



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802)674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

## Zoning Board of Adjustment Agenda

**Martin Memorial Hall – 5259 Route 5, Ascutney, Vermont 05030**

**Monday, 11 July 2019 - 7 PM**

---

1. Call to Order
2. Agenda Review – 11 July 2019
3. Public Hearing: Appeal of Zoning Administrator decision regarding whether “junkyard” exists at 157 Moore Drive (Parcel ID 040229.7), Conservation (C-10) zoning district.
4. Approval of Meeting Minutes – 27 June 2019
5. Adjourn



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802) 674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

## TABLE OF CONTENTS

### APPEAL MATERIAL – ARGUIEN – 157 Moore Drive (Parcel 040229.7) – Conservation (C-10) District

1. 26 June 2018 – Letter from Appellant's Attorney, Barry Polidor, Esq. to Vincent Chiorgno, Environmental Analyst IV, Salvage Yard Program, State of Vermont DEC, and Land Use Administrator
2. 8 November 2018 – Letter from Land Use Administrator to Appellant, Nancy Lewis (040229.6 / 207 Moore Drive) & Appellant's Attorney.
3. 19 November 2018 – Letter from Appellant's Attorney appealing Land Use Administrator decision
4. 20 November 2018 – Letter from Appellant's Attorney to Vincent Chiorgno
5. 23 May 2019 – E-mail from Vincent Chiorgno to Land Use Administrator
6. 3 July 2019 – Letter from Daniel Barbour to Town of Weathersfield
7. File history
  - a. 10 April 2013 – Letter from Land Use Administrator to Daniel L. and Nancy L. Barbour
  - b. 10 April 2013 – Letter from Land Use Administrator to Chief Davies
  - c. 8 November 2016 – Email from Land Use Administrator to Nancy Lewis, Appellant
  - c. 13 October 2017 – Letter from Land Use Administrator to Daniel Barbour
  - d. 29 November 2017 – Letter from Appellant's Attorney to Land Use Administrator
  - e. 15 December 2017 – Letter from Appellant's Attorney to Shawn Donovan, Salvage Yard Program
  - f. 20 December 2017 – Letter from Land Use Administrator to Lillian Arguien and Daniel Barbour
  - g. 3 January 2018 – Email from Vincent Chiorgno to Appellant's Attorney & response
  - h. 24 January 2018 – Email from Vincent Chiorgno to Appellant's Attorney



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802) 674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

## DRAFT MEETING MINUTES

### A. 27 June 2019 Draft Meeting Minutes

#### Appendix. Excerpts of relevant bylaws:

- 7.15 Junkyards, Scrap Materials, Recycling Facilities and Landfills (privately owned)
- Weathersfield Zoning Bylaws, Definition: Junkyard
- 24 V.S.A. § 2241: Definitions (Subchapter 010: Salvage Yards)
- 23 V.S.A. § 2151: Definitions (Subchapter 007: Abandoned Motor Vehicles)
- 4.3.2(e) Conservation (C-10)

# Town of Weathersfield, Vermont

Land Use Administrator, P.O. BOX 550, ASCUTNEY, VT 05030  
Martin Memorial Hall, 5259 US Route 5  
Telephone:(802) 674-2626 Fax: (802)674-2117  
Email: [landuse@weathersfield.org](mailto:landuse@weathersfield.org)  
Website: <http://www.weathersfieldvt.org>

## Zoning Board of Adjustment

### Notice of Public Hearing

**Date: Thursday, July 11 at 7:00 PM**

The Weathersfield Zoning Board of Adjustment will hold a public hearing on Thursday, July 11 at 7:00 PM in the Town Office/Martin Memorial Hall for the purpose of considering the following appeal:

1. Appeal of Zoning Administrator decision regarding whether “junkyard” exists at 157 Moore Drive (Parcel ID 040229.7), Conservation (C-10) zoning district.

**At 6:30 PM a site visit at 157 Moore Drive will precede the 7:00 PM Public Hearing.**

Information concerning this matter is available at the Town of Weathersfield office from 7:30 AM to 5:30 PM Monday through Thursday or by calling 802.674.2626.

1

**Barry J. Polidor, P.C.**

*Attorney at Law*  
64 Chester Road  
P.O. Box 279  
Springfield, Vermont 05156

Telephone  
(802) 885-4530

Fax  
(802) 885-4531  
E-Mail  
bpolidor@vermontel.net

June 26, 2018

Vincent Chiorgno  
Environmental Analyst IV  
Salvage Yard Program  
Waste Management & Prevention Division  
State of Vermont DEC  
1 National Life Drive, David 1  
Montpelier VT 05620-3704

Hal Wilkins  
Land Use Administrator  
Town of Weathersfield  
PO Box 550  
Ascutney VT 05030

Re: Moore Drive Salvage Yard

Dear Mr. Chiorgno and Mr. Wilkins,

I had an opportunity to inspect the Lillian Arguien/Daniel Barbour property on Moore Drive in Weathersfield. Quite frankly, I was shocked and disgusted by what I saw. I counted eleven junk unregistered and rusted vehicles on the property. In addition, there were piles of wood, rusted scrap metal, old vehicle seats, tires, oil barrels and other pieces of junk scattered throughout the property. Most vehicles and pieces of junk are surrounded by tall grass and have obviously not been moved for several years. It also appears that several junk vehicles have recently been brought onto the property including a camper with windows that have been blown out and another dump truck. I am enclosing photos of the property which were taken by me last week.

In addition to violating state junkyard regulations and town zoning ordinances, the condition of the property clearly creates environmental and health hazards. In addition to being a junkyard, the property is also clearly being used as a dump/private landfill by the owner.

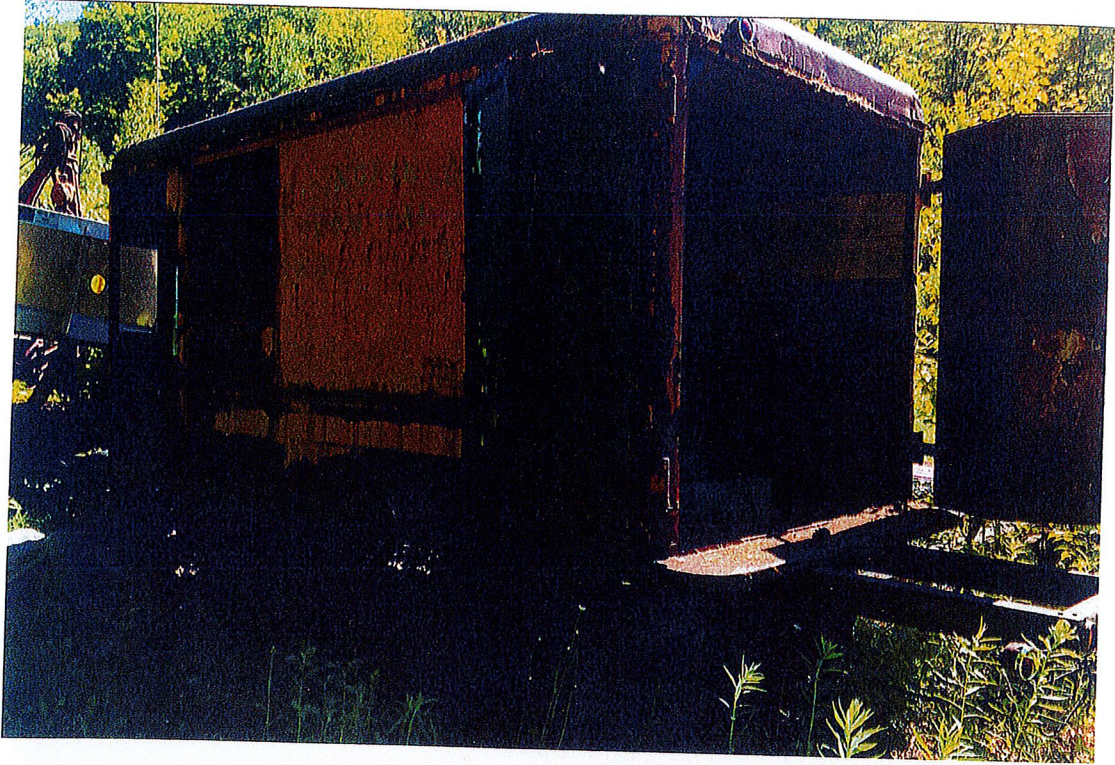
Now that the property is no longer covered by snow, I believe both the state and the Town of Weathersfield need to take the appropriate action to clean up the property.

