

TOWN OF PLAINFIELD

DEVELOPMENT REVIEW BOARD

Findings of Fact and Conclusions of Law

Decision on the application of: Chad Morse

Re: PUBLIC HEARING: ZPA 2021-12 V CHAD MORSE SECTION 2.9 VARIANCE AND APPEAL. SECTION 4.2 FOREST AND AGRICULTURAL LAND DISTRICT SETBACK MINIMUM REQUIREMENTS, AND SECTION 3.14 CONSTRUCTION ALONG WATERCOURSES, WATERBODIES, AND DESIGNATED SCENIC ROADS. CONSTRUCTION OF A 20' BY 30' WOODSHED/EQUIPMENT SHED POLE BARN WITH STONE/GRAVEL FLOOR WITHIN THE 50' SETBACK REQUIREMENTS.

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves an application by Chad Morse ("Applicant") for a Zoning Permit to build a new 20 X 30 foot wood and equipment shed polebarn with a stone gravel floor.
2. The application was received by zoning administrator Karen Storey on April 16, 2021, and referred to the Development Review Board ("DRB") on May 3, 2021.
3. On June 28, 2021, a copy of the notice of a public hearing was mailed to the following interested parties or owners of properties adjoining the property subject to the application: Ryan and Mary Golden, Craig and Judith Whipple, Claudia K Clark Living Trust: Claudia and Allen Clark, and Marion Stratton.
4. On June 22, 2021, a notice of a public hearing was posted at the following three

locations: Plainfield Town Offices, Plainfield Post Office, and Plainfield Coop.

5. On June 29, 2021, a notice of public hearing was published in the Times Argus.

6. On July 14, 2021, the application was considered by the DRB at a public hearing. The application was reviewed under the Town of Plainfield Zoning Regulations adopted March 1, 2011, and Subdivision Regulations adopted March 2, 2010.

7. Present at the hearing were the following members of the DRB: Janice Walrafen, Chair, Sarah Albert, Jim Volz, and Alice Sky; Cindy Wykoff, minutes recorder.

8. The following persons were also present at the hearing and requested status as interested persons under 24 V.S.A. Sec. 4465(b): Allen Clark, abutter.

9. A site visit was held on July 14, 2021, at 2459 Lower Road, Plainfield. Chad Morse, Janice Walrafen, Sarah Albert, Jim Volz and Karen Storey, Plainfield Zoning Administrator.

FINDINGS

Based on the application, testimony, and exhibits, the Development Review Board makes the following findings:

1. Chad Morse (“Applicant”) has applied for a Zoning Permit for a new accessory building (wood and equipment shed) at his home at 2459 Lower Road, Plainfield.

2. The building does not meet the traditional setback requirement from Gunner Brook.

3. No interested party at the hearing objected to the granting of the permit.

4. Chair Walrafen called the public hearing to order at 7:01pm and administered an evidence affirmation oath, to which all public hearing participants affirmed.

5. Chair Walrafen presented a summary of the issue before the DRB, noting that the DRB is able

to grant a variance provided that State statutes are met.

6. Jim Volz stated that during the site visit, he saw no other possible locations for the shed without removing additional trees, and that he would be agreeable to granting a variance as long as proper conditions were placed upon it, including taking measures to mitigate storm water runoff into Gunner Brook.

7. Sarah Albert stated that she did not think that the current location of the shed was the only place on the property that it could have been built and thus the request does not meet the requirements for a granting a variance.

8. Alice Sky noted that because the structure has already been built, it makes the situation for her more about what can be done to deal with the fact that it is only 20 feet from Gunner Brook instead of the required 50 feet.

9. Walrafen noted that she believes the requirements of granting a variance have been met because of unnecessary hardships imposed due to the conditions of the lot size, but shares the same concerns regarding its proximity to Gunner Brook.

10. A brief discussion ensued regarding the possibility of flooding during severe storms in that area, which adjacent neighbor Allen Clark stated he had not seen in the more than 20 years that he has resided at his property. Clark added that he has zero problems with the shed in its current location.

11. Discussion followed regarding issues involved in moving the shed farther from the brook's shoreline and Morse's specification in the permit application requesting an expansion of the shed.

12. Albert reiterated her objection to granting a variance, citing that it was not the only place the shed could have been located, that the shed at its current site could have been built farther away

from the brook, and that the property already has been developed so development is not being hindered as required by the regulations for granting a variance. Albert added that by granting a variance in this instance, it sets a dangerous precedent for granting future variances to those who develop their property before seeking a zoning permit.

13. Walrafen and Morse clarified that the shed was built before Morse took down a couple of trees at the site, noting that the extra area that now exists farther away from the brook was not open when he built the shed.

14. Discussion followed regarding the responsibility of landowners, and measures that can be taken, to mitigate storm water runoff from their properties.

15. Sky made a motion to amend Chad Morse's zoning permit application and approve a variance for the existing 20' by 10' shed, with storm water mitigation in its current location. Volz seconded the motion.

16. The motion was approved by Walrafen, Sky, and Volz, with Albert opposed.

17. Walrafen closed the public hearing at 7:39pm.

18. This application is governed by the Town of Plainfield Zoning Regulations dated March 1, 2011.


19. Granting of this permit will have no effect on:

- a. The capacity of existing or planned community facilities
- b. The character of the area affected
- c. Traffic on roads and highways in the vicinity
- d. Bylaws and ordinances currently in effect
- e. Utilization of renewable energy resources.

DECISION

Based upon these findings and the specific circumstances of this case, a permit and variance for the Zoning Permit was granted by the DRB conditioned on taking measures to mitigate storm water runoff into Gunner Brook. This variance runs with the land and shall apply to the Applicant here before the DRB and to any successor owner or lessor of the property. Voting in favor: Chair Janice Walrafen, Members James Volz and Alice Sky; voting opposed: Sarah Albert. The decision carries 3-1.

Dated at Plainfield, Vermont, this 11 day of August 2021.



Janice Walrafen, Chair

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