

**TOWN OF SOUTH HERO, VERMONT  
DEVELOPMENT REVIEW BOARD  
DECISION DATED March 27, 2024**

**APPLICANT**

**Name:** Mark Frier  
**Address:** 460 Ring Rd., Waterbury Center, VT 05677

**LANDOWNER**

**Name:** Same

**APPLICATION**

**Type:** Setback Waiver for additional height within the lake setback

**Number:** 24-63-PI013

**PROPERTY**

**Location:** 13 Providence Island

**Hearing Date:** May 8, 2024

Mark Frier submitted an application on April 2, 2024, requesting a setback waiver to increase the height of a replacement seasonal home to be built at 13 Providence Island. Per Section 805 of the South Hero Development Regulations, a warning for the public hearing appeared in the April 18, 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. The hearing was held on May 8, 2024. The Applicant's architect, Israel Smith of Smith Buckley Architects presented the application to the Board. A list of those attending and participating in the hearings is included in the minutes.

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

1. Town of South Hero Development Regulations, effective September 13, 2021
2. Setback Waiver Application, dated and rec'd Feb. 2, 2024.
3. Plans by Smith Buckley Architects, dated March 7, 2024; rec'd April 2, 2024:
  - Sheet AO – Views
  - Sheet C1 – Site Plan
  - Sheet A2 – Floor Plan
  - Sheet A3 – Roof Plan
  - Sheet A4 – Encroachment Diagram
  - Sheet A5 – Area Plan
  - Sheet A10 – North Elevation
  - Sheet A11 – East Elevation

- Sheet A12 – South Elevation
  - Sheet A13 – West Elevation
  - Sheet A14 -- Sections
4. July 24, 2019 DRB variance approval (19-79-PI013).
  5. Smith and Buckley Architects' May 15, 2025 East Elevation of previously approved seasonal home.
  6. Warning Ad, Abutters' Notice, and Hearing Letter for the May 8, 2024 DRB hearing.
  7. Staff report by Zoning Administrator for the May 8, 2024 hearing.
  8. Minutes from the May 8, 2024 DRB hearing.

Based on the application, supporting documents, and testimony of Mark Frier and Israel Smith, **the Development Review Board makes the following Findings and enters the following decision:**

**Findings:**

1. 13 Providence Island is a 5.40-acre lot on the west side of Providence Island, with 670 feet of lake frontage. The property has a steep slope to the lake and is in the Shoreland zoning district.
2. The Development Review Board approved a variance in 2019 to add 3'2" to the height of a replacement seasonal home on this property. The proposed home was to utilize the same footprint in the non-conforming lake setback as the original dwelling.
3. The prior owner had completed a steel platform onto which the new building will be constructed.
4. The elevation of the average nature grade of the sloped lot, determined from survey contours around the site, is 113'9". The level of the finished floor on the platform will be 122'1".
5. The original roof design was level. The DRB limited the height, measured from the average natural grade, to 25'6". The new shed roof design increases the height by 1'5", resulting in a height of 26'11" at the roof's highest point. The roof pitch is 2" on 12". No other changes are proposed within the lake setback.
6. The increase in height above 25'6" is due to the elevation of the existing steel platform and the need to provide minimal roof slope for the proposed structure.

**Conclusions of Law:**

- A. Per Table 2.1 (Allowed Uses), seasonal dwellings are permitted in the Shoreland zoning district.
- B. Per Section 305 (Setback Waivers), structures in the Shoreland zoning district are eligible for setback waivers.
- C. Per Section 305.D. (Review Standards):
  1. **Least Deviation** – The Applicant proposes to replace a flat roof with a sloped shed roof with a 2" on 12" pitch, intending to keep the overall height as low as possible.
  2. **Undue Adverse Effect** -- The proposal will have no undue adverse effect on the character of the neighborhood. There are 16 lots on Providence Island, averaging 5.5 acres each, and only 8 homes. All homes on the island are seasonal. This proposal is a previously

approved replacement seasonal home for one that was torn down more than 3 years ago. The steel platform was constructed then, and there has been no further progress since that time. The new owner wishes to complete construction as soon as possible.

3. **Screening** – Due to the natural screening from woods and the steep slope of the lot, no additional screening is needed. The proposed replacement home will not block the views of adjacent properties.

**On May 22, 2024, M. Welch moved to approve the application, with the findings of fact listed and with the following Conditions: L. Kilcoyne second. Whereas Final Approval was granted to the application with Conditions,** with the following people voting in the affirmative: T. Maxham; D. Patterson; L. Kilcoyne; M. Welch; T. Mullen, E. Reid, and J. Brightwell.

**Conditions:**

1. Applicants shall comply with all evidence as presented at the hearing or as amended by this decision.
2. During construction, Applicant shall comply with the standards of Sec. 606.A.2 (Stormwater Management and Erosion Control) of the South Hero Development Regulations.
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.

**Dated: May 22, 2024**

  
For the Development Review Board

**APPEAL RIGHTS**

*Any appeal of this decision must be filed with the Superior Court, Environmental Division) 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). 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.*