

**Town of Pomfret
Selectboard Meeting Agenda
Town Offices
5218 Pomfret Road, North Pomfret 05053
August 2, 2023, 7:00 pm**

Zoom instructions below

Business Items	
1. Call to Order	7:00 pm
2. Agenda Review	
3. Public Comment	
4. Road Foreman's Report	7:05 pm
5. Items for Discussion or Vote a. Foliage Traffic Management b. Stage Road Traffic Study/Traffic Ordinance Amendment c. Large Event Permit Application (589 Stage Road) d. FY 2024 Town Tax Rates e. Purchasing Policy Authorization Thresholds f. Dog Ordinance Matters/Delinquent Dog Licenses g. Broad Brook Road Zoning Matter h. Warrants i. Approval of Minutes	7:30 pm
6. Meeting Wrap Up a. Correspondence b. Review of Assignments c. Agenda for Next Meeting	
7. Adjournment	
<i>Time frames are approximate. Members of the public wishing to attend for specific business items are encouraged to arrive before the time indicated.</i>	

Zoom Instructions

- Computer or Smartphone <https://zoom.us/j/95395079923?pwd=ZjBEeDZuZWgvWmx2M0tpOE8zbjg2dz09>
- Mobile Phone +19292056099,,95395079923#,,#,306922#
- Landline or Mobile Phone (301) 715 8592, followed by Meeting ID 953 9507 9923 and Password 306922



TOWN OF POMFRET, VERMONT

SELECTBOARD

Draft – July 17, 2023

To: The Pomfret Community
From: Town of Pomfret Selectboard
Date: [July 17_], 2023
Subject: Cloudland Road 2023 Foliage Season Traffic Management

I. Introduction

This memorandum summarizes steps the Town of Pomfret will take to manage and ameliorate traffic issues during the 2023 Foliage Season (as defined below) along the portion of Cloudland Road (TH #5) near Sleepy Hollow Farm (3429 Cloudland Road) and Barber Hill Road.

Foliage season traffic in this area has steadily increased during the last several years, causing significant safety, environmental, aesthetic, and quality of life issues. The steps summarized in this memo are part of a comprehensive effort, in coordination with area residents, to address these issues on the ground, through dialogue with local government partners, and on social and in other news media.

For the purposes of this Plan, the 2023 Fall Foliage Season,¹ is defined as Saturday, September 16 through Sunday, October 22. The three phases of the plan (signage, road closures, and policing) are outlined below.

II. Temporary Road Closures

From [Friday, September 22] through [Sunday, October 22], 2023 Season”) both Cloudland Road and Barber Hill Road will be closed to through traffic.

Individuals engaged in the activities described in 24 V.S.A. 4413(d)(1) may continue to travel on Cloudland Road and Barber Hill Road for those purposes.²

The residents of Cloudland Road and Barber Hill Road and their guests or tenants may continue

¹ **Note to Selectboard:** Columbus Day is Monday, October 9, 2023. In 2022, the board decided to make temporary traffic pattern changes on Cloudland Road from Saturday, September 17 through Sunday, October 16.

² **Note to Reader:** 24 V.S.A. 4413(d)(1) includes required agricultural practices, accepted silvicultural practices and forestry operations.

to travel on Cloudland Road and Barber Hill Road to their respective driveways to access their homes. Local delivery trucks, emergency vehicles, and those employed by the residents may also travel through to access these homes.

Cloudland Farm Restaurant patrons will access the restaurant via Galaxy Hill Road only and will return the same way.

During the 2023 Foliage Season, parking will be prohibited on both sides of Cloudland Road from Old River Road in Woodstock 1.9 miles to the point where the road narrows at Margery Fields property. Parking will also be prohibited on Barber Hill Road from 1178 Barber Hill Road east to the intersection with Cloudland Rd. (0.2 miles)

The temporary traffic pattern changes described in this section are authorized by 23 V.S.A. 1010 and Section 8 of the Pomfret Traffic and Parking Ordinance, and were approved by the Selectboard on [July ____], 2023. All other traffic and parking regulations continue to apply except as modified herein. (For Pomfret SB to edit.)

III. Temporary Signage and Barricades

To alert the traveling public of the road closures and limitations described above, and as required by Section 8.2 of the Pomfret Traffic and Parking Ordinance, prior to the start of the 2023 Foliage Season, the Highway Department and neighborhood residents will install the signage described in the attached Signage and Barricade addendum. Signage will be in effect from September 16 through October 22.

The signage and barricades described in the addendum will be removed after the 2023 Foliage Season.

IV. Patrol and Enforcement

The Selectboard will hire the Windsor County Sheriff's Department and a private traffic control service officer to enforce the road closures as described below.

The Sheriff's Department and traffic control officer will be asked to enforce the road closures in the indicated locations as described below, and to prevent parking along the closure areas and entry beyond the barricades. They also will be encouraged to issue warnings or citations as appropriate.

Woodstock end of Cloudland Road @ barricade by cemetery: Windsor County sheriff from Saturday, September 30 through Sunday, October 15 from 9 a.m. to 7 p.m.

Barber Hill Road @ barricade by first house on right from Pomfret Rd.: Private traffic control officer from Sept. 30 through October 15 from 9 a.m. to 5 p.m.

V. Communications and Publicity

Copies of this memo will be provided to all residents of Barber Hill Road and of Cloudland Road.³ Copies will also be provided to the Town of Woodstock Select Board, Public Works and Police departments, the Windsor County Sheriff's Department, Vermont State Police and Agency of Transportation and the Private Traffic Control service.

A summary of the temporary road closures described above will also be published in *The Vermont Standard* on or about [September 7, 2023], and posted to the Pomfret and Woodstock list serves on or about [September 5 and September 14], 2023.

The public will be asked to direct any questions or concerns as follows:

- Regarding the policies described in this memo, to the Selectboard (<https://pomfretvt.us/index.php/boar/sel/>)
- Regarding town highway conditions, maintenance or damage, to the Road Foreman (<https://pomfretvt.us/index.php/dep/highway/>)
- Regarding non-emergency law enforcement matters, to the Windsor County Sheriff's Department (<https://windsorsheriff.org/contact-us>)
- **For Emergencies, Fire and Ambulance, dial 911**

VI. Conclusion

The Selectboard recognizes that road closures, signage and other steps summarized in this memo cannot fully address the significant issues created by fall foliage traffic along Cloudland Road. Additional efforts are being made via a local neighborhood group to communicate with tourism businesses and organizations as well as social media sites to remove and/or cease the promotion of Sleepy Hollow Farm which is a private residence. We also understand that these measures may inconvenience residents for a limited time.

Nonetheless, we believe these actions will significantly improve safety and quality of life for Cloudland Road residents. We thank the Pomfret community for their patience and careful adherence to these temporary changes so that they may have their intended effect.

³ **Note to Selectboard:** This includes several residents in Woodstock.

Signage and Barricade Addendum for 2023 Foliage Traffic plan for Cloudland and Barber Hill Roads

These items we are hoping to borrow from other towns:

Woodstock end of Cloudland Rd Where Pavement turns to Gravel (45- 48') – this location will receive the most SHF traffic so the goal is to completely block the area off so that cars cannot drive around either end.

- 2 or 3 8' barricades
- 12' pipe gate with wheel (Billy will provide) - Chained to post for emergency vehicle access/residents and deliveries to open and close.
- Reflective barrels if we only use 2 barricades
- 2 Reflective Road Closed signs (Cloudland Rd. residents Only sign)

Just north of Laura McDill's driveway-

- 2 8' barricades (or 1 with Reflective barrels to allow necessary vehicles by)
- 1 Reflective Road Closed sign and "Turn Around" (orange and black okay)

Bottom of Barber Hill @ Farmhouse-

- 2 8' Barricades
- 1 Reflective Road Closed sign

Below Abbots house

- 1 8' Barricade
- 1 reflective Road closed sign

Galaxy Hill end of Cloudland –

- 1 8' Barricade
- 1 Reflective "Road Closed to Thru Traffic" sign
- 2 Reflective Barrels

Just past Cloudland Restaurant –

- 1-2 Reflective Barrels with a Reflective sign that says "No Thru Traffic. Turn Around" (Needs to be where people CAN turn around in driveway and also need to allow residents to drive past this point.)

Pine Tree past mailboxes on Cloudland –

- 1 8' barricade
- 2 Reflective barrels
- 1 Reflective "Road Closed" sign

Parking Area @ Woodstock end of Cloudland –

- Long rope and 4 Reflective barrels out near public highway ("handle" on top that we could run the rope through?) alternating with metal posts drilled into the gravel with the No Parking symbol signs (4) and run the rope around the posts.

Entrance to Sal's Golden Cow Barn- 1 8' barricade with No parking sign—ask him if he wants this. Otherwise, orange cones.

Parking Area at top of Barber Hill - Long rope with 2 No Parking symbol signs and 3 – 4 reflective barrels

Signs/posts/rope that we probably will need to purchase:

Post to hang the gate on at the end of Cloudland Rd...Metal 4x4 post stand (Billy has) or concrete pillar?

Wooden grade stakes that we will screw aluminum signs to.

Use aluminum signs so that they will be re-usable for the future.

Signs will be professional white signs with green or red or black lettering/symbols.

"No Stopping, Standing, Parking" with bi-directional arrow signs 10" x 14" - SHF hill - 7 signs

No Parking symbol signs with bi-directional arrows- ~8x12"

- 4 - in-between No Standing, Stopping, Parking signs for those who can't read English going up SHF hill and 4 opposite side of road going up SHF hill
- 10 from Keiths driveway to the narrowing of the road toward Gerry's. Use on both sides of the road.
- 2 corner of Barber and Cloudland before pine tree if needed
- 2 at roped off area at top of Barber Hill
- ~6 at Doten farm. Also, orange cones along their properties
- 8 (use on both sides of road) from Pierce's barn to Margarete's driveway if she wants them
- 2 between sharp curve and Laura McDill's driveway, one on each side of road
- 6 Old River Rd. Cemetery to Sal's both sides of road, fill in with cones? (Woodstock property)
- 6 by cemetery and the parking area at the end of Cloudland Rd. (Woodstock property)
- 1 for barricade at Golden Cow bar if Sal wants it

No Photography symbol signs

- 4 to attach to the No parking symbol sign posts that go along SHF hill
- "Cloudland Rd. Closed" sign at Billings?? Up to Woodstock if they want this.

Orange cones to fill in where needed

July 25, 2023

Selectboard
 Town of Pomfret
 5218 Pomfret Road
 North Pomfret, VT 05053

Subject: Stage Road Speed Study Analysis 2023

Dear Pomfret Selectboard:

The Two Rivers-Ottauquechee Regional Commission completed a traffic speed study on Stage Rd at 3 different locations as per the Town request. The study was completed between June 13, 2023 to June 26, 2023 (14 days total) for Sites 1 and 2, and June 21, 2023 to July 4, 2023 for Site 3. A map of the speed study location and raw data of this count are attached. The results are summarized below. Automated traffic count recorders were used to perform this count, which included measuring traffic volume, direction of travel, time of vehicle passing over the tubes, speed and vehicle classification.

