**TOWN OF SOUTH HERO, VERMONT**

**DEVELOPMENT REVIEW BOARD**

**DECISION DATED April 24, 2024**

**APPLICANT**

**Name: Coletta Greenbaum**

**Address: 109 Kibbe Point Rd.**

 **South Hero, VT 05486**

**LANDOWNER**

**Name: same**

**APPLICATION**

**Type: Variance request to add a non-conforming deck walkway from an existing door to a conforming deck.**

**Number: 24-60-KP109**

**PROPERTY**

**Location: 190 Kibbe Point Rd.**

**Hearing Date: April 10, 2024**

Coletta Greenbaum submitted an application on March 6, 2024 requesting a Variance to build a narrow deck within the side (west) setback, extending from an existing back door to a deck to be built in the conforming space of the lot. Per Section 805 of the South Hero Development Regulations, a warning for the public hearing appeared in the March 20, 2024 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 April 10, 2024. A list of those present and participating in the hearing is included in the minutes.

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

1. Variance Request Application, dated March 3, 2024; rec’d March 6, 2024.
2. Applicant Narrative, dated March 3, 2024; rec’d March 6, 2024.
3. Site Plan from 2001 building permit application by Robert Grahn (previous owner of KP109); rec’d March 6, 2024.
4. 1975 survey of 109 Kibbe Point Rd. by Thomas Badenhoch [spelling? document is hard to read]; rec’d March 6, 2024.
5. Detail of proposed deck addition dimensions, by Coletta Greenbaum; rec’d March 6, 2024.
6. Photos A -- 4 exterior photographs of existing deck and proposed expansion.
7. Photo B -- interior/kitchen.
8. Photo C – Google Earth photo/area map.
9. Warning Ad, Abutters’ Notice, and Hearing Letter for April 10, 2024 DRB hearing.
10. Staff report by Zoning Administrator for April 10, 2024 hearing.
11. Draft minutes from the April 10, 2024 hearing.

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

**Findings:**

1. 190 Kibbe Point Rd. is a 1.2-acre lot with a single-family dwelling and is in the Rural Residential zoning district. The dwelling is on the north side of Kibbe Point Rd., after the road turns east just beyond Kibbe Farm Rd. It is non-conforming to the lot’s west boundary (13 feet) and to the edge of the road right-of-way (approx. 10 feet).
2. The Applicant is requesting a variance from the requirements of Table 2.2 (Dimensional Standards for Non-Village Districts) that requires a 25-ft. setback for principal structures from side property boundaries. She proposes to build a 4’-wide and 7’6”-long walkway deck to connect an existing exterior door to a conforming deck she plans to build on the back of her house.
3. Adding an exterior door to access directly to the conforming deck from the home would require an entire renovation of the kitchen, including removing and relocating counters and cabinets, and relocating the sink and related plumbing.
4. There are fields on the east, north, and west sides of the property. The only homes in the area are across Kibbe Point Rd.
5. The Applicant told the Board that John Lalumiere, owner of the property to the west, had no concerns with the proposal. Lucas Tremble, who lives across the road, attended the hearing, and expressed his support.

On April 10, 2024, T. Maxham closed the hearing.

**Conclusions of Law**

1. Per Table 2.2, a single-family year-round home is an allowed use in the Rural Residential zoning district.
2. Five Variance Criteria (per Section 306.D.1) –
	1. Unique Physical Circumstances – The kitchen, including counters, cabinets, and plumbing, spans much of the north side of the home, and an existing door on the same wall already provides access to the back.
	2. No Possibility that the Property can be developed in strict conformance of the bylaw – Access to a conforming deck on the back of the house could not be directly accessed from inside without the burden of an expensive renovation of the kitchen.
	3. Unnecessary hardship – The hardship was not created by the owner of 109 Kibbe Farm Rd. The placement of the home pre-dates zoning regulations and setback requirements.
	4. Character of the neighborhood – The variance will not alter the character of the neighborhood or zoning district. The home is in a rural area, surrounded on 3 sides by agricultural fields. The proposed location of the deck faces these fields.
	5. Minimum variance – The existing home is non-conforming to the west boundary. The addition of a requested 30sf within the non-conforming space is a minimal deviation from the bylaw.

**Conditions:**

1. Applicants shall comply with all evidence as presented at the hearing or as amended by this decision.
2. The width of the non-conforming walkway shall not exceed 6 feet.
3. It will be the Applicants’ responsibility to obtain all required State permits and submit copies to the Zoning Administrator.
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.

**On April 24, 2024, \_\_\_\_\_\_\_\_\_\_\_\_ moved to approve the application as presented, with the findings of fact and Conclusions of Law listed; \_\_\_\_\_\_\_\_\_\_\_\_ second.** The following people voted to approve the variance: T. Maxham, L. Kilcoyne, N. Hayward, J. Brightwell, M. Welch, E. Reid, T. Mullen, and G. Hunt.

 **Dated: April 24, 2024**

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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.