

TOWN OF MARSHFIELD DEVELOPMENT REVIEW BOARD
Findings of Fact and Conclusions of Law

Hearing Date: September 28, 2023

Decision on the application of:

Owner: Greg Farnham

Applicant: Patti and Eric Wahlberg

Address/Location(s): 1915 VT Route 232, Marshfield

Zone(s): Agricultural and Rural Residential, Forestry and Conservation districts

Parcel ID: GR035

Re: Final Minor Subdivision Review

I. Procedural History and Applicant Request

1. On September 8, 2023, Greg Farnham (Owner) and Patti & Eric Wahlberg (Applicants) submitted a subdivision application and supplemental information for a minor subdivision of parcel GR035, owned by Greg Farnham.
2. The project is classified as a Minor Subdivision. A subdivision with fewer than four (4) lots requires review by the Development Review Board (DRB). As set forth in the Marshfield Subdivision Regulations¹ (MSR) Section 1080, Zoning Administrator Lorraine Banbury (ZA) referred the application to the DRB for review in accordance with MSR Sections 4020–4036.
3. After due notice, on September 28, 2023, the Development Review Board conducted a warned public hearing for final plan review of the proposed three lot subdivision. The hearing was conducted in-person and live-streamed. The hearing was audio and video recorded. The applicant attested to and provided evidence that all adjoining landowners were properly notified.

In Attendance: DRB members: Dina Bookmyer-Baker (Chair), Les Snow (Vice-Chair), Gary Leach (via Zoom), and Margaret Campbell (via Zoom). Staff: Lorraine Banbury (ZA) and Asher Barnum (DRB Clerk).

Present and sworn in: Greg Farnham and Eric Wahlberg.

Exhibits: The application materials submitted to the DRB included the following:

- Application for Subdivision received on 9/8/2023.
- Plan: Two lot subdivision. Two aerial photographs with existing (27.1 acre) and proposed subdivision lots (3.1 acre and 24 acres) lines drawn.
- Adjoining landowners list.

II. Findings and Conclusions

Below are the DRB's findings-of-fact, based on the evidence in the record for the proceeding conducted on the above date, which includes the application materials and all testimony provided at the hearing.

4. Existing conditions:

a) Greg Farnham owns a 27.1± acre lot located at 1915 VT Route 232, Marshfield, VT. The property is developed with one single-family dwelling. The property has existing water and wastewater systems.

5. Project: The proposed subdivision is a 2-lot subdivision to create new Lot 2 of 24± acres and new Lot 1 of 3.1± acres. This subdivision is for the purpose of providing the intended purchasers of Lot 2 (Patti & Eric Wahlberg) to have road frontage on VT Route 232. Their adjoining property has no road frontage. No new construction is proposed by the applicant.

a) Lot 2 is 24± acre lot with no building plans. It has 256' of road frontage on VT Route 232. This lot is in both Agricultural and Rural Residential district and the Forestry and Conservation district.

b) Lot 1 has an existing house with 3.1± acres. It has 61' of road frontage on VT Route 232. This lot is in the Agricultural and Rural Residential district.

6. Zoning district requirements: The district standards follow:

Minimum	Required	Lot 1	Lot 2	Conclusions
<i>Lot size for a one-family dwelling</i>	<i>2 acres</i>	24± acres	3.1± acres	Requirement met
<i>Frontage >10 acres</i>	<i>350'</i>	256'		Requirement not met
<i>Frontage <10 acres</i>	<i>250'</i>		61'	Requirement not met

7. Section 2070 Deferral of Design Review: *The Board has the right to waive design review (Sections 4021-4032) when a subdivision applicant does not have plans to develop all or some of the lots. No development requiring zoning review shall occur on a deferred lot without further review and approval by the DRB. Applicant does not have plans to develop Lot 2 and therefore seeks to defer design review for the lot. The Board waives the General Standards for Subdivision Review Sections 4021-4032 for parcel GR035. Deferral of design review for the lot shall be included as a condition.*

8. Marshfield Zoning Regulations² Section 302 Required Frontage: The subdivision leaves Lot 1 with 61' of frontage and Lot 2 256' of frontage. Neither lot will meet the

minimum required frontage. The current lot has 317' of frontage. This is a pre-existing nonconformance.