Traffic Volumes

Average daily traffic in Table 1 represents the average number of vehicle trips at each location during the study period. Average weekday figures include traffic volumes during Monday through Friday. Average weekend traffic includes only Saturday and Sundays during the study period. For comparison purposes, an ADT less than 400 vehicles a day is considered a low volume road.

Site No.	Location	Dates	Surface Type	Average Daily
1	Stage Rd – by bridge	June 13 – June 26, 2023	Paved	512
2	Stage Rd – by Teago	June 13 – June 26, 2023	Paved	590
3	Stage Rd – by Lois Ln	June 21 – July 4, 2023	Paved	389

Traffic Speeds

Traffic speed is presented in Table 2 as the 85th percentile speed, which represents the measured speed at a specified location which 85 percent of all motorist travel. The 85th percentile speed is typically used by traffic engineers as the basis for setting the posted speed limit, although other factors – such as the number of driveways and density of

development – should also be considered.

Table 2 – Pomfret Traffic Speed Study Summer 2023

Site No.	Location	Dates	Surface Type	85 th Percentile		Speed Limit
				Eastbound	Westbound	
1	Stage Rd – by bridge	June 13 – June 26, 2023	Paved	48	49	35
2	Stage Rd – by Teago	June 13 – June 26, 2023	Paved	36.5	36.5	35
3	Stage Rd – by Lois Ln	June 21 – July 4, 2023	Paved	49	56	Unposted (assume 35)

The traffic study indicates that 85% of vehicles traveling on this road are going at least 10mph over the posted speed limit in both directions other than Site 2 by Teago intersection.

Please call me if you have any questions.

Sincerely,



Rita Seto, AICP
Senior Planner

cc: Peter Gregory, TRORC Executive Director
Jim Potter, Pomfret Road Foreman



**Town of Pomfret
Stage Rd Speed Analysis 2023**

- Speed Count Locations (3)
- June 13, 2023 to June 26, 2023 (2)
- June 21, 2023 to July 4, 2023 (1)



POMFRET TRAFFIC AND PARKING ORDINANCE

Town of Pomfret, Vermont

1. Preamble: Pursuant to the provisions of 13 V.S.A. § 7251, 23 V.S.A. §§ 1007, 1008, 1753 and 2157, 24 V.S.A. §§ 1971, 1972, 1973 and 2291(1), (4), and (5), the Pomfret Selectboard adopts this Traffic and Parking Ordinance.
2. Scope; Civil Ordinance: This Ordinance establishes special traffic regulations applicable to public highways within the Town. In accordance with 24 V.S.A. §§ 1971 and 1974a, this Ordinance shall be designated a civil ordinance and violations thereof shall be enforced in accordance with the requirements of law relative to such ordinances.
3. Definitions: The definitions in 23 V.S.A. § 4 are incorporated by reference. See the Vermont General Highway Map of the Town of Pomfret, prepared by the Vermont Agency of Transportation, dated June 11, 2015, on file at the Pomfret Town Clerk’s office, for town highway (“T.H.”) numbers.
4. Traffic Control Devices:
 - 4.1 It shall be unlawful for any person to disobey the direction of a traffic control device except in response to the directions of a law enforcement officer.
 - 4.2 It shall be unlawful for any person to intentionally remove, injure, obstruct, deface, alter, or tamper with, any traffic control device.
 - 4.3 It shall be unlawful for any person to install any sign or device that may resemble or be mistaken for an official traffic control device without prior approval of the Pomfret Selectboard.
5. Speed Regulations: On the basis of traffic and engineering surveys, the following maximum speeds are hereby established for traffic in all directions on the following designated portions of town highways:
 - 5.1 On T.H. 1, Pomfret Road
 - 5.1.1 From the Woodstock town line through the center of Pomfret to the Hartford town line: 45 mph beginning at the Woodstock town line, extending northerly ~~0.90 miles~~; then ~~35 mph to 0.99 miles~~; then 25 mph extending northerly to ~~1.25 miles from the Woodstock town line~~ 0.05 miles north of the junction of T.H. 60; then 35 mph ~~to 0.35~~ extending northerly to 0.57 north of the junction of T.H. 60; then 45 mph extending northerly to 0.10 miles south of the junction of T.H. 24; then 40 mph extending easterly 4.43 miles to the Hartford town line.
 - 5.1.2 Speed limit between flashing light and “End School Zone” signs shall be as posted when light is flashing.
 - 5.2 On T.H. 2, Stage Road, from South Pomfret toward the Barnard town line: 25 mph beginning at the junction ~~with~~ of T.H. 1, extending ~~westerly 0.11~~ 0.27 miles; then 35

Commented [BB1]: The proposed new location is ~ 250 south of 1806 Pomfret Road driveway and ~ 100 feet south of the Scoping Study boundary. This is the location of the current “25 mph ahead” sign, which would need to be moved south to accommodate this change.

Commented [BB2]: The 35 mph sign is currently ~ 0.03 miles north of where the current ordinance says it should be. This change conforms to the current location and is ~ 150 feet north of the Artistree entrance and ~ 100 feet south of the Scoping Study boundary.

Commented [BB3]: The 35/45 mph boundary signs were moved ~ 0.22 miles north some time after September 2018. The original location (~ 250 feet north of the 2381 Pomfret Road driveway) aligns with the current ordinance and can be seen here: <https://goo.gl/maps/WydAsD8v52pSq3Ni8>. This change conforms to the current location and is immediately south of the gravel turnout.

Commented [BB4]: The proposed new location is ~ 150 east of the S6 driveway and ~ 175 feet east of the Scoping Study boundary.

mph [extending westerly](#) to bridge B13; [then 45 mph extending westerly 2.12 miles to the Barnard town line.](#)

- 5.3 On T.H. 3, Howe Hill Road, from the Hewittville corner to the Sharon town line: 35 mph beginning at the junction of T.H. 1- extending northerly 1.25 miles to 0.52 miles south of the Sharon town line; then **40 mph** extending northerly 0.52 miles to the Sharon town line.
- 5.4 On T.H. 29, Bunker Hill Road, 25 mph for its entire length.
- 5.5 On T.H. 60, Library Street, 25 mph for its entire length.

Commented [BB5]: This segment is currently signed at 35 mph and should be re-signed to reflect the 2022 speed study results.

6. Stop and Yield Intersections:

- 6.1 The following intersections are designated as STOP intersections and shall be so signed:
 - 6.1.1 T.H. 1 southbound at the junction of T.H. 2
 - 6.1.2 T.H. 3 entering T.H. 1
 - 6.1.3 T.H. 60 entering T.H. 1
 - 6.1.4 T.H. 60 entering T.H. 2

6.2 The following intersections are designated as YIELD intersections and shall be so signed:

- 6.2.1 **T.H. 7 entering T.H. 3**

Commented [BB6]: There is no "yield" sign at this intersection. Delete?

7. Parking Regulations.

- 7.1 It shall be unlawful to stop, park or leave standing any vehicle at any time in the right of way of any public highway within the Town of Pomfret in a manner that interferes with ordinary roadway maintenance (including winter plowing) or otherwise reduces the usable travelled way to less than twelve (12) feet.
- 7.2 It shall be unlawful to park any vehicle at any time on either side of T.H. 37 from 0.60 miles north of the Woodstock town line extending northerly to the junction of T.H. 5.
- 7.3 Any vehicle stopped, standing or parked in violation of this section may be summarily removed by order of any law enforcement officer, Pomfret Selectperson, the Pomfret Road Commissioner or his/her designee, or the Pomfret Road Foreman or his/her designee. Signs indicating that vehicles may be towed away at the owner's expense shall be posted conspicuously at or near all areas affected where parking is restricted.
- 7.4 All costs of vehicle removal, and any expenses incurred in securing removal, including, without limitation, towing and storage costs, may be charged against the owner of the vehicle, which charges shall be a lien against said vehicle, and the vehicle shall not be released to the owner, or person responsible for the vehicle, until all such costs have been paid.
- 7.5 If the owner of a vehicle removed under this section does not claim such vehicle and pay

all towing and storage expenses within thirty (30) days of the date of such removal, said vehicle shall be deemed “abandoned” under this Ordinance, and the title to such vehicle shall escheat to the Town and the vehicle may be sold or otherwise disposed of by the Town, as authorized by 23 V.S.A. § 2157.

7.6 Nothing in this section shall be construed to prohibit vehicular stops in response to the direction of a law enforcement officer or emergency services personnel, for causes beyond the operator’s control, or to undertake a use described in 24 V.S.A. § 4413(d)(1).

8. Special Traffic Regulations:

8.1 The Pomfret Selectboard may adopt special traffic regulations from time to time as to the maximum speed, permitted direction or exclusion of motor vehicles as the public good requires, in accordance with 23 V.S.A. § 1010.

8.2 The Town shall conspicuously post and maintain signs indicating the special traffic regulations in and near all affected roadways or portions thereof during while such regulations are in effect. When feasible, the Town also shall disseminate such information via electronic means, such as on the discussion list for Pomfret sponsored by Vital Communities.

8.3 A special traffic regulation adopted in accordance with this section shall take precedence over any other traffic regulation to the contrary.

9. Enforcement; Violations and Penalties; Other Remedies:

9.1 Those enforcement officers identified in 23 V.S.A. § 4(11)(A) shall be issuing and appearing officials for the purpose of enforcing any and all provisions of this Ordinance. In addition, those persons identified in § 7.3 of this Ordinance shall be issuing and appearing officials for the purposes of enforcing those provisions of this Ordinance constituting civil Ordinance violations, and not constituting a traffic violation, as defined in 23 V.S.A. § 2302(a), but including violations relating to parking.

9.2 Except as otherwise required by State law or provided herein, any person who violates any provision of this Ordinance shall be liable for a civil penalty of not more than \$250.00 for each offense. The waiver penalty for each violation of this Ordinance shall be \$125.00 and such waiver penalty, if duly paid, shall be in lieu of the civil penalty.

9.3 Any person who commits a traffic violation, as defined in 23 V.S.A. § 2302(a), under this Ordinance shall be liable for the penalty amount required by law and/or set forth in the Vermont Judicial Bureau Waiver Penalty Schedule.

9.4 Nothing herein shall preclude the Town from pursuing any other civil remedies available by law for the purpose of enforcing this Ordinance, collecting penalties for violations thereof, or from pursuing any other any other remedy at law or in equity, including injunctive relief and process for contempt.

9.5 Each violation of a provision of this Ordinance shall be deemed a separate offense. Each day a violation continues shall constitute a separate offense.

9.6 The provisions of this Ordinance shall be cumulative to the fullest extent permitted by law with respect to all other statutes or ordinances now or hereafter adopted regardless of their order of passage or enactment.