Very truly yours,

  
Barry J. Polidor, Esq.

BJP:sss  
Enclosures











2



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802) 674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

Ms. Nancy Lewis  
531 Bumps River Road  
Osterville, MA 02655

Mr. Barry Polidor, Esq.  
64 Chester Road  
P.O. Box 279  
Springfield, VT 05156

November 8, 2018

**VIA US Mail and E-mail**

**RE: 157 Moore Drive / Parcel ID 040229.7  
Property Conditions**

Dear Ms. Lewis,

This letter is in response to inquiries regarding the property located at 157 Moore Drive, abutting your parcel located at 207 Moore Drive. I conducted a site visit with the Town Manager, Ed Morris, several months ago, and have corresponded on several occasions with Vincent Chiorgno, the State Salvage Yard Specialist with the Agency of Natural Resources. I have also reviewed photographs received from your attorney and past correspondence regarding this situation on file in the Town office.

While the appearance and level of maintenance of the parcel located at 157 Moore Drive certainly leaves something to be desired, there are a number of obstacles to this office taking any action to resolve this situation. As Moore Drive is a private road, the Town does not have the authority to intervene in issues relating to the condition of that road, or obstructions to that road, outside of ensuring that the point of access to Gulf Road is properly maintained with ditching and culverts, or toward ensuring emergency access to existing residences. Thus, obstructions to Moore Drive or conditions on that road generally are a civil issue outside of the Town's authority.

Regarding the issue of whether an unpermitted junkyard is being operated at the Premises, it has been communicated to me by Mr. Chiorgno that enough of the vehicles are operable, in spite of their appearance, that the threshold of junkyard is not met at a State level. It is similarly my opinion that currently the conditions observable at the property fall short of the threshold to be considered a junkyard under the Weathersfield



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802)674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

Zoning Bylaws. The Weathersfield Zoning Bylaws are silent on the definition of "junk", but some guidance may be taken from 24 V.S.A. § 2241(5), which defines junk as:

"Junk" means old scrap copper, brass, iron, steel and other old or scrap or nonferrous material, including rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof."

While there are items which are located on the property and are also definable as "junk", the determination that a property is being used as a "junkyard" requires more than the mere presence of junk items.

I understand and realize that this situation has been the source of a great deal of frustration over many years now, but the authority of this office, or the Town, to act in this situation is limited. Notwithstanding the representations made by predecessors in this office as to whether conditions on the property surpass the threshold of "junkyard" as defined under the Weathersfield Zoning Bylaws, my determination is on the basis of my own observations, the position taken by the State, and independent investigation of your complaint.

Though the Town is limited in its enforcement options in this situation, it is nonetheless my intent to reach out to the landowners once again to request that they undertake to improve conditions at their property. To the extent possible, I am willing to continue working with you and your attorney to try to ameliorate the situation, with the caveat that it is unlikely that I can compel the landowners to take any positive actions.

Please feel free to contact my office if you would like to discuss this further.

Very truly yours,

Sven Fedorow, Land Use Administrator

3

**Barry J. Polidor, P.C.**

*Attorney at Law*  
64 Chester Road  
P.O. Box 279  
Springfield, Vermont 05156

Telephone  
(802) 885-4530

Fax  
(802) 885-4531  
E-Mail  
bpolidor@vermontel.net

November 19, 2018

Flo-Ann Dango, Town Clerk  
Town of Weathersfield  
PO Box 550  
Ascutney VT 05030

RE: Notice of Appeal to Zoning Board of Adjustment

Dear Flo-Ann,

Pursuant to Section 9.3 of the Weathersfield Zoning Regulations, enclosed please find a Notice of Appeal of the Zoning Administrator's decision on November 8, 2018 for filing.

Very truly yours,

  
Barry J. Polidor, Esq.

BJP:sss  
Enclosure  
cc: Sven Federow, Land Use Administrator (w/enclosure)

---

**NOTICE OF APPEAL**

---

**APPEAL TO THE ZONING BOARD OF ADJUSTMENT  
OF NOVEMBER 8, 2018 DECISION OF ZONING ADMINISTRATOR  
THAT A JUNKYARD AS DEFINED BY SECTION 7.15  
IS NOT BEING OPERATED AT 157 MOORE DRIVE /  
PARCEL ID 040229.7**

**APPELLANTS**

Nancy Lewis  
531 Bumps River Road  
Osterville MA 02655  
(owner of adjacent 207 Moore Drive)

William Ritterhaus, Jr., Trustee  
PO Box 474  
Cummaquid MA 02637  
(owner of adjacent 10.4 acres on Moore Drive)

**PROPERTY OWNER**

Lillian Arguien  
2032 Weathersfield Center Road  
Springfield VT 05156

**NOW COME APPELLANTS**, by and through their attorney, Barry J. Polidor, Esq., and pursuant to Sect 9.3, appeal the November 8, 2018 Decision of Land Use Administrator Sven Fedorow that a junkyard is NOT being operated at 157 Moore Drive. A copy of that Decision is attached hereto as Exhibit 1.

This Appeal concerns property at 157 Moore Drive currently owned by Lillian Arguien (Town Parcel ID: 040229.7). The property consists of 10.2± acres of Open Land (Lot 7 on the survey attached hereto as Exhibit 2).

Appellant Nancy Lewis is owner of 20.4± acres of open land adjacent to the Arguien parcel (Lot 6 on Exhibit 2). Appellant Ritterhaus is the



owner of 10.4 acres of open land directly across Moore Drive from the Arguien parcel.

It is Appellants' position that Arguien is in violation of Sect. 7.15 in that she is operating a junkyard at 157 Moore Drive "without first obtaining site plan approval and Conditional Use approval from the Board of Adjustment, a Certificate of Occupancy, and the necessary state permit."

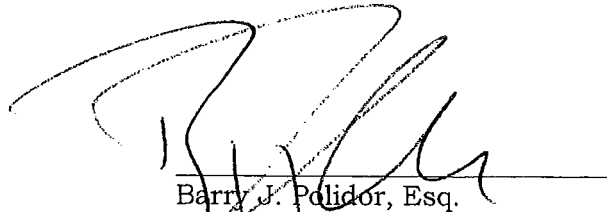
Appellants requested that the Administrative Officer issue a "Notice of Violation" pursuant to Sec. 9.5. In his November 8, 2018 Decision, the Administrative Officer concluded that:

"the conditions observable at the property fall short of the threshold to be considered a junkyard under the Weathersfield Zoning Bylaws."

It is from this decision that Appellants Appeal.

**WHEREFORE**, Appellants request that the Zoning Board of Adjustment overturn the Administrative Officer's November 8, 2018 Decision on the grounds that a junkyard, as defined by Sect. 7.15 is being operated at 157 Moore Drive and Order the issuance of a Notice of Violation to the owner of the property.

Dated the 19<sup>th</sup> day of November, 2018.



