

TOWN OF WILMINGTON  
DEVELOPMENT REVIEW BOARD  
FINDINGS OF FACT AND STATEMENT OF FINDINGS  
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **Dennis McIntosh and Catherine Kupperstock**

Agent(s) Mailing Address: **Carl Shepherd, P.O. Box 1555, Dover, VT 05653**

Owner/Applicant(s) Mailing Address: **P.O. Box 1956, Wilmington, VT 05363**

Address of the subject property: **off Smith Road, Wilmington, VT 05363**

Tax Map #**003-02-001.400**

A copy of the request is filed in the office of the Board and is referred to as:  
**Case #: 2013-067**

**Description of Case per Public Notice:**

Application # 2013-067; owner: Dennis McIntosh. Application being made for Subdivision approval to allow subdivision and merging of two areas of 995 sq. ft. and of 1100 sq. ft. with an existing lot. Zoning Ordinance Sections 6.A & 512; location: off Smith Road.

Notice for a public hearing was published in the Valley News on: **8/2/2013**

Notice was posted in three public places on: **8/2/2013**

A copy of the notice was mailed to the applicant on: **8/2/2013**

A copy of the notice was mailed to the abutters on: **8/2/2013**

The public hearing was held on: **8/19/2013**

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Environment Court.

**Appeal period for this Case expires on: October 11, 2013**

In *addition* to the Applicant / Agent the following persons were heard by the Board in connection with this request: (Copies were mailed to those persons listed below as having been heard.)

Alice Herrick, Zoning Administrator

**I. The Board FINDS:**

EXHIBITS:

- Application (two pages)
- A Map showing boundary adjustment
- B Tax Map showing boundary adjustment
- C Map showing dimensions
- D Map showing surrounding properties
- E Abutters List

The subject property is in the Residential District of the Town of Wilmington. The lot is not improved with structures.

The following are the circumstances which give rise to the request, and the following are facts and opinions presented to the Board at the hearing and developed by the Board in independent evaluation.

1. The agent Carl Shepherd would like buy two pieces of land from applicant Dennis McIntosh (tax map #3-2-1.4) that borders his land (tax map # 3-2-1.3) to build a house and a barn. The square footage of one piece was warned at 995 square feet. However, Exhibit A shows 945 square feet. The agent ended up asking for up to 950 square feet for that piece. The second piece was warned for 1,100 square feet and the agent requested approval for up to 1,500 square feet.
2. Both the McIntosh and Shepherd lots are pre-existing.
3. Agent Shepherd's lot is approximately 5 acres and the McIntosh lot is about the same.
4. When the two small pieces are purchased by agent Shepherd they will be merged with his lot. Both the Shepherd lot and the McIntosh lot after the merger, will still be well over one acre.

**II. The Board CONCLUDES:**

With regards to the request for a subdivision with right-of-way approval the Board concludes that this proposal **will** conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

**Section 6: Permitted Uses and Minimum Requirements of Districts**

**A. Residential Districts**

2. Minimum Requirements in Residential Districts. All residential buildings and structures permitted in the Residential District shall be erected and used in conformity with the following minimum requirements:

**Lot Size:** A lot used for such building or structure shall be at least one acre in area, except that accessory uses shall also be permitted on such lot.

*After the purchase and merging of the two small pieces with the Shepherd lot, both of the lots will still be more than one acre in area.*

**Frontage:** Each lot which abuts upon a public road shall have at least one hundred fifty (150) feet frontage on such public road. No land development may be permitted on lots which do not have frontage on a public road or public waters or, with the approval of the Development Review Board, access to such a road or waters by a permanent easement or right-of-way at least twenty (20) feet in width. [Subchapter 7, §4412(3)]

*Both the McIntosh and Shepherd lots are pre-existing non-conforming lots. The Shepherd lot does not have the required frontage but it was created before zoning and the proposed boundary line adjustment will not increase the degree of non-conformity.*

### III. CONDITIONS:

This is granted subject to the following restrictions, requirements, limitations or specifications:

1. That in order to comply with the Zoning Bylaw, approval of this proposal shall be conditioned upon merger of the two, up to 950 square foot and up to 1,500 square foot pieces of Lot #003-02-001.400 with the Shepherd property, Lot # 003-02-001.300, for tax and zoning purposes by filing a new deed with the Town Clerk which merges both parcels and that a copy of the revised deed shall be submitted to the Zoning Administrator.
2. That the two pieces of land being subdivided from the McIntosh property and added to the Shepherd property shall not exceed 950 and 1,500 square feet.
3. That all buildings that are constructed on both the McIntosh and Shepherd properties shall meet setback requirements.

Thus, the Development Review Board does **approve** the application for **Subdivision (boundary adjustment) approval to allow two sections of land from Lot #003-02-001.400, one up to 950 square feet and one up to 1,500 square feet, to be merged with an adjoining lot (#003-02-001.300), in the Residential District.**

**If unused, this Approval expires 1 year from the date of issue.** A request for extension

may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit *must* be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval ***does not relieve you***, as applicant, from obtaining any and ALL applicable State and other local permits.

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Frank Sprague  
Nicki (Polly) Steel  
Andrew Schindel  
Gil Oxley

OPPOSED:  
None

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For the Board: Polly Steel, Chairperson

Date: 9/11/2013

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

*This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.*