10. Severability: The provisions of this Ordinance are severable, and if any provision hereof be judged invalid, such judgment shall not affect the validity of any other provision.
11. Designation: This Ordinance may be referred to as the "Traffic Ordinance" and in a prosecution hereunder a copy of such Ordinance, certified by the Town Clerk shall be *prima facie* evidence thereof. An allegation that the act constituting the offense charged is contrary to a specified provision of this Ordinance shall be a sufficient reference hereto.
12. Repeal of Prior Ordinance: The ~~"approved traffic ordinances"~~ [Traffic and Parking Ordinance](#) adopted ~~December 21~~ [June 15, 2016](#) - [2022](#) and effective ~~February 19~~ [August 14, 2017](#) ~~are~~ [2022 is](#) hereby repealed.
13. Adoption: Pursuant to 24 V.S.A. § 1972 and such other provisions of law as set forth above, this Ordinance is adopted by the Pomfret Selectboard at its meeting on the ~~15th~~ [redacted] day of ~~June~~ [2022](#) [redacted] [2023](#) and shall become effective on the ~~14th~~ [redacted] day of ~~August~~ [2022](#) [redacted] [2023](#).

Emily Grube, Chair

John Peters Jr., Vice-Chair

Benjamin Brickner, Vice-Chair

Steve Chamberlin

Jonathan Harrington

Meg Emmons

Emily Grube

To: Traffic Engineering File

From: Pomfret Selectboard

Date: ~~June 15, 2022~~ [REDACTED], 2023

Subject: ~~Howe Hill Road Speed Limit (0.52 miles northerly to the Sharon town line)~~ Stage Road and Pomfret Road New and Changed Speed Limits

New Speed Limit – Stage Road (T.H. 2)

Pursuant to 23 V.S.A. 1007, on the basis of the ~~Howe Hill~~ Stage Road Speed Study Analysis dated ~~June 2 July 25, 2022- 2023~~ and prepared by the Two Rivers-Ottauquechee Regional Commission, attached hereto, and investigation into the traffic considerations described below, the Pomfret Selectboard has established the following speed limit:

- ~~• On T.H. 3, Howe Hill Road, 40 mph from 0.52 miles south of the Sharon town line to the Sharon town line.~~
- On T.H. 2, Stage Road, 45 mph extending westerly from bridge B13, 2.12 miles to the Barnard town line.

The ~~attached~~ Speed Study Analysis indicates that ~~85%~~ the 85th percentile of vehicles traveling on the subject portion of ~~Howe Hill~~ Stage Road were traveling ~~at 47 mph southbound and 48 mph northbound~~ 49 mph eastbound and 56 mph westbound during the study period. The Pomfret Selectboard concludes it is appropriate to ~~set~~ establish the speed limit for this portion of ~~Howe Hill~~ Stage Road at ~~40~~ 45 mph based on the Speed Study Analysis and the following considerations:

- Predominantly residential character of the area;
- Several homes close to the traveled way;
- Several driveways with short sightlines;
- ~~• Several road bends with short sightlines;~~
- Presence of hikers at the Appalachian Trail crossing; and
- Presence of slow moving agricultural vehicles; ~~and~~.

Changed Speed Limits – Pomfret Road (T.H. 1) and Stage Road (T.H. 2)

Pursuant to 23 V.S.A. 1007, on the basis of the attached Speed Study Analysis and investigation into traffic considerations described below, the Pomfret Selectboard has changed the following speed limits:

- On T.H. 1, Pomfret Road, 25 mph extending northerly from 0.90 miles (previously 0.99 miles) from the Woodstock town line to 0.05 miles north of the junction of T.H. 60, Library Street (previously the junction of T.H. 60, Library Street);
- On T.H. 1, Pomfret Road, 35 mph extending northerly from 0.05 miles north of the junction of T.H. 60, Library Street (previously the junction of T.H. 60, Library Street) to 0.57 miles north of the junction of T.H. 60, Library Street (previously 0.35 miles north of the junction of T.H. 60, Library Street); and
- On T.H. 2, Stage Road, 25 mph extending westerly from the junction of T.H. 1, Pomfret Road, to 0.27 miles from the junction with T.H. 1, Pomfret Road (previously 0.11 miles from the junction of T.H. 1, Pomfret Road).

The Speed Study Analysis indicates that the 85th percentile of vehicles traveling on the subject portion of Stage Road were traveling 36.5 mph eastbound and 36.5 mph westbound at the boundary between the current 25 mph and 35 mph zones. The Pomfret Selectboard concludes it is appropriate to change the speed limit for this portion of Stage Road and the portions of Pomfret Road as described above based on the Speed Study Analysis and the following considerations:

- Predominantly residential character of the area;
- High density of residential dwellings and businesses including Teago General Store, Artistree, Grange Theater and Saskadena Six Ski Area;
- Presence of significant pedestrian and bicyclist traffic;
- Numerous homes close to the traveled way;
- Several driveways with short sightlines; and
- Several road bends with short sightlines.
- ~~Undesirability of having three speed zones within 0.52 miles (the zone contemplated by this memorandum, the existing 35 mph zone to the south, and the existing 40 mph zone to the north).~~

[Remainder of page intentionally blank. Attachment follows.]

ATTACHMENT TO

Memo re: ~~Howe Hill~~ Stage Road and Pomfret Road Speed ~~Limit(0.52 miles northerly to the~~
~~Sharon town line)~~ Limits

TRORC ~~HOWE HILL~~ STAGE ROAD SPEED STUDY ANALYSIS ~~2022~~ 2023

See Attached.

TOWN OF POMFRET, VERMONT

**NOTICE OF AMENDMENT OF
TRAFFIC AND PARKING ORDINANCE**

On ~~June 15, 2022~~ [REDACTED], 2023, the Selectboard of the Town of Pomfret, Vermont, adopted amendments to the existing ~~Approved Traffic Ordinances~~ and Parking Ordinance. This notice is published pursuant to 24 V.S.A. § 1972 to inform the public of these amendments and of qualified voters' right to petition for a vote to disapprove the same.

To (i) ~~rename the ordinance as the "Traffic and Parking Ordinance"~~, (ii) designate a speed limit of ~~40-45~~ mph on a portion of ~~Howe Hill Stage Road (T.H. 3)~~, (iii) ~~adopt parking limitations including a prohibition on a portion of Cloudland 2~~, (ii) extend the north, south and west limits of the existing 25 mph speed zone on Pomfret Road (T.H. 37), (iv) ~~provide that the Selectboard may adopt temporary traffic regulations during special occasions, and (v) provide for enforcement and penalties for violations of the ordinance.~~ 1) and Stage Road (T.H. 2) in the vicinity of South Pomfret village, and (iii) extend the north limit of the existing 35 mph speed zone on Pomfret Road (T.H. 1) north of South Pomfret village.

The full text of the ordinance may be examined during regular office hours at the Pomfret town office at 5218 Pomfret Road and may be viewed online by visiting pomfretvt.us.

CITIZENS' RIGHT TO PETITION FOR VOTE

Twenty four V.S.A. § 1973 grants qualified voters the right to petition for a vote at a special or annual town meeting to disapprove ordinance amendments adopted by the Selectboard. To

exercise this right, qualified voters must present to the Selectboard or the Town Clerk a petition for a vote on the question of disapproving the amendments signed by not less than five percent (5%) of the town's qualified voters. The petition must be presented within forty-four (44) days following the date of the adoption of the amendments. Unless a petition requesting a vote is filed pursuant to 24 V.S.A. § 1973, the amended Traffic and Parking Ordinance shall become effective sixty (60) days from the date of said adoption.

PERSON TO CONTACT

Additional information pertaining to this ordinance may be obtained by contacting Rebecca Fielder, Town Clerk at 5218 Pomfret Road, or by calling 802-457-3861 during regular office hours, or by emailing clerk@pomfretvt.us.

(Taxable properties only - State and Non-tax status properties are not listed below)

REAL ESTATE Category/Code	Parcel Count	Municipal Listed Value	Homestead Ed Listed Value	Nonhmstd Ed. Listed Value	Total Education Listed Value
Residential I R1	178	66,190,710	44,188,720	22,001,990	66,190,710
Residential II R2	290	290,435,240	102,428,950	188,006,290	290,435,240
Mobile Homes-U MHU	1	31,680	0	31,680	31,680
Mobile Homes-L MHL	4	454,320	218,360	235,960	454,320
Seasonal I S1	4	358,600	0	358,600	358,600
Seasonal II S2	5	2,986,750	0	2,986,750	2,986,750
Commercial C	9	6,890,430	0	6,890,430	6,890,430
Commercial Apts CA	1	945,730	0	945,730	945,730
Industrial I	0	0	0	0	0
Utilities-E UE	1	4,320,230	0	4,320,230	4,320,230
Utilities-O UO	0	0	0	0	0
Farm F	7	12,310,120	908,450	11,401,670	12,310,120
Other O	0	0	0	0	0
Woodland W	0	0	0	0	0
Miscellaneous M	90	32,148,450	1,220,120	30,928,330	32,148,450
TOTAL LISTED REAL	590	417,072,260	148,964,600	268,107,660	417,072,260
P.P. Cable	0	0		0	0
P.P. Equipment	0	0			
P.P. Inventory	0	0			
TOTAL LISTED P.P.	0	0		0	0
TOTAL LISTED VALUE		417,072,260	148,964,600	268,107,660	417,072,260
EXEMPTIONS					
Veterans 10K	5/5	50,000	40,000	10,000	50,000
Veterans >10K		150,000			
Total Veterans		200,000	40,000	10,000	50,000
P.P. Contracts	0	0			
Contract Apprv VEPC	0/0	0	0	0	0
Grandfathered	2/2	615,300	0	615,300	615,300
Non-Apprv (voted)	0/0	0			
Owner Pays Ed Tax	0/0	0			
Total Contracts	2/2	615,300	0	615,300	615,300
FarmStab Apprv VEPC	0/0	0	0	0	0
Farm Grandfathered	0/0	0	0	0	0
Non-Apprv (voted)	0/0	0			
Owner Pays Ed Tax	0/0	0			
Total FarmStabContr	0/0	0	0	0	0
Current Use	166/166	82,262,110	16,431,300	65,830,810	82,262,110
Special Exemptions	1		0	703,320	703,320
Partial Statutory	1/1	2,955,910	0	2,955,910	2,955,910
Sub-total Exemptions		86,033,320	16,471,300	70,115,340	86,586,640
Total Exemptions		86,033,320	16,471,300	70,115,340	86,586,640
TOTAL MUNICIPAL GRAND LIST		3,310,389.40			
TOTAL EDUCATION GRAND LIST			1,324,933.00	1,979,923.20	3,304,856.20
NON-TAX	17 NON-TAX PARCELS ARE NOT INCLUDED ON THE 411				

(Taxable properties only - State and Non-tax status properties are not listed below)

REAL ESTATE Category/Code	Parcel Count	Municipal Listed Value	Homestead Ed Listed Value	Nonhmstd Ed. Listed Value	Total Education Listed Value
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Status on Personal Property

