

**TOWN OF MARSHFIELD  
DEVELOPMENT REVIEW BOARD**

July 13, 2020

Mr. Gary Carter  
360 Patty's Crossing  
Marshfield, Vermont 05658

Mr. Tory Chouinard  
Ms. Christine Chouinard  
27 Waterman Street  
Barre, Vermont 05641

**Re: Application for Subdivision, Parcel ID# RT096**

Greetings:

The Marshfield Development Review Board (DRB) has **approved**, with the conditions listed on page 4 of our decision, your application for subdivision, signed and dated May 30, 2020. The DRB decision in this matter is enclosed.

Sincerely yours,

  
James Arisman  
For the Development Review Board

Enclosure

cc: Rowell H. Chandler  
1282 Dean Street  
Niskayuna, NY 12309

# **TOWN OF MARSHFIELD DEVELOPMENT REVIEW BOARD**

## **Application for Subdivision**

**Gary Carter, Landowner**

**Tory and Christine Chouinard, Applicants**

**Re: Town of Marshfield Parcel ID #RT096**

**360 Patty's Crossing, Marshfield, Vermont 05658**

## **I. Procedural History.**

1. Landowner Gary Carter presently holds a parcel of approximately 216.6 acres adjacent to Patty's Crossing road in the Town of Marshfield. Tory and Christine Chouinard (Applicants) have applied for subdivision of 2.58 acres from the dominant 216.6-acre parcel to construct a three-bedroom, single-family residence with on-site water and septic services. The Chouinards are relations of Mr. Carter.

2. On May 30, 2020 Applicants submitted a written Application for Subdivision of the above-referenced 216.6-acre property. Mr. Carter is aware of this subdivision application. Applicants affirmed by email to the undersigned on July 12, 2020 that they provided the required notice of hearing to all adjoining landowners by U.S. Mail or hand delivery.

3. The Marshfield Development Review Board (DRB) held public hearing on June 25, 2020 on the instant subdivision application. DRB Members James Arisman, Gary Leach, Jon Groveman, and Jenny Warshow heard the matter using the Zoom Meeting system. DRB Clerk Robin Schunk was present by telephone during the meeting and prepared written minutes of the proceedings. DRB Member Les Snow, an adjoiner to the property in question, recused himself.

## **II. Findings of Fact.**

4. Applicants Tory and Christine Choinard were duly sworn and testified at the DRB hearing in this matter. Tim Morris of Chase and Chase Surveyors and Septic Designers also was sworn and testified by Zoom on behalf of the applicants. Adjoining landowner Rowell H. Chandler appeared briefly by Zoom and observed the proceedings but provided no testimony or opposition to the application. The DRB credits the testimony of the sworn witnesses it in this matter and finds as follows.

5. According to their application the Chouinards seek DRB approval to subdivide the 216.6-acre parcel, owned by Gary Carter in the Town of Marshfield, to create two new lots, one to be approximately 214-acres in size (Lot #1), and the other to be approximately 2.58-acres in size (Lot #2). Applicants testified that they wish to build a home on the smaller lot, Lot #2, which will be adjacent to Patty's Crossing Road, a Class 3 Town road. According to the application as filed, the proposed new 2.58-acre is to have 350 feet of road frontage on Patty's Crossing.

6. Applicants provided as an exhibit with their application a subdivision survey that was labeled as “Preliminary” and depicted the location of the proposed new 2.58-acre lot. Applicants testified at hearing that they already had determined where their home and garage are to be constructed on Lot #2, as well as a possible location for a curb cut onto Patty’s Crossing Road. Applicants testified that they have provided notice to the Town of Marshfield and requested Town approval of the proposed curb cut.

7. We note that the “Preliminary” survey provided by applicants did not depict the chosen location within the proposed Lot #2 for the home and garage to be constructed or depict the precise location of the proposed curb cut. The “Preliminary” survey also did not provide the contour intervals of the land in the area of the proposed buildings and developed areas of the lot. At the close of the hearing on the subdivision application the DRB agreed to briefly hold open the record in this matter so as to receive the final plan and survey from the applicants. Mr. Morris of Chase and Chase agreed to provide the final survey by mail. See immediately below.

8. The DRB, subsequent to its hearing in this matter, received from Mr. Morris a letter dated June 26, 2020 and enclosing the “final subdivision plan and site plan showing proposed buildings and utilities”. From this submission we find that proposed Lot #2 will be 2.58-acres in size and will have a substantially square shape, as depicted on the final plan and survey. Land contours and the location of improvements are shown. The home and attached garage that are to be to be constructed on the lot appear to be consistent in their proposed location with the setback requirements of the Town zoning regulations. We note, of course, that the Town zoning administrator will determine at a later date compliance with setback requirements, road frontage, and other provisions of the Marshfield zoning regulations in reviewing the Chouinards’ application for a zoning permit prior to construction.

9. Finally, we note that **Section 3030** of the Town of Marshfield subdivision regulations requires that the final subdivision plan include a survey map showing all “project boundaries, property lines, existing and proposed lot lines, and metes and bounds”. Under this provision, the entire original 216.6-acre parcel could be required to be surveyed, with the actual surveyed boundaries of both Lot #1 and Lot #2 being shown on the final plan. Here, applicants pointed out in their hearing testimony that the far smaller in size Lot #2 had been recently surveyed and, on this basis, requested a waiver from the requirement that dominant Lot #1 also be surveyed. Applicants in making their waiver request, cited the considerable additional expense of surveying Lot #1 and the lack of clear benefit from such an additional survey of Lot #1, at this time. The DRB agrees with this reasoning and, in this case, based on the facts adduced, finds that a new survey of Lot #1 is unnecessary for the purposes of this subdivision application. The DRB grants the waiver requested by applicants.

