

TOWN OF MARLBORO
Development Review Board

Application for Waiver of Setback
Findings and Decision

Permit # 22-13 W

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review, under the Town of Marlboro Zoning Regulations, of an Application for Waiver of Setback submitted by Applicant Daniel Cotter, PO Box K, Marlboro, VT 05344, on behalf of Owner Potash Hill LLC, PO Box K, Marlboro, VT 05344; Location: 1647 South Road, Marlboro, VT; Tax Map Number 11-02-41; Proposal: Addition to Single-Family Dwelling located within the Side Yard Minimum Setback from the parcel boundary to the south, to relocate existing bathroom.
2. The Application was received by Mary Sargent, Zoning Administrator, on April 25, 2022. A copy of the Application is available at the Marlboro Town Office.
3. On May 6, 2022, notice of a public Hearing in the Town Office with *Zoom* videoconference was published in the *Brattleboro Reformer*.
4. On May 5, 2022, notice of a public Hearing in the Town Office with *Zoom* videoconference was posted at the following places:
 - Marlboro Town Clerk's Office
 - Bulletin Board outside the Marlboro Town Clerk's Office
 - Marlboro Town Website, marlborovt.us
5. On May 5, 2022, a copy of the notice of a public Hearing in the Town Office with *Zoom* videoconference was mailed to the Applicant and the Owner. On May 5, 2022, a copy of the notice of a public Hearing in the Town Office with *Zoom* videoconference was mailed to the following Owners of properties adjoining the property subject to the Application:
 - Andra Horton, PO Box 51, Marlboro, VT 05344-0051
 - Patrice Melvin, 229 Cypress Street, Brookline, MA 02445
 - Donald MacArthur, 330 Evans Avenue, Missoula, MT 59801
6. The Application was considered by the Development Review Board at a public Hearing in the Town Office with *Zoom* videoconference on May 17, 2022. The DRB reviewed the Application under the Zoning Regulations of the Town of Marlboro, as amended March 6, 2018.

7. Present at the Hearing were the following members of the Development Review Board:

- Steven John, Chair
- Jean Boardman, Vice Chair
- Gail MacArthur
- John Nevins
- Peter Barus, Recorder
- Mary Sargent, Zoning Administrator

8. At the outset of the Hearing, the Development Review Board afforded those persons wishing to achieve status as an Interested Party an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that Statute could be met. The following persons sought Interested Party status:

- No Interested Parties attended

9. The following exhibits were submitted to the Development Review Board during the course of the Hearing:

- Permit Application, signed by Owner dated 4/7/22, and by Applicant dated 4/9/22
- Site Plan sketch showing location of Addition, with dimensions and setbacks, signed by Applicant and dated 4/9/22
- Floor Plan sketch showing relocated bathroom, signed by Applicant and dated 4/9/22
- Email confirming no State permit required for this project, from Rick Oberkirch, Permit Specialist, VT DEC, dated March 31, 2022
- Town of Marlboro CTI Maps (2): Tax Map number 11-02-41, printed on May 3, 2022; showing dimensions and *Ortho Imagery 2019*
- List of Abutters to the Potash Hill LLC property (Tax Map number 11-02-41), with corresponding Town of Marlboro CTI Map, printed on May 3, 2022

These exhibits are available at the Marlboro Town Office.

FINDINGS

Based on the Application, testimony, exhibits, and other evidence, the Development Review Board makes the following Findings:

1. The Applicant seeks a Waiver of Setback to relocate an existing bathroom in a Single-Family Dwelling, with the proposed addition located within the Side Yard Minimum Setback from the parcel boundary to the south.
2. The subject property is a 1.77-acre parcel located at 1647 South Road in the Town of Marlboro, VT; Tax Map Number 11-02-41. The property is more fully described in a Deed recorded at Book 22, Pages 512-513, of the Town of Marlboro Land Records.

3. The property is located in the *Rural Residential District (RUR)* as described in the Town of Marlboro Zoning Map on record at the Town of Marlboro Municipal Office, and *Section 305* of the Marlboro Zoning Regulations.
4. The Waiver request requires review under the following Section of the Zoning Regulations: *Section 305 - Rural Residential (RUR); Area, Dimensional, and Coverage Requirements; Side Yard Minimum Setback: 50 feet.*
5. The Waiver requested is in conformance with the Town Plan, and meets the requirements of *24 V.S.A. § 4414(8) - Zoning (Waivers).*
6. The Waiver requested, for an Addition to an existing Single-Family Dwelling, is allowed within the Rural Residential District as by right, and the proposed development will still conform to the purpose of the District.
7. Granting of a Waiver will have no undue adverse effect on the neighborhood in which the property is located, nor on the Town in general.
8. The proposed development does not alter the essential character of the neighborhood in which the property is located, and does not adversely impact the use, enjoyment, or development of adjacent property.
9. The proposed development does not reduce the dimensional requirements by more than the minimum amount necessary.
10. Meeting the dimensional requirements will create an undue hardship on the Applicant.

DECISION AND CONDITIONS

Based upon these findings, the Development Review Board approves the following Waiver of Setback: to enlarge an existing Single-Family Dwelling, with the proposed Addition located within the Side Yard Minimum Setback from the parcel boundary to the south.

No Conditions were established at the Hearing.

Dated at Marlboro, Vermont, this 30th day of June, 2022.


Steven John, Chair
Marlboro Development Review Board

NOTICE: This Decision may be appealed to the Vermont Environmental Court by an Interested Person who participated in the proceeding(s) 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 Court Proceedings*.