1) Has inventory been exempted by vote of town/city? Yes____ No_XX_

2) Has machinery and equipment been exempted by
vote of your town/city? Yes____ No_XX_

3) If yes for #2, what portion is now exempt?
(include percentage) _____

4) If no for #2, please indicate below how your town/city is
assessing business personal property (Place "X" by option used)

a) at fair market value __XX_ b) at depreciated value _____

Summary of Adjustments to Taxable Values (Local Agreements Etc.)	
Approved (VEPC) Contracts/Exemptions	0
Grandfathered Contracts/Exemptions	615,300
Non-Approved (Voted) Contracts/Exemptions	0
Homestead Non-Approved (Voted) Contracts/Exemptions	0
Nonhmstd Non-Approved (Voted) Contracts/Exemptions	0
Municipal Contracts (Owner Pays Ed Tax)	0
Special Exemptions	703,320
Current Use (Use Value Appraisal Program)	82,262,110
Veteran Exemptions	50,000
Homestead Veteran Exemptions beyond 10K	120,000
Nonhmstd Veteran Exemptions beyond 10K	30,000
Partial Statutory Exemptions	2,955,910

DATE VOTED	PARCEL ID	NAME	CAT. CODE	BEGINNING DATE	ENDING DATE	STATUTE CODE TITLE	VALUE BEFORE EXEMPTION	CONTRACT AMOUNT	ASSMT LESS CONTRACT
03/06/18	0120- 489-154-10683	POMFRET-TEAGO VOLUNTEER	F C	03/06/18	03/07/23	3840;5405a (a) (4)	335,150 Nonhomestead	335,150 335,150	0 0
03/06/18	0157- 489-154-10682	POMFRET-TEAGO VOLUNTEER	F C	03/06/18	03/07/23	3840;5405a (a) (4)	280,150 Nonhomestead	280,150 280,150	0 0
		Grandfathered Contracts/Exemptions						-----,--- 615,300	
/ / Partial	0123- 489-154-10354	PURPLE CRAYON PRODUCTIONS	R2	/ /	/ /		3,559,650 Nonhomestead	2,955,910 2,955,910	603,740 603,740
		Non-Taxable Church Etc						-----,--- 2955,910	

STATUTE

The real property parcels listed below are exempt from the property tax under Vermont law. These parcels are included in the grand list book in accord with 32 VSA section 41.52 and subject to parcel payments under 32 VSA section 4041a. Payment can only be issues if complete and accurate information is provided. Do not include parcels subject to local agreements.

OWNER NAME	PARCEL ID	CATEGORY	PROPERTY DESCRIPTION	LOCATION	VALUE ESTIMATE
ABBOTT MEMORIAL LIBRARY	0201-	C			332,520
	11) 22 VSA § 109: 32 VSA § 3802(4): 3800				
NORTH POMFRET CONGREGATIONAL CHURCH	0159-	M			393,890
	9) 32 VSA § 3802(4): 3832(2)				
TOWN OF POMFRET	0139-	M			324,740
	8) 32 VSA § 5401(10) (F)				
TOWN OF POMFRET	0146-	M			69,530
	6) 32 VSA § 3800(a) 27 VSA § 1151(3)				
TOWN OF POMFRET	0148-	M			341,130
	8) 32 VSA § 5401(10) (F)				
TOWN OF POMFRET	0160-A	M			50,000
	8) 32 VSA § 5401(10) (F)				
TOWN OF POMFRET	0303-C	M			100,000
	14) 32 VSA § 3802(7) 18 VSA §5317				
TOWN OF POMFRET	0611-C	M			60,000
	14) 32 VSA § 3802(7) 18 VSA §5317				
TOWN OF POMFRET	1101-	M			365,250
	8) 32 VSA § 5401(10) (F)				
TOWN OF POMFRET	1112-C	M			55,000
	14) 32 VSA § 3802(7) 18 VSA §5317				
TOWN OF POMFRET	1900-L	M			40,000
	8) 32 VSA § 5401(10) (F)				
TOWN OF POMFRET	3204-B	W			303,000
	8) 32 VSA § 5401(10) (F)				
TOWN OF POMFRET	3208-	W			181,800
	8) 32 VSA § 5401(10) (F)				
US DEPT OF INTERIOR	0000-AT	M			2,201,950
	1) 32 VSA § 3802(1)				
WINDSOR CENTRAL UUSD	0100-A	C			3,379,960
	10) 32 VSA § 3802(4) 3800(b)				

TOTAL NUMBER OF EXEMPT PARCELS: 15

Parcel SPAN	Exemption	Real Value	Assessment Special lessSpec. Exempt Exemption
0210- WOODSTOCK RESORT CORP 489-154-10640	Ski Lifts & Snow Making	4,452,110 C	Nonhmstd 703,320 Homestead 0
			3748,790 0

Special Exemption Totals

Type	Homestead	Nonhomestead
Ski Lifts & Snowmaking	0	703,320
Whey Processing	0	0
Vermont Yankee	0	0
Qualified Housing	0	0
Solar	0	0
Wind	0	0
Other	0	0
Total Real Prior to Exemptions	4,452,110	
Total Exemptions	0	703,320
Grand Lists After	0	3,748,790

We certify that the foregoing is a true abstract of the grand list of _____ for the year _____.
Given under our hands at _____ on this _____ day of _____ in the year _____.

LISTERS

I hereby certify that I have examined the grand list for the year _____ now on file and hereby certify this abstract in accord with 32 V.S.A. 4183.

Attest _____ TOWN CLERK
Date: _____

Section 5404(b) of Title 32 of the V.S.A. requires the following.

The clerk of a municipality, or the supervisor of an unorganized town or gore, annually by August 15 shall transmit to the director, in electronic format prescribed by the director, education and munici grand list data, including exemption information and grand list abstracts.

If changes or additions to the grand list are made by the listers or other officials authorized to do so after the transmission of the electronic grand list and abstract of the grand list, such clerks shall forthwith certify the same to the director by transmitting an updated electronic grand list book and electronic abstract of the grand list.

Vermont Purchasing Policy Authorization Comparisons by Town

LOWEST LEVEL: Incidental Purchases			Purchasing Authority for all levels (Usually depends on size or type of order)	
Under \$500	Montpelier	May be paid out of petty cash or billed to the Department. Limited by Budget. Reviews prices between suppliers	Department Heads, City Manager or designees involved based on level of purchase	
Under \$500	Hartford	Purchases by departments with no Purchase Order except for employee reimbursement. Department codes and signs the invoice. Department Heads approve all purchases in advance or delegate this authority one level down	Town Manager, Finance Director, Department Heads	
Under \$500	West Windsor	No SB approval for purchases under \$500	Selectboard, Town Clerk, Highway Foreman	
Under \$1,000	Pomfret	Purchases made without prior approval. Purchases limited by budget	Selectboard, Treasurer, Town Clerk, Road Commissioners and Road Foreman	
Under \$1,000	Strafford	Purchasing agents up to \$1,000 may purchase without prior approval. Purchases limited by budget	Selectboard, Town Clerk, Town Treasurer, Road Foreman, Asst. Town Clerk & Treasurer	
Under \$1,500	Bridgewater	Selectboard is acting Purchasing agent. If practical, quotations should be solicited	Selectboard or designee	
Under \$2,500	Norwich	Town Manager is the Purchasing Agent for the Town & reviews all proposed procurements. Department Heads purchase all budgeted items without prior approval. Purchases limited by budget	Selectboard, Town Manager, Department Heads	
Under \$5,000	Thetford	Bid process required for annual recurring goods or service exceeding \$1,000	Selectboard Approval (over \$5,000)	

Note: Information based on data found on each town website.

Vermont Purchasing Policy Authorization Comparisons by Town

MIDDLE LEVEL: Minor Purchases

\$500 - \$7,500	Montpelier	Approved by Department head or designee. If more than \$5,000, approved by City Manager or designee. Service or goods receipt/condition checked before invoice paid
\$500 - \$15,000	West Windsor	Usual and customary purchases allowed by Town Clerk & Highway Foreman without SB approval Other types of purchases require solicitation of quotes from at least two vendors
\$501 - \$4,000	Hartford	Approval by Department Head. Price quotations not necessary
\$1,000 - \$10,000	Strafford	Prior approval by SB. Limited by budget. Recommends at least 2 competitive quotes
\$2,500 - \$10,000	Norwich	Department heads, under Town Manager supervision and prior approval, via a purchase order, make purchases requiring at least 3 competitive bids. Federal Funding purchases, \$3,000 to \$150,000 require quotes from 3 or more sources. Use of designated & special purchase funds, at all levels, requires SB approval. Prefers obtaining 3 bids
\$5,000 - \$10,000	Thetford	Approval by SB. Required quotes from at least 2 vendors. Vendor selected based on cost, goods/service quality, skill shown by prior contracts
\$1,501 - \$14,999.99	Bridgewater	Supervised by SB. Required formal bids or quotes from at least 3 vendors under the supervision and consultation with the department
\$4,001 - \$20,000	Hartford	Requires approval of Department Head, Town Manager & Finance Director. 3 written quotations required. Vendor recommended by Department Head
\$1,000 - \$25,000	Pomfret	Prior approval by SB. Written quotes from at least 2 vendors. Purchases limited by budget

Vermont Purchasing Policy Authorization Comparisons by Town

HIGHEST LEVEL: Major Purchases		
Over \$7,500	Montpelier	Requires at least 2 bids. Sealed bid & advertised in at least 1 newspaper. Contract required as well as other requirements. Seeks trade-in value.
Over \$10,000	Thetford	Process approval by SB. Sealed Bid preferable with advertisements posted in 3 location within the town plus 1 in newspaper. Recurring purchases require bid process if the total value of the purchase of goods or service exceeds \$1,000 per year
Over \$10,000	Strafford	Requires prior review & approval by SB. Price or rate quotes must be obtained from 2 or more qualified sources. Large purchases require a sealed bid process requested by mail to known providers with notification posted in 3 locations & 1 newspaper. Recurring purchases require the bid process if the total value of the purchase of goods or service exceeds \$10,000 per year
Over \$10,000	Norwich	Requires prior approval of SB & purchase order approval of Town Manager. At least 3 competitive bids. If over \$25,000, follows a sealed bid process posted in 3 public locations & 1 newspaper. Prepared by Department Head under Town Manager supervision. If over \$150,000 or construction, projects of any size must follow a special bid process. Recurring Purchases: if the total value of a recurring purchase of goods or service is anticipated to exceed \$10,000 during a fiscal year, the bid process shall be used
Over \$15,000	Bridgewater	SB or designee act as purchasing agent preparing Invitation to Bid with a newspaper advertisement. Requires formal bid process. Recurring purchases may require competitive solicitations through formal bids, written or oral quotation
Over \$15,000	West Windsor	Sealed bid process over \$15,000 required preparation by SB. Request for bid to known providers with advertisements in 3 public locations & newspaper. Recurring purchases exceeding \$15,000 per year require a bid process
Over \$20,000	Hartford	Requires competitive sealed bid or proposal. Note: Bidding process is described in detail.
Over \$25,000	Pomfret	Prior approval by Selectboard Required sealed bid to known providers with advertisements in a newspaper & on the Town's website. Required pricing analysis. Recurring purchase of goods or service over \$25,000 requires a bid process

