

**Town of Marshfield  
Development Review Board  
122 School Street, Room 1  
Marshfield, Vermont 05658  
(802) 426-3305**

February 16, 2017

Mr. Ken Bailey  
355 Phelps Road  
Barre, Vermont 05641

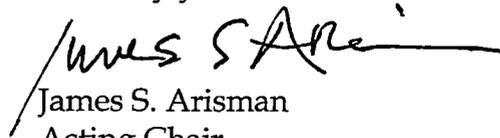
Dear Mr. Bailey:

Enclosed please find the decision of the Marshfield Development Review Board (DRB) regarding the application for subdivision of Pigeon Pond, LLC, and the Wanda Gable Estate. For the reasons stated in the decision, the DRB has **approved** your application. Please review carefully the conditions set forth on Page 5 of the decision.

The DRB thanks you for your cooperation and testimony during the hearing process.

Best regards.

Sincerely yours,



James S. Arisman  
Acting Chair  
Development Review Board

cc (w/hard copy of decision): Robert Light, Zoning Administrator  
All DRB Members  
Craig Chase, 301 N. Main St., #1, Barre, VT 05641

# TOWN OF MARSHFIELD DEVELOPMENT REVIEW BOARD

## Application for Subdivision of:

Pigeon Pond, LLC, and Wanda Gable Estate

c/o Ken Bailey, 355 Phelps Rd Road, Barre, VT 05641

Re: Town of Marshfield Parcel ID# PP015

479 Pigeon Pond Road, Plainfield, Vermont 05667 (U.S. Mail Address)

## I. Procedural History.

1. Pigeon Pond, LLC, and the Wanda Gable Estate (Applicants), own a parcel of approximately 1445-acres, with a 911 address of 479 Pigeon Pond Road, in the Town of Marshfield, Vermont. The parcel in question is one portion of a larger parcel that lies within three different towns.<sup>1</sup> Applicant wishes to subdivide the 1445-acre parcel in Marshfield.<sup>2</sup>

2. On January 18, 2017, Ken Bailey, as agent for the Applicants, submitted a written Application for Subdivision of the 1445-acre property. The Marshfield Development Review Board held a hearing on this application on February 9, 2017.

## II. Findings of Fact.

3. After due notice by the Applicants to all adjoining landowners, the DRB on February 9, 2017 conducted a hearing on the subject application for subdivision. Ken Bailey, Craig Chase, surveyor, and Zoning Administrator Robert Light were duly sworn in this matter. Mr. Bailey testified on behalf of his application, with additional testimony from Craig Chase and ZA Light. The DRB Members present and participating in the hearing were James Arisman, Acting Chair, Gary Leach, Les Snow, and Jenny Warshow. Member Michael Schumacher was not present and did not participate. The DRB credits the testimony of the witnesses, Mr. Bailey, Mr. Chase, and ZA Light and finds as follows.

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1. Marshfield (1445-acres), Plainfield (1300-acres), and Groton (1080-acres), totaling 3,825-acres, according to information set forth in the application for subdivision.

2. For the record, the consideration of the DRB and its decision in this matter is limited to the 1445-acre parcel located within Marshfield.

4. Applicants seek to subdivide the 1445-acre parcel that is located in Marshfield, so as to create two new lots, one to be 3.92-acres in size (Lot 2), and the other to be approximately 1441.08-acres in size (Lot 1).<sup>3</sup> Applicants wish to be able to sell the smaller 3.92-acre Lot #2 that includes an existing small home. The application for subdivision included survey maps depicting the lots in question as prepared by Chase & Chase Surveyors & Septic Designers and dated January 6, 2017.