Barry J. Polidor, Esq.  
Attorney for Appellants  
PO Box 279  
Springfield VT 05156  
(802) 885-4530  
polidorlaw@gmail.com

Exhibit 1



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802) 674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

Ms. Nancy Lewis  
531 Bumps River Road  
Osterville, MA 02655

Mr. Barry Polidor, Esq.  
64 Chester Road  
P.O. Box 279  
Springfield, VT 05156

November 8, 2018

**VIA US Mail and E-mail**

**RE: 157 Moore Drive / Parcel ID 040229.7**  
Property Conditions

Dear Ms. Lewis,

This letter is in response to inquiries regarding the property located at 157 Moore Drive, abutting your parcel located at 207 Moore Drive. I conducted a site visit with the Town Manager, Ed Morris, several months ago, and have corresponded on several occasions with Vincent Chiorgno, the State Salvage Yard Specialist with the Agency of Natural Resources. I have also reviewed photographs received from your attorney and past correspondence regarding this situation on file in the Town office.

While the appearance and level of maintenance of the parcel located at 157 Moore Drive certainly leaves something to be desired, there are a number of obstacles to this office taking any action to resolve this situation. As Moore Drive is a private road, the Town does not have the authority to intervene in issues relating to the condition of that road, or obstructions to that road, outside of ensuring that the point of access to Gulf Road is properly maintained with ditching and culverts, or toward ensuring emergency access to existing residences. Thus, obstructions to Moore Drive or conditions on that road generally are a civil issue outside of the Town's authority.

Regarding the issue of whether an unpermitted junkyard is being operated at the Premises, it has been communicated to me by Mr. Chiorgno that enough of the vehicles are operable, in spite of their appearance, that the threshold of junkyard is not met at a State level. It is similarly my opinion that currently the conditions observable at the property fall short of the threshold to be considered a junkyard under the Weathersfield



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802) 674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

Zoning Bylaws. The Weathersfield Zoning Bylaws are silent on the definition of "junk", but some guidance may be taken from 24 V.S.A. § 2241(5), which defines junk as:

""Junk" means old scrap copper, brass, iron, steel and other old or scrap or nonferrous material, including rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof."

While there are items which are located on the property and are also definable as "junk", the determination that a property is being used as a "junkyard" requires more than the mere presence of junk items.

I understand and realize that this situation has been the source of a great deal of frustration over many years now, but the authority of this office, or the Town, to act in this situation is limited. Notwithstanding the representations made by predecessors in this office as to whether conditions on the property surpass the threshold of "junkyard" as defined under the Weathersfield Zoning Bylaws, my determination is on the basis of my own observations, the position taken by the State, and independent investigation of your complaint.

Though the Town is limited in its enforcement options in this situation, it is nonetheless my intent to reach out to the landowners once again to request that they undertake to improve conditions at their property. To the extent possible, I am willing to continue working with you and your attorney to try to ameliorate the situation, with the caveat that it is unlikely that I can compel the landowners to take any positive actions.

Please feel free to contact my office if you would like to discuss this further.

Very truly yours,

Sven Fedorow, Land Use Administrator

Exhibit 2

Lewis

Argoien

157 Moore Dr

Ritterhaus

RES

IT 4 ACRES

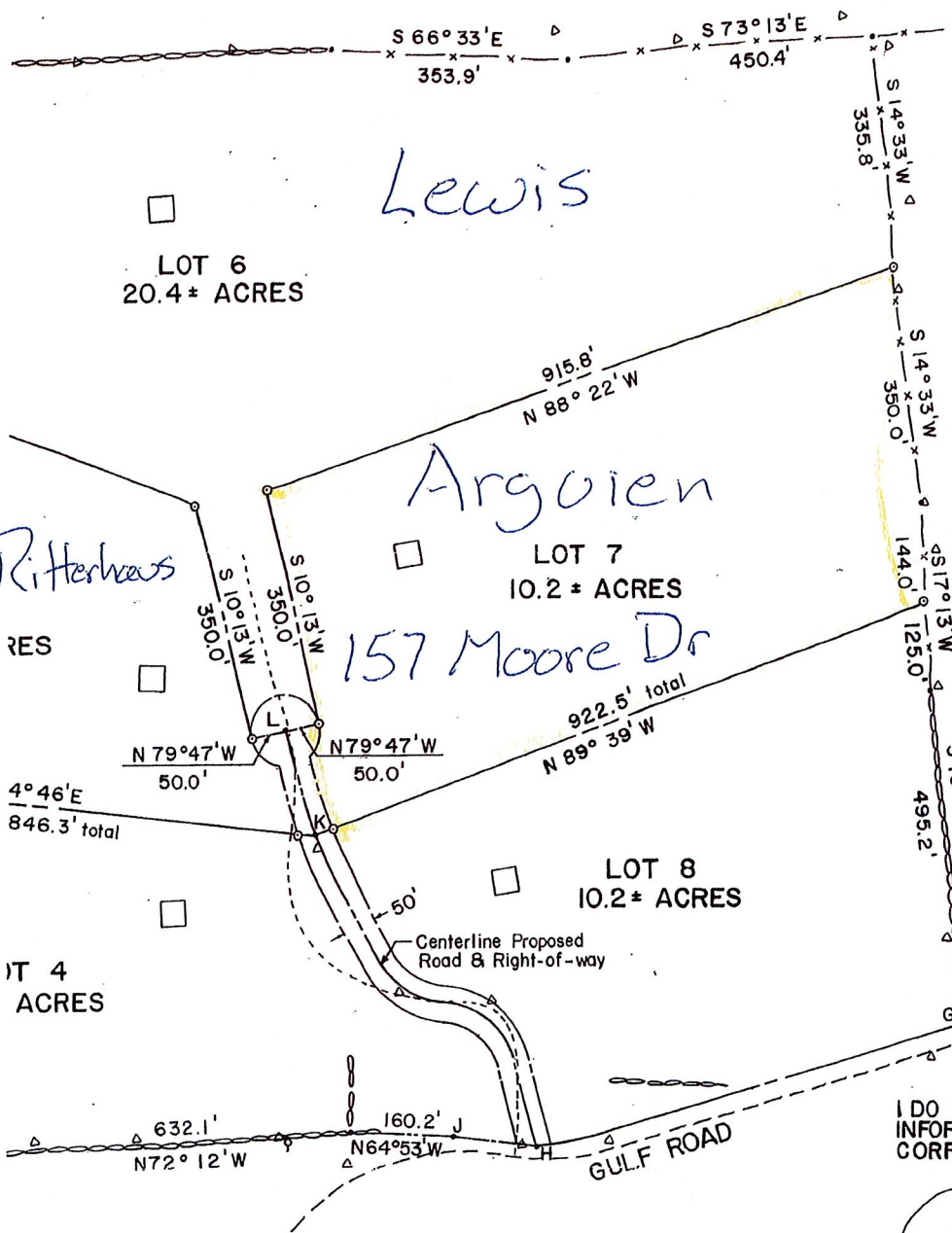
LOT 6  
20.4 ± ACRES

915.8'  
N 88° 22' W

LOT 7  
10.2 ± ACRES

LOT 8  
10.2 ± ACRES

N/F L. & I. TOYE  
(39/147)



I DO HEREBY CERTIFY THIS MAP AND INFORMATION TO BE SUBSTANTIALLY CORRECT

*John M. Bruno*  
VT. L.S. 485

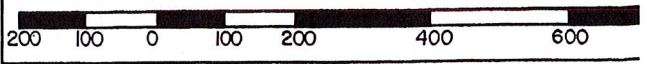
NOTES

- BEARINGS ARE WITH RESPECT TO MAGNETIC NORTH
- PROPERTY IS SUBJECT TO ALL EXISTING EASEMENTS AND RIGHTS-OF-WAY OF RECORD
- BOUNDARIES COMPUTED FROM A CLOSED THEODOLITE AND E.D.M. FIELD SURVEY
- BOUNDARIES BASED ON PHYSICAL EVIDENCE AND THE FOLLOWING INFORMATION;
  - DEED RECORDED IN TOWN OF WEATHERSFIELD LAND RECORDS AS SHOWN (00/00)