Covered exceptions: Sole source, emergency purchases, waivers for various reasons, professional service

Outstanding Unlicensed:

Owner's Name	Address	Phone #	Dog Name
Barrows, Corie & Shane	[REDACTED]	[REDACTED]	Finnegan
Chase, Cody	[REDACTED]	[REDACTED]	Mazikeen (Maze)
Ellis, Titia	[REDACTED]	[REDACTED]	CaVa
Hoffman, Rachel & Day, Ricky	[REDACTED]	[REDACTED]	Gus
Hosmer, Cheyenne & Onks, Logan	[REDACTED]	[REDACTED]	Myah
Kuzmickas, Patricia	[REDACTED]	[REDACTED]	Arlo
"	"	"	Mabelline
"	"	"	Albi
Steele, Levi	[REDACTED]	[REDACTED]	Tetra
Tsouknakis, Alex	[REDACTED]	[REDACTED]	Pepe

Never been licensed, know they have at least one dog:

- Hewitt, David
- Kirkman, Jen
- Moodie, David & Stephanie
- Shackleton, Hugh & Clara
- Southworth, Chris
- Tuthill, Greg - TENANT? Vizsla
- Ward, Danielle & Sola, Tista
- Waters, Jeff & Kristina

TOWN OF POMFRET
Zoning Board of Adjustment

Memorandum of Decision

Property Address: 6150 Broad Brook Road
South Pomfret, Vermont

Parcel No.: 5605

Parcel Size: +/- 38.74 acres

Property Owner: Michael C. Zube and
Callie M. Brusegaard
6150 Broad Brook Road
South Pomfret, Vermont

This Memorandum of Decision (this “Decision”) is issued by the Pomfret Zoning Board of Adjustment (the “ZBA”), in connection with the appeal by Michael C. Zube and Callie M. Brusegaard (the “Landowners”) of the Notice of Violation dated March 23, 2023 (the “NOV”), issued by the Pomfret Zoning Administrator (the “ZA”).

The NOV asserts that the Landowners are “in violation of Sections 6.4.1 and 2.2.3.3 of the Town of Pomfret Zoning Ordinance . . . requiring a Zoning Permit for a change in use and land development and requiring a Flood Hazard Permit prior to the issuance of a Zoning Permit in areas covered by the Town of Pomfret Flood Hazard Area Regulations.” The NOV is attached as Exhibit D.

For the reasons discussed below, the ZBA affirms the NOV as issued, refers this matter to the Pomfret Selectboard for potential enforcement pursuant to Section 6.9 of the Pomfret Zoning Ordinance, and remands to the ZA for further action pursuant to Part XIII of the Flood Hazard Area Regulations.

I. Procedural History

A. Subject Development

The development at issue in this Decision is the conversion of an existing garage to a dwelling unit. The garage is located at 6150 Broad Brook Road and is situated within the setback of Broad Brook Road and within the special flood hazard area of Broad Brook, namely Zone A as depicted on FEMA’s current Flood Insurance Rate Map for the area, panel 50027C0335E, effective September 28, 2007.

Based on information provided by Landowner Zube, the development commenced in July 2019 and was substantially complete by April 2020. As of December 2020, the framing, insulation, rough wiring and plumbing of the development were complete.

B. Landowners Correspondence

On December 11, 2020, the ZA contacted the Landowners by mail informing them that “a change in use and substantial improvements were made on your existing garage,” explaining that these activities required a land use permit, and encouraging the Landowners to apply for a permit to bring the development into compliance with Pomfret’s land use regulations. The letter also informed the Landowners that because the garage was located “in the special flood hazard area of Broad Brook (Zone A) . . . a permit [was] also required under Pomfret’s Flood Hazard Area Regulations.” This letter is attached as Exhibit A.

On January 3, 2021, Landowner Zube responded to the ZA by email asserting that no change of use permit was needed as the Prior Ordinance (as defined below) was still in effect when the improvements were completed in April 2020. Landowner Zube also maintained that no approval was necessary under Pomfret’s Flood Hazard Area Regulations because the construction did not meet the definition of “substantial improvement” under those regulations. This email is attached as Exhibit B.

On January 18, 2023, the ZA contacted the Landowners again by mail explaining that the Prior Ordinance had been superseded by the Current Ordinance (as defined below) when the improvements were completed in April 2020, that a permit was still required under the Flood Hazard Area Regulations, and encouraging the Landowners to seek the required permits. This letter is attached as Exhibit C.

On March 23, 2023 and on the ZA’s behalf, Stitzel, Page & Fletcher P.C., outside counsel to the Town of Pomfret, sent the Landowners the NOV by first class and certified mail. The NOV alleged that the Landowners’ property was in violation of (1) the Current Ordinance for failure to obtain a permit for a change in use, and (2) the Flood Hazard Area Regulations failure to obtain a permit for development occurring in a special flood hazard area. The certified mail version of this notice and completed return receipt are attached as Exhibit D.

On April 2, 2023, the Town of Pomfret received a letter from the Landowners to the ZA dated March 29, 2023, appealing the NOV and requesting a hearing by the ZBA. This letter is attached as Exhibit E.

C. Site Visit and Public Hearing

On April 13, 2023, notice of a site visit and public hearing in this matter was published in *The Vermont Standard*. On April 20, 2023, the same notice was posted at the Town Clerk’s Office, Teago General Store and the North Pomfret Post Office. Abutters of the Landowners’ property also were timely notified of the site visit and hearing.

A site visit at the Landowners' property occurred on May 11, 2023 at 6:00 pm. Present at the site visit were ZBA members Alan Blackmer (chair), Susan Burgess and Seth Westbrook. Also present was Karen Hewitt Osnoe (the ZA) and both Landowners.

The ZBA considered this appeal at a public hearing on May 11, 2023 at 7:00 pm. Present at the hearing in person were ZBA members Alan Blackmer (chair), Susan Burgess and Seth Westbrook. ZBA member Benjamin Brickner was present by Zoom. Also present in person were Karen Hewitt Osnoe (the ZA), both Landowners and Pomfret resident John Moore.

The hearing minutes were posted to the Town of Pomfret website on May 16, 2023, are attached as Exhibit E, and are incorporated by reference herein.

The ZBA closed the hearing on May 11, 2023, held a non-public deliberative session on May 19, 2023, and thereafter reached this Decision.

II. Applicable Regulations

A. Pomfret Zoning Ordinance

1. May 2020 Amendments

The current Pomfret Zoning Ordinance (the "Current Ordinance") was adopted on May 6, 2020. One hundred forty-seven days earlier, on December 12, 2019, the Pomfret Selectboard issued a public notice for a first public hearing on the draft document that would become (with minor revisions not relevant here) the Current Ordinance.

For a period of 150 days following such notice, 24 V.S.A. 4449(d) requires that "the administrative officer . . . review any new application filed after the date of the notice under the proposed bylaw or amendment". The ZBA understands this provision to mean that development occurring between notice and adoption of a new or amended bylaw is subject to the proposed rules (provided the same are adopted before the end of the 150-day period), even where a development application should have been filed but was not.

The Landowners in their correspondence described in Section I above disagree with this conclusion, arguing the Pomfret Zoning Ordinance as amended on March 4, 1975 (the "Prior Ordinance") was still in effect when the development in question occurred.

For the avoidance of doubt, and recognizing that some work associated with the subject development may have commenced before the December 12, 2019 hearing notice date, this Decision reviews the violations alleged in the NOV under the Current Ordinance and the Prior Ordinance and reaches the same conclusion in both cases: a permit was required prior to commencing such work.

2. Current Ordinance

Section 6.4.1 of the Current Ordinance requires a zoning permit for any “[c]hange in the use of any building or other structure”. The conversion of a garage into a dwelling unit constitutes a change in use.

Section 2.2.3.3 of the Current Ordinance states that before any zoning permit is issued for development in a special flood hazard area, a permit must be obtained under the Flood Hazard Area Regulations, or a determination obtained from the ZA that no such permit is required.

The Current Ordinance seeks to promote the creation of additional housing in Pomfret through the availability of waivers [Section 3.2] and by making accessory dwelling units a permitted use. [Section 2.2.2.4] These uses still require review and a permit, however, to ensure other development standards are met in the process, including those that protect the health, safety and welfare of others.

3. Prior Ordinance

Under the Prior Ordinance, all “Non-Conforming Uses” required a permit following a ZBA hearing. A Non-Conforming Use was anything other than a “Conforming Use”. [Section 4.6] Conforming Uses were limited to “single, one-family or two family residence[s], agricultural buildings [and] home business[es].” [Section 4.5]

The Landowners argue that the subject development “[changes] a non-conforming use to a conforming use” and therefore is exempted from permitting under Section 5.8. The ZBA disagrees. The subject development did not change a Non-Conforming Use into a Conforming Use as a dwelling already existed on the same parcel. Under the Prior Ordinance, multiple dwellings on a single parcel were a Non-Conforming Use and construction of the same was not to be commenced without a zoning permit first being issued.¹

B. Flood Hazard Area Regulations

Pomfret’s Flood Hazard Area Regulations are derived from the minimum federal standards that enable communities to participate in the National Flood Insurance Program. *See* 44 CFR Parts 59, 60, 65 and 70. This program makes federally-backed flood insurance available to all property owners in participating communities, insurance that often is required when financing property located in a flood zone.

Pomfret’s failure to adhere closely to its flood regulations would jeopardize the town’s continued participation in the National Flood Insurance Program, thereby risking all Pomfret

¹ The Prior Ordinance also required a variance to locate any structure within the greater of 60 feet from the edge of a public right-of-way and 85 feet from the center of the traveled portion of a public right-of-way. [Section 7.4] The garage where the development occurred is located entirely within this setback and the change in use likely would have triggered a review of whether the criteria for variance had been met as to the changed use.

property owners' ability to obtain flood insurance. For this reason, the town must carefully and consistently review all development in flood zones in accordance with its flood regulations.

The Pomfret Flood Hazard Area Regulations require that any construction or development in a special flood hazard area receive a permit from the ZA before work commences. In addition, development constituting a "substantial improvement" is subject to conditional use approval following a ZBA hearing. [Part IV] A "substantial improvement" is one where the total cost exceeds fifty percent (50%) of the pre-improvement value of the structure being improved. [Part XIV]

The Landowners argue that the subject development does not constitute a "substantial improvement" because the out-of-pocket cost of the development did not exceed 50% of the pre-improvement value of the garage. While the ZBA is skeptical of this position as it omits the fair value of the Landowner's extensive labor on the project, we need not address this particular issue.

