

**TOWN OF CORNWALL**  
2629 Route 30, Cornwall, VT 05753  
**Development Review Board**  
***FINDINGS AND DECISION***

In re: Randy Laframboise

Hearing Application No.: drb#22-001

**I. INTRODUCTION AND PROCEDURAL HISTORY:**

1. This proceeding involves review of an Application for a waiver or variance of the dimensional requirements set forth in the *Town of Cornwall Subdivision Regulations (CSR) §222(3)*, in order for the Applicant to pursue a Boundary Line Adjustment permit from the Zoning Administrator.
2. The Application and supporting documents were received by the Development Review Board (DRB) on December 23, 2022. A copy of the Application is available at the Cornwall Town Clerk's Office.
3. On January 13, 2022, notice of a public hearing (warning) to be held on February 2, 2022, for review of the Application, was published in the *Addison Independent*.
4. Notice of a public hearing for review of the Application was posted at the following places:
  - a. The Town Clerk's Office.
  - b. The Town Garage
  - c. The Town website
  - d. The property in question
5. The Application was considered by the DRB at a public hearing held virtually on February 2, 2022. The hearing was closed on that date. The DRB reviewed the Application under the *Town of Cornwall Zoning Regulations*, and the *Cornwall Subdivision Regulations*, both dated February 26, 2008.
6. Present at the hearing(s) were the following members of the DRB:
  - Barbara Greenwood (DRB Chair)
  - David Anderson (Vice-Chair)
  - Shari Johnson
  - Ellen Whelan-Wuest
  - Cheryl Cesario
7. At the outset of the hearing, the DRB Chair read aloud the Hearing Notice as published. No members of the public were in attendance, but the Applicant was duly sworn in.

## II. EVIDENCE AND RELEVANT TESTIMONIES:

A. **Exhibits.** Prior to the hearing the following Exhibits were submitted to the DRB, accepted into evidence, and marked as shown:

*Exhibit 1—Warning* (which was posted in a timely fashion at the Town Hall and Town Garage, and on the Town website; the property was also posted)

*Exhibit 2—Proof of service.* Email from the Applicant, with the certified mail receipt for Peter Laframboise, together with a copy of the warning provided to Peter. The email indicates that Peter is the only abutter.

*Exhibit 3—Application* as filed on December 23, 2021, consisting of:

- **3A**—Application form dated December 22, 2021;
- **3B**—List of attachments;
- **3C**—*Attachment 1*, narrative setting out the reason for the waiver/variance request;
- **3D**—*Attachment 2*, Warranty Deed from Ronald L. Van Dusen to Susan C. Bourdon and Randy Laframboise, dated April 27, 2018;
- **3E**—*Attachment 3*, Tax Map or part thereof showing parcel;
- **3F**—*Attachment 4*, Boundary Line Adjustment Application;

*Exhibit 4*—Electronic tear sheet showing publication of the warning in the *Addison Independent*, January 13, 2022;

*Exhibit 5*—Cornwall Conservation Commission’s review of the Application, dated January 6, 2022, indicating no concerns with the Application.

These Exhibits are available at the Town Clerk’s Office. Also at the Town Office are the Hearing Minutes with details of the full testimonies heard (Ref: *DRB Minutes February 2, 2022*). Only those testimonies relevant to the specific subject of the Application before the DRB are shown below:

## B. TESTIMONY, COMMENTS, QUESTIONS

### 1. Applicant Presentation

- **Randy Laframboise** explained the Application for a variance or waiver:
  - **The property** (Parcel ID 09-01-14) is located at 578 Morse Road, on the south side of the road. It is in the LDR, and is a non-conforming parcel:
    - The frontage, at 140’, does not meet the LDR 300-foot frontage requirement.
    - The lot size, at 0.5 acre, does not meet the minimum LDR size of 4 acres.
  - **Background:** The parcel was originally part of the Laframboise farm. It was acquired by Ron Van Dusen in, or before, 1987 and subsequently by Randy and Susan Laframboise in 2018.
    - When the farm was entered into an agreement with the Vermont Land Trust a 0.5-acre portion was withheld from the agreement under the assumption that the owner of 09-01-14 might someday wish to add it to that property. No land under a VLT agreement may be sold so withholding it from the agreement was the only way to make any future acquisition of it a possibility.
    - The VLT agreement makes it impossible for lot 09-01-14 to acquire any additional land, beyond the withheld half-acre lot, to meet the 4-acre LDR minimum size

requirement.

