

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

Hearing Dates: September 11 & 25, 2025

Decision on subdivision permit application #: 25-19

Owner/Applicant: David Lathrop and Jennifer Auletta

Project Location: 3534 US Route 2, Marshfield, VT

Zone(s): Agricultural & Rural Residential (ARR) / Forestry & Conservation (FC) / Flood Hazard District (FHD)

Parcel ID: RT105

Re: Final Subdivision Review, 3 lots

I. Procedural History and Applicant Request

1. On July 24, 2025, David Lathrop and Jennifer Auletta (collectively, Applicant) submitted a Subdivision Application and supplemental information for a three-lot subdivision of parcel RT105, located at 3534 US Route 2.
2. Zoning Administrator Lorraine Banbury (ZA) determined that the project is a Minor Subdivision (fewer than 4 lots), which requires review by the Development Review Board (DRB) in accordance with the *Marshfield Subdivision Regulations*¹ (MSR) Section 1030. The ZA referred the application to the DRB and warned it for the next available meeting.
3. On September 11, 2025, the ZA, Applicant, and interested parties assembled in the meeting room for a public hearing on the project. No DRB members were present, either in person or on video. The hearing was not opened, and no testimony was taken. The ZA continued the review to September 25, at 6:30 p.m.
4. On September 25, 2025, the DRB held a warned public hearing to review the project. The hearing was live-streamed and conducted in-person in the Town of Marshfield Meeting Room at the Old Schoolhouse Common, 122 School Street. 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, Les Snow, and Gary Leach (via Zoom). Staff: Lorraine Banbury (ZA and Acting Clerk). Present and sworn in: David Lathrop and Jennifer Auletta (Applicant); Public: Lari Carlson, Douglas Peck, Garfield Barnes, Bill Barber, Victoria Hust, Hillary Hust-Barber (and Maxfield), and Denise Bailey (via Zoom).

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

- Application for Subdivision and Additional Information, received 7/24/25.

¹ Town of Marshfield Subdivision Regulations: Adopted March 4, 2014.

- Subdivision Survey, Lands of David Lathrop & Jennifer Auletta, 3534 US Route 2, Town Marshfield, prepared by Vermont Survey and Engineering Inc., compiled 7/16/25.
- ZA Memo on the application.

The application was reviewed. At the conclusion of the review, the DRB closed the hearing and, following the closing of the public meeting, deliberated the merits of the application.

II. Findings and Conclusions

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

5. Existing conditions: David Lathrop and Jennifer Auletta own a ±21.25-acre parcel (RT105) located at 3534 US Route 2. The parcel lies in the ARR zoning district with areas within the FHD along US Route 2 and Beaver Meadow Road, and a small triangle of the FC zoning district extends across the northerly property line. The parcel has ± 240' of frontage on US Route 2 and ± 606' of frontage on Beaver Meadow Road (± 846-feet of frontage, combined). The property is developed with a single-family dwelling, one or more outbuildings, a network of old trails and logging roads, and driveway access to US Route 2. A GMP easement crosses the property, and two streams traverse it— one across the north-easterly corner and the other (Beaver Meadow Brook) along Beaver Meadow Road. The parcel is served by on-site water and septic systems.
6. Project: Applicant proposes to subdivide the existing ±21.25-acre parcel into three lots as follows:
 - Lot 1, of ±2.67 acres, will have ± 240' of frontage on US Route 2. Lot 1 is developed with an existing single-family dwelling, one or more outbuildings, and a driveway to US Route 2. Lot 1 is served by existing on-site water and septic systems. A utility easement and a stream traverse the lot. Lot 1 is in the ARR and FHD zoning districts. No new development is proposed for review on Lot 1.
 - Lot 2, of ±5.94 acres, will have ± 250' of frontage on Beaver Meadow Road, a Class 3 Town road (unpaved). Lot 2 is in the ARR and FHD zoning districts. A utility easement and Beaver Meadow Brook cross the lot. Lot 2 is undeveloped, and no development plan was proposed. Applicant seeks to defer design review for Lot 2 as set forth in MSR Section 2070.
 - Lot 3, of ±12.64 acres, will have ± 356' of frontage on Beaver Meadow Road. Lot 3 is in the ARR, FHD, and FC zoning districts. The Beaver Meadow Brook crosses the lot. Lot 3 is undeveloped, and no development plan was proposed. Applicant seeks to defer design review for Lot 3 as set forth in MSR Section 2070.

