

**TOWN OF PLAINFIELD
DEVELOPMENT REVIEW BOARD**

Findings of Fact and Conclusions of Law

Decision on the application of: William Amell and Shaun Bernatchy

Re: Right-of-way access to property through Lyndon and Margaret Achilles' property

Permit Application No. 2017-06

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves after-the-fact approval of a right-of-way that was created in 2000.
2. The application was submitted by William Amell and Shaun Bernatchy, 201 Gonyeau Rd. and received by zoning administrator Karen Storey on 5/23/17 and referred to the Development Review Board on 6/15/17.
3. On 5/24/17, notice of a public hearing was posted at the following places:
Plainfield Town Offices, Plainfield Post Office, Plainfield Co-op
4. On 5/24/17, a copy of the notice of a public hearing was mailed to the following owners of properties adjoining the property subject to the application:

Elisabeth Bolt	James Volz	Lynda Volz
Lorraine Cappetta	Kris Hammer	Chickering Nancy
Lois Foss	Cornelius Hogan	Jeannette Hogan
Cornelius Hogan III	Rebecca Hogan	
5. On 5/27/17, notice of a public hearing was published in the *Times Argus*.
6. The application was considered by the DRB at a public hearing on 6/14/17. The application was reviewed under the Town of Plainfield Zoning Regulations, as amended March 1, 2011.
7. Present at the hearing were the following members of the DRB:
Janice Walrafen, chair, Elaine Parker, Sarah Albert
8. The following persons were present at the hearing and requested status as interested persons under 24 V.S.A. § 4465(b):
William Amell

FINDINGS

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

1. The properties involved in this application are is located on Gonyeau Road:
Applicants Amell and Bernatchy own tax map parcel no. 05-039.100, 10.1 acres, which is accessed over land owned by the Achilles, tax map parcel no. 05-039.200, 11.7 acres. Both parcels are located in the **Forest & Agriculture** District as described on the Town of Plainfield Zoning Map on record at the town office and section **4.2** of the Zoning Regulations.

2. Section 3.4 Required Frontage on or Access to Public Roads requires DRB approval for development on lots not having frontage on a public road and further requires that the access be at least 20 feet wide and be conveyed by permanent easement.
3. The applicant submitted a copy of a warranty deed, dated 4/30/2000 and recorded in the Plainfield Land Records in Book 45, pgs 140-1, from Lyndon and Margaret Achilles to James and Shaun Bernatchy, conveying a right-of-way over the Achilles property from Gonyeau Road. The deed is attached as part of the decision and further describes the location, allowed useage and maintenance of the right-of-way.
4. Zoning administrator Karen Storey had summarized the background for the DRB: the property was purchased in 1999 by Lyndon and Margaret Achilles. In early 2000, they hired a surveyor to subdivide it into two lots. In April of 2000, they deeded one of the lots to daughter Shaun Bernatchy and her then-husband James. In June 2000, Lyndon Achilles met with the Planning Commission concerning the creation of a right-of-way. After reviewing the boundaries, the Planning Commission determined that the lot was non-conforming due to its frontage being less than the 300-foot requirement. The Planning Commission stated that they would grant the right-of-way contingent upon approval of the lot variance. The variance was granted by the Zoning Board of Adjustment; however, the owners did not return to the Planning Commission for the required approval of the right-of-way. Zoning Administrator Jane Culver sent a notice of violation to the Achilles, dated 6/8/2000, stating the need for approval for a right-of-way; this was not acted upon by the owners. Subsequently, Jane Culver finished her term as Zoning Administrator and a new person was appointed. The letter of violation went unnoticed in the transition and enforcement was not followed up.
5. Approval of this right-of-way would correct a procedural oversight, remove the notice of violation, and allow the applicants to proceed with plans for future development of the parcel.

DECISION AND CONDITIONS

Based upon these findings, the development review board grants approval for the applicants' right-of-way on Gonyeau Road.

Voting in favor: Janice Walrafen, Elaine Parker and Sarah Albert. The decision carries 3–0.

Dated at Plainfield, Vermont, this ___ day of _____, 2017.

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.