5. The survey map shows the proposed 3.92-acre parcel that would be divided from the dominant parcel. The proposed Lot #2's road frontage is on Pigeon Pond Road. Lot #2 would have boundary lines that are drawn generally straight away from Pigeon Pond Road and that would terminate at a distance of approximately 472.00 feet (eastern boundary) and at approximately 482 feet (western boundary), creating the new 3.92-acre lot. The northern boundary of Lot 2 would join the two side boundaries and would be approximately 368.43 feet in length. Lot #2, as proposed, will have at least the required 250 feet of road frontage on Pigeon Pond Road, which will serve as the southern boundary of the newly created lot. See Town of Marshfield Zoning Regulations at Section 420. The new lot will be roughly rectangular in shape and will include the existing rental home within it. The remaining dominant 1441.08-acre parcel (Lot #1) will be retained by the Applicants, and no further development of Lot #1 is contemplated at present.

6. The existing home's address is 479 Pigeon Pond Road. Mr. Bailey testified that proposed Lot #2, with the existing house, had been surveyed to limit its size to 3.92 acres, so as to prevent further subdivision of that parcel in the future. Mr. Bailey agreed that he would accept as a condition of subdivision that Lot #2 not be further subdivided in the future.

7. The existing house located on the Lot #2, is served by a septic system and drilled well. The structures on Lot #2 are well set back from Pigeon Pond Road, and Craig Chase testified that the specific setback distances will be identified on the final Mylar map when it filed with the Town. The set back distances appear to meet Town requirements as do the other proposed boundaries for the lot. No new curb cut would be required as the existing driveway for Lot #2 will be retained.

8. The proposed subdivision, if approved, would leave a narrow, isolated strip of land or dogleg roughly to the northwest of the proposed Lot #2. This strip or dogleg would extend into the dominant parcel from Pigeon Pond Road. Section 4021 of the Town's Subdivision Regulations disfavors irregular lot shapes, "Lots with irregular shapes such as curves, jogs or doglegs should be avoided unless warranted by conditions of topography, the location of natural features or existing roads." Mr. Bailey testified that the strip of land, which would contribute to the irregularity in the shape of proposed Lot #1, is now being used for two purposes. It provides ready access to the large, dominant parcel from Pigeon Pond Road, because as the Road extends to the east,

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3. The lot sizes listed above were determined from acreage information included in the application for subdivision that was filed in this matter.

just past the existing house on proposed Lot 2, the road becomes largely impassable. Thus, entrance to the dominant parcel becomes more difficult or impossible. Mr. Bailey added that the narrow strip of land also is presently used for stacking and storage of firewood. The DRB considered these reasons and found following deliberation that under the exceptions provided by Subdivision Regulation 4021, *i.e.*, that due to conditions of topography, natural features, and/or existing roads, the subdivision application could be approved as submitted, notwithstanding the creation of the irregular strip or dogleg of land to the northwest of Lot #2.

9. Applicants requested in their application that the DRB grant a waiver from any requirement for a complete survey of the entire dominant parcel (Lot #1), citing at hearing the unnecessary expense and limited benefit of doing so.

### **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 therein. **Regulation Section 4021** requires that the layout of proposed lots conform to the regulations and be appropriate for any intended construction. Here, no new development is planned for either of the proposed lots, following subdivision. Further, Applicants have agreed to limit by deed or other restriction any further subdivision of Lot #2. The proposed new boundary lines between the two parcels, as set out in the survey submitted with the application, have been drawn with generally straight lines on all sides. The minor increased irregularity in the present shape of dominant Lot #1, created by the strip or dogleg discussed above, nonetheless, is approvable in light of adverse topography and/or natural features. The proposed division conveys at least the required 250 feet of road frontage to Lot #2. The proposed lot lines are marked with survey monuments at necessary points and are indicated on the subdivision plan's survey drawing. **The DRB concludes that proposed lots meet the requirements of Regulation Section 4021. The DRB further concludes that it is appropriate to grants Applicants' request for waiver of a full survey of the dominant parcel.**

11. For subdivisions, all roadways and intersections are required by **Regulation Section 4022** to be designed for safe and efficient movement of vehicles. Here, however, no new roads, intersections, or curb cuts are proposed. No new development is currently proposed for either lot. No increase in traffic can be expected. **The DRB concludes that the proposed subdivision meets the requirements of Section 4022.**

12. No change in water supply, sewage disposal, or utilities is proposed by the Applicant. 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, no additional development of either parcel has been proposed. The DRB concludes that this provision does not apply to the requested subdivision.