7. Marshfield Zoning Regulations² (MZR) Zoning District requirements: The proposed lots lie within the ARR, FC, & FHD zoning districts (MZR Section 420). The ARR standards are as follows:

ARR Minimum	Required	Lot 1	Lot 2	Lot 3	Conclusions
Lot size	2 acres	2.67 acres	5.94 acres	12.64 acres	Meets
Frontage: lots < 10 ac; lots > 10 ac. 250" 350'	240'	250' 356'	Lot 1 does not meet * Lots 2 and 3 meet.
Setbacks (Front /Sides /Rear)	65' / 40' / 40'	Setbacks not shown; existing dwelling appears ≥ 65' / 40' / 40'	Undeveloped, design review deferral requested.**	Undeveloped, design review deferral requested.**	Lot 1: New lot line does not come closer than 40' to existing dwelling. ** Lots 2 & 3: deferred.
WCOD vegetative buffer setback (MZR S. 450)	≥ 75' from a stream	WCOD setback not shown	No development proposed.	No development proposed.	Lot 1: Show the WCOD setback; † Lots 2 & 3: deferred.

* *Frontage:* Lot 1 does not meet the minimum ARR frontage requirement of 250 feet; Applicant seeks a waiver from the dimensional requirements. See WZR Section 240, paragraph 9, below.

** *ARR Setbacks:* Although the setbacks are not shown for Lot 1, the existing primary structure appears to meet the requirements. Any accessory building that is *not* exempt, is > 100 SF in size *or* > 15' in height, must obtain a zoning permit and meet the setback requirements. See WZR Section 225, below.

† *WCOD Setback:* The WCOD vegetative buffer setback must be shown on the plan. See the date of compliance in MZR Section 450, paragraph 10, below.

8. MZR Section 225 Zoning Permit / Exempt Buildings: The Regulations state, in part: *A zoning permit is not required for any building up to 100 square feet (SF) in size and not more than 15-feet in height with the following limitations: (1) The number of exempt buildings is determined by dividing the size of the parcel by the required lot size, rounded to the closest whole number, not to exceed three. (2) An exempt building shall not be within the front yard setback or in front of the principal structure, whichever provides the least restriction. (3) An exempt building shall not be within 10' of a side or rear lot line. Additional buildings < 100 SF, other than permitted above, shall obtain a zoning permit and meet the setback requirements. This provision may apply to one or more outbuildings shown on Lot 1.*

– *Conclusion:* The size and location of all the buildings on Lot 1 shall be required as a condition.

9. MZR Section 240 Variances/Waiver from dimensional requirements: The Regulations state, in part: *In lieu of a variance, the DRB may grant a waiver from dimensional requirements when: 4. The waiver is necessary to allow for construction of new uses, given the existing configuration of development, irregular lot configuration, or restrictions of existing topography... In all cases, the waiver: (1) Must be found to be in conformance with the municipal plan and state planning goals. (2) Shall not change the overall character of the surrounding area or neighborhood. (3) Shall not exceed 5% of the required lot size. (4) Shall not exceed 10% of the required setbacks and height restrictions.* The ARR zoning district requires 250' frontage for a lot that is ≤ to 10 acres. Lot 1 will have only 240' of frontage and therefore, Applicant seeks a waiver of 10 feet from the frontage requirement. The maximum waiver from the 250' frontage requirement is 25 feet. The frontage for the lot on US Route 2 does not change, but the lot will no longer include frontage on Beaver Meadow Road.

² Town of Marshfield Zoning Regulations: Adopted March 3, 2007, as amended March 2016.

– *Conclusion:* The request is reasonable, is in conformance with the municipal plan, does not change the character of the neighborhood, and does not exceed 10% of the dimensional requirement for frontage. To allow for the construction of new uses, the DRB grants a waiver of 10 feet from the frontage requirement for Lot 1.

10. Section 450 Water Conservation Overlay District: *The purpose of this overlay district is to protect surface waters with development setbacks and vegetative buffers. The District includes lands that are within 75 feet from the top of slope of the stream channel. Any existing structure (as of March 3, 2009) within the WCOD shall be considered a nonconforming structure and shall be limited to expansion as prescribed in Section 281. This provision may apply to one or more buildings on Lot 1.*

– *Conclusion:* The WCOD setbacks shall be shown on a plan for Lot 1. The date of construction and location of all the buildings on Lot 1, relative to the WCOD, shall be required as a condition.

