

TOWN OF MARLBORO

Development Review Board

Application for Boundary Line Adjustment Findings and Decision

Permit Application # 24-28 LD

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review, under the Town of Marlboro Zoning Bylaw, of an Application for a Boundary Line Adjustment submitted by Owners Lester Powers, 345 42nd Street, Brattleboro, VT 05301 & Timothy Powers, 79 Garfield Drive, Apt. #2, Brattleboro, VT 05301;
Location: Undeveloped forest land southwest of Worden Brook in Marlboro, VT, between Lower Dover Road & Augur Hole Road (No road frontage); Tax Map Numbers 02-00-45 & 03-00-66;
Proposal: Boundary Line Adjustment; Reconfigure 100 (+/-) acres from Parcel 02-00-45 to Parcel 03-00-66.
2. The Application was received by Mary Sargent, Zoning Administrator, on August 27, 2024.
A copy of the Application is available for review at the Marlboro Town Office.
3. On August 31, 2024, and again on September 28, 2024, Notice of a public Hearing in the Town Office with *Zoom* videoconference was published in the *Brattleboro Reformer*.
4. On September 2, 2024, and again on September 30, 2024, Notice of a public Hearing in the Town Office with *Zoom* videoconference was posted at the following places:
 - Marlboro Town Clerk's Office
 - Bulletin Board outside the Marlboro Town Clerk's Office
 - Marlboro Town Website, marlborovt.us
5. On September 6, 2024, and again on October 1, 2024, a copy of the Notice of a public Hearing was mailed to the Applicant. On September 6, 2024, and again on October 1, 2024, a copy of the Notice of a public Hearing was mailed to the following Owners of properties adjoining the property subject to the Application:
 - Richard Ward & Kathleen Loomis-Ward, PO Box 388, Marlboro, VT 05344-0388
 - Michael Held & Linda Davenport, 137 Beaumont Ave., San Francisco, CA 94118-4208
 - Town of Marlboro, VT, PO Box E, Marlboro, VT 05344
 - John McCall & Jacquelyn Yanch, 84 Gifford Street, Falmouth, MA 02540-3305

- Alan & Charlene Baker, 43 Spring Street, East Windsor, CT 06088
- Todd Smith, 203 Westford Street, Chelmsford, MA 01824
- Ronald Bogatkowski, 1381 Brookline Road, Mason, NH 03048
- Margaret Bernhard, 171 42nd Street, Brattleboro, VT 05301
- Alexander Knight, 1444 Lower Dover Road, Brattleboro, VT 05301
- Richard & Barbara Powers, 93 Shepley Street, Auburn, ME 04210
- James Herrick, PO Box 158, Marlboro, VT 05344-0158
- Peter Bernhard, 24 Signal Hill Road, Putney, VT 05346
- Hans & Allison Kaspersetz, 106 Tulip Street, Summitt, NJ 07901
- Sharon Tappan, PO Box 435, Marlboro, VT 05344-0435
- Anthony & Carol Berner, PO Box 10, Williamsville, VT 05362-0010
- Laurie Woods, 915 East 17th Street, Apt. 105, Brooklyn, NY 11230-3759
- John & Sally Conroy, 33 Acre Drive, Danbury, CT 06810
- Eric Matt, 2987 Augur Hole Road, South Newfane, VT 05351
- Gordon Turner, Sr., 2671 Augur Hole Road, South Newfane, VT 05351

6. The Application was considered by the Development Review Board at a public Hearing in the Town Office with *Zoom* videoconference on October 15, 2024. The Application was originally Warned for September 17, 2024, but was postponed when the Applicants did not attend the September Hearing to present their proposal. The Development Review Board reviewed the Application under the Subdivision Regulations of the Town of Marlboro, as amended March 4, 2010.

7. Present at the September 17 Hearing were the following members of the DRB:

- Steven John, Chair
- Jean Boardman, Vice Chair
- Gail MacArthur (via *Zoom*)
- Eva Grimaldi
- Mary Sargent, Zoning Administrator

Present at the October 15 Hearing were the following members of the DRB:

- Steven John, Chair
- Jean Boardman, Vice Chair (via *Zoom*)
- Brent Seabrook, Clerk
- Gail MacArthur
- Mary Sargent, Zoning Administrator

8. At the outset of each Hearing, the Development Review Board afforded those persons wishing to achieve status as an Interested Party 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:

- Laurie A. Rowell, Attorney : representing Lester & Timothy Powers
- James Herrick, PO Box 158, Marlboro, VT 05344-0158 : Abutter
- John McCall, 84 Gifford Street, Falmouth, MA 02540-3305 : Abutter

9. During the course of the Hearing the following Exhibits were submitted to the Development Review Board:

- Permit Application, signed by both Owners and dated August 20, 2024; also signed by Laurie A. Rowell, dated August 26, 2024
- Project Sketch - Photocopies (2) of relevant sections of pre-existing surveys, showing location of proposed adjusted boundary between Parcel 02-00-45 and Parcel 03-00-66
- Town of Marlboro CTI map, showing approximate boundaries of subject area, printed on September 10, 2024
- List of abutters to property of Lester Powers & Timothy Powers (Tax Map # 02-00-45), and Abutters to property of James Herrick (Tax Map # 03-00-66), with Town of Marlboro CTI map, printed on August 28, 2024

These Exhibits are available for inspection 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 Boundary Line Adjustment to shift approximately 100 acres from Parcel 02-00-45 to Parcel 03-00-66.
2. The source property, Parcel 02-00-45, is a parcel of 310 (+/-) acres located at 345 42nd St. in the Town of Marlboro. The property is more fully described in a Deed recorded in Book 65, Page 238, of the Town of Marlboro Land Records.
3. The properties are located in the Rural Residential District (RUR) as described in the Town of Marlboro Zoning Map on record at the Town of Marlboro municipal office, and in *Section 305 - Rural Residential (RUR)* of the Marlboro Zoning Regulations, dated March 6, 2018.
4. The proposal meets the criteria for a Boundary Line Adjustment, described in *Article II, Section 2.1 (E)(1)* of the Marlboro Subdivision Regulations, dated March 4, 2010.

DECISION AND CONDITIONS

Based upon these findings, and subject to the Conditions set forth below, the Development Review Board grants the Boundary Line Adjustment described in Permit # 24-28 LD: to shift approximately 100 acres of undeveloped forest land from Parcel 02-00-45 to Parcel 03-00-66.

The proposed Boundary Line Adjustment meets the requirements of Articles II & III of the Marlboro Subdivision Regulations.

The Development Review Board approves the Application, subject to the following conditions:

The deeds describing Parcels 02-00-45 & 03-00-66 must be revised to correspond with the reconfiguration of these lots, and duly filed in the Town Records.

The approval of the Development Review Board shall expire 90 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 1st day of December, 2024.

A handwritten signature in blue ink that reads "Steven John". The signature is fluid and cursive, with the first and last names clearly legible.

Steven John, Chairman
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.