RECORDED JUN 12 1983  
@ 1:55 PM  
*Carol A. Daniels*

**BRUNO ASSOCIATES INC. P**  
ENGINEERS, PLANNERS, SURVEYORS  
WOODSTOCK, VERMONT

SUBDIVISION OF LAND IN WEATHERSFIELD WINDSOR COUNTY VERMONT #97 FOR DAVID LEWIS	SURVEYED	DE
	RF & PR	
	DRAWN	CH
	CF	J
SCALE		
1" = 200'		
DATE		
MAY 7, 19		



4

**Barry J. Polidor, P.C.**

*Attorney at Law*  
64 Chester Road  
P.O. Box 279  
Springfield, Vermont 05156

Telephone  
(802) 885-4530

November 20, 2018

Fax  
(802) 885-4531  
E-Mail  
bpolidor@vermontel.net

Vincent Chiorgno  
Environmental Analyst IV  
Salvage Yard Program  
Waste Management & Prevention Division  
State of Vermont DEC  
1 National Life Drive, David 1  
Montpelier, VT 05620-3704

VIA EMAIL: [Vincent.Chiorgno@vermont.gov](mailto:Vincent.Chiorgno@vermont.gov)

Re: Moore Drive Salvage Yard

Dear Mr. Chiorgno,

This is a follow-up to my letter of June 26, 2018 concerning the Moore Drive Salvage Yard. My most recent communication from you was on May 30, 2018 in which you stated that Mr. Barbour had advised you "that he will do what he needs to do to come into compliance".

It is my understanding that the salvage yard rules allow 3 unregistered vehicles and it allows unregistered heavy equipment as long as it is in running condition. In my letter of June 26, 2018, I enclosed photographs of the property which showed **eleven** unregistered, non-running vehicles on the property together with piles of wood, rusted scrap metal, old vehicle seats, tires, oil barrels and other pieces of junk scattered throughout the property.

In July I spoke with Sven Federson the Weathersfield Land Use Administrator. He stated that he and the Town Manager had visited the property and agreed that it was "one of the worst junkyards he had seen." He advised me that he was going to contact you to discuss the possibility of joint action against the owner of the property in State Environmental Court.

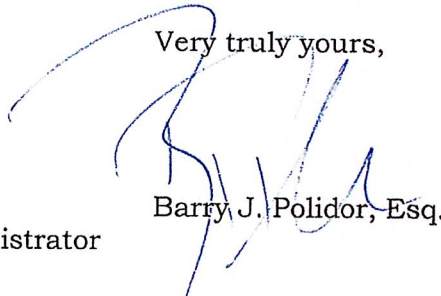
My clients and I heard nothing from either the Town or State concerning their enforcement efforts until a recent letter from the Weathersfield Land Use Administrator which stated that, contrary to prior statements, both he and the State had now concluded "that the threshold of junkyard is not met" at either a state or local level. Needless to say, my clients and I were very surprised by this decision. With at least eleven rusted, inoperable and non-running vehicles and piles of debris this

property appears to match exactly the State (24 V. S. A.2241) and Town (Sec. 7.15) definition of a salvage/junk yard. This decision also contradicts previous Local and State findings. In a letter dated December 20, 2017 the then Land Use Administrator of Weathersfield, Hal Wilkins, advised the landowners that both he and the town attorney agreed that the property "falls under the classification of 'junkyard' - according to the Weathersfield Zoning Bylaws". As stated above, in July the current Administrator advised me that it was "one of the worst junkyards he had seen". In your email to me of January 24, 2018 you stated that you had conducted a site visit with Mr. Barbour and that "I will be working with him for the next several months to bring him in compliance" (emphasis added). In your most recent email of May 30, 2018 you stated that Mr. Barbour had advised you "that he will do what he needs to do to come into compliance" (emphasis added). Both statements appear to imply that the property was, in fact, not in compliance.

My clients have appealed Mr. Federer's decision to the Weathersfield Board of Adjustment. I would appreciate your advising me of the State's position in response to my letter of June 26, 2018.

Thank you.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Barry J. Polidor", is written over the typed name below.

Barry J. Polidor, Esq.

BJP:kr  
Cc. Sven Fedorow, Land Use Administrator  
[landuse@weathersfield.org](mailto:landuse@weathersfield.org)

5



## Sven Fedorow

---

**From:** Chiorgno, Vincent <Vincent.Chiorgno@vermont.gov>  
**Sent:** Thursday, May 23, 2019 7:09 AM  
**To:** Sven Fedorow  
**Subject:** Re: Roberts

The Moore drive case I closed last year. I think their next step with the state, if they didn't like our decision, would be with the environmental court. I'm done with it.

Roberts, I will make arrangements within the next month to meet with the adjoining property owner to try and get a better look at the property as Roberts did not respond to my several attempts to contact him for access.

The musbach name does not ring a bell. Do you want me to make that an official complaint? How many junk cars? Piles of junk? Scrap metal? Have you seen it?

Thanks Vince

Sent from my iPhone

6

## Zoning Board

I Daniel L Barlow have power of attorney  
and thirty years to move sugar house and equipment  
Three times we have been tested on a junkyard  
Mrs DeForest - Mr Wilkins and the state of Vermont  
saying 157 Moore drive is not a junk yard.  
This is number four, so if we here anymore on  
this subject a lawsuit will be filed against the  
town of Weatherfield for harassment. We will not  
be at the meeting. Its the towns job to tell  
him he lost and there is nothing he can do  
about it.

Daniel L Barlow 7-3-19

7



# Town of Weathersfield, Vermont

Land Use Administrator, P.O. BOX 550, ASCUTNEY, VT 05030  
Martin Memorial Hall, 5259 US Route 5  
Telephone: (802) 674-2626 Fax: (802) 674-2117  
Email: [zoning@weathersfield.org](mailto:zoning@weathersfield.org)  
Website: <http://www.weathersfield.org>

April 10, 2013

Daniel L. and Nancy L. Barbour  
58 Olive Street  
Springfield, VT 05156

Re: Parcel 04-02-29.7  
157 Moore Drive

Dear Dan and Nancy,

Please be advised that I have received a complaint of a possible junk yard on your property on Moore Drive. In response to the complaint, I yesterday drove by your property. While I did not find a junk yard as defined by state statute, I write to inform you that the discarded refrigerator I saw on your property is a violation of 13 VSA §1310 (copy enclosed for your reference). Please bring it to the transfer station immediately for proper disposal to avoid formal enforcement proceedings. I also should mention that the pile of tires can become a health hazard if they are allowed to collect rain water in which mosquitoes can breed. Please consider disposing of them properly as well or putting them under cover so that water cannot collect in them.

You appear to be storing various types of goods and materials in the road right of way. The road right-of-way is 50 feet wide according to the survey recording here in the Town Clerk's office. It would be best to move the materials to a place out of the right of way and store them elsewhere on your property.

Sincerely,

*deForest Bearse*

deForest Bearse  
Land Use Administrator  
Deputy Health Officer

Enc.



## Town of Weathersfield, Vermont

Land Use Administrator, P.O. BOX 550, ASCUTNEY, VT 05030

Martin Memorial Hall, 5259 US Route 5

Telephone: (802) 674-2626 Fax: (802) 674-2117

Email: [zoning@weathersfield.org](mailto:zoning@weathersfield.org)

Website: <http://www.weathersfield.org>

April 10, 2013

To: Chief Davies  
From: deForest Barse

Re: Discarded refrigerator

In response to a complaint from an abutting landowner, I drove by the property at 157 Moore Drive. I found an unsecured discarded refrigerator. I have written to the landowner and advised him that the discarded refrigerator is a violation of 13 VSA §1310 (copies attached). I have urged him to bring it to the transfer station for proper disposal. Because of the potential danger posed by this unsecured appliance, I write to ask if you would please be certain that Mr. Barbour (the current landowner) follows through and actually removes it (or at the very least secures it).

The landowners do not live on the property.



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802) 674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

To: Daniel Barbour  
From: Hal J. Wilkins  
Re: Moore Drive, Weathersfield Property  
Date: 13 October 2017

---

Daniel:

A copy of my letter to your neighbors is enclosed for your file.