11. MSR 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 seeks to defer design review for Lots 2 and 3.*

– The Board waives the General Standards for Subdivision Review, Sections 4021–4032, for Lots 2 and 3. No development requiring zoning review shall occur on a deferred lot without further review and approval by the DRB. The deferral of design review for Lots 2 and 3 shall be included as a condition.

12. MSR 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, Natural Resource Protection, and Pedestrians: Lot 1 is developed, and no new development is proposed. The project makes no change to the utilities, water supply, sewage disposal, drainage, or pedestrian access. Lots 2 and 3 are granted deferral from review of these Sections.

– *Conclusion:* Lot 1 is developed, has existing access, and can be adequately served by fire protection and emergency services. Lots 2 and 3 are deferred.

- b) Sections 4032–4036 Landscaping/Screening, Protection of Natural Resources, Farmland, Open Fields, Settlement Patterns, and Rural Character: Lot 1 is developed with existing structures and driveways. Lots 2 and 3 are granted deferral from review of these Sections.

– *Conclusion:* The project does not change the character and use of Lot 1. Lots 2 and 3 are deferred.

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 three-lot subdivision meets the General Standards

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

- (1) Applicant must submit a Site Plan or revised Final Plat that includes the ARR and WCOD setbacks for Lot 1.
- (2) Applicant shall provide the location, size (SF and height), and date of construction of the existing building(s) on Lot 1, either on a Site Plan or a revised Final Plat. A structure that does not meet the requirements for an exempt building (MZR Section 225), must obtain a zoning permit and comply with the setback requirements.
- (3) In accordance with Section 240, the DRB grants a waiver of 10 feet from the ARR frontage requirement for Lot 1.
- (4) No development shall occur on Lot 2 or on Lot 3 without first complying with the appropriate development review(s) in accordance with the *Marshfield Subdivision Regulations*, Sections 4021–4032, by the DRB, and, as necessary, the required zoning permit(s). Any person who owns this property acknowledges that these lots may not be able to meet the subdivision standards and therefore one or both lots may not be able to be improved or suitable for the intended use. [MSR Section 2070]
- (5) The Final Plat shall include a note that Lots 2 and 3 are deferred and therefore shall not be developed without review and approval by the DRB in accordance with MSR Sections 4021–4032.
- (6) Within 180 days of the date of this decision, Owner/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 to an approved subdivision plan shall be made unless the proposed revisions are first resubmitted to the Development Review Board as a minor subdivision and the Board approves such revisions after a public hearing. In the event that such subdivision plan revisions are recorded without complying with this requirement, the revisions shall be considered null and void. [MSR Section 2060.] Furthermore, 24 V.S.A. § 4455 provides as follows: On petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke a municipal land use permit issued under this chapter, including a permit for a telecommunications facility, on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.

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: Snow, Leach, Bookmyer-Baker.

Voting to deny: None. Absent: None.

The decision carries, 3-0.

Approved at Marshfield, Vermont, this 14th day of November, 2025.

By: 
Dina Bookmyer-Baker, Chair
Marshfield Development Review Board

NOTICE: State permits may be required for this project. The permittee should contact State agencies (<https://dec.vermont.gov/assistance/permits>) to determine what permits must be obtained before any construction may commence.

NOTICE OF RIGHT TO APPEAL: In accordance with 24 V.S.A. §§ 4471 and 4472, this decision may be appealed to the Environmental Division of the Vermont Superior Court within 30 days of the date of this decision. Notice of appeal shall be filed by certified mailing, with fees, to the Vermont Environmental Court and by mailing a copy of the appeal to the Marshfield Town Clerk. Failure of any interested person to appeal this decision to the Vermont Environmental Court within the specified 30-day period shall result in such interested person being bound by this decision or act of the DRB. Thereafter, such an interested person shall not contest, either directly or indirectly, the decision or act of the DRB in any subsequent proceeding, including any enforcement action brought under the provisions of Title 24, Chapter 117 of the Vermont Statutes Annotated. See also *Town of Marshfield Zoning Regulations* Section 235 (Appeals to Environmental Court).