14. The “total parcel” being considered in this matter is split among three different towns, Marshfield, Plainfield, and Groton. The entire parcel is large, i.e., 3825 acres, with the relatively small, subdivided 3.92-acre parcel being located well within the boundaries of the Town of Marshfield and distant from the other town boundaries—i.e., no portion of the subject 3.92-acre Lot #2 lies within a neighboring town. However, for the record, we review Lot #2 under the criteria of **Regulation Section 4025** and conclude that the proposed Lot #2 appears to meet setback requirements,<sup>4</sup> meets the required lot size, and meets other dimensional requirements such as density and building coverage. In sum, both Lot #2 and Lot #1 meet the zoning and subdivision regulations of the Town of Marshfield, without reference to the larger multi-town parcel of which they are a part. **Regulation Section 4025** is satisfied.

15. Pursuant to **Regulation Section 4030**, the DRB may require facilities necessary for adequate fire protection. Applicants have proposed no new development. The DRB finds that the proposed subdivision will not increase demand for fire or emergency services.

16. **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 new development on either lot is planned.

17. **Regulation Sections 4035 and 4036** require protection of district settlement patterns and of the rural character outside of the village area. Applicant’s proposed subdivision does not present a plan for any immediate additional 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. No additional screening or buffer is required at this time. No new curb cut(s) are proposed or will be required.

18. All technical information (i.e., survey map and details) provided by Applicant 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. **Regulation 4050**.

19. The DRB concludes based on all of the above facts that both proposed lots are of adequate area, possess the required road frontage, and thus satisfy all requirements of

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4. Our visual review of the survey map submitted with the application appears to indicate that the buildings located on proposed Lot #2 meet Town setback requirements. However, the survey map did not list those setback distances. Mr. Chase, the surveyor, as agent for Mr. Bailey, agreed that when submitted for filing, the final Mylar map will provide those distances. See Conditions set forth in Section IV, Decision and Order, at page 5.

the Town of Marshfield Subdivision Regulations and, thus, may be and are **approved** by the DRB.

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

The Subdivision Application of Applicants, Pigeon Pond, LLC, and the Wanda Gable Estate, is hereby **APPROVED** by the Marshfield Development Review Board, with the following conditions:

i) **Within 180 days of the date of this decision**, Applicant 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. The final plat shall identify the setback distances for structures located on Lot #2. In addition to the final plat, prepared on Mylar, Applicant shall submit two full-sized paper copies of the final subdivision plan.

ii) Prior to recording, as required above, Applicant shall appear for final visual review of the final plat that is to be filed with the Town, prepared on Mylar, as well as the two accompanying full-sized paper copies of the final subdivision plan. 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 addition of the Lot #2 setbacks discussed above.

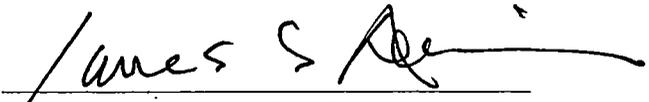
iii) Consistent with their representations at hearing and our Findings and/or Conclusions, Applicants agree and shall limit by deed or other restriction any further subdivision of Lot #2 by themselves or others in the future.

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 approves any such revisions following a public hearing. See Marshfield Subdivision Regulations, Section 2060.

**Voting in Favor:** Members James Arisman, Gary Leach, Les Snow, and Jenny Warshow.

**Not Present and Not Voting:** Michael Schumacher

**Approved and Ordered at Marshfield, Vermont, this 16<sup>th</sup> day of February 2017.**

By:   
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).