### **III. Further Findings and/or Conclusions of Law.**

10. Pursuant to the Marshfield Subdivision Regulations, adopted March 4, 2014, subdivision applications are reviewed for compliance with the general standards set forth. **Regulation Section 4021** requires that the layout of proposed lots conform to the regulations and be appropriate for any intended construction. Here, new development is planned only for Lot #2, following subdivision. The proposed new boundary lines between the two parcels, as set

out in the plan submitted with the application, have been drawn with generally straight lines on all sides. The proposed division conveys at least the required 350 feet of road frontage to Lot #2. Both lots meet the minimum lot sizes and setback requirements of Section 420 of our Zoning Regulations. The proposed new Lot #2 lines are marked with survey monuments at necessary points and are indicated on the subdivision plan drawing. The DRB concludes that proposed lots meet the requirements of **Section 4021**.

11. For subdivisions in Marshfield, all roadways and intersections are required by **Regulation Section 4022** to be designed for safe and efficient movement of vehicles. Here, no new roads or intersections are proposed. A request for a curb cut for a driveway for Lot #2 is pending. No new development is proposed for either lot. No significant increase in traffic can be expected. The DRB concludes that the proposed subdivision meets the requirements of **Section 4022**.

12. No change in public water supply, sewage disposal, or utilities is proposed by the Applicants. As a result, the requirements of **Regulation Section 4023** do not apply to either Lots #1 or #2.

13. Under **Regulation Section 4024**, temporary and permanent drainage and erosion control measures may be required by the DRB, if deemed necessary following review. Here, the proposed development of Lot #2 does not appear to require such measures.

14. Pursuant to **Regulation Section 4030**, the DRB may require facilities necessary for adequate fire protection. The DRB finds that the proposed subdivision will not substantially increase demand for fire or emergency services.

15. **Regulation Sections 4031, 4032, 4033, and 4034** address pedestrian access, natural resource protection, possible needed landscaping and screening, and protection of farmland and open fields. The DRB finds that the proposed subdivision will not adversely affect pedestrian access, natural resources, farmland, or open fields and, further, that no special conditions regarding landscaping or screening are required. At present, no further development on either lot is immediately planned.

16. **Regulation Sections 4035 and 4036** require protection of district settlement patterns and of the rural character outside of the village area. Applicants' proposed subdivision does not present a plan for additional future development. The proposed subdivision does not appear to be inconsistent with existing patterns of settlement in the District and does not require imposition of special conditions to protect the rural character outside the Village areas. No additional screening or buffer is required at this time.

17. All technical information, i.e., the May 30, 2020 subdivision plan provided by applicants, is certified as to accuracy, as required by **Regulation 4040**. The DRB in rendering this decision accepts and credits the sworn testimony of those appearing before it in this matter.

18. The DRB concludes based on all of the above facts that both proposed lots are of adequate area, possess the required road frontage, satisfy all requirements of the Town of Marshfield Subdivision Regulations, and, thus, may be and are **approved** by the DRB.

#### **IV. Decision and Order.**

The subdivision application of Tory and Christine Chouinard is hereby **APPROVED** by the Marshfield Development Review Board, with the following conditions:

i) **within 180 days of the date of this decision**, Applicants shall record the final plat with the Town of Marshfield Land Records. See 24 V.S.A. Sect. 4463(b). The plat shall conform to the requirements set forth in 27 V.S.A., Chapter 17 and to the final recording provisions of the Marshfield Subdivision Regulations, Section 2040. In addition to the final plat, prepared on Mylar, Applicants shall submit two 11" x 17" sized paper copies of the final subdivision plan;

ii) prior to recording, as set forth above, Applicants shall provide notice in writing to the Zoning Administrator and DRB regarding any changes, should there be any, affecting the subdivision and which might be deemed to be inconsistent with the application, subdivision plan, record, and/or testimony in this matter. At least two members of the DRB, who voted in the hearing on this matter, must review, approve, and sign the plat, verifying that it is consistent with and unchanged from the submission(s) previously reviewed by the DRB in deciding this matter, other than the changes referred to immediately above;

iii) Applicants are responsible for determining possible application of and complying, as required, with all applicable state and local laws, ordinances, and regulations and permits, specifically including Town of Marshfield zoning regulations and other permits for development and land use;

iv) no changes, modifications, or revisions that alter the plan, plat, or conditions shall be made unless such proposed revisions are first submitted to the DRB, and the DRB thereafter reviews and approves any such revisions following public hearing. See **Marshfield Subdivision Regulations, Section 2060.**

**Voting to Approve Subdivision:** James Arisman, Jon Groveman, Gary Leach, and Jenny Warshow

**Voting to Disapprove:** None. **Recused:** Les Snow

**Approved and Ordered at Marshfield, Vermont, this 13<sup>th</sup> day of July 2020.**

By: James Arisman  
James S. Arisman, for the 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).