

TOWN OF MARLBORO
Development Review Board

Subdivision Review
Findings and Decision

In re: Estate of Emily Martin

Permit Application No. I3-I7LD

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for subdivision of land submitted by Joseph Cook acting for the Estate of Emily Martin, for subdivision approval under the Town of Marlboro Subdivision Regulations.

2. The application and plat were received by the Zoning Administrator on 29 July 2013. A copy of the application and plat are available at the Marlboro Town Office.

3. On 6 January 2014, notice of a public hearing for final plate review was published in the The Brattleboro Reformer.

4. On 6 January 2014, notice of a public hearing for final plat review was posted at the following places:

- a. The Marlboro Town Office.
- b. Sweeties General Store bulletin board.
- c. Marlboro Town web site

5. On 6 January 2014, a copy of the notice of a public hearing was mailed to the applicant. On 6 January 2014, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:

- Hunter Brook Partnership, Frederick Augenstern, I Salisbury St., Winchester MA 01890
- Katrina L. Jannen, II Fern Lane, Carlisle MA 01741
- Heinz & Traute Mueller, 99 Higley Hill Road, East Dover VT 05341
- Richard & Joan Judd PO Box 1074, West Dover VT 05356
- Randi Von Steinwehr & Charles Whipple, PO Box 128 Little Compton RI 02837
- Charles Caldwell, PO Box 80, East Dover VT 05341
- Andrew McLean, Dover Town Clerk, PO Box 527, West Dover VT 04356
- Susan Manton Haughwout, Wilmington Town Clerk, 2 East Main St., Wilmington VT 05363

6. The application and plat were considered by the Development Review Board at a public hearing on 20 August 2013. The hearing was adjourned and continued on 21 January 2014. The final public hearing was held on 21 January 2014. The Development Review Board reviewed the application and plat under the Town of Marlboro Subdivision Regulations, as amended 4 March 2010.

7. Present at then final hearing were the following members of the Development Review Board:

- T. Hunter Wilson, Chairman
- Jean Boardman, Clerk

- Tony Gordon
- Brent Seabrook
- Julia von Ranson
- Mary Sargent, Zoning Administrator

8. At the outset of the hearing, the Development Review Board afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. The names and addresses of persons wishing status as interested persons are:

- Merrill Mundell, PO Box 866 Wilmington VT 05363
- Traute Mueller, 99 Highly Hill Road, East Dover VT 05341
- Michael Purcell, 2256 Higley Hill Road, Wilmington VT 05363
- Robert Zimmerman, 3275 Lower Dover Road, Marlboro VT 05344
- Joseph Cook, 45 Linden Street, Brattleboro VT 05301
- Virginia Read, POBox 1098, West Dover VT 05356
- Judith Desimone, POBox 2481, West Doer VT 05356

9. During the course of the hearing the following exhibits were submitted to the Development Review Board:

- Subdivision Plat Survey by Merrill A. Mundell, Jr., P.E., POBox 866, Wilmington VT 05363. showing 20 foot contours, dated 18 November, 2013
- A "Supplement to Plan by Merrill A. Mundell, Jr., P.E." specifying details of the plat and noting that no building is proposed as part of this subdivision
- Attachment to the survey stating there are no proposed plans for development of the subdivided parcels
- Letter from the Dept. of Environmental Conservation, Drinking and Groundwater Protection Division, re: WW Permit Exemption, signed Emily Tully, Assistant Regional Engineer
- A letter dated 30 November 2013 from Joseph F. Cook asking that the DRB waive the requirement to show five-foot contour intervals and accept the twenty-foot intervals shown

These exhibits are available at the Marlboro Town Office.

FINDINGS

Based on the application, testimony, exhibits, and other evidence the Development Review Board makes the following findings:

1. The applicant seeks a permit to subdivide land. The subject property is a 58.49-acre parcel located at Upper Dover Road in the Town of Marlboro (tax map parcel # 02-00-12 & 13). The property is more fully described in a deed to Mildred and Emily Martin, dated 5 July 1947, and recorded at Book 20, Page 564, of the Town of Marlboro Land Records (as referenced in the survey by Merrill Mundell) and in the deed recorded at Book 27 Page 275 (as referenced on the application). The parcel is to be subdivided into one parcel of 11.16 acres and one of 47.33 acres, with the larger parcel containing the existing house and associated well and septic system.

2. The property is located in the Rural Residential District as described on the Town of Marlboro Zoning Map on record at the Marlboro Town Office and section 305 of the Zoning Regulations.

3. Subdivision approval is requested for the project pursuant to review under the following sections of the Town of Marlboro Subdivision Regulations:

- Section 2.I, A., B., & D.
- Section 2.2
- Section 2.3 A & B.
- Section 5

4. Section 2.I A requires a permit for any subdivision of land; Section 2.I B allows the DRB to classify subdivisions as major or minor; Section 2.I D authorizes the DRB to waive requirements where extraordinary and unnecessary hardships would result from strict compliance; Section 2.2 specifies the procedures for application, including notice to abutters; Section 2.3 A describes the sketch plan requirements; Section 2.3 B defines the procedures for review and allows for a simpler process for minor subdivisions with no improvements proposed; Section 5 includes relevant definitions.

5. The submitted sketch Plan meets the requirements for the regulations with the exception of the required five-foot contour lines; twenty-foot contour lines are provided, with indications of all slopes over 15% and a waiver of the requirement is requested; no improvements for the subdivision are planned by the applicant; the state Department of Environmental Conservation, Drinking and Groundwater Protection Division considers the proposed subdivision an existing one (due to the proposed line of division following the centerline of an existing road) and therefore does not require a wastewater permit.

DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, the Development Review Board waives the requirement for five-foot contour lines and grants the application for a subdivision as specified in the application and accompanying survey.

As a condition of the subdivision, the deed shall include notice that no location for septic disposal facilities has been identified or approved

As conditioned, the proposed subdivision meets the requirements of Sections 2.I A, B, & D; Section 2.2; Sections 2.3 A & B; and Section 5 of the Subdivision Regulations.

The approval of the Development Review Board shall expire 180 days from the date of this decision, unless the approved plat is duly filed or recorded in the office of the municipal clerk.

Dated at Marlboro, Vermont, this 17th day of February 2014.



T. Hunter Wilson
Chairman

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 447I and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

cc: Mary Sargent, ZA

cc: to listed interested parties mailed 2/19/2014 gwb, clerk

MARLBORO, VERMONT
Received and Recorded

FEB 19 2014

Signed: 

Town Clerk