The Flood Hazard Area Regulations state that "[a] permit is required . . . for *all* proposed construction or other development . . . in areas of special flood hazard." [Part IV, emphasis added] This requirement applies regardless of whether the work constitutes a "substantial improvement". The substantiality of the improvement is relevant only to how the required permit may be issued: by the ZA acting alone (not substantial), or by ZA following review by the ZBA (substantial). [Parts IV.B and IV.C, respectively]

Flood zones in Pomfret were mapped several decades ago using topographic surveys with large contour intervals. As a result, mapped zones may not precisely align with areas of actual flooding risk. To address these possible discrepancies, Landowners may seek a Letter of Map Amendment from FEMA to administratively remove their property from the flood zone. Or they may demonstrate that the proposed development will be situated at or above the elevation required by Pomfret's flood regulations. This can be achieved with a hydraulic study of the area or in some cases by applying the so-called "contour interpolation method" to determine the location's actual base flood elevation. See FEMA Publication 265, Section V.

Until one of these processes is completed, however, landowners must obtain a permit for all development occurring in the mapped flood zone before work commences, and the town must ensure such development complies with its flood regulations and meets the minimum standards required for continued participation in the National Flood Insurance Program.

III. Conclusions of Law

A. Current Ordinance

The conversion of the garage into a dwelling unit constitutes a change in the use of that structure requiring a permit pursuant to Section 6.4.1 of the Current Ordinance.

B. Prior Ordinance

The conversion of the garage into a dwelling unit would constitute a Non-Conforming Use requiring a permit pursuant to Part 7 of the Prior Ordinance, were that ordinance applicable to the subject development.²

C. Flood Hazard Area Regulations

The conversion of the garage into a dwelling unit constituted construction or development in a special flood hazard area requiring a permit pursuant to Part IV of the Flood Hazard Area Regulations, regardless of whether such construction or development constituted a “substantial improvement”. A permit for these activities was also required by Section 2.2.3.3 of the Current Ordinance.

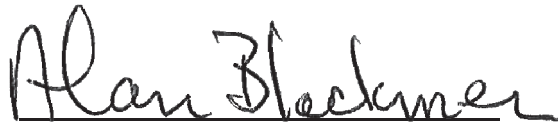
IV. Decision

Based on its review of the materials submitted, exhibits attached, testimony of witnesses, applicable regulations and conclusions of law described above, the ZBA **affirms** the NOV as issued.

The ZBA also refers this matter to the Pomfret Selectboard for potential enforcement pursuant to Section 6.9 of the Pomfret Zoning Ordinance, and remands to the ZA for further action pursuant to Part XIII of the Flood Hazard Area Regulations.

* * * * *

This Decision approved at Pomfret, Vermont, as of this 16th day of June, 2023, and signed by the chair of the Pomfret Zoning Board of Adjustment on its behalf pursuant to 24 V.S.A. 1141.



Alan Blackmer, chair
Zoning Board of Adjustment

ZBA members Alan Blackmer, Benjamin Brickner, Susan Burgess and Seth Westbrook voted in the affirmative. ZBA member Shaun Pickett did not participate in this Decision.

² In September 1984, the Landowners’ predecessor-in-interest obtained approval from the ZBA and a permit from the ZA for a non-conforming use of the garage as a home business, namely as a “small auto body repair shop”. The related application (as approved by the ZBA) is attached as Exhibit G. As the development at issue in this Decision is the creation of a second dwelling unit on a single parcel (a Non-Conforming Use under the Prior Ordinance), the September 1984 approval does not alter the conclusion that subject development was not exempt from permitting under Section 5.8 of the Prior Ordinance.

NOTICE: This Decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Zoning Board of Adjustment. 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.

Exhibit A

Town of Pomfret

5218 Pomfret Road
North Pomfret, VT 05053

December 11, 2020

Michael Zube & Callie Brusegaard
6150 Broad Brook Road
South Pomfret, VT 05067

Re: Land Use Violations (Change in Use of Garage)

Dear Mr. Zube & Ms. Brusegaard

It has come to my attention that a change in use and substantial improvements were made on your existing garage on your property at 6150 Broad Brook Road in Pomfret (parcel ID #5605). You may not have been aware that a zoning permit is required for such activities in Pomfret.

Although you are in violation of the Pomfret Zoning Ordinance, you may still apply for a permit which, if granted, will bring you into compliance, subject to any conditions or requirements in such permit. The application forms you will need to complete are enclosed. I have also enclosed a copy of the Pomfret Zoning Ordinance and the Flood Hazard Area Regulations for your reference.

Installation of water and waste water facilities may also require a permit from the Agency of Natural Resources Department of Environmental Conservation. Please contact Terry Shearer- Regional Engineer at terry.shearer@vermont.gov or 1-802-591-0338 for more information.

For new or improved structures, the required setback from the centerline of a public right of way is 65 feet. Since the garage is only approximately 21.6 feet from the center traveled portion of a public right of way (Broad Brook Road) as taken from an existing 1984 Zoning Board of Adjustment (ZBA) application to convert the garage to a home business, and by creating an Accessory Dwelling Unit (ADU) in the existing building (a change in use), both a setback waiver and conditional use approval is required from the ZBA. The garage is also in the special flood hazard area of Broad Brook (Zone A), for which a permit is also required under Pomfret's Flood Hazard Area Regulations. While the existing garage was permitted in 1984, the change of use of the garage is beyond the scope of the existing permit and a new permit is required. The application fee is \$135.00 for the ZBA hearing, \$66.32 for the Accessory Dwelling Unit, and \$50.00 for the Access Permit which is required for any dwelling, for a total of \$251.32, made payable to the Town of Pomfret.

May I hear from you within three weeks of the date of this letter, that is, by January 4th, 2021? If I do not hear from you by January 4th, 2021, I would be required to issue and file in the land records a Notice of Violation. See Section 6.9 of the Zoning Ordinance and Section XIII of the Flood Hazard Area Regulations.

Please call me at my cell phone at 802-299-8211 or email me at karen.hewitt@pomfretvt.us if you have any questions.

Thank you for your prompt attention to this matter.

Sincerely,

Karen Hewitt Osnoe, Zoning Administrator

Exhibit B

From: mike zube <[REDACTED]>
Sent: Sunday, January 3, 2021 3:51:31 PM
To: Karen Hewitt Osnoe <karen.hewitt@pomfretvt.us>
Subject: 6150 Broad Brook Rd.

Dear Karen,

I hope you had a good Holiday.

This email is in response to the letter sent to us on December 11, 2020 in which you outlined three separate possible violations: Change of use, "Significant Changes" to a structure in a Flood Zone, and an ADU requirement for an access of driveway. I will try to explain best I can what my understanding of the rules.

We were under the assumption that we did not need a change of use permit based on the previous Zoning Ordinance:

5. Not Needing a Permit: 5.8 Change from a non-conforming to a conforming use or occupancy or location,

These changes to our building were completed in April 2020, before the May 6th adoption of the new zoning ordinances, thus we did not believe we needed to pull a change of use permit as it meets all previously stated town Zoning Ordinances. Also, there is no, "change of use" application only a "Zoning Permit Application" which doesn't have any applicable sections for "change of use".

In your letter you stated we need a permit because we have made "substantial improvements" to the garage. We see in the Flood Hazard Regulations that "substantial improvements" are defined as:

"improvements of a structure, the cost of which cumulatively equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement."

I don't have the appraised tax value from Pomfret, but our insurance company had it appraised at \$58,150 (please see attachment). I assure you we did not pay more than \$30,000 for the improvements, as I did all of the work and the majority of the materials used were either leftovers from other projects or salvage. Thus, we believe we do not meet the requirements for needing a Flood Zone permit. On a secondary note, I have started the process with FEMA to amend the flood zone map, as the location of the garage is clearly above flood possibility, and it is proving quite difficult.

As for the driveway or approach access permit, again, running under the 1989 Zoning Ordinances where there are no requirements for access we did not believe a permit was necessary. However, after discussion with Callie, having a designated parking area would be in our best interest. We believe there will be no issue in meeting the necessary requirement for said permit and will file the appropriate paperwork promptly.

Thank you for the NRD information but I have already been in contact with them and had a site visit from one of their agents. Fingers crossed everything will go well.

Just some backstory, when the pandemic started, coupled with the pending zoning ordinances change, we needed to move my mother over there quickly as she is a nurse at the VA and in the “High-risk” age group. She was being exposed to COVID often and we needed her to quarantine safely away from us. The interior work was completed before the deadline and since the building already had siding I was able to push that off until later in the year. We aren’t trying to “get away” with anything, we just knew that with the new zoning regulations there was no way we could have fiscally done this project and hence the frantic pace at which I made it happen. Now with Callie and I expecting our first child and the pandemic still surging It has been very comforting having her in a safe space.

I look forward to hearing from you as we want to keep everything above board.

Best,

Mike & Callie

Cell: [REDACTED]

Town of Pomfret

5218 Pomfret Road
North Pomfret, VT 05053

January 18, 2023
Michael Zube & Callie Brusegaard
6150 Broad Brook Road
South Pomfret, VT 05067

Re: Land Use Violations (Change in Use of Garage) at 6150 Broad Brook Road in Pomfret (parcel ID #5605).

Dear Mr. Zube & Ms. Brusegaard

While the new zoning ordinance was officially adopted on May 6th, 2020, the new zoning ordinance had been applicable since the first Selectboard hearing which was warned in December 2019 [see [24 V.S.A. 449\(d\)](#)]. A permit would have been required and reviewed under 5.3 Accessory Dwelling Unit. However, since the original ZBA permitted a non-conforming use permit on August 23, 1984, for a garage as a new home business for a small auto body repair shop, changing this use would require a new ZBA permit. The 1984 ZBA permit also stated that there was no sewerage system connected to the garage and the water system was Spring fed.

Installation of water and waste water facilities may also require a permit from the Agency of Natural Resources Department of Environmental Conservation. Please contact Terry Shearer- Regional Engineer at terry.shearer@vermont.gov or 1-802-591-0338 for more information.

For new or improved structures, the required setback from the centerline of a public right of way is 65 feet. Since the garage is only approximately 21.6 feet from the center traveled portion of a public right of way (Broad Brook Road) as taken from an existing 1984 Zoning Board of Adjustment (ZBA) application to convert the garage to a home business, and by creating an Accessory Dwelling Unit (ADU) in the existing building (a change in use), both a setback waiver and conditional use approval is required from the ZBA. The garage is also in the special flood hazard area of Broad Brook (Zone A), for which a permit is also required under Pomfret's Flood Hazard Area Regulations.

Although you are in violation of the Pomfret Zoning Ordinance, you may still apply for a permit which, if granted, will bring you into compliance, subject to any conditions or requirements in such permit. The application form you will need to complete is enclosed.

I am required to issue and file in the land records a Notice of Violation after seven (7) days upon receipt of this letter. See Section 6.9 of the Zoning Ordinance and Section XIII of the Flood Hazard Area Regulations.

