

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

Hearing Date  
June 23, 2022

Decision on the application of:

Owner/ Applicant: Timothy and Sheila Booth

Address/Location: 489 U.S. Route 2

Zone(s): Agricultural & Rural Residential (ARR) / Forestry & Conservation (FC) districts

Parcel ID: RT 208

Re: Final Subdivision Review, 2 lots

**I. Procedural History and Applicant Request**

1. On May 18, 2022, Owner/ Applicants submitted a Subdivision application and supplemental information for a two-lot subdivision of parcel RT208, owned by Timothy and Sheila Booth.
2. The project is classified as a Minor Subdivision (fewer than 4 lots), which requires review by the Development Review Board (DRB). In accordance with Section 1030, the Zoning Administrator (ZA) referred the application to the DRB for review.
3. After due notice, on June 23, 2022, the Development Review Board conducted a warned public hearing for final plan review of the proposed two-lot subdivision. The hearing was conducted in-person and was 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: Jon Groveman (Chair), Les Snow, Gary Leach, and Dina Bookmyer-Baker. Staff: Robin Schunk (Secretary), Asher Barnum (Planning Commission member, observing).

**Present and sworn in:** Timothy Booth (Applicant), Oliver Twombly (Applicant attorney), Patrick and Bobbie McAvoy (adjoining landowners).

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

- Application for Subdivision and Additional Information received 5/18/22.
- ZA correspondence regarding the right-of-way (ROW) across proposed Lot 2, dated 6/16/22.
- Sketch of the proposed subdivision. The sketch does not include an author, scale, or date.
- Subdivision Survey for Timothy A. & Sheila Booth, prepared by American Survey Company, dated 5/27/22.
- Prior Subdivision Permit #02-SUB-02, for a 2-lot subdivision of Parcel RT208 issued 8/7/02.

4. Following the review, the DRB recessed the hearing and deliberated following the public meeting. Following deliberation, the DRB closed the proceeding.

## II. Findings and Conclusions

Below are the DRB’s findings of fact based on the evidence in the record in this proceeding at the June 15, 2022 hearing, which includes the application materials and all testimony provided at the hearing.

5. Existing conditions: Timothy and Sheila Booth own a 72.6-acre parcel located at 489 U.S. Route 2, which lies partly within the ARR district and partly within the FC district. The property is developed with a single-family dwelling, one or more detached out-buildings, and driveway access to Route 2.
6. Project: Applicant proposes to subdivide the existing 72.6-acre parcel into two lots as follows:
  - Lot 1, of 61.7 acres, will include the existing structures, more than 1,500’ of frontage, and the existing driveway access to Route 2. Lot 1 also includes a right-of-way to the adjoining Hartshorne lot. No new development is proposed for Lot 1.
  - Lot 2, of 10.9 acres, is currently undeveloped except for an existing out-building that is owned by adjoining neighbor, McAvoy. The draft survey states: *“The boundaries of the McAvoy lot that are described in the deed do not encompass the used area. The lines shown are as agreed to by Booth, but a boundary line agreement should be created between the two parcels representing the depicted lines.”* Lot 2 will have 469’ ± of frontage on Route 2 and has existing driveway access to Route 2, approved by the Vermont Agency of Transportation. No development or driveway construction is proposed for Lot 2 and Applicant seeks to defer design review for Lot 2. See paragraph 8, below, regarding Section 2070 Deferral of Design Review.

The driveway on Lot 2 is currently used to access the McAvoy parcel, although no formal ROW agreement exists. Applicant intends to prepare a permanent easement agreement with the McAvoy as well as a lot-line adjustment for a neighboring parcel, neither of which are included in this application.

7. Zoning district requirements: Lot 2 lies mostly within the ARR district, except for a small portion of land along the southerly rear property line, which is within the FC district. The ARR district standards follow:

Minimum	Required	Lot 1	Lot 2	
Frontage, lots > 10 ac.	350’	> 1,500’	469’ ±	Meets / Meets
Lot size	2 acres	61.7 acres	10.9 acres	Meets / Meets
Setbacks	(front) 65’ (sides & rear) 40’	(front/easterly side/rear) no change (westerly side) > 40’	No structure proposed	Lot 1 Meets / Lot 2 Deferred

Although no structures are proposed for Lot 2, and no building zone is shown on the plan, the lot is of sufficient size to accommodate one or more structures that will meet the setbacks. The final plat must show the existing buildings on each lot, including any building owned by others, and the setbacks from each building to the nearest boundary lines (to the front, sides, and rear), existing or proposed; this shall be included as a condition.

8. 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 seeks to defer design review for Lot 2. The Board waives the General Standards for Subdivision Review Sections 4021–4032 for Lot 2. Deferral of Design Review for Lot 2 shall be included as a condition.
9. Section 4020 General standards for Subdivision Review: Pursuant to the requirements of the Town of Marshfield Subdivision Regulations, all subdivisions are reviewed for compliance with the following standards:
  - a) **Subsection 4021 Lots and Buildable Areas**: *The layout of the lots shall conform to the ordinance and be appropriate for the intended construction. All lots shall have a designated buildable area.* Lot 1 is developed with an existing dwelling and no new development is proposed for Lot 1. The proposed side lot lines for Lot 2 are straight and generally at right angles the road. The existing parent parcel is oddly shaped. Proposed Lot 2 is also oddly shaped, as it follows the boundary lines around two neighboring parcels, includes an existing driveway access, and expands toward the south and east to avoid a stream, follow contours, and include level, buildable land. The lot lines are marked with survey monuments at the necessary points and indicated on the draft subdivision plan.

No development is proposed for Lot 2, which is deferred from design review (see paragraph 8, above, regarding Section 2070 Deferral of Design Review for Lot 2). If and when an application is submitted to the DRB to develop Lot 2, the buildable area must be shown on the plan and comply with the minimum zoning setbacks.
  - b) **Subsection 4022 Roads**: *All roadways and intersections with roads shall be designed to ensure the safe and efficient movement of vehicles...in accordance with the Vermont Agency of Transportation standards.* Lot 1 includes driveway access and proposed Lot 2 includes existing driveway access to Route 2, which has been approved by the Vermont Agency of Transportation.
  - c) **Subsection 4023 Utilities**: *Water supply and sewage disposal systems shall meet all applicable state and local requirements. The location of utility lines shall be shown on the plan.* Existing power, water, and sewer systems currently serve Lot 1. Utility lines and poles are shown on the plan. Applicant has not applied to the State of Vermont for a subdivision permit and Wastewater System and Potable Water Supply deferral for Lot 2. See paragraph 8, above,

regarding Section 2070.

- d) **Subsections 4024–4032 Drainage and Erosion Control, Fire Protection, Pedestrian Access, and Natural Resource Protection:** Lot 1 is developed, and no new development is proposed. The Board waives the General Standards for Subdivision Review Sections 4021–4032 for Lot 2, as set forth in paragraph 8, above, Section 2070 Deferral of Design Review.

### 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 two-lot subdivision meets the General Standards for Subdivision in Section 4020. This subdivision is approved with the following conditions:

- (1) No development shall occur on deferred Lot 2 without further review and approval by the DRB. [Section 2070]
- (2) The final plat shall include:
  - Existing buildings on each lot, including any building owned by others.
  - The setbacks from each building to the nearest boundary lines (to the front, sides, and rear), existing or proposed.
  - Different symbols for Iron Rod Found and Iron Rod in the Legend and on the Plan.
  - A note that deferred Lot 2 shall not be developed without review and approval by the DRB in accordance with the Subdivision and Zoning Regulations. [Subdivision Regulations Section 2070]
  - Existing rights-of-way, specifically the permanent easement for the right-of-way serving the 10.4 acre lot, now owned by Hartshorne, created by subdivision in 2002, permit #02-SUB-02.
- (3) Within 180 days of the date of this decision, the Applicant shall record the final plat with the Town of Marshfield Land Records (24 V.S.A. §4463 (b)). Said plat shall conform to the requirements set forth in 27 V.S.A. Chapter 17 and Marshfield Subdivision Regulations Section 2040. Prior to recording, at least two authorized DRB members must approve and sign the plat. In addition to the recordable final plat prepared on Mylar, the Applicant shall submit two full-size paper copies of the final subdivision plan.

An electronic copy of the plan in a format acceptable to the town must also be submitted. Approved plans not filed and recorded within this 180-day period shall expire on the 181st day. [Marshfield Subdivision Regulations Section 2040.]

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. [Marshfield Subdivision Regulations Section 2060.]

Voting in favor: Jon Groveman, Les Snow, Gary Leach, and Dina Bookmyer-Baker.

Voting to deny: None. Absent: Jenny Warshow.

The decision carries, 4-0.

Approved at Marshfield, Vermont, this 29th day of July 2022.

By: 

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Jon Groveman, Chair  
Marshfield Development Review Board

NOTICE OF RIGHT TO APPEAL: In accordance with 24 V.S.A. §§ 4471 and 4472, this decision may be appealed to the Vermont Environmental 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 at §235 (Appeals to Environmental Court).