

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

Hearing Date: February 9, 2023

Decision on the application of:

Owner/Applicant: Dorigen Keeney & Elinor Randall Keeney

Co-Applicant: Town of Plainfield

Address/Location: 989 Maple Hill Road

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

Parcel ID(s): MA029 (Keeney); JF016 (Plainfield)

Re: Final Subdivision Review, lot-line adjustment

I. Procedural History and Applicant Request

1. On January 13, 2023, Dorigen Keeney & Elinor Randall Keeney (Owner/Applicant) and the Town of Plainfield (Co-Applicant) submitted a Subdivision application and supplemental information for a minor subdivision/lot-line adjustment of parcels MA029, owned by Dorigen Keeney & Elinor Randall Keeney; and JF016, owned by the Town of Plainfield.

2. The project is classified as a Minor Subdivision (a lot-line adjustment that exceeds a 20% change in the existing area of any lot), which requires review by the Development Review Board (DRB). As set forth in the *Marshfield Subdivision Regulations*¹ (MSR) Section 1030, Zoning Administrator Kathleen Hayes (ZA) referred the application to the DRB for review in accordance with MSR Sections 4021-4032.

3. After due notice, on February 9, 2023, the Development Review Board conducted a warned public hearing for final plan review of the proposed lot-line adjustment. 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), and Gary Leach (*via Zoom*). Staff: Kathleen Hayes (ZA).

Present and sworn in: Dorigen Keeney (Owner/Applicant) (*via Zoom*); Michael Monte, Esq. (representing Town of Plainfield, Co-Applicant); Mary Lane (Chair, Plainfield Water & Wastewater Commission, Co-Applicant), *via Zoom*; Tristan MacGregor-Stewart (Chief System Operator, Plainfield Water & Wastewater Commission, Co-Applicant), *via Zoom*; and Chris Price & Danielle Ward (adjoining landowners).

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

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

- Application for Subdivision and Additional Information received 1/13/23.
- Survey plan *Lands of the Estate of C. Harold and Elizabeth S. Perry, Marshfield, VT*, prepared by Vermont Survey Consultants, Inc., dated April 1991.
- Modified base map: *Property of Elinor Randall showing Spring Lot to be conveyed to Town of Plainfield, VT*, prepared by Vermont Survey & Engineering, Inc., dated January 1993. This survey was modified by Michael Monte in January 2023 to show the proposed lot line adjustments.
- Letter, dated 1/24/23, from ZA to DRB, transmitting the application, map, and warning for the 2/9/23 hearing.
- List of adjoining landowners.
- Copy of Warranty Deed, signed and dated July 5, 14, & 20, 1994, conveying “the spring lot” from Keeney to the Town of Plainfield, in which the rights of first refusal were granted to the Town of Plainfield to purchase those portions of the isolation zone which are not included within the spring lot and the lands designated as “overgrown field” and “woods & brush” on the January 1993 survey plan (cited above, used as base map for current application). The Warranty Deed was submitted at 2/9/23 hearing.

4. Following the review, the DRB closed the proceeding and, following the close 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 proceeding conducted on the above date, which includes the application materials and all testimony provided at the hearing.

5. Existing conditions:

- a) Dorigen Keeney & Elinor Randall Keeney own a 86.7± acre parcel located on Maple Hill Road. The parcel lies mainly within the ARR district with a portion (the north-easterly area) within the FC district. The property is developed with a dwelling, barn, and several outbuildings/sheds; it includes ± 1,456’ of frontage on and existing driveway access to Maple Hill Road.
- b) The Town of Plainfield owns a 14± acre parcel located on John Fowler Road that was acquired in 1993. The parcel adjoins an existing 2.1± acre parcel owned by the Town of Plainfield, with both parcels equaling 16.1± acres together. The property includes a reservoir, several springs, and ± 338’ of frontage on and existing access to John Fowler Road. The parcels lie entirely within the FC zoning district.

6. Project: Applicant proposes a lot-line adjustment of 12± acres from parcel MA029 to JF016 as follows:

- a) Parcel MA029, owned by Keeney, of 86.7± acres, will convey 12± acres to the adjoining parcel, JF016. The resulting acreage, after the adjustment, will be 74.7 acres. The conveyance makes no change to the existing frontage (1,456± ft.). No new development is proposed in this application

and therefore Applicant seeks to defer design review (see Section 2070, below). The 1991 survey, cited above, includes these lands, shown as 97.7± acres on the northerly side of Maple Hill Road. The new property lines for the lot-line adjustment have not been surveyed. Applicant requests the DRB to waive the requirement to submit a survey for this parcel in its entirety, prior to approval (see Section 3030, below).

- b) Parcel JF016, owned by the Town of Plainfield, of 14± acres, will gain 12± acres. The resulting acreage, after the adjustment, will be 26± acres. The lot-line adjustment makes no change to the existing frontage (338± ft.) and the additional acreage does not include frontage. No new development is proposed in this application and therefore Applicant seeks to defer design review (see Section 2070, below). The annotated 1993 survey map, cited above, includes these lands: the existing 14± acre spring lot, the isolation zone (curved line) that extends beyond the spring lot, and the lands designated as “overgrown field” and “woods & brush.” The new property lines for the lot-line adjustment have not been surveyed. Applicant requests the DRB to waive the requirement to submit a survey prior to approval (see Section 3030, below).

7. Zoning district requirements: The parcels lie in the ARR and FC zoning districts. The district standards follow:

Minimum	Required	Parcel MA029 (Keeney)	Parcel JF016 (Plainfield)	
Lot size (ARR) (FC)	2 acres 10 acres	86.7± acres	14± acres	Meets / Meets
Frontage ARR lots > 10 ac. FC	350' 450'	1456'	338'	Meets / Existing nonconforming
Setbacks (F/S/R) ARR FC	65' / 40' / 40' 65' / 40' / 40'	Developed; no proposed structure(s)	Undeveloped; no proposed structure(s)	Deferred / Deferred

- 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 either lot and therefore seeks to defer design review for each lot. The Board waives the General Standards for Subdivision Review Sections 4021–4032 for both parcels MA029 and JF016. Deferral of design review for the lots shall be included as a condition.
- 9. Section 3030 Information Required for Final Plan for All applications: At Applicant’s request, the DRB waives the requirement to survey the adjusted lot line between parcels MA029 and JF016, prior to approval, as set forth in MSR Section 3030(A)(3). A final subdivision plan, including a survey of the revised lot lines, shall be included as a condition.

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

- (1) No development shall occur on deferred parcels MA029 and JF016 without further review and approval by the DRB. [MSR Section 2070]
- (2) The final plat shall include a note that parcels MA029 and JF016 are deferred and therefore shall not be developed without review and approval by the DRB in accordance with MSR Section 2070.
- (3) The Applicant, or their agent, shall not sell, transfer, or enter into an agreement to sell any land in the proposed subdivision without first recording a duly approved final plat as set forth in MSR Section 2040. In addition, a structure shall not be erected on the land until a final plan has been recorded. The seller, owner, or agent of the owner can be fined, and each lot or parcel involved shall be deemed a separate violation [24 VSA §4451(b); MSR Section 4070]. The description by metes and bounds in the instrument of transfer shall not exempt the seller from these penalties.
- (4) 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.]

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

Voting to deny: None. Absent: Jon Groveman, Jenny Warshow.

The decision carries, 3-0.

Approved at Marshfield, Vermont, this 15th day of March 2023.

By: 
Dina Bookmyer-Baker, 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).