

TOWN OF PLAINFIELD
Development Review Board

Appeal of zoning permit to convert Center School to residence

In re: Center School change of use
Permit Application No. 2014-07

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves the appeal of a zoning permit granted to Thomas Roetker to convert the property at 786 Upper Road from a schoolhouse to a 2-bedroom residence. The permit was granted by zoning administrator Karen Storey on April 9, 2014.
2. On April 24, 2014 an appeal was filed by Geoff Wilson, an abutter, on the grounds that the subject property is a nonconforming lot and that Section 3.2 (a) of the Zoning Regulations states that a nonconforming use shall not be changed to another nonconforming use without the approval of the Development Review Board [DRB], and also because of the location of the property's septic system in relation to his artesian well.
3. On May 26, 2014, notice of a public hearing was published in the *Times Argus*.
4. On May 22, 2014, notice of a public hearing was posted at the following locations:
Plainfield Town Offices, Plainfield Post Office, and Plainfield Co-op
5. On May 23, 2014, a copy of the notice of a public hearing was mailed to the following owners of properties adjoining the property subject to the application:

Geoff Wilson	Ann Blaisdell	Dawna Maclaren	Stuart Maclaren
Kristie Farnham	David Copping	David Spence	Mary Niebling
Sue Hudson Gordon			
6. The appeal was considered by the DRB at a public hearing on **June 11, 2014**. The DRB reviewed the appeal under the Town of Plainfield Zoning Regulations, as amended March 1, 2011.
7. Present at the hearing were the following members of the DRB:
Chair Janice Walrafen, Rob Bridges, Neil Hogan and Sarah Albert
8. The following persons were present at the hearing and requested status as interested persons under 24 V.S.A. § 4465(b):

Tom Roetker	Terri Roetker	Rose Roetker	Bernie Chenette
Geoff Wilson	Ann Blaisdell	Gary Wilson	Jill Wilson
Dawna Maclaren	Kristie Farnham	Tammy Farnham	Kevin Farnham
Allan Farnham	Sandy Farnham	Kyle Farnham	David Copping

FINDINGS

Based on the application, testimony, exhibits, and other evidence the development review board makes the following findings:

1. The applicant, Thomas Roetker, was granted a permit for change of use from school to a 2-bedroom residence on April 9, 2014. The subject property is located at 786 Upper Road in the Town of Plainfield (tax map parcel no. 018-0786).
2. The property is located in the **Rural Residential** District as described on the Town of Plainfield Zoning Map and Section 4.3 of the Zoning Regulations. It is a .25 acre parcel, 92 by 122 feet in dimensions. The minimum lot size for a lot in this district without a connection to the town wastewater is 2 acres. Also, the lot does not meet the minimum depth requirement of 200 ft. so it is a nonconforming lot. However, its existence predates the adoption of zoning in Plainfield so it is considered an existing small lot under Section 3.3 of the Zoning Regulations, and as such it may be developed for purposes permitted in the district in which it is located, since it is larger than 1/8 acre and has a width and depth of over 40 feet.
3. The building on the lot is non-conforming because it does not meet the 50-foot setback requirement from the highway center-line, but it does meet the side and rear yard minimums for the Rural Residential district. The school had been used by the Twinfield School District and later the Montessori School for many years. An educational institution is a conditional use in the district; however, the use of the property as a school predated the adoption of zoning regulations in Plainfield and there is no conditional use permit on record..
4. The proposed use is a single family residence, which is a permitted use in this district. The zoning administrator required the applicant to obtain approval from the state wastewater division that the existing septic system was sufficient for the proposed residential use.
5. The septic system is under state jurisdiction and is not the purview of the DRB; while the town can require an applicant to provide a wastewater permit from the state, it is the state that determines a septic system's capacity and operation. However, the DRB heard testimony from several parties regarding the septic system on the subject property for the purpose of giving the neighbors a forum for discussion. (A more complete record of the comments can be seen in the minutes of this hearing but is not given here because the issue under consideration is the whether the zoning administrator acted properly in approving the change of use permit.) The appellant and another abutting neighbor reported odors over a number of years during the time the school was in use. The engineer present, Bernard Chenette, explained the calculations used to determine that a septic system used by a school with 20 students would be sufficient for a 2-bedroom residence.
6. Although it was not required because the state considered the septic system to be grandfathered, Mr. Roetker applied for and received a wastewater permit from the State. The wastewater permit WW-5-6588 was issued by the Agency of Natural Resources, Drinking Water and Groundwater Protection Division. It is dated May 30, 2014 and signed by Dana Nagy, Assistant Regional Engineer in the Barre office. Mr. Nagy had conducted a site visit with Mr. Chenette. During the hearing, Mr. Chenette presented the wastewater plan he had drawn up and pointed out the isolation distances between the leach field and the neighboring properties.
7. ZA Storey explains her decision process for this application: this was an existing small lot because it was only .25 acres, but created prior to the adoption of zoning. Likewise, the building is non-conforming because it does not comply with setbacks, but was built before the adoption of zoning regulations. However, neither the former nor the proposed uses are nonconforming: educational institution is a conditional use; and a single-family residence is a permitted use. Therefore it is a change of a conforming use to a different conforming use.

8. Mr. G. Wilson requests a site visit by the DRB for clarification of locations and distances. Chair Walrafen asks the DRB for a motion to continue the hearing to the July meeting with a site visit. DRB member Hogan makes a motion to continue the hearing to July and to hold a site visit before the meeting. Chair Walrafen calls for a second; no one else seconds, so she seconds.
9. During the discussion of the motion Mr. Roetker states that the school had been for sale for nine months, and no one had reported anything. A title search did not uncover any problems, and the Montessori School signed a paper saying the septic system was clear. He assures the neighbors that if the septic system malfunctions he will have the problem corrected.
10. Member Bridges states it is his opinion that a continuance of this hearing will not change any of the facts of the decision the ZA made; the member Albert concurs. The DRB votes 2-2 on the motion to continue the hearing and it fails to pass.
11. The appellant and neighbors ask what further recourse they have; they are told that they will need to take up the matter of the wastewater permit with the state or follow the usual appeal process concerning DRB decisions (see Notice below).

DECISION AND CONDITIONS

Based upon these findings and other information presented at the hearings, the DRB votes to uphold the Zoning Administrator's decision of Change of Use from Educational Institution to Single Family Dwelling.

Voting in favor: Janice Walrafen, Rob Bridges, Neil Hogan and Sarah Albert.
The decision carries 4-0.

Dated at Plainfield, Vermont, this ___ day of _____, 2014.

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