You'll note that I indicated that some of the items that relate to the sugaring operation would be moved to that location.

Also: I'll check in your file for the date that the barn permit was issued – but suspect that the permit has lapsed. We allow a one-year period for construction completion, then a subsequent year for construction if the town is so notified via a written request.

Absent those actions, I suspect the permit is no longer in effect and strongly suggest that you submit a new application for the barn / accessory structure. I've included a zoning application form for your use.

Please contact the Land Use Office if you have any questions about this matter.

Sincerely,

*Hal Wilkins*

Hal J. Wilkins

Land Use Administrator

HJW/tf

Encls.



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802) 674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

23 October 2017

Mr. Daniel Barbour  
c/o Lillian Arguien  
2031 Weathersfield Center Road  
Springfield, VT 05156

Re: Moore Road Property

Dear Daniel:

I've enclosed for your reference a copy of the 2007 permit for your proposed barn. Please note that this is well out of the time allowed for extension / renewal and a new permit application (the one I mailed to you last week) must be filed.

I strongly recommend that you attend to this immediately.

Call me if you have any questions.

Sincerely,

Hal J. Wilkins  
Land Use Administrator

HJW/tf  
Encls.



**Barry J. Polidor, P.C.**

*Attorney at Law*  
64 Chester Road  
P.O. Box 279  
Springfield, Vermont 05156

Telephone  
(802) 885-4530

Fax  
(802) 885-4531  
E-Mail  
bpolidor@vermontel.net

November 29, 2017

Hal Wilkins  
Land Use Administrator  
Town of Weathersfield  
PO Box 550  
Ascutney VT 05030

RE: Moore Road Junkyard

Dear Hal,

Please be advised that I have been contacted by Nancy and David Lewis concerning the property owned by Lillian Arguien on Moore Drive which borders their 20.4 acres of open land. The Lewis's have requested my opinion as to whether Ms. Arguien's property is in violation of any Town of Weathersfield regulations or ordinances.

It is my understanding that shortly after Ms. Arguien's property was purchased by Daniel Barbour on September 23, 2002, numerous pieces of old rusted, unregistered and junk vehicles, appliances, and tires began appearing on the property. As time went on and more items began appearing on Mr. Barbour's property, the Lewis' spoke with him about his intended use of the property and the need to have the debris removed or stored. Over the years Barbour made numerous claims about his intended use of the property and numerous promises to clean it up. However, instead of removing or storing the debris Barbour continued to use the property as his own private landfill for rusted, unregistered vehicles, old appliances, tires and other items of junk.

In 2013 after over ten years of broken promises, the Lewis' contacted the Town about Mr. Barbour's property. Despite photographs showing piles of discarded tires, appliances an old rusted bulldozer and other debris scattered throughout the property, amazingly the only item that appears to have concerned the then-Land Use Administrator and Deputy Health Officer was a discarded refrigerator.

Since the Lewis' 2013 complaint the number of items of discarded materials, tires, unregistered vehicles, junk and debris stored on the property has increased. On January 12, 2016 Barbour conveyed title to the property to Lillian Arguien. However it is the Lewis' belief that the items stored on the property still belong to Mr. Barbour.

It is my opinion that Ms. Arguien's property is in violation of Town of Weathersfield Ordinances and Regulations in that constitutes a health hazard and is being used as a junkyard without the necessary permits.

Weathersfield Zoning Regulations define a junkyard as:

“Junkyard: A yard for the deposit, storage, or resale of any junk or discarded materials, machinery, or vehicles; whether or not in connection with any other commercial activity.”

The enclosed photos clearly demonstrate that the property is being used to store discarded construction materials, unregistered and junk vehicles (including an old ambulance, bulldozer, panel truck and boat) scrap metal, tires and other debris. Because the property is being used as a “junkyard” or “private landfill” without obtaining site plan approval, conditional use approval, or a Certificate of Occupancy, the owner is in violation of Weathersfield Regulation 7.15.

I understand from the Lewises that the Town has raised several issues as to whether Ms. Arguien’s use of the property constitutes a “junkyard” within the regulation definition. One issue is whether any of the articles on the property are “for sale”. The regulation does not require that the items be “for sale”. “Storage” and/or “deposit” are sufficient. Another issue is the claim that the items are to be used in a maple sugaring or other commercial enterprise. The regulation is clear that it is irrelevant “whether or not” the items on the property are to be used in a commercial activity.

A final issue is whether the vehicles on the property are “operational”. This regulation does not require the vehicles to be non-operational. Even if it did, I would question whether the “Westfield Mass” ambulance, old panel truck (with no cab) or other vehicles shown in the enclosed photos are “operational”.

Apparently in 2007 the then-owner Daniel Barbour submitted a Zoning Application for a barn and a sugar house on the property. The Permit required the improvements to be completed within five years. As with other promises made by Mr. Barbour over the years, this was never fulfilled and the permit has expired.

Based on the fact that Ms. Arguien’s Moore Road property is in violation of Town Regulations the Lewis’ request that the Town notify her of the violation and impose the appropriate fine, injunction or other penalty as provided by law.

Very truly yours,

Barry J. Polidor, Esq.

BJP:kr  
Enclosures

**Barry J. Polidor, P.C.**

*Attorney at Law*  
64 Chester Road  
P.O. Box 279  
Springfield, Vermont 05156

Telephone  
(802) 885-4530

Fax  
(802) 885-4531  
E-Mail  
bpolidor@vermontel.net

December 15, 2017

Mr. Shawn Donovan  
Vermont Salvage Yard Program  
1 National Life Drive  
Davis 1  
Montpelier VT 05620

Re: Town of Weathersfield Salvage Yard

Dear Mr. Donovan,

Please be advised that I represent Nancy and David Lewis and Ashley Ritterhaus in connection with their property on Moore Drive which is off Gulf Road in Weathersfield. According to the Lewises and Ms. Ritterhaus, since approximately 2002, Daniel Barbour has operated a salvage yard/junkyard on his property on Moore Drive. (The property is currently owned by Lillian Arguien who is, upon information and belief, Mr. Barbour's girlfriend). Since Mr. Barbour purchased the property (which contains no buildings) in 2002 he has been storing numerous pieces of old, rusted, unregistered and junk vehicles, appliances and tires on the property. Over the years, the Lewises have spoken with Mr. Barbour and filed complaints with the Town of Weathersfield. Mr. Barbour has made numerous claims about his intended use of the property and numerous promises to clean it up. However, instead of removing or storing the debris, Barbour has continued to use the property as his own private landfill for rusted, unregistered vehicle, old appliances, tires and other items of junk.

Barbour's use of the property certainly fits within the definition of a salvage yard set forth in 24.V.S.A.2241.

I am enclosing a copy of a letter and photographs I recently delivered to Hal Wilkins, Town of Weathersfield Land Use Administration. In speaking with Hal, I advised him that I was going to contact the State as to continue operating a salvage

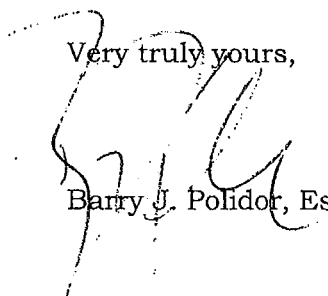
yard, Mr. Barbour will need local permits (including a Certificate of Approved Location) as well as a Certificate of Registration from ANR.

The Lewises and Ms. Ritterhaus appreciate the State investigating this matter and requiring Mr. Barbour and Ms. Arguien to remove the junk and debris from their property and discontinue its use as a salvage yard without obtaining the required State and Municipal Permits.

Please contact me if you have any questions or if my clients or I can provide you any additional information.

Thank you very much.

Very truly yours,

  
Barry J. Polidot, Esq.

BJP:sss

Enclosures

cc: Hal Wilkins, Land Use Administration, Town of Weathersfield



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802) 674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

20 December 2017

Lillian Arguien  
Daniel Barbour  
2031 Weathersfield Center Road  
Springfield, VT 05156

Re: Moore Road Property

Lillian, Daniel:

We have been informed by counsel to your neighbors that they believe your property falls under the classification of "junkyard" - according to the Weathersfield Zoning Bylaws....and the town attorney is in agreement.

I have been asked to issue a Notice of Violation and will do so late next week. The intervening time is available to you to remove the items that classify your use of the Moore Road property as operating a junkyard.

I have enclosed the relevant sections of the town's zoning bylaws for your reference.

If you have any questions, please contact me at the Town Office.

Sincerely,

Hal J. Wilkins  
Land Use Administrator

HJW/tf  
Encls.  
CC: Town Attorney

**bpolidor@vermontel.net**

---

**From:** Chiorgno, Vincent <Vincent.Chiorgno@vermont.gov>  
**Sent:** Wednesday, January 03, 2018 10:14 AM  
**To:** bpolidor@vermontel.net  
**Subject:** Moore road property

Mr. Polidor,

I am investigating the complaint on Moore road in Weathersfield. Can you tell me how many vehicles are on the property and could you email me the pictures?

Thank you

**Vincent Chiorgno**  
Environmental Analyst IV  
Salvage Yard Program  
Waste Management & Prevention Division  
State of Vermont DEC

1 National Life Drive, Davis 1  
Montpelier, VT 05620-3704  
Phone: 802-522-0245  
<http://dec.vermont.gov/waste-management/salvage-yards>

**VERMONT** *Agency of Natural Resources*

**bpolidor@vermontel.net**

---

**From:** bpolidor@vermontel.net  
**Sent:** Wednesday, January 03, 2018 4:34 PM  
**To:** 'Chiorgno, Vincent'  
**Cc:** 'nhlewis@comcast.net'  
**Subject:** RE: Moore road property  
**Attachments:** Moore Road photos.pdf

Mr. Chiorgno,

Attached are the Moore Drive photographs. When the photos were taken (in November) there were at least six vehicles on the property; paneled delivery truck (with engine missing); old bulldozer; old tow truck; old tractor; motorboat; and old ambulance with "Wakefield, Mass" sign on the side. The property contains other debris, including tires and what appears to be the chassis of a motor vehicle.

Please let me know if you require anything further from me at this time.

Thank you very much.

Barry J. Polidor, Esq.  
Barry J. Polidor, PC  
PO Box 279 | 64 Chester Road  
Springfield VT 05156  
(802) 885-4530  
bpolidor@vermontel.net

**From:** Chiorgno, Vincent [mailto:Vincent.Chiorgno@vermont.gov]  
**Sent:** Wednesday, January 03, 2018 10:14 AM  
**To:** bpolidor@vermontel.net  
**Subject:** Moore road property

Mr. Polidor,

I am investigating the complaint on Moore road in Weathersfield. Can you tell me how many vehicles are on the property and could you email me the pictures?

Thank you

Vincent Chiorgno

**bpolidor@vermontel.net**

---

**From:** Chiorgno, Vincent <Vincent.Chiorgno@vermont.gov>  
**Sent:** Wednesday, January 24, 2018 11:01 AM  
**To:** bpolidor@vermontel.net  
**Subject:** Barbour complaint

Mr. Polidor,

I conducted a site visit at Mr. Barbour's property on January 11<sup>th</sup>. I will be working with him for the next several months to bring him into compliance. The process is typically slower with removal of vehicles in the winter months so we may not see much happen until after mud season.

Thank you,

**Vincent Chiorgno**  
Environmental Analyst IV  
Salvage Yard Program  
Waste Management & Prevention Division  
State of Vermont DEC

1 National Life Drive, Davis 1  
Montpelier, VT 05620-3704  
Phone: 802-522-0245  
<http://dec.vermont.gov/waste-management/salvage-yards>

**VERMONT** Agency of Natural Resources

Forward to  
Lewis

For your information  
attached is a letter  
I have received from  
the State of Vermont.  
We'll see what  
progress (if any) the  
State makes in  
having him clean up  
his property.



Subject **Fwd: RE: Barbour complaint**  
From bpolidor <bpolidor@vermontel.net>  
To <nhlewis@comcast.net>  
Date 2018-05-30 16:47

Attached please find an email I have received from the State Salvage Yard Program.

-----  
Barry J. Polidor, Esq.  
PO Box 279 | 64 Chester Road  
Springfield VT 05156  
(802) 885-4530 | [bpolidor@vermontel.net](mailto:bpolidor@vermontel.net)  
-----

----- Original Message -----

**Subject:**RE: Barbour complaint  
**Date:**2018-05-30 09:39  
**From:**"Chiorgno, Vincent" <Vincent.Chiorgno@vermont.gov>  
**To:**"bpolidor@vermontel.net" <bpolidor@vermontel.net>

Mr. Polidor,

I received an email from Ms. Lewis but will only respond to the complainant which is you. Mr. Barbour stated to me that he will do what he needs to do to come into compliance with the state. I plan on meeting with him at the property within the next 30 days. I spoke to him by phone recently and he did state he is already in the process of having a few removed. Please be reminded that the salvage yard rule allows 3 unregistered vehicles on the property. He can also keep unregistered heavy equipment on the property as long as it is in running condition. I will have a better idea on the status of the property after my site visit as the preliminary visit was done in the winter under a cover of snow.

Thank you

Vince Chiorgno

**From:** Chiorgno, Vincent  
**Sent:** Wednesday, January 24, 2018 11:01 AM  
**To:** 'bpolidor@vermontel.net' <bpolidor@vermontel.net>  
**Subject:** Barbour complaint

Mr. Polidor,

I conducted a site visit at Mr. Barbour's property on January 11<sup>th</sup>. I will be working with him for the next several months to bring him into compliance. The process is typically slower with removal of vehicles in the winter months so we may not see much happen until after mud season.

Thank you,

Vincent Chiorgno

Environmental Analyst IV

Salvage Yard Program

Waste Management & Prevention Division

State of Vermont DEC

1 National Life Drive, Davis 1

Montpelier, VT 05620-3704

Phone: 802-522-0245

<http://dec.vermont.gov/waste-management/salvage-yards>

cid:image003.png@01CE2548.232392D0

**VERMONT** *Agency of Natural Resources*

## Zoning Board of Adjustment

June 27, 2019

### Draft Meeting Minutes

1. Introductions

Board members present at the meeting were Willis Wood, Todd Hindinger, James Cahill, and John Broker Campbell. Sven Fedorow, land use administrator, was also in attendance.

Jeff Spurr was the only audience member.

Prior to the meeting, there was a site visit at 6:30 PM at 4215 Route 106. All of the above listed Board members attended, as did Sven Fedorow, and Jeff Spurr.

2. Call to order

Willis Wood called the meeting to order at 7:12 PM.

3. Conditional Use Hearing: Jeff Spurr at 4215 Route 106 (Parcel ID 070212) to seek a conditional use permit

Willis Wood opened the hearing at 7:13 PM by reading the Warning. The Board has no exparte communication nor conflict of interest. Todd Hindinger stated that Jeff Spurr has done work on his vehicles in the past, but feels that he can be fair. Jeff Spurr has no concerns with Todd Hindinger. Jeff Spurr affirmed. Jeff Spurr has interested party status.

Sven Fedorow stated that Jeff Spurr would like to add an additional self-storage building (30 ft by 170 ft) and an outdoor storage area (40 ft by 70 ft). There are currently two existing self-storage units. Sven Fedorow stated that outdoor storage is not defined in the Bylaws. His view on the intention of the Bylaws is to prevent on street parking. The parked vehicles in the outdoor storage are not connected to the storage units.

Exhibit # 1 is the packet which contains the Warning, application which has a sketch plan, Resources Atlas of Natural Resources, previous conditions dated October 23, 2012 by the Zoning Board, complaint/request for investigation dated July 24, 2013, testimony from Mr. Spurr to the Zoning Board dated September 29, 2014 with a sketch plan, letter dated October 28, 2014 from Jeff Spurr to Jacalyn Fletcher (Court Manager for the Vermont Environmental Court), a letter from Charles Wise (Zoning Administrator) dated February 25, 2015 to Jeff Spurr, an email from Charles Wise (Zoning Administrator) dated February 25, 2015 to Jeff Spurr, and a sketch plan dated June 15, 2015.

Exhibit #2 was an email from Nate Stearns, Town Attorney, dated June 26, 2019 to Sven Fedorow.

Jeff Spurr wanted to know if there were any complaints. He has not heard of any. Sven Fedorow stated that there were no responses from any of the abutters. They were notified.

Willis Wood went over Exhibit #2. Sven Fedorow stated that each storage unit and storage area will be independent. He views the parcel as a whole. The outdoor storage area cannot exceed 20% according to the Bylaws (7.23H). He stated that a Federal case stated that if there is any ambiguity, it should favor the applicant.

Jeff Spurr stated he implied that in his letter to the Environmental Court in 2014. Some vehicles will stay there for a time. He has ones there now that he can't get rid of due to lack of title. The outdoor storage area will be open. He has a vehicle currently there that has been there for two winters. The Court never made a decision. There was a hearing, but they wanted the Town and I to try and settle it ourselves. He wanted to know if the stipulations that happened before are still in effect. Todd Hindinger stated that the Board will look at the previous list of Board recommendations and go from there. Only the ones that are applicable will apply.

Jeff Spurr stated that the outdoor storage area will be for repair shop vehicles, his vehicles, and sometimes Asplundh tree vehicles. John Broker Campbell stated that the Board will ask questions now in regards to this and then go into a deliberative session. He would like to see an area designated for outdoor storage. He also stated that the area is at the maximum threshold now and the Board needs to make sure that it stays within that size. Jeff Spurr wanted to know what the Board is protecting. John Broker Campbell stated the Bylaws.

Jeff Spurr stated the parking area has always been sour with him. The other morning there were a dozen power trucks at Jiffy Mart and the Board is concerned with him. He could paint a line on the dirt, but does not want to put poles down due to snow plowing. The majority of the cars that are currently there will be gone. He stated next year there won't be a car up there unless he have to keep it there.

John Broker Campbell stated Jeff Spurr needs to know the Board's expectation and Sven Fedorow will enforce it. He stated that he would be comfortable with it being painted and being kept painted. He would be more comfortable having a condition that it not exceed 40 ft by 70 ft. Sven Fedorow stated that it was his idea to have it 40 ft by 70 ft. He wanted to give Jeff Spurr the biggest area possible. It only could be closer to the north setback.

Todd Hindinger stated that people going to the storage units can currently drive most anywhere. Jeff Spurr could mark out the parking lot and roads. The leftover area would then be the outdoor storage area. Jeff Spurr wanted to know the Board's thoughts on screening with trees. Todd Hindinger stated that he saw small trees on the south side, forest on the north

side, and woodland to landscape bushes. In 2015, the front showed big trees. Jeff Spurr stated that there were no trees on the front side. He would like no changes for landscaping. It is a business and needs to be visible. The front area has underground power lines and rocks. The highway is below surface level. It is in the business district. Some screening could hide it and he could end up with break-ins. Willis Wood stated that there is screening between the restaurant and your property line. Some of those bushes are dying. Due to the restaurant, there should be better screening on the northern boundary, like a hedge or fence. James Cahill stated that he saw no soil there at the site visit. Jeff Spurr stated that it is only gravel.

John Broker Campbell stated that the middle bushes are good on the northern side. Junkyards are prohibited in highway commercial. He wanted to know how the Board would ensure that this does not turn into a junkyard. Sven Fedorow stated that there is a State threshold that has to be met. There has to be three or more unregistered vehicles. He stated that the State has a 27 page document in regards to salvage yard rules. He would have to go to the State for clarification.

Jeff Spurr stated that he does not look for these cars. They end up there. He brings three to four vehicles to the scrap yard per year. He usually only has one to two vehicles per day visit the storage units with more on the weekends.

Willis Wood went over the site plan review. He stated that he is comfortable with the front and sides in regards to screening, but nervous about the north side. If someone is sitting at the picnic table, the storage unit is 50 feet away. Jeff Spurr stated that it is mostly gravel and he has had no problems with water drainage. The bushes on the north side were there when he purchased the property. John Broker Campbell stated that the Bylaw, 7.5B, states about screening and the bushes serve that purpose now.

Sven Fedorow stated that screening is meant to break up the view. It does not need to be 100% (complete screening). It just needs to be adequate screening. Jeff Spurr stated that another building won't make it worse. He thought what is there is adequate.

Todd Hindinger commented about the performance standards. He wants to make sure that there is no oil leaking from the vehicles in the outdoor storage area. Jeff Spurr stated that it could, but he is diligent that it doesn't. Todd Hindinger stated that the correspondence says cut off lighting. There could be a box around it so that it shoots down, not up and around. The current lighting there is not restricted. Jeff Spurr stated that the current lights come on at dusk and shut off in the am. It is primarily for security purposes. The storage units are used twenty-four hours a day. He will be putting up a sign that meets the Bylaw's requirements with a light on top shining down. James Cahill stated that there was a letter from Chuck Wise in regards to the lighting that was sent to Jeff Spurr.

John Broker Campbell made a motion to close the hearing at 8:30 PM. James Cahill seconded it. All were in favor of closing the hearing.

4. Approval of Minutes – 11 April 2019

James Cahill made a motion to approve the minutes of April 11, 2019 as corrected. John Broker Campbell seconded it. All were in favor of approving the minutes.

5. Other new business/comments

Sven Fedorow reminded the Board of an upcoming site visit on July 11, 2019 and to be prepared for ticks. The Board discussed how meetings should be run and to follow Robert's Rule of Order.

6. Adjournment

John Broker Campbell made a motion to adjourn at 9:02 PM. James Cahill seconded it. All were unanimous to adjourn the meeting.

Respectfully submitted,  
Diana Stillson

# Appendix

### **7.15 Junkyards, Scrap Materials, Recycling Facilities, and Landfills (privately owned)**

No person shall construct or operate a junkyard, recycling facility, landfill, or similar facility, without first obtaining site plan approval and Conditional Use approval from the Board of Adjustment, a Certificate of Occupancy, and the necessary State permit. The Board of Adjustment must consider the protection of the public welfare and may attach such conditions as it finds necessary to do so. The Board of Adjustment may also deny a permit when in its determination it finds that the addition of the proposed facility would adversely affect the neighborhood or the Town in terms of public health, safety, and/or welfare.

**Junkyard:** A yard for the deposit, storage, or resale of any junk or discarded materials, machinery, or vehicles; whether or not in connection with any other commercial activity.



# **Title 24 : Municipal And County Government**

## **Chapter 061 : Regulatory Provisions; Police Power Of Municipalities**

### **Subchapter 010 : Salvage Yards**

**(Cite as: 24 V.S.A. § 2241)**

- **§ 2241. Definitions**

For the purposes of this subchapter:

- (1) "Abandoned" means a motor vehicle as defined in 23 V.S.A. § 2151.
- (2) "Board" means the State Transportation Board or its duly delegated representative.
- (3) "Highway" means any highway as defined in 19 V.S.A. § 1.
- (4) "Interstate or primary highway" means any highway, including access roads, ramps, and connecting links, which have been designated by the State with the approval of the Federal Highway Administration, Department of Transportation, as part of the National System of Interstate and Defense Highways, or as a part of the National System of Primary Highways.
- (5) "Junk" means old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof.
- (6) "Junk motor vehicle" means a discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or a motor vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days from the date of discovery.
- (7) "Salvage yard" means any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. "Salvage yard" also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.
- (8) "Legislative body" means the city council of a city, the selectboard of a town, or the board of trustees of a village.
- (9) "Main traveled way" means the portion of a highway designed for the movement of motor vehicles, shoulders, auxiliary lanes, and roadside picnic, parking, rest, and observation areas and other areas immediately adjacent and contiguous to the

traveled portion of the highway and designated by the Transportation Board as a roadside area for the use of highway users and generally but not necessarily located within the highway right-of-way.

(10) "Motor vehicle" means any vehicle propelled or drawn by power other than muscular power, including trailers.

(11) "Notice" means by certified mail with return receipt requested.

(12) "Scrap metal processing facility" means a manufacturing business which purchases sundry types of scrap metal from various sources including the following: industrial plants, fabricators, manufacturing companies, railroads, junkyards, auto wreckers, salvage dealers, building wreckers, and plant dismantlers and sells the scrap metal in wholesale shipments directly to foundries, ductile foundries, and steel foundries where the scrap metal is melted down and utilized in their manufacturing process.

(13) "Secretary" means the Secretary of Natural Resources or the Secretary's designee.

(14) "Automobile hobbyist" means a person who is not primarily engaged in the business of:

(A) selling motor vehicles or motor vehicle parts; or

(B) accepting, storing, or dismantling junk motor vehicles.

(15) "Automobile graveyard" means a yard, field, or other outdoor area on a property owned or controlled by a person and used or maintained for storing or depositing four or more junk motor vehicles. "Automobile graveyard" does not include:

(A) an area used by an automobile hobbyist to store, organize, restore, or display motor vehicles or parts of such vehicles, provided that the hobbyist's activities comply with all applicable federal, State, and municipal law;

(B) an area used for the storage of motor vehicles exempt from registration under 23 V.S.A. chapter 7;

(C) an area owned or used by a dealer registered under 23 V.S.A. § 453 for the storage of motor vehicles; or

(D) an area used or maintained for the parking or storage of operational commercial motor vehicles, as that term is defined in 23 V.S.A. § 4103(4), that are temporarily out of service and unregistered but are expected to be used in the future by the vehicle operator or owner.

# **Title 23 : Motor Vehicles**

## **Chapter 021 : Title To Motor Vehicles**

### **Subchapter 007 : Abandoned Motor Vehicles**

**(Cite as: 23 V.S.A. § 2151)**

- **§ 2151. Definitions**

As used in this subchapter:

(1)(A) "Abandoned motor vehicle" means:

(i) a motor vehicle that has remained on public or private property or on or along a highway for more than 48 hours without the consent of the owner or person in control of the property, and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or

(ii) a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for any period of time if the vehicle does not have a valid registration plate or the public vehicle identification number has been removed, destroyed, or altered.

(B) "Abandoned motor vehicle" does not include a vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner that does not interfere with the normal movement of traffic.

(2) "Landowner" means a person who owns or leases or otherwise has authority to control use of real property.

(3) "Public vehicle identification number" means the public vehicle identification number which is usually visible through the windshield and attached to the driver's side of the dashboard, instrument panel, or windshield pillar post or on the doorjamb on the driver's side of the vehicle. (Added 2003, No. 101 (Adj. Sess.), § 1; amended 2015, No. 158 (Adj. Sess.), § 77.)

#### **4.3.2(e) Conservation (C-10)**

**Purpose:** Areas in which sparse development is wise for one or more of the following reasons: remote from roads or utility services; location of scarce mineral resources, prime agricultural or forested land, significant or irreplaceable natural, historic, recreational or scenic resources; slope elevations exceeding 25%; land over 1,500 feet in elevation; severe soil limitations; risk of flooding; or flood ways need.

**Uses that do not require a Zoning Permit:** The following uses are permitted without a Zoning Permit, provided that these uses are in compliance with these Bylaws:

- Agriculture/Forestry (see Sect. 6.10.8)
- Baby-sitting service (see Sect. 7.13)
- Minor structures (see definitions)
- Temporary signs

**Permitted Uses:** The following uses are permitted following the issuance of a Zoning Permit by the Adm. Officer:

**Permitted Principal Uses:**

- Group home
- Single family dwelling (must not defeat purpose of the District)
- Two family dwelling (altered from pre-existing single family dwelling, if no enlargement of structure; no new construction)

**Permitted Accessory Uses:**

- Accessory dwelling unit (see Sect. 6.9.1)
- Accessory use or structure
- Adult day care service (see Sect. 7.13)
- Athletic structures
- Bed and Breakfast (up to 3 bedrooms for transient boarders/tourists)
- Family child care home (see Sect. 7.13)
- Home occupations
- Ponds (see Sect. 6.10.4)
- Seasonal roadside stand (see Sect. 7.11)
- Signs, permanent
- Swimming pool (in ground or aboveground)

**Conditional Uses:** The following uses are permitted upon the granting of Conditional Use Approval by the Board of Adjustment:

**Conditional Principal Uses:**

- Adult day care facility <sup>1,3</sup> (see Sect. 7.13)
- Campground, resort, children's camp<sup>1,3</sup>
- Cemetery
- Church (See Semi-public)
- Contractor's storage <sup>1,3</sup> (materials, machinery, heavy equipment)
- Family child care facility <sup>1,3</sup> (see Sect. 7.13)
- Inn/small hotel <sup>1,3</sup> (see definitions; must not defeat purpose of the District)
- Medical facility <sup>1,2,3</sup> (see definitions)
- Extraction of earth resources <sup>1,2,3</sup> (Site Plan Review)
- Outdoor recreation facility <sup>1,2,3</sup> (see definitions, must not defeat the purpose of the District)

#### 4.3.2(e) Conservation (cont.)

- Public water, sewage treatment plant <sup>1,2,3</sup>
- School <sup>1,2,3</sup>
- Semi-public <sup>1,2,3</sup>
- Other uses (as determined after public hearing, by the Board of Adjustment, to be of a similar type and character as those listed above and meeting the purposes of this District)

#### **Conditional Accessory Uses:**

- Dock
- Home industry
- Wireless Communication Facilities <sup>2,3</sup>
- Single family PRD <sup>1,2,3</sup>

**Uses Not Permitted:** The following uses are not permitted within this District:

- Gasoline/service station
- Highway Commercial
- Indoor recreational facility
- Industrial
- Junkyard, landfill, recycling facility (privately owned)
- Mobile home park
- Two family dwelling (new construction)
- Multi-family dwelling or PRD
- Non-highway Commercial
- Small enterprise
- Self-Storage Facility (*effective July 9, 2012*)

#### **Area, Land, & Structural Requirements:**

1. Only one principal use is allowed per parcel of land.
  2. Each principal use requires at least the minimum lot area and minimum required frontage specified for the district in which it is located.
  3. Establishment of multiple principal uses on a single parcel of land requires a PUD permit.
- Soil or terrain conditions may require larger lot sizes to satisfy Town or State public health regulations; the burden of proof of soil suitability and terrain is on the applicant.

#### **Lot Area Minimum:**

Basic District Requirement: 10 acres (the owner(s) of record prior to January 4, 1994, of a lot containing at least 6 acres and less than 20 acres and which lot, under the prior bylaws was in RRR 3-5 District, shall be permitted to subdivide said lot into 2 lots, provided both lots meet the town subdivision and zoning requirements)

Two family dwelling (altered from pre-existing single family dwelling): 2 acres (more may be required to provide a proper sewage disposal system)

**Lot frontage and setbacks:** Applies for all uses unless increased by the Board of Adjustment as a condition to help a conditional use avoid defeating the purpose of the District.

Frontage	200 feet
Front Setback	40 feet
Rear Setback	50 feet
Side Setback	50 feet

#### **Building Height:**

Maximum building height: 35 feet (*Amended 6/11/2012*)

<sup>1</sup> Site Plan Review required

<sup>2</sup> General/Special Provisions apply

<sup>3</sup> Certificate of Occupancy required