan by Cedar Ledge Builders, Sheet number A0/EX, no date; rec'd July 20, 2023.
- Proposed Site Plan by Cedar Ledge Builders, Sheet number A0/01, no date; rec'd July 20, 2023.

- Proposed Site Plan with Overlays and Calculations by Cedar Ledge Builders, Sheet number A0/02, no date; rec'd July 20, 2023.
- Schematic Elevations by Cedar Ledge Builders, Sheet number A2/01, no date; rec'd July 20, 2023.
- Proposed and Existing Floorplan, Sheet number A1/01, no date; Rec'd July 20, 2023.
- Nine model views of existing structure, no sheet number or date; rec'd July 20, 2023.
- Nine model views of proposed replacement structure, no sheet number or date; rec'd July 20, 2023.
- Thirteen photos of existing structure, no date; rec'd July 20, 2023.
- Water and Wastewater Plan Sheet number 1 by Buermann Engineering, dated April 24, 2023; rec'd July 20, 2023.
- Warning ad, Abutters Notice, and Hearing Letter for August 23, 2023 DRB hearing.
- Letter of support from Martha McLure, Nancy McLure, and Mary Lou Marcussen of 61 and 63 Kibbe Farm Rd., dated August 19, 2023; entered into the record at the August 23, 2023 hearing as Exhibit #1.
- Draft Minutes of August 23, 2023 DRB meeting.

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

Findings:

1. 59 Kibbe Farm Rd. is a 0.25-acre lakefront lot with an existing two-story, 2BR seasonal home. The lot is in the Shoreland Zoning District. The owners of the camp, Dan and Beth Farr, also own a seasonal home on abutting property at 57 Kibbe Farm Rd.
2. Due to the condition of the existing structure, Cedar Ledge Builders recommended tearing down rather than renovating it. The Applicants propose to replace the camp with a cost-effective 2BR home and a new year-round wastewater system.
3. The lot has a nearly 20% slope to the water and is only 60 feet wide. The existing camp is 5'8" from the north boundary, 98'7" from the mean level of the lake, and greater than 50' from the road. The southeast corner of the existing structure encroaches 5" onto the Farr property at 57 Kibbe Farm Rd.
4. The existing footprint includes the main structure, part of which has two floors, and a smaller 1-story detached room, all connected by an open deck. The highest point of the roof, measured from the lowest existing grade, is 20'10".
5. The current cedar stump and concrete block support will be replaced by a concrete foundation. An exterior bulkhead on the lakeside of the home will access the basement.
6. The replacement structure will include the existing footprint in addition to filling in a few jogs, adding the basement bulkhead, and moving the 5-inch south side encroachment from the neighboring lot back to the boundary. The net expansion of the footprint is 60.9sf. The new footprint will expand no further to the north, will retreat to the south property boundary, and will remain conforming to the lake and road setbacks.

7. The second floor will have full 8-ft. ceilings, making room for additional insulation and an increase in roof pitch. The proposed building height is 31'4". The additional height will not block any additional views from the road or the field beyond, and will be in scale with the home at 61 Kibbe Farm Rd.
8. The existing second floor is 254 sf. The living space will be expanded to 380sf, plus a 237sf second- floor deck. This represents an increase of 363sf on the second floor.
9. An existing exterior stairway to the second floor will be moved indoors.
10. The new wastewater system has already been approved. It will be a mound system, to be built between the new home and Kibbe Farm Rd.
11. A retaining wall will be added to reduce erosion and protect the new structure. Cedar Ledge hopes to maintain an existing tree on the west side, close to the house.
12. The Farr's received a letter of support from the McLure's, owners of 61 and 63 Kibbe Farm Rd. and verbal support from Nancy McLure at the hearing.

DRB Chair Tim Maxham closed the hearing on August 26, 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, there is little conforming space on the 60-ft. wide lot. No undue adverse effect on the character of the neighborhood will result, nor on public health or safety.
- C. Per Figure 5.2 and Section 505.D.1, the DRB has the discretion to waive the height/volume restriction in circumstances where it is not deemed disruptive to surrounding properties.

On September 13, 2023, D. Patterson moved to approve the setback waiver application, 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; D. Patterson; M. Welch; J. Brightwell; N. Hayward; and L. Kilcoyne.

Conditions:

1. Applicants shall comply with all evidence as presented at the hearing or as amended by this decision.
2. Setbacks shall be measured from the eaves.
3. 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: September 13, 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.