

TOWN OF MARSHFIELD DEVELOPMENT REVIEW BOARD

Findings of Fact and Conclusions of Law

April 8, 2008

Decision on the application of:

Wanda McDonald
2654 VT Rte. 232
Marshfield, VT 05658

re: MARSHFIELD PARCEL ID# GR054

Conditional Use permit

A. Procedural History and Applicant Request

1. Wanda McDonald (hereafter "Applicant") owns a 9± acre parcel, located at 2654 Vermont Route 232. The parcel lies partly within the Agricultural and Rural Residential district and partly within the Forestry and Conservation district. The property operates as a seasonal campground and is currently developed with a single-family dwelling, a garage, and a 20'x40' open-sided structure.
2. On October 12, 2007 the Applicant applied for a Zoning Permit for an existing accessory building measuring 20'x40'. The application included a drawing of the property, roughly showing the location of the structure on the property and indicating the front, rear, and side setback distances.
3. On October 12, 2007 Bob Light (hereafter "the Zoning Administrator") made an on-site inspection of the structure.
4. On October 19, 2007 the Zoning Administrator issued his decision to refer the application to the Development Review Board (hereafter "DRB") for a Conditional Use Permit.
5. On November 1, 2007 the Applicant applied for a Conditional Use permit (stamped received on November 2, 2007 by the Marshfield Town Clerk's office) for an existing accessory building measuring 20'x40'. The application included a letter from James Jamele, representing the Applicant, and a page addressing the conditional use criteria.
6. After due notice, on February 21, 2008, the application was heard by the DRB. This application was reviewed as a conditional use. Board members present were Dina Bookmyer-Baker, Bruce Hayden, Chuck Bohn, and Vince Feeney. Also attending were Bob Light, Zoning Administrator; James Jamele, representing the Applicant; Michael Dunn, an abutter; and guests, Jerry Barcomb and

Wayne Davis. The Applicant’s attorney delivered certification of notices having been delivered to the abutting neighbors.

B. Findings and Conclusions

Section 245–Conditional Uses, General Standards: Pursuant to the requirements of the Town of Marshfield Zoning Regulations, all Conditional Use applications are reviewed under the requirements of Section 245. The DRB shall make findings on the general standards set forth in Section 245 to determine whether the proposed use will have an undue adverse impact upon:

7. **The capacity of existing or planned community facilities:** The structure has been there for four years. The Zoning Administrator describes it as a non-structural building – it is a pole building, without walls and with a dirt floor. There is no electric service, no plumbing, water, or sewer service.

Conclusion: The structure will not impact the existing or planned community facilities, such as water and sewer service, police and fire service, and public utilities.

8. **The character of the area affected:** The structure is used by the campers – they meet and share meals there. Sometimes it is used for storage.

Conclusion: This structure is accessory to the existing campground use and does not affect the character of the area.

9. **Traffic on roads and highways in the vicinity:** The structure does not increase traffic, as it is not an additional destination, as a camping site, but rather is accessory to the campground.

Conclusion: The structure does not increase road usage.

10. **Bylaws then in effect:** With respect to location, the structure is in the Forestry and Conservation District. Pursuant to Section 430 Forestry and Conservation District regulations, “The following uses are permitted after issuance of a conditional use permit by the Development Review Board: 1. Non-residential buildings.” The structure is one-story high and meets the minimum setback requirements for this district. No development is on a slope greater than 15%.

Conclusion: The proposed structure meets the Forestry and Conservation District zoning requirements for a non-residential building.

11. **The intrinsic capability of the land to support the use:** The project exists as a shelter which does not result in any environmental stresses. No water or sewer service is needed.

Conclusion: The proposed use can be adequately supported by the land. The structure creates an insignificant amount of impact on natural resources, such as streams, wetlands, and wildlife habitat.

12. **Utilization of renewable energy resources:** The structure requires no energy resources.

Conclusion: This provision does not apply.

13. **The goals and objectives of the Town Plan:** The area has been and will continue to be a campground. The structure has no adverse affect on the nature of a campground and therefore would be in compliance with the Town Plan. Also, the town plan includes the goal “to stimulate appropriate economic development and provide opportunity for individuals to establish locally-based business ventures.” (Chapter 8, Section III Economic Development Goals, Objectives, and Strategies of the Marshfield Town Plan, adopted January 17, 2006)

Conclusion: The structure fits well within the economic goals of the Marshfield town plan.

Section 245-Conditional Uses, Specific Standards: Pursuant to the requirements of the Town of Marshfield Zoning Regulations, all Conditional Use Applications are reviewed under the requirements of this section. The DRB shall make conclusions on the specific standards that include the following:

14. **The Board may require the installation, operation, and maintenance of such devices and/or methods of operation as may, in the opinion of the Board, be reasonably required to prevent or reduce fumes, gas, dust, smoke, odor, noise, vibration, or similar nuisances:** No work is conducted in this structure. It could be noted that the campers might gather here and cook and converse, thereby creating minimal noise and fumes, but this is likely not more, and possibly less, than they would create at their individual camps.

Conclusion: The DRB concludes that no additional requirements are necessary to reduce the pollution or nuisance of this structure, as the impact is negligible.

15. **The Board may impose such conditions regarding the extent of open spaces between the proposed use and surrounding properties:** The parcel is 9± acres. The structure is located nearly in

the middle of the rear third of the parcel. The side and rear setback distances are roughly four times the minimum requirement. The open spaces for this district are preserved.

Conclusion: The DRB concludes that no conditions are required regarding the extent of open spaces between the proposed expansion and surrounding properties.

16. Landscaping and fencing may be required as desirable to maintain the zoning district character:

As stated above, the structure is located nearly in the middle of the rear third of the parcel and more than meets the setback requirements. The structure is one-story high and does not exceed the maximum building height requirements for this district. It is an expected and appropriate structure for the campground and does not create a visual nuisance to the neighboring properties.

Conclusion: The DRB makes no requirements for landscaping and fencing.

17. Adequacy of vehicular circulation between site and roads, parking and loading facilities:

The structure does not require additional measures regarding vehicular circulation, as it is not an additional destination, and does not create additional traffic.

Conclusion: The DRB concludes the existing parking facilities and vehicular circulation avenues are adequate.

18. Water supply and sewage disposal system designed and installed to State Department of Health specifications may be required: There is no water or sewer service for this structure.

Conclusion: No water or sewer system or design is required.

19. Up to triple minimum lot size, triple distance from adjacent or nearby uses, and triple setback from road may be required to accommodate the use: The structure is located more than 1000 feet from the right of way and is more than 150 feet from the property line on the sides and rear. It is one-story tall and 800 square feet in area. The structure is an appropriate size for its functional use and meets the area, setback, and height requirements for the Forestry and Conservation District.

Conclusion: The DRB makes no additional requirements for dimension or setback.

20. Design and location of signs, outdoor lighting, structures, and service areas may be restricted to maintain the character of the neighborhood: The structure does not have signs, lighting, or service areas. This structure fits in well with the property, the area, and the Town Plan.

Conclusion: The DRB concludes that the structure is appropriate and does not need to be restricted to maintain the character of the neighborhood.

C. Decision

This structure is approved as submitted with no conditions.

Voting in favor: Dina Bookmyer-Baker, Bruce Hayden, Chuck Bohn, and Vince Feeney;

Voting to deny: None;

Voting to abstain: None;

Absent: None.

The decision¹ carries, 4-0.

Dated at Marshfield, Vermont this 8th day of April 2008.

By: _____

Dina Bookmyer-Baker, Clerk
Marshfield Development Review Board

¹ 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).