



Notice of DRB Decision
Town of Stowe Planning and Zoning Department
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. Any conditions of approval required to issue a zoning permit have been met and your zoning permit will be issued without any further action required from you.

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

APPLICATION INFORMATION

Project Number 7091
 Application Date 2/21/2023
 Physical Location 290 THOMAS LN
 Map ID 7A-034.008 Tax ID 01034-080
 Project Description SETBACK WAIVER REQUEST TO ACKNOWLEDGE THE EXISTING HOME'S SETBACK INFRINGEMENT AND TO PROPOSE A DECK EXPANSION WITHIN THE SETBACK AREA
 Owner HENRY LEHER JEAN M MCGINNIS
 Applicant TOM HAND SITEFORM STUDIO, LLC
 Applicant Address PO BOX 1272
 STOWE VT 05672

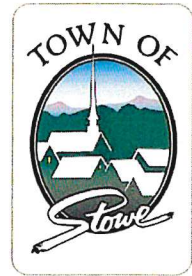
APPROVALS ON RECORD

| Action Taken | Date | End of Appeal Period | Expiration Date |
|--------------|----------|----------------------|-----------------|
| DRB DECISION | 5/2/2023 | 6/1/2023 | 6/1/2025 |

Sarah McShane

Dept. of Planning Zoning

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



PROJECT: 7091

SUBJECT PROPERTY: 290 Thomas Lane; # 7A-034.008

PROPERTY OWNER:

Henry Leher & Jeannie McGinnis
290 Thomas Lane
Stowe, VT 05672

APPLICANT:

Tom Hand, SiteForm Studio LLC
PO Box 1272
Stowe, VT 05672

APPLICATION

The Applicant, Tom Hand of SiteForm Studio LLC, on behalf of property owner Henry Leher and Jeannie McGinnis (herein referred to as the "Applicant"), requests a dimensional setback waiver to accommodate portions of the existing dwelling, as constructed, and a proposed expanded deck within the rear and side yard setbacks. The Applicant seeks to reduce the required forty (40) foot rear setback to thirty-two (32) feet and to reduce the required side yard setback requirement of ten (10) feet to eight (8) feet. The DRB has the authority to grant setback waivers under Section 3.4(8) of the Town of Stowe Zoning Regulations (effective June 13, 2022) (the "Regulations").

The subject parcel, consisting of ±0.46-acres, and located at 290 Thomas Lane [#7A-034.008], is in the Village PUD/Res/Ind Zoning District. The parcel (Lot 8) was created as part of the Ampersand Properties – Thomas Lane Residential Subdivision- Phase 1 approved by the Stowe Planning Commission under S-00-04 in 2001. The application has been reviewed by the Development Review Board (DRB) under applicable standards of the Regulations for the purpose of reviewing a dimensional setback waiver. The DRB's procedural history and relevant findings are attached.

REVIEW PROCESS

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

A development application was filed by Applicant Tom Hand. The application was accepted as administratively complete by Zoning Administrator Sarah McShane and referred to the DRB for a public hearing. A public hearing of the DRB was scheduled for April 18, 2023 and warned by the Zoning Administrator 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 March 30, 2023.

The public hearing to consider the application convened April 18, 2023, with a quorum of the DRB present. The public hearing was held at the Stowe Town Office with remote participation available via Zoom. DRB Member Tom Hand recused himself given his professional involvement in the project. Otherwise, no *ex parte* communications or conflicts of interests were reported. Members who participated in the review included: D. Clymer, L.Wasserman, P.Roberts, C.Walton, D.Kelly, and M. Black. The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

INTERESTED PERSONS

The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Tom Hand, SiteForm Studio LLC, PO Box 1272, Stowe, VT 05672

THE RECORD

The following materials were submitted in support of the application and entered into the hearing record:

