

**TOWN OF PLAINFIELD
DEVELOPMENT REVIEW BOARD**

Subdivision Review – Findings and Decisions

Decision on the application of: Daniel Kitchen

Re: 2-lot subdivision

Permit Application No. 2015-04

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a 2-lot subdivision submitted by Daniel Kitchen, received by zoning administrator Karen Storey on 4/22/15.
2. On May 6, 2013, copy of the notice for a site visit and sketch plan review was posted at the following places: Plainfield Town Offices, Plainfield Post Office, Plainfield Co-op.
3. A site visit and sketch plan review was held on May 13, 2015.
4. Present at the site visit and sketch plan review were the following members of the development review board:
Janice Walrafen, Rob Bridges and substitute Paula Emery from the Planning Commission
5. The following persons were present at the sketch plan review and requested status as interested persons under 24 V.S.A. § 4465(b): Daniel Kitchen
6. At the sketch plan review, the subdivision was deemed to be minor; final subdivision review was set for June 10, 2015.
7. On May 22, 2015, copy of the notice of was posted at the following places: Plainfield Town Offices, Plainfield Post Office, Plainfield Co-op. The notice was published in the Times Argus on May 24, 2015.
8. On May 22, 2015, a copy of the notice of the final subdivision review was mailed to the applicant and to the following owners of properties adjoining the subject property:
Robert Barasch Sandra Ross & Will Colgan Thomas Covey
John & Lauren Cleary Denis Fowler Prescott Family Realty Trust
9. The following members of the development review board were present at the final subdivision review on June 10, 2015:
Janice Walrafen, chair, Rob Bridges, and Sarah Albert
10. The following persons were present at the final subdivision review and requested status as interested persons under 24 V.S.A. § 4465(b):
Daniel Kitchen

FINDINGS

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

1. The applicant seeks approval to subdivide his 15.5 acre parcel located on Fowler Road (tax map no. 06-021.500). The parcel currently has one dwelling located at 700 Fowler Rd.
2. The applicant wishes to subdivide said parcel into two lots: Lot 1 – 10.5 acres, Lot 2 (labeled Lot 1A on the submitted map) – 5 acres. Lot 1 is already developed with a residence; lot 2 has a building envelope designated in the section of the parcel closest to the road.
3. The application is a minor subdivision according to Section 610 of the Subdivision Regulations. The property is 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.
4. Side lot lines are generally at right angles with the town highway; however the side lot lines of Lot 2 meet at the back of the property to form an approximate pie shape parcel. There is only one place on Lot 2 where the parcel is 300 ft. wide.
5. Lot 2 was subdivided from Denis Fowler's land on 11/10/2008 and subsequently merged with the Kitchen 10.5-acre parcel (which had originally been subdivided from Fowler's land on 12/17/05 as an exempt subdivision). DRB member Albert recalls that during the original subdivision of this lot in 2008, planning commission members had objected to its irregular shape and approved it only because it was being merged with the Kitchen parcel.
6. Section 410 (H) 2 from the subdivision regulations "Lots with irregular shapes (curves, jogs, flag-shaped, etc.) should not be created unless warranted by conditions of topography or natural features." DRB members present at the site visit (Walrafen & Bridges) attest that the parcel lines conform to the topography of the site.
7. The application does not contain a road access permit for Lot 2, and no permit has been obtained from the Town.
8. The final plat submitted is missing the following required elements: elevations, driveway location, utilities location, topo lines, names of abutters. It also lacks a place for town approval of the plat with room for signatures.
9. Applicant wants to shift the burden of subdivision requirements to potential purchases of Lot 2. In accordance with section 130 (B) of the Regulations, the applicant requests waivers from:
 - (a) Article III Section 440 (A), (B) Site Drainage, Stormwater Management and Erosion Control: Lots 1 and 2: no specific development proposed at this time;
 - (b) Section 460 (A), (B) Access Roads and Driveways: Lot 2 no specific development proposed at this time;
 - (c) Section 470(A), (B) Water Supply and Wastewater Disposal, Lot 2 no specific development proposed at this time;
 - (d) Section 480 Utilities (A), (B), (C): Lot 2 no specific development proposed at this time.
10. There is no certainty that a wastewater system will be feasible on the lot due to its size and shape; however, applicant states it can still be used for forestry or agriculture. The deed for the 5-acre lot must contain the Notice of Permit Requirements language required by the state's Wastewater division so that potential buyers will be alerted.

DECISION AND CONDITIONS

Based upon these findings, the development review board approves the subdivision of the Kitchen property into two lots or 10.5 and 5 acres as shown on the submitted site plan, with the following conditions:

1. The omissions noted in No. 7-8: elevations, driveway location and road access permit, utilities location, utility lines, topo lines, names of abutters, place for approval signatures must be noted on the final plat before it is signed by the DRB.
2. Additionally, the plat must contain a reference to this DRB decision and the waivers granted, including language that all conditions for which waivers were granted must be completed and submitted to the zoning administrator before any development occurs.
3. It must be noted on the plat that applicant agrees that in consideration of the shape of the lot being created, no variances for setback requirements will be granted by the town to him or to future owners.
4. For both lots of the subdivision, all permits or processes for which the waivers requested under #7 were granted must be completed and submitted to the Zoning Administrator before any further development can occur, including the creation of a driveway accessing Lot 2:
 - (a) a construction stormwater permit along with plans for site drainage and erosion control, in compliance with Section 440;
 - (b) Driveway design in compliance with Section 460 and a town road access permit;
 - (c) State water supply and wastewater disposal permit in compliance with Section 470; additionally, the deed for the new 5-acre lot created must contain the Notice of Permit Requirements language required by the Wastewater Division of the Agency of Natural Resources.*
 - (d) Specific utility designs in compliance with Section 480.

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

Dated at Plainfield, Vermont, this ___ day of _____, 2015.

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.

*“Notice of permit requirements. In order to comply with applicable state Rules concerning potable water supplies and wastewater systems, a person shall not construct or erect any structure or building on the lot of land described in this deed if the use or useful occupancy of that structure or building will require the installation of or connection to a potable water supply or wastewater system, without first complying with the applicable Rules and obtaining any required permit. Any person who owns this property acknowledges that this lot may not be able to meet state standards for a potable water supply or wastewater system and therefore this lot may not be able to be improved.”;