

**TOWN OF SOUTH HERO, VERMONT
DEVELOPMENT REVIEW BOARD
DECISION DATED July 26, 2023**

APPLICANT

Name: Stephen L. Hard
Address: 19 Allen Point Rd., South Hero, VT 05486

LANDOWNER

Name: Same

APPLICATION

Type: Request for Waiver from Right-of-Way Setback

Number: 23-78-AP019

PROPERTY

Location: 19 Allen Point Rd.

Hearing Date: July 12, 2023

Stephen Hard submitted an application on June 6, 2023 requesting a setback waiver per Sec. 305 to replace a year-round home within the setback to the private road right-of-way at 19 Allen Pt. Rd. Per Section 305 of the South Hero Development Regulations, a warning for the public hearing appeared in the June 21, 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 June 12, 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 and rec'd June 6, 2023.
- Project summary, by Applicant. Rec'd June 6, 2023.
- Scale drawing of existing and proposed structure, by Applicant; rec'd June 6, 2023.
- Warning ad, Abutters' Notice, and Hearing Letter for the July 12, 2023 DRB Setback Waiver Review.
- Staff report for the July 12, 2023 DRB hearing.
- Draft minutes from the July 12, 2023 DRB hearing.

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

Findings:

1. 19 Allen Point Rd. is a 1.34-acre lakefront lot that is split in half by Allen Point Rd., a private road at the south end of South St. Allen Point Rd. has a 50-ft. right-of-way. The existing 2BR single-family home and a detached 1-car garage are on the lake side of the road and are in the Shoreland Zoning District. Approx. half of the detached garage is within the right-of-way setback.
2. The existing 1000sf 2BR home has little insulation, inefficient electric heat, and failing plumbing imbedded in a concrete slab. The Applicant proposes to replace the home with a 2600sf 2BR, high efficiency home and an attached 2-car garage. The replacement home will be compliant to the lake, side, and ROW setback, but the northwest corner of the garage will extend into the ROW setback.
3. The encroachment of the existing garage into the 15-ft. setback for an accessory structure is approx. 50sf. The new garage encompasses half of the footprint of the existing detached structure. The encroachment of the proposed attached garage into the 25-ft. setback is 25sf of new floorspace, representing a 50% reduction in the degree of non-conformity of the existing structure.
4. The new garage will be accessed from an 8-ft. connector to the house.
5. One quarter of the home will have a full basement, with the remaining an insulated crawl space.
6. Water and septic demand will remain the same. The water line and cracked septic tank will be replaced. The leach field in the front of the house will remain.
7. The Applicant plans to put a patio behind the garage that will wrap around to a door in the connector.
8. Board members asked if the garage could be angled to bring the non-conforming corner out of the ROW setback. Mr. Hard was concerned that angling the garage would squeeze the space between the garage and the house.
9. The lot to the west is also split by the road. The home on that lot is on the north (off-lake) side.
10. The Applicant has applied to Shoreland Protection for a permit for the additional impervious surface.

DRB Chair Tim Maxham closed the hearing on July 12, 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 proposed attached garage reduces the degree of non-conformity of the existing detached garage by 50%, from 50sf to 25sf. No undue adverse effect on the character of the neighborhood will result, nor on public health or safety.

On July 26, 2023, M. Welch moved to approve the setback waiver application, with the findings of fact listed and with the following Conditions; L. Kilcoyne second. Whereas, Final Approval was granted, with Conditions, with the following people voting in the affirmative: T. Maxham; D. Patterson; M. Welch; and L. Kilcoyne. J. Brightwell voted to deny.

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: July 26, 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.