1. Town of Stowe Development Application, dated 02/20/2023;
2. Project narrative by SiteForm Studio, dated 2/20/2023;
3. Interior floor plan on the existing dwelling and proposed improvements, no date;
4. Deck Elevations, Sheet L1.1, 'McGinnis/Leher Residence' prepared by SiteForm Studio, dated 2/25/2023;
5. Deck Addition & Variance Plan, Sheet L1.0, 'McGinnis/Leher Residence' prepared by SiteForm Studio, dated 2/15/2023;
6. Figure 1- ANR Atlas Surrounding Context- 290 Thomas Lane- Setback Waiver prepared by SiteForm Studio, dated 2/15/2023;
7. Figure 2- Existing Conditions Images- 290 Thomas Lane- Setback Waiver prepared by SiteForm Studio, dated 2/15/2023;
8. Site Plan Henry Leher & Jeannie McGinnis, prepared by Gilson Land Surveying, dated 10/27/2023;

FINDINGS OF FACT

During its review of the application, the DRB made the following Findings of Fact:

1. The subject parcel is located in the Village PUD/Res/Ind Zoning District as shown on the Official Town of Stowe Zoning Map (effective June 13, 2022).
2. The subject parcel (Lot 8) was created as part of the Ampersand Properties – Thomas Lane Residential Subdivision- Phase 1 approved by the Stowe Planning Commission under S-00-04 in 2001.
3. The subject parcel is ±0.46 acres or ±20,037 sf in area. No changes to the existing lot width or lot area are proposed under this application.
4. Required minimum district setbacks in the Village PUD/Res/Ind district are front (30'), side (10') and rear (40'). The perimeter greenbelt setback requirement is twenty-five (25) feet.
5. The subject parcel contains a single-family dwelling.
6. The existing dwelling was constructed in 2016/2017 and permitted under Project #5345. A Certificate of Occupancy was issued on October 20, 2017.
7. The existing dwelling was not constructed in accordance with its approved plans and does not meet the required setbacks for the district it is located in. The rear deck at its closest point measures 34.3' from the rear property line. Portions of the existing south-eastern corner of the building are also within the ten (10) foot side setback requirement. The actual distance is not labeled, however it is a small encroachment.
8. During the hearing, the Applicant testified that the front portion of the building was constructed to meet the applicable front setback requirements.
9. The Applicant requests approval for a dimensional setback waiver to accommodate portions of the existing dwelling as constructed and a proposed expanded deck within the rear yard setback.

10. The Applicant seeks to reduce the required forty (40) foot rear setback to thirty-two (32) feet and to reduce the required side yard setback requirement from ten (10) feet to eight (8) feet. The proposed expanded deck is approximately seventy-five (75) square feet in area and is located on the rear of the dwelling and attached to the existing deck. It measures approximately 9' x 8' 4" and includes wood stairs down to grade.
11. The Applicant requests a setback waiver per Section 3.4(8)(C) which gives the DRB the authority to grant a waiver from setback requirements when the waiver is necessary to allow for reasonable expansions of existing uses given the configuration of development on the parcel prior to December 31, 1975, irregular lot configuration, or restrictions of existing topography.
12. The Applicant requests a waiver due to the irregular lot shape. The Applicant described the lot as follows:

Lot 8 of the original Thomas Lane Subdivision is a triangular shaped lot along the perimeter of the Residential PUD. The triangular shape of the lot to the northwest is a result of the perimeter PUD boundary and the Thomas Lane Road ROW. While most lots in the subdivision are deep, Lot 8 has diminishing front and rear boundaries to the northwest due to the irregular lot shape. Due to this the building zone is extremely constrained and the northeast corner of the home and rear deck and southeast corner of the home slightly encroach on the required 40'-0" setback line (varies from 5" to 5.5'). The front of the building and overhangs are within the setbacks. We request the setback waiver due to 3.4(8)C Irregular Lot Shape.

13. The parcel is an irregularly shaped triangular lot containing a right-angle in its south-eastern corner. Given the irregular shape of the lot, the DRB finds the lot is eligible for a waiver so long as all of the following criteria are met:

- A. The proposed development shall not adversely impact the overall character of the surrounding area or neighborhood.*
- B. The proposed development is compatible in scale and design with the surrounding area.*
- C. The proposed waiver shall not exceed 20% of any setback requirement.*
- D. The proposed development would not impinge upon sight distances on public and private roads.*
- E. The proposed development would not adversely impact the use of the adjacent parcel.*

14. The character of the surrounding area is dominated by single-family dwellings on individually subdivided lots. The surrounding dwellings are similar in scale and design.
15. The requested rear setback waiver and side setback waiver do not exceed 20%. The requested waiver will bring the existing dwelling into compliance and allow for the proposed expanded deck.
16. The proposed expanded deck and existing dwelling do not impinge upon sight distances on public and private roads. The parcel is seved by Thomas Lane.
17. The proposed expanded deck and existing dwelling will not adversely impact the use of the adjacent parcel.
18. The maximum building coverage in VIL PUD/Res/Ind is 15%. Building coverage means: *That portion of a site, expressed as a percentage, occupied by all buildings or structures, (not including public utility structures), that are roofed or otherwise covered and that extend more than three (3')*

feet above the surface ground level. The building roof overhang up to 6 feet in length is not included as part of the building coverage area. The proposed expanded deck is not roofed or covered and therefore is not considered building coverage.

CONCLUSION

Based on the above findings of fact, the DRB concludes the subject lot is irregular in shape and the Applicant has documented conformance with criteria set forth in Section 3.4(9)(A)-(E).

DECISION

On a motion by C.Walton, seconded by L.Wasserman, the DRB hereby approves the Applicant's request for a setback waiver, as outlined in the development application dated 2/20/2023 and supporting plans and drawings, subject to 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 Planning & 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. The Zoning Administrator is granted the authority to review and administratively approve non-material modifications to the approved plans upon finding that the proposed change or alteration would not have affected the decision made or any conditions if had been included in the plans as approved.

The approved plans, amended herein, are:

- a. Town of Stowe Development Application, dated 02/20/2023;
 - b. Project narrative by SiteForm Studio, dated 2/20/2023;
 - c. Interior floor plan on the existing dwelling and proposed improvements, no date;
 - d. Deck Elevations, Sheet L1.1, 'McGinnis/Leher Residence' prepared by SiteForm Studio, dated 2/25/2023;
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 - h. Site Plan Henry Leher & Jeannie McGinnis, prepared by Gilson Land Surveying, dated 10/27/2023.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
 3. The approved setback waiver only applies to the proposed expanded deck and the existing south-eastern porch corner as illustrated within the application and approved plans. Any changes to the approved plans which do not comply with the underlying setback requirements must be further reviewed by the DRB under Section 3.4(8) and/or the Regulations in effect at the time of application.
 4. A Certificate of Occupancy must be obtained from the Zoning Administrator prior to occupancy and use to ensure that the project has been completed as approved by the DRB, as required under Section 2.10 of the zoning regulations. Prior to the issuance of a Certificate of Occupancy, the Applicant must provide the following:
 - a. Reasonable proof that the project has been completed in accordance with the approved plans and approved reduced setbacks. Reasonable proof may include a survey,

certification of setbacks by a surveyor, or demonstrating physical location of property boundaries.

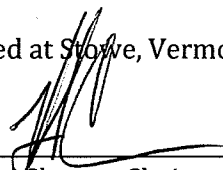
5. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this approval, the Applicant and his successors agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

The motion passed, 6-0

Voting in favor: D. Clymer, L.Wasserman, P.Roberts, C.Walton, D.Kelly, and M. Black

Voting to deny: None

Dated at Stowe, Vermont this the 2 day of May 2023

By: 
Drew Clymer, Chair

NOTICES:

1. In accordance with 24 V.S.A. § 4449(e), applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicant should contact the DEC Permit Specialist for District #5 (802-505-5367) to determine whether state permits are required.
2. The applicant or another interested person may request reconsideration of this decision by the Development Review Board, including associated findings and conditions, within 30 days of the date of this decision by filing a request for reconsideration that specifies the basis for the request with the Secretary of the Development Board. Pursuant to 24 V.S.A. § 4470, the board may reject the request within 10 days of the date of filing if it determines that the issues raised have already been decided or involve substantially or materially the same facts by or on behalf of the appellant.
3. This decision may also be appealed to the Environmental Division of the Vermont Superior Court by the applicant or another interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Division Court Proceedings.
4. In accordance with 24 V.S.A. § 4455, on petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke a permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.

