

**TOWN OF MARLBORO**  
**Development Review Board**

**Subdivision Review**  
**Findings and Decision**

Permit Application No. 13-12 LD

**INTRODUCTION AND PROCEDURAL HISTORY**

1. This proceeding involves review of an application for subdivision of 37.8 acres into three lots, submitted by John McKay for subdivision approval under the Town of Marlboro subdivision regulations.
2. The application and plat were received by the Zoning Administrator on June 3, 2013. A copy of the application and plat are available at the Marlboro Town Office.
3. On May 4, 2015, notice of a public hearing for final plat review was published in the Brattleboro Reformer.
4. On May 4, 2015, notice of a public hearing for final plat review was posted at the following places:
  - Marlboro Town Office
  - Marlboro Town Bulletin Board
  - Marlboro Town Website
5. On May 4, 2015, a copy of the notice of a public hearing was mailed to the applicant. On May 4, 2015, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:
  - Margaret T. Kelly, 882 Silvermine Rd, New Cannan, CT 06840
  - Robert & Volitia Elliot (Life Estate), 2671 Higley Hill Rd, Wilmington, VT 05363
  - David Elliot, 3127 Higley Hill Rd, Wilmington, VT 05363
  - Kyle M. Oliver, 2769 Higley Hill Rd, Wilmington, VT 05363
  - Donald Patterson, 3005 Higley Hill Rd, Wilmington, VT 05363
  - Richard & Donna Hawes, 2631 Higley Hill Rd, Wilmington, VT 05363
  - Peter Starkweather, 1237 Higley Hill Rd, Wilmington, VT 05363
  - Earl & Virginia Cabana (Life Estate), 3261 Higley Hill Rd, West Marlboro, VT 05363
  - Linda Alexander, 440 East Shore Road, Jamestown, RI 02835
  - Edward J. Lavin, Estate of, PO Box 79, Jacksonville, VT 05342
6. The application and plat were considered by the Development Review Board at a public hearing on May 19, 2015. The hearing was adjourned and reconvened on November 17th,

2015, which was the final hearing. The Development Review Board reviewed the application and plat under the Town of Marlboro Subdivision Regulations, as amended March 4, 2005.

Members of the Development Review Board made a site visit to the parcel on October 19th at 3 PM. Present at the site visit:

- T. Hunter Wilson, Chair
- Brent Seabrook
- Gail MacArthur
- Mary Sargent, Zoning Administrator
- Julia von Ranson, Development Review Board Assistant

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

- T. Hunter Wilson, Chair
- Jean Boardman
- Brent Seabrook
- Gail MacArthur
- Patti Smith, Alternate
- Mary Sargent, Zoning Administrator
- Julia von Ranson, DRB Assistant

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 following persons sought interested party status:

- John MacKay, 110 Honey Brim Road, Vernon, VT
- Rose Watson, 333 Old Turnpike Road, Marlboro, VT 05344
- Robert Elliot, 2671 Higley Hill Rd, Wilmington, VT 05363
- David Elliot, 3127 Higley Hill Rd, Wilmington, VT 05363

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

- Subdivision Permit Application, to divide 37.8 acre lot into three lots, dated June 2, 2013.
- Memo from Bell Engineering, subject: McCay (sic) Subdivision - Higley Hill Road, dated October 25, 2015, with attached documents including parcel boundary map from Natural Resources Atlas and Vermont Water Supply Rule
- Correspondence from Mary Sargent, Marlboro Zoning Administrator to Chris (no last name), undated.
- Town of Marlboro CTI Map showing property boundaries, dated December 17, 2014.
- 2 foot Contour Interval Plan for Three Lot Subdivision of Land of John McKay, dated April 8, 2007 by Bell Engineering.
- Survey titled 3 Lot Subdivision Land of John McKay, dated April 2006 by William J. Fitzgerald.

- Plan of Development Three Lot Subdivision Land of John McKay, dated May 2, 2015, by Bell Engineering.
- Plan of Development Lower Common Road, Three Lot Subdivision Land of John McKay, dated May 2, 2015, by Bell Engineering.
- Plan of Development Individual Driveways, Three Lot Subdivision Land of John McKay, dated May 2, 2015, by Bell Engineering.
- Profile of Common Road, Land of John McKay, dated May 2, 2014, by Bell Engineering.
- Profile of Individual Driveways, Land of John McKay, dated May 2, 2014, by Bell Engineering.
- Erosion Control Details, Land of John McKay, dated May 2, 2014, by Bell Engineering.
- Draft Rights Of Way and Road Maintenance Agreement, dated April 10, 2007, by Dugan Law Office.
- Wastewater Permit WW-2-2437, dated December 15, 2006.
- Memo, subject: John McKay Subdivision: Slope of Common Drive, from Bell Engineering, undated.

These exhibits are available at the Marlboro Town Office.

#### DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, the Development Review Board grants the application for the Land Division of Tax Map 02-00-55.1 as described in Permit #13-12 LD.

The proposed subdivision meets the requirements of Sections 2 & 3 of the Subdivision Regulations.

The Development Review Board approves the application and plat subject to the following condition:

1. Each parcel shall have a deeded 50 ft right-of-way from the Higley Hill Road.
2. An agreement for maintenance of the common Right of Way must be recorded in the Marlboro Town Land Records.

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 18th day of November 2015

A handwritten signature in black ink on a light gray background. The signature reads "T. Hunter Wilson" in a cursive, slightly slanted script.

T. Hunter Wilson, Chair  
Marlboro Development Review Board

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. 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

cc Mary Sargent, ZO