Please email me at karen.hewitt@pomfretvt.us if you have any questions.

Thank you for your prompt attention to this matter.

Sincerely,



Karen Hewitt Osnoe
Zoning Administrator

cc: Terry Shearer- Regional Engineer
Pomfret Selectboard
EEO Dan Mason

Exhibit D

Town of Pomfret

Zoning Administrator
5218 Pomfret Road
North Pomfret, VT 05053

March 23, 2023

Michael Zube and Callie Brusegaard
6150 Broad Brook Road
South Pomfret, VT 05067

✓ **VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED**
Tracking No. 7022 0410 0001 2739 1283

AND VIA FIRST-CLASS MAIL

NOTICE OF VIOLATION

Re: 6150 Broad Brook Road
Parcel #5605

Dear Mr. Zube and Ms. Brusegaard:

Please be advised that, based on information available to the Town of Pomfret (“the Town”), your property is in violation of Sections 6.4.1 and 2.2.3.3 of the Town of Pomfret Zoning Ordinance (“Ordinance”) requiring a Zoning Permit for a change in use and land development and requiring a Flood Hazard Permit prior to the issuance of a Zoning Permit in areas covered by the Town of Pomfret Flood Hazard Area Regulations.

Specifically, you have initiated the following activity on the above-described property:

Began land development on the above-described property by changing the use of a garage to an accessory dwelling unit, and excavating without permits.

Though you have been previously advised that such actions required permits, you have yet to apply for one. You have (7) days from the date of this letter to discontinue this violation and comply with the Ordinance or be subject to fines of

Michael Zube and Callie Brusegaard

March 23, 2023

Page 2

\$200 per day for each day the violation continues. Specifically, you must accomplish the following:

1. **Stop any continued work on the structure and any excavation (for a septic system or otherwise), and**
2. **Obtain a Flood Hazard Permit and a Zoning Permit from the Town for a change of use, and all land development (this may require State certification of any existing or planned septic system).**

If you do not accomplish the actions directed in this letter within seven (7) days of the date of this letter the Town of Pomfret will take appropriate action to enforce its regulations.

If the violation described in this letter occurs again within twelve (12) months of the date of this letter, you will not be entitled to receive a further Notice of Violation from the Town before the Town commences further enforcement proceedings.

You may appeal this Notice of Violation to the Pomfret Zoning Board of Adjustment by filing a written notice of appeal with the requisite \$300 appeal fee within fifteen (15) days of the date of this letter with the Pomfret Zoning Board of Adjustment in care of the Zoning Administrator at 5218 Pomfret Road, North Pomfret, VT 05053.

Failure to file an appeal within fifteen (15) days of the date of this letter will render this **NOTICE OF VIOLATION** the **Final Decision** on the violation addressed in this notice.

Sincerely,

Karen Hewitt Osnoe
Zoning Administrator

STITZEL, PAGE & FLETCHER, P.C.
 ATTORNEYS AT LAW
 171 BATTERY STREET
 P.O. BOX 1507
 BURLINGTON, VERMONT 05402-1507

CERTIFIED MAIL®



7022 0410 0001 2739 1283



Michael Zube and Callie Brusegaard
 6150 Broad Brook Road
 South Royalton, VT 05068

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Michael Zube + Callie
 Brusegaard
 6150 Broad Brook Road
 South Royalton, VT 05068



9590 9402 8026 2305 2178 95

2. Article Number (Transfer from service label)

7022 0410 0001 2739 1283

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

fail
 fail Restricted Delivery
 0)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USE

Postmark Here

Certified Mail Fee \$ 4.15

Extra Services & Fees (check box and fee as appropriate)

<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$ 3.35
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

Postage \$.84

Total Postage and Fees \$ 8.34

Sent To Michael Zube + Callie Brusegaard
 Street and Apt. No., or PO Box No. 6150 Broad Brook Road
 City, State, ZIP+4® South Royalton, VT 05068

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7022 0410 0001 2739 1283

7022 0410 0001 2739 1283

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$ 4.15

Extra Services & Fees (check box, add fee as appropriate)

- Return Receipt (hardcopy) \$ 3.35
- Return Receipt (electronic) \$ _____
- Certified Mail Restricted Delivery \$ _____
- Adult Signature Required \$ _____
- Adult Signature Restricted Delivery \$ _____

Postage

\$.84

Total Postage and Fees

\$ 8.34



Sent To

Michael Zube + Callie Brusegaard

Street and Apt. No., or PO Box No.

6150 Broad Brook Road

City, State, ZIP+4®

South Royalton, VT 05068

SENDER: COMPLETE THIS SECTION

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Michael Zube + Callie
 Brusegaard
 6150 Broad Brook Road
 South Royalton, VT 05068



9590 9402 8026 2305 2178 95

2. Article Number (Transfer from service label)

7022 0410 0001 2739 1283

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A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

MAR 28 2023

STITZEL, PAGE & FLETCHER, P.C.

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

fail
 fail Restricted Delivery
 0

Exhibit E

APPEAL LETTER

Michael Zube & Callie Brusegaard Zube
6150 Broad Brook Rd
Pomfret, VT 05053

March 29, 2023

Karen Hewitt Osnoe
Zoning Administrator
5218 Pomfret Rd
North Pomfret, VT 05053

Re: Notice of Violation, 6150 Broad Brook Rd, Parcel #5605

Dear Ms. Hewitt Osnoe,

This appeal letter is in response to the notice of violation of sections 6.4.1 and 2.2.3.3 reported in a letter dated March 23, 2023, in which you note that we “began land development on the property by changing the use of a garage to an accessory dwelling unit and excavating without permits.”

We were first notified on December 11, 2020 and responded to this violation on January 3, 2021. The following is our response sent to karen.hewitt@pomfretvt.us:

Dear Karen,

I hope you had a good Holiday.

This email is in response to the letter sent to us on December 11, 2020 in which you outlined three separate possible violations: Change of use, “Significant Changes” to a structure in a Flood Zone, and an ADU requirement for an access of driveway. I will try to explain best I can what my understanding of the rules.

We were under the assumption that we did not needed a change of use permit based on the previous Zoning Ordinance:

5. Not Needing a Permit: 5.8 Change from a non-conforming to a conforming use or occupancy or location,

These changes to our building were completed in April 2020, before the May 6th adoption of the new zoning ordinances, thus we did not believe we needed to pull a change of use permit as it meets all previously stated town Zoning Ordinances. Also,

there is no, "change of use" application only a "Zoning Permit Application" which doesn't have any applicable sections for "change of use".

In your letter you stated we need a permit because we have made "substantial improvements" to the garage. We see in the Flood Hazard Regulations that "substantial improvements" are defined as:

"improvements of a structure, the cost of which cumulatively equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement."

I don't have the appraised tax value from Pomfret, but our insurance company had it appraised at \$58,150 (please see attachment). I assure you we did not pay more than \$30,000 for the improvements, as I did all of the work and the majority of the materials used were either leftovers from other projects or salvage. Thus, we believe we do not meet the requirements for needing a Flood Zone permit. On a secondary note, I have started the process with FEMA to amend the flood zone map, as the location of the garage is clearly above flood possibility, and it is proving quite difficult.

As for the driveway or approach access permit, again, running under the 1989 Zoning Ordinances where there are no requirements for access we did not believe a permit was necessary. However, after discussion with Callie, having a designated parking area would be in our best interest. We believe there will be no issue in meeting the necessary requirement for said permit and will file the appropriate paperwork promptly.

Thank you for the NRD information but I have already been in contact with them and had a site visit from one of their agents. Fingers crossed everything will go well.

Just some backstory, when the pandemic started, coupled with the pending zoning ordinances change, we needed to move my mother over there quickly as she is a nurse at the VA and in the "High-risk" age group. She was being exposed to COVID often and we needed her to quarantine safely away from us. The interior work was completed before the deadline and since the building already had siding I was able to push that off until later in the year. We aren't trying to "get away" with anything, we just knew that with the new zoning regulations there was no way we could have fiscally done this project and hence the frantic pace at which I made it happen. Now with Callie and I expecting our first child and the pandemic still surging it has been very comforting having her in a safe space.

I look forward to hearing from you as we want to keep everything above board.

After two years without a response, on January 28, we received a letter stating the same issues which we have previously responded to with the addition of the zoning of the garage. This letter asked us to email if we had any questions, which we did. On February 9, 2023 we wrote another email to karen.hewitt@pomfretvt.us stating:

Good Morning,

I've been combing through my original purchase of this property and haven't come across anything about the building in question being zoned as an auto repair shop. When purchased, it was " NT Carpentry & Painting" which I'm assuming would have been in compliance or you would have surely informed them of the violation. I've reached out to my lawyer for clarification on whether this was provided or was missed.

I'm also having trouble finding the definitions and regulations of a "home auto body repair shop" circa 1984. If you could provide me with such details it would be helpful as it provides an interesting business opportunity (Broad Brook could use an auto shop). In particular if this allows for the sale of used cars and parts.

Thank you for your time,

We never received a response from either email that we sent trying to understand the violations and how to best proceed. Clearly the town has not responded to us in our attempt to understand and respond to the violations.

After researching our closing documents, and reaching out to the lawyer involved, this zoning was not disclosed during the discovery process in purchasing the home in 2017.

This letter is an appeal for the cited violations, as well as a request for more information on the appeal process and the regulations on the building as it is currently zoned (home business).

Sincerely,

Michael Zube
Dr. Callie Brusegaard Zube



Michael Zuke
6150 Broad Brook Rd
St. Albans VT 05068



WHITE RIV JCT VT 050
MAR 2023 PM 2 L

7022 2410 0000 3740 9867

Pomfret Zoning Board of Adjustment
CO: Zoning Administrator
5218 Pomfret Rd.
W. Pomfret, VT 05053

RETURN RECEIPT
REQUESTED

RDC 99



05053



R2305K131309-02

\$8.13

U.S. POSTAGE PAID
FORM LETTER
BETHEL, VT
05032
MAR 30, 23
AMOUNT

05053



Exhibit F

TOWN OF POMFRET ZONING BOARD OF ADJUSTMENT

Meeting Minutes
May 11, 2023

MEMBERS PRESENT: Alan Blackmer (Chair), Susan Burgess, Seth Westbrook, and Benjamin Brickner (via Zoom)

MEMBERS ABSENT: Shaun Pickett

OTHERS PRESENT: Karen Hewitt Osnoe (Zoning Administrator), Michael Zube and Callie Brusegaard Zube (appellants), and John Moore.

This meeting of the Zoning Board of Adjustment (ZBA) is to hear an appeal by Michael and Callie Brusegaard Zube of the Notice of Violation (NOV) dated March 23, 2023, issued by Karen Hewitt Osnoe, Zoning Administrator (ZA), alleging violations of the Town of Pomfret Zoning Ordinance (Ordinance) and Flood Hazard Area Regulations (Flood Regulations).

