



Notice of DRB Decision
Town of Stowe Zoning Office
PO Box 730
Stowe VT 05672

You recently received approval for the project listed below from the Development Review Board. Attached is a copy of the DRB decision for your records. Please note that there are conditions of approval required to be met before your Zoning Permit can be issued. Once you fulfill these conditions your zoning permit will be sent to you

Please contact the Planning and Zoning Office at 253-6141 if you have any questions.

APPLICATION INFORMATION

Project Number 6593
Application Date 6/8/2021
Physical Location 176 SUGAR HOUSE RD
Map ID 11-222.000 Tax ID 29031
Project Description VARIANCE TO REDUCE SIDE YARD SETBACK
Owner JOHN HARRINGTON
Applicant MCCAIN CONSULTING INC GUNNER MCCAIN
Applicant Address 93 SOUTH MAIN ST SUITE 1
WATERBURY VT 05676

APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date	
OTHER	6/25/2021			REFERRED TO DRB
DRB DECISION	9/7/2021	10/7/2021	10/7/2023	PER DRB APPROVAL

Sarah McShane

Zoning Office

TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 6593

APPLICANT:

Gunner McCain
McCain Consulting Inc.
93 Main St Ste #1
Waterbury, VT 05767

PROPERTY OWNER:

John Harrington
120 Forest St
Wellesley, MA 02481

APPLICATION:

The Applicant, Gunner McCain of McCain Consulting Inc, on behalf of property owner John Harrington, requests a variance to the required side yard setback on parcel of land located at 176 Sugar House Road. The Applicant seeks a variance, as allowed under Section 2.12, decreasing the setback requirement from 50' to 30'. The existing parcel is approximately ±1.78 acres and was created in 1965, prior to the adoption of zoning or subdivision regulations and as such, is considered a pre-existing, non-conforming lot. The application requires review under the variance criteria listed in the Town of Stowe Zoning Regulations (as adopted October 9, 2018). The Development Review Board's procedural history and relevant findings are attached.

REVIEW PROCESS: *(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)*

An application for a variance was filed by Applicant Gunner McCain on June 8, 2021. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the Development Review Board for a public hearing. A public hearing of the DRB was scheduled for August 17, 2021 and warned by the Zoning Director in accordance with Section 2.14 of the regulations and 24 V.S.A. §4464. The hearing notice was published in the Stowe Reporter on July 29, 2021. The Applicant submitted a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened on August 17, 2021 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. Remote participation was available via Zoom. No ex parte communications or conflicts of interests were reported. Board members participating in the review included: Drew Clymer, Tom Hand, Mary Black, Francis Aumand III, David Kelly, and Leigh Wasserman.

The following persons attended and participated in the hearing process:

- Gunner McCain, McCain Consulting Inc., 93 Main St Ste #1, Waterbury, VT 05767
- Rick Carrick, Pall Spera Company, PO Box 539, Stowe, VT 05672

The following materials were submitted in support of the application:

1. Town of Stowe Development Application, dated 6/08/2021
2. Letter in response to variance criteria for setback reduction Section 2.12 by John and Meribeth Harrington
3. Site Plan, Sheet L-1, dated 5/27/2021 provided by McCain Consulting Inc.
4. Cover Sheet, Drawing Number A0, dated 4/30/2021 provided by ELD Architecture
5. Site Development Plan, Sheet L-1, dated 4/14/2021
6. Model Images, Drawing Number A0.1, dated 4/30/2021 provided by ELD Architecture

7. Arch. Site Plan, Drawing Number A1.1, dated 4/30/2021 provided by ELD Architecture
8. Basement Floor Plan, Drawing A2.0, dated 4/30/2021 provided by ELD Architecture
9. First Floor Plan, Drawing A2.1, dated 4/30/2021 provided by ELD Architecture
10. Second Floor Plan, Drawing A2.2, dated 4/30/2021 provided by ELD Architecture
11. Roof Plan, Drawing A2.5, dated 4/30/2021 provided by ELD Architecture
12. Building Elevations, Drawing Number A3.1, dated 4/30/2021 provided by ELD Architecture
13. Building Elevations, Drawing Number A3.2, dated 4/30/2021 provided by ELD Architecture
14. Building Section & Schedule, drawing Number A4.1, dated 4/30/2021 provided by ELD Architecture

FINDINGS OF FACT & CONCLUSIONS OF LAW- *During its review of the application, the Board made the following Findings of Fact:*

The Applicant’s request for a variance to the required side yard setback is referred to the Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted on October 9, 2018), including the following:

- Section 2- Administration and Enforcement
 - Section 2.12 Variances
- Section 3- General Regulations
- Section 4- Specific Use Standards
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density

DIMENSIONAL REQUIREMENTS:

1. **Zoning District.** The subject parcel is located within the Rural Residential RR2 (RR2) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted on October 9, 2018).
2. **Lot Area, Lot Width.** The subject lot consists of ±1.78 acres. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Setbacks in the RR2 district are 60 ft front, 50 ft side, and 50 ft rear. The Applicant is requesting the side yard setback be reduced to 30’.
4. **Maximum Building Coverage.** Does not apply in the RR2 district.
5. **Building Height.** Building height will be reviewed under a separate application for the construction of a future building.

SECTION 2.12(1) VARIANCE CRITERIA: The DRB may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

- A. **There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located;**

- The ±1.78-acre parcel is undersized for the district it is located in. The minimum lot size in the RR2 district is two (2) acres.
- There is a stream crossing the site. The stream is shown as a watercourse on the town's adopted zoning map and as such is protected under Section 3.10. Under Section 3.10(1), a minimum 50' stream setback is required.
- The Applicant provided the following justification "*The subject lot was created in the 1960's, prior to current zoning restrictions. The lot size is 1.79 acres in a 2 acre district. The exceptional condition is that there is a stream traversing the site. When the area below the top of the streambank is subtracted from the total area, it leaves 1.14 acres available. In addition, when the stream buffer is also subtracted from the lot the remaining area is 0.67 acres. We note that the Stowe zoning ordinance allows that pre-existing lots that do not meet current area requirement may use the setbacks for the district closest in size to the pre-existing substandard size lot. In this instance, the 1 acre zone setback of 30' (along just the northerly side line) is what is being requested to allow for a reasonable house to be constructed on the lot.*"

B. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;

- The Applicant provided the following justification: "*The location of the permitted leachfield for the site requires the house to be above the field on the site, as the area below the leachfield is within the front setback from Sugarhouse Hill Road. The only area available for a reasonable house site is above the leachfield where the site is constrained by the stream setback. This is why the variance is necessary.*"
- The Applicant testified that the widest useable area of the lot is where the leachfield site is located and the area above is too steep to locate a leachfield.

C. The unnecessary hardship has not been created by the appellant;

- The lot was created in 1965, shown on Map File No. 6-M "Plat Plan of Lots and Areas of Sugar House Hill, Mountain Road, and Edson Road, Stowe, Vermont" designated as Lot F-7.
- The application materials state: "*The hardship is created due to naturally occurring site conditions, which were not created by the applicant. The lot was created prior to the enactment of current zoning, so the stream setback could not have been considered when the original subdivision occurred.*"
- The Applicant testified that the lot was created prior to the adoption of zoning or subdivision regulations and prior to the enactment of any stream buffers or setback requirements.

D. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the

appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and

- The application materials state: *“The proposed residential project fits cohesively with existing medium/high density residential development in the direct vicinity. Single-family dwellings are a permitted use in the district, and many of the lots on Sugar House Hill and Houston farm Road are closer to 1 acre than 2 acres in size, so the one acre setback requested here is consistent with development on those lots. The project as proposed will not reduce access to renewable energy sources nor be detrimental to the public welfare. Properties directly adjacent to the site have already been developed.”*

E. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

- The application materials state: *“This request represents the minimum necessary to afford relief, and varies minimally from the regulations and the plan.”*
- The Applicant testified that the proposal involves the construction of a single-family dwelling while maintaining a reasonable side yard setback and protecting the riparian area.

CONCLUSION: Based on the above findings, the Board concludes the requested variance meets the required criteria as set forth in the regulations.

DECISION

On a motion by F.Aumand III, seconded by T.Hand, the Development Review Board hereby approves the Applicant’s request for a side yard variance as described in the application dated 6/8/2021 and associated supporting materials subject the following conditions of approval:

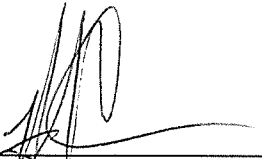
1. The project shall be completed, operated, and maintained in accordance with (a) the conditions of this approval and (b) the permit application, plans, and exhibits on file in the Town of Stowe Zoning Office and other material representations. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator’s attention, prior to its enactment, for a determination if an amendment is required.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. The variance is only granted for the proposal as presented in zoning permit application #6555 [*Construct Single-Family Dwelling, Garage, And Related Improvements- 0 Sugar House Rd*]. Any change to the plans will require additional review under the regulations in effect at the time of application.
4. These conditions of approval shall run with the land and are binding upon and enforceable against the Applicant and his successors. By acceptance of this approval, the Applicant agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

Voting favor: Drew Clymer, Tom Hand, Mary Black, Francis Aumand III, David Kelly, and Leigh Wasserman.

Voting to deny: None

Motion PASSED 6-0

Dated at Stowe, Vermont this the 7 day of September 2021

By: 
Drew Clymer, Chair