- Randy has no definitive plans for the property in question other than to increase its size to 1 acre by adding the half-acre non-VLT lot to the south side of the property and constructing a garage and maybe a small rear addition to the south side of the house. The 09-01-14 property measures 140' wide x 158' deep. The property lacks sufficient depth to meet setbacks for new construction without the additional half-acre on the south side of the property.
- Adding the half-acre parcel would involve ZA approval for a Boundary Line Adjustment (BLA) between Randy and Susan and Randy's brother, Peter, who now owns the farm land (including the half-acre piece exempted from the VLT) surrounding parcel 09-01-14.
- The ZA denied Randy's application for a BLA, which sought to add the half-acre non-VLT lot to lot 09-01-14, because CSR § 222(3) requires that the lots resulting from a BLA must meet the dimensional requirements for lots within the underlying zoning district. The resulting 1-acre lot would not meet the 4-acre dimensional requirement for the LDR.
- Randy therefore seeks a variance or a waiver from the dimensional requirements of CSR § 222(3), so that the ZA may proceed to grant a permit for a BLA.
- **Planned Use** is residential; all potential construction is for by-right uses.

2. **Public Comments**—None

3. **Final Comments**—None

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the Application, relevant Testimony, and Exhibits, the DRB finds the following:

#### A. FINDINGS OF FACT:

1. The Applicant is Randy Laframboise.
2. The property at 578 Morse Road is owned by Randy and Susan Laframboise.
3. The property at 578 Morse Road is Parcel ID 09-01-14, a non-conforming lot in the Low Density Residential zoning district as described on the Town of Cornwall Zoning Map on record at the Cornwall Town Clerk's Office and in §260 of the *Zoning Regulations*. The minimum lot size in the LDR is 4 acres with a minimum frontage of 300 feet, lot depth of 300 feet, front yard setback minimum of 100 feet, side yard minimum setback of 50 feet and rear yard minimum setback of 50 feet.
4. There is no indication of when the parcel was created or when the house was built. They are presumed to be legally existing non-conformities.
5. Parcel 09-01-14 does not meet the requirements of the LDR being deficient in both acreage (0.5 rather than 4-acres) and frontage (140' rather than 300').
6. Additionally, Parcel 09-01-14 is 158' deep, so the district's 150-foot setbacks (100' front, 50' rear) leave little room for new construction.
7. The farmland surrounding 09-01-14, with the exception of a half-acre lot on the parcel's south side, has been placed under a Vermont Land Trust agreement. No portion of the land in the agreement can be sold independently.

8. There is no possibility of adding more land to 09-01-14 other than the half-acre to its south, and therefore no way to meet the LDR 4-acre minimum size requirement.
9. The half-acre lot to the south is ledge, and not suitable for farming.

## B. CONCLUSIONS OF LAW

1. **Authority**—The DRB has the authority pursuant to State Statute and the *Town of Cornwall Zoning Regulations* §332(2) and §332(6) to hear, approve or deny requests for variances and waivers.

2. **Board Considerations**—

a. **Focus of Application**: Even though the ultimate goal expressed by the Applicant is to acquire a permit for a Boundary Line Adjustment which is a form of subdivision, the current Application is for a waiver or variance.

3. **Criteria for Review**

**Waivers**—The Board concludes that the Application meets all the relevant standards for waivers (CZR §383):

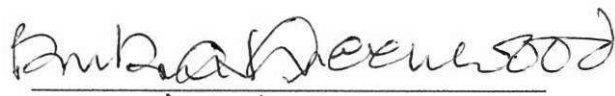
- i. The waiver requested is for a use permitted as a by right use (one-family dwelling) in the district in which the parcel lies.
- ii. The waiver is in conformance with the Town Plan, the relevant goals set forth in the Act, as well as the CZR.
- iii. There is no possibility of adding more land to Parcel 09-01-14 other than the half-acre to its south, and therefore no way to meet the LDR 4-acre minimum size requirement. The waiver requested will permit the creation of a 1-acre lot which will better conform to the character of the land use area in which the land lies, and will have little or no impact on neighbors.

(The standards in CZR §383(4) and (5) are not relevant here.)

## IV. DECISION

Based upon these Findings of Fact, Conclusions of Law, and the evidence presented in the form of Exhibits, and Testimony at the hearing, the Development Review Board hereby grants a waiver of the dimensional requirements of CSR§222(3), in order that the Applicant may seek a Boundary Line Adjustment from the Zoning Administrator, as submitted in an Application filed with the Town Clerk on December 23, 2021 by Randy Laframboise (#drb22-001).

Dated at Cornwall, Vermont, this 2<sup>nd</sup> day of March, 2022.

  
Amber Greenwood  
Chair, DRB

**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*.