

# Town of Montgomery

## Development Review Board

### FINDINGS AND DECISION

ARNOLD AND LINDA MERCY  
APPLICATION FOR A VARIANCE  
September 1, 2022

### INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves an application submitted by Arnold and Linda Mercy requesting a Variance under Article 5, Section 5.3 of the **TOWN OF MONTGOMERY ZONING BY-LAWS AND REGULATIONS.**
2. The application was received by the Zoning Administrator on **July 15, 2022.**
3. A **Public Hearing** was warned for **September 1, 2022**
4. Notice of the Hearing was posted on **August 11, 2022** at the **Montgomery Village Post Office, Montgomery Public Safety Building, Sylvester's Market, Montgomery Town Website** and published in **The St. Albans Messenger.**
5. This application was considered by the Montgomery Development Review Board at a **Public Hearing on September 1, 2022, at the Montgomery Public Safety Building, Conference Room.**
6. Present at the **Hearing** were **Development Review Board Members: Parma Jewett, Chair, Lynda Cluba, John Kuryloski and Mary Garceau. Suzanne Wilson was absent.** Applicants, Arnold and Linda Mercy were present and visitors included abutting property owners, James Baker and Cindy Gilchrist.
7. At the outset of the **Hearing, Parma Jewett Chair of The Development Review Board** asked if any Board members felt they had a conflict of interest. None claimed a conflict.
8. All parties wishing to offer testimony were sworn in.

### FINDINGS

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

1. The subject property is **287.23 acres**, located at 2494 South Main St, in the **Town of Montgomery Center, Vermont. Parcel ID #S118.122X.**
2. This property is located in the **Rural Residential District** as described on the **Town of Montgomery Official Zoning Map** on record at Town of Montgomery Municipal Office and Section 4 of the **Town of Montgomery Zoning Regulations.**
3. The application requires review under the following sections of the **Montgomery Zoning Regulations:**
  - a. Article 5, Section 5.3 Variance Approval
  - b. Article 4.2 Rural/Residential, Minimum lot dimensions

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#### Findings of Fact

1. Applicants wish to subdivide the property with 4.47 acres (Lot 1) and the remaining acreage to include the barn, which is contiguous with their own dwelling across South Main St.
2. Applicants wish to sell the farm house and 4.47 acres to their son, who is not interested in the barn, keeping the driveway open on the remaining part of the barn property.
3. Applicants submitted a portion of a survey showing setbacks distances from the proposed lot line to the barn.
4. Setback distance from the Barn shows 33ft, which is less than the distance of the Rural/Residential Zoning District requirement of 50 ft, requiring a Variance..
5. Applicants explained that they felt they could not move the line more to accommodate the 50 ft distance as it would split the driveway which accesses the barn and remaining acreage on that side of the road.
6. Survey submitted by the applicants showing the subdivision is not currently recorded in the Town Land Records.

#### DECISION

Moved by Mary and seconded to approve the Variance request for a subdivision with the condition that the survey be recorded in the Montgomery Town Land Records.

Based upon the findings, the Montgomery Development Review Board concludes that the request for a Variance for the subdivision at 2494 South Main St be **APPROVED**. **Roll Call Vote: Parma - YES; Lynda - YES; John - YES; Mary - YES. Motion passed 4-0.**

A copy of this decision shall be mailed to the Applicant by certified Mail, and a copy shall be mailed to every person or body appearing and having been heard at the Hearing, and the Clerk of Montgomery as a part of the Public Records.

An Interested Person may appeal a decision of the Development Review Board to the Environmental Division, in writing, within thirty days of the date the decision was issued.

If no appeal of the decision is filed within the thirty (30) day appeal period, all parties shall be bound by the decision and shall not thereafter contest it. Section 4472 (d).

Dated at Montgomery Center, Vermont, this 21<sup>st</sup> of September, 2022

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Parma Jewett, Chairperson Montgomery Development Review Board