9. Section 4020 General standards for Subdivision Review: All subdivisions are reviewed for compliance with the following standards:

a) Sections 4021–4031 Lots/Buildable Areas, Roads/Traffic, Utilities/Water/Sewage, Drainage, Fire/Emergency Services, and Pedestrians: Lot 1 is developed and no new development is proposed for either lot. The project makes no change to the utilities, water supply, sewage disposal, drainage, or pedestrian access.

-Conclusion: The parcels have existing access, and can be adequately served by fire protection and emergency services.

b) Sections 4032–4036 Landscaping/Screening, Protection of Natural Resources, Farmland, Open Fields, Settlement Patterns, and Rural Character: No new development is proposed. These provisions do not apply.

10. Section 240 Variances: The application includes a Variance request for a waiver of minimum road frontage. The DRB may grant a variance request if all the following facts are found:

a) Pre-existing nonconformance: The current parcel does not meet the 350' frontage requirement for parcels of greater than 10 acres. The subdivided lots will also not meet their respective frontage requirements.

– The Board finds that no additional nonconformance is created by the two lots sharing the existing nonconformance.

b) The hardship has not been created:

– Referring to the findings above, the Board finds that the hardship has not been created by the Applicants who seek to improve the use of their properties.

c) The variance will not alter the character of the neighborhood: No new development is planned.

– The Board finds that authorizing the variance will not alter the essential character of the neighborhood, nor impair the development of adjacent properties, nor be detrimental to the public welfare, nor reduce access to renewable energy resources.

d) The variance represents the minimum:

– The Board finds that the request represents the minimum variance that will afford relief and represents the least modification possible of the Zoning Regulations and the Town Plan.

III. Decision

Based on the findings and conclusions set forth herein and the evidence in the record of the proceedings, the DRB concludes that the proposed minor subdivision meets the

General Standards for Subdivision in Sections 4020–4036. The subdivision is approved with the following conditions:

(1) No development shall occur on deferred parcel GR035 without further review and approval by the DRB. [MSR Section 2070]

(2) Within 180 days of the date of this decision, Applicant shall file three copies of the final subdivision plan, one 18" x 24" mylar copy and two 18" x 24" paper copies, in conformance with the requirements of 24 V.S.A. §4463 (b), 27 V.S.A. Chapter 17, and MSR Section 2040. An electronic copy of the plan in a format acceptable to the town must also be submitted. Prior to recording, the plan must be signed by at least two members of the Development Review Board who voted on the application.

No changes, modifications, or other revisions that alter the plan or conditions attached shall be made unless the proposed revisions are first submitted to the DRB and the Board approves the revisions after a public hearing. [MSR Section 2060.]

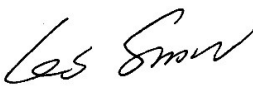
Any person who, being the owner or agent of the owner of any lot, tract, or parcel of land...sells, transfers, or agrees or enters into an agreement to sell any land in a subdivision or land development whether by reference to or by other use of a plat of that subdivision or land development or otherwise, or erects any structure on that land, unless a final plat has been prepared in full compliance with (24 V.S.A. Chapter 117) and the bylaws adopted under this chapter and has been recorded as provided in this chapter, shall be fined not more than \$200.00, and each lot or parcel so transferred or sold or agreed or included in a contract to be sold shall be deemed a separate violation. All fines collected for these violations shall be paid over to the municipality whose bylaw has been violated. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from these penalties or from the remedies provided in this chapter. [24 VSA §4451(b); MSR Sections 2040 and 4070]

Voting in favor: Les Snow, Gary Leach, Dina Bookmyer-Baker and Margaret Campbell.

Voting to deny: None. Absent: Jenny Warshaw

The decision carries, 4–0.

Approved at Marshfield, Vermont, this 28th day of September 2023.

By: 

Les Snow, Vice-Chair Marshfield
Development Review Board