The hearing was called to order by Alan Blackmer at 7:02 PM.

At the outset of the hearing, the ZBA afforded those persons wishing to achieve status as an interested person pursuant to 24 V.S.A. § 4465 an opportunity to demonstrate that the relevant criteria have been met. Abutters Sarabeth Hurst and Payton Hurst were granted interested person status based on their email request dated May 5, 2023.

Michael Zube, Callie Brusegaard Zube and Karen Hewitt Osnoe were sworn in.

ZBA Chair Blackmer explained that the NOV reflects the town's effort to enforce its land use regulations. The ZA described the Notice of Violation and the alleged violations of the Ordinance and Flood Regulations described therein.

The development in question is the conversion of a garage into an accessory dwelling unit, the structure of which is entirely within the Special Flood Hazard Area of Broad Brook and the setback required by the Ordinance, and partially within the town right-of-way along Broad Brook Road.

The appellants explained their understanding of the Ordinance and Flood Regulations, in particular that the prior Pomfret Zoning Ordinance was still in effect at the time the alleged violations occurred, and that the work constituting the alleged violations did not constitute a "substantial improvement" under the Flood Regulations. For these reasons, the appellants did not believe a zoning permit was necessary.

The ZBA asked the appellants to provide additional information regarding the timing and cost of the improvements that were made.

Alan Blackmer moved and Seth Westbrook seconded that the meeting be adjourned. The motion carried unanimously. The meeting was adjourned at 9:18 PM.

TOWN OF POMFRET, VERMONT
APPEAL OR APPLICATION TO BOARD OF ADJUSTMENT

(Type or Print 6 Copies)

The undersigned hereby requests a zoning permit for the following use, to be issued on the basis of the representations contained herein. Permit voided in the event of misrepresentation, substantial inaccuracy or failure to undertake construction within one year of approval. If more space needed, attach additional sheets.

Appellant NEIL T. ALLEN, JR. Phone 763-7123

Address Rt. #2 - S. Royalton, Vermont Zip Code 05068

Landowner (where appellant is lessee or agent) _____

Location of Property North Pomfret, Vermont

Type of application or appeal (check one)

- Application for a non-conforming use permit under Part 7 of Ordinance
- Appeal from decision of Administrative Officer. (a copy of this appeal must be filed with the Administrative Officer.)
- Appeal for a variance.

Nature of work (check) New Construction ___ Accessory Bldg. ___ Other ___
Structural Alteration ___ Agricultural ___ New Home Business X

Existing use and occupancy Garage Proposed use and Occupancy Small Auto Body Repa Shop

Lot size 52.4 Acres Frontage on public road 972 ft.

Building length 26' 4" Width 28 feet No. of stories Two

Setback from center of road 21' 6"

Setback from property line at rear 3,000' side 440' side 532'

Type of water system Spring fed Type of sewerage system None
An accurate plot plan showing the location of the property and buildings or work areas must be attached to each copy of this application.

Reason for appeal Want to use existing garage as New Home Business; garage does not meet set back requirements from road.

The applicant (appellant) should provide a brief accurate description, including the location of the property; dimensions of new construction, if any; type of construction, as frame, concrete, brick, etc; area of lot; setback from road and nearest property line; lot frontage on road; proposed use of land and/or structures; and any other information Applicant (appellant) believes would help the Board of Adjustment to a clear and complete understanding of just what the applicant wishes to do. A precise plan of the developed plot must be submitted. If new buildings are to be constructed or old ones altered, sketches must show both ground plan and elevation.

Date 7-18-84 Signature of Applicant (Appellant) Neil T. Allen Jr.

FOR USE BY BOARD OF ADJUSTMENT

Date of Hearing 9/16/84 Fee Paid yes Notices of Hearing Mailed to _____

Approved yes Denied _____ on the basis of the following determinations or conditions: no employees, no more than three cars in yard.

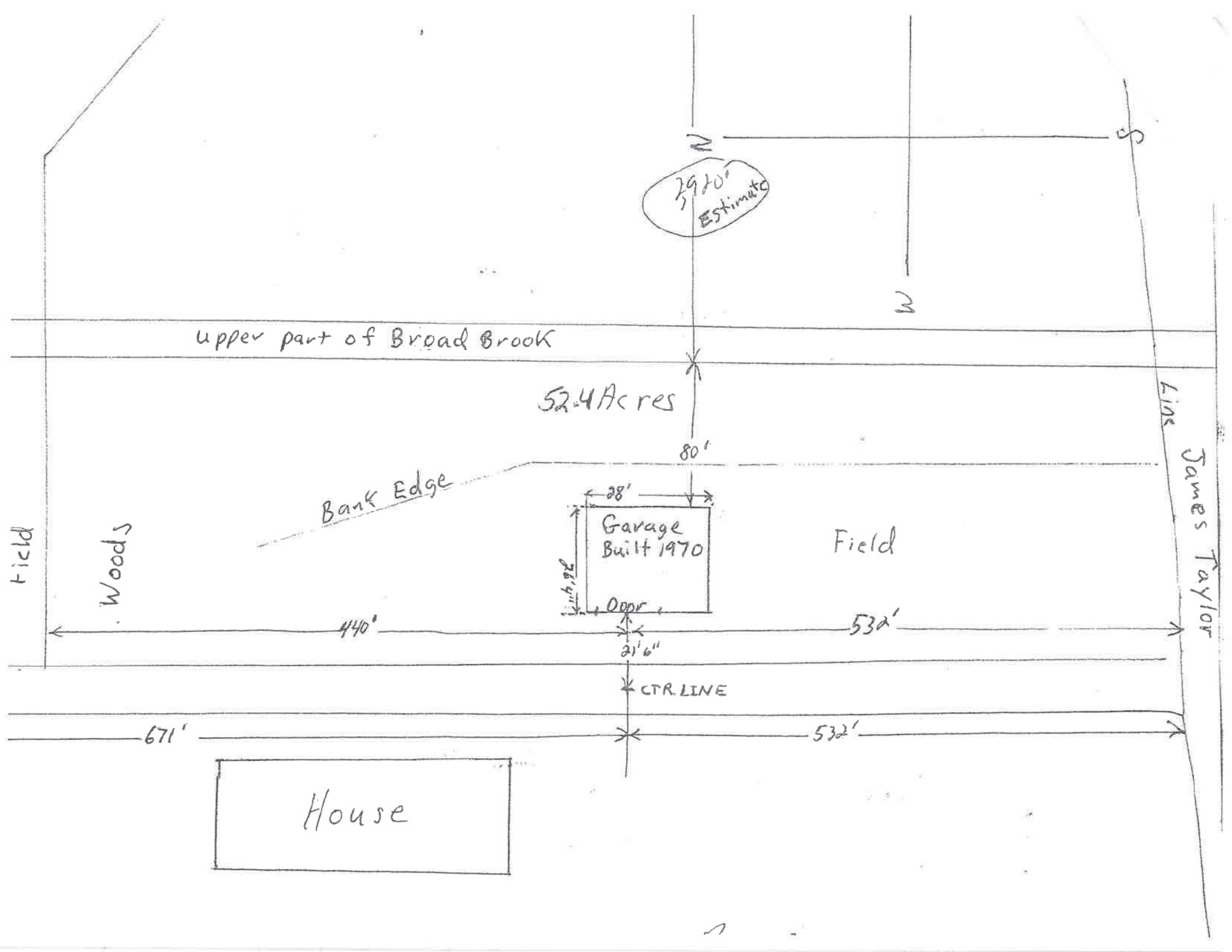
Date of Entry 9/16/84 Secretary, Board of Adj. Francis R. Manning

FOR USE BY ADMINISTRATIVE OFFICER

Date Posted 8/23/84 Permit No. 472 Date Issued 8-23-84

Effective Date of Permit (unless appeal is filed with county court) 9-15-84

Signed Dea C. Lewis
Administrative Officer



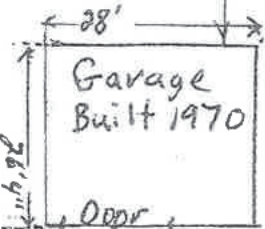
2920'
Estimate

upper part of Broad Brook

52.4 Acres

80'

Bank Edge



Field

Line James Taylor

440'

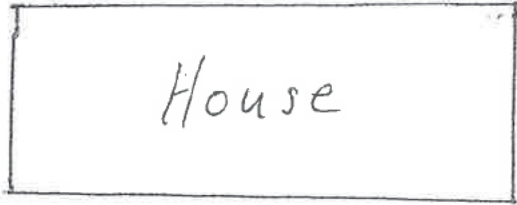
532'

21' 6"

CTR. LINE

671'

532'



Town of Pomfret Selectboard
Draft Special Meeting Minutes
July 17, 2023

Attendance: John Peters, Benjamin Brickner, Steve Chamberlin, Meg Emmons, Emily Grube

Public: Jim Potter (Road Foreman), Nancy Matthews (Auditor), Doug Tuthill (Planning Commission), Neil Lamson (Lister), Betsy Rhodes (Library Trustee), Kevin Rice (Fire Chief), Payton Hurst

1. John called the Meeting Called to Order 7:02 pm.
2. Agenda Review – No changes.
3. Public Comment – Doug Tuthill expressed disappointment with the reappraisal process; he feels the new values are unrealistic and that most working people can no longer afford to buy a home in Pomfret. Betsy Rhodes asked if the Fuel Supply Agreements to be discussed later (see 5(f) below) include the Abbott Memorial Library (they do).
4. Road Foreman’s Report – The crew has been busy repairing damage from the recent flooding rain. Pomfret fared better than neighboring towns, having sustained little severe damage. The Wayside Road box culvert and bridge were damaged in the storm, and a new culvert will be needed on Stage Road (bridge B13, near the Hatfields). Abracadabra Coffee’s recent festivals have drawn large crowds and resulted in parking on both sides of Wayside Road. Jim will contact the Abracadabra owners regarding the need to keep parked cars off the traveled way. Roadside mowing continues, currently dealing with poisonous parsnip. Meg will ask Betsy Rhodes to circulate another invasive species listserv message asking residents to refrain from placing pulled invasives on roadways. The road crew was thanked for their excellent work to maintain and repair the roads.
5. Items for Discussion or Vote
 - a. Special Assistant re: FEMA Disaster Declaration – Neil Lamson offered to act as the special assistant to the Selectboard for matters related to the recent FEMA Disaster Declaration (DR-4720-VT). Ben moved and Emily seconded Neil’s appointment, to be paid at the town’s current hourly rate. Unanimous.
 - b. Local Emergency Management Plan (LEMP) Roles and Responsibilities – The Selectboard discussed who is authorized by the LEMP to approve expenditures during emergencies. While the Emergency Operations Centers (EOC) can be activated by the Emergency Management Director, Fire Chief or Selectboard, the LEMP designates the Selectboard as the sole purchasing agent. An emergency meeting of the Selectboard may be convