

**TOWN OF PROCTOR
Zoning Board of Adjustment
Appeal Hearing
Minutes for 2/2/2023**

6:05 PM: Motion to recess into the ZBA duly warned appeal hearing made my Tom Doty; Seconded by Dale Christie. Unanimously Approved.

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding was to hear and collect evidence for the appeal regarding a notice of violation for unpermitted temporary structures located at 31 North Street.
2. The Notice of Violation was delivered to Frank Beyette on December 20, 2022. His appeal is dated December 28, 2022.
3. The notice of a public hearing for the appeal was warned in the January 14, 2023 edition of the Rutland Herald
4. The notice of a public hearing was posted on January 14, 2023 at the following locations
 - a. The Proctor Town Clerk's Office
 - b. Proctor Post Office
 - c. Proctor Free Library
5. A copy of the notice of a public hearing was mailed on January 13, 2023 to the applicant and the abutting property owners listed below:
 - a. Kim Ferguson
 - b. Frank Beyette
 - c. VT Re Development LLC
 - d. Omya
 - e. Joseph Farley
 - f. Karen Duncan
 - g. William Purcell
 - h. Rose Pinciotti
 - i. Proctor Gas
 - j. Vanessa Anderson
6. The evidence for the appeal was reviewed and considered by the Zoning Board of Adjustment at a duly warned public hearing on February 2, 2023.
7. Present at the hearing was Frank Beyette, Rey Beyette, Anthony Preston, Michael Ramsey, Vanessa Anderson, Grant Reynolds, Morgan Granger, and the following members of the Zoning Board of Adjustment
 - a. Carol Protivansky, Chair
 - b. Dale Christie
 - c. Tom Doty
 - d. Thomas Hogan
 - e. Phil Anderson
8. At the outset of the hearing, the Zoning Board of Adjustment afforded an opportunity for persons wishing to achieve status as an interested person under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that subsection are met.

9. During the course of the hearing the following exhibits were submitted to the Zoning Board of Adjustment:

- a. Notice of Violation Letter
- b. Request for an appeal
- c. Letter from Judy Taranovich
- d. Property Card for 31 North Street

These exhibits are available at: Proctor Town Office, 45 Main Street, Proctor, VT 05765

10. Testimony:

Mr. Beyette to the ZBA: The shipping containers are being rented for projects offsite and rotate on and off the lot regularly. They do not house any storage while located at 31 North Street.

Mr. Anderson to Mr. Beyette: According to the definition in the bylaws, these are not temporary structures and there appears to be no grounds for a violation in regards to temporary structures.

Mr. Doty to Mr. Beyette: If you are testifying that these units are neither temporary or permanent, then is the lot operating as a contractor's yard or something similar? What is the use?

Mr. Beyette in respond to Mr. Doty: It was not a problem when the North Street bridge project was storing material on the lot, so why is there a problem now?

Ms. Anderson to the ZBA: There appears to be junk on the lot.

Mr. Reynolds to the ZBA: The units are locked so people cannot enter them.

Mr. Hogan to Mr. Beyette: There are RVs stored on the lot. What about them?

Mr. Beyette in response to Mr. Hogan: The RVs belong to my son.

Mr. Christie to Mr. Beyette: In response to our findings, are you willing to work with the BZA/Planning Commission to ensure there is proper screening or that a site development plan is prepared in accordance with the Proctor Zoning Bylaws?

Mr. Beyette in response to Mr. Christie: Yes. I was going to put up a fence before I was stopped.

6:20 PM: Motion to enter back into regular scheduled Planning Commission Meeting made by Tom Doty, Seconded by Tom Hogan. Unanimously approved.

6:45 PM: Motion to recess into the ZBA duly warned appeal hearing made my Tom Doty; Seconded by Dale Christie. Unanimously Approved.

Motion to enter deliberative session pursuant of 1 V.S.A §312(f) to weigh, examine, and discuss the reasons for or against the appeal filed by Frank Beyette regarding Shipping Containers being stored at 31 North Street.

11. Findings: *Any action or decision of a Planning Commission or Board of Adjustment shall be taken by the concurrence of a majority of the members. In accordance with 24 VSA §4464(b), the Board or Commission shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day. In addition: All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Article XI. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements. In rendering a decision in favor of the applicant, the Planning Commission or Board of Adjustment may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of 24 VSA Chapter 117, these regulations, and the municipal plan currently in effect. This may include, as a condition of approval: the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the Proctor Selectboard, which may be extended for an additional three-year*

period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval. All decisions of a Planning Commission or Board of Adjustment shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Town Clerk as part of the public record of the municipality.

7:05: Motion to exit deliberative session and adjourn the meeting of the ZBA made by Tom Doty, Seconded by Dale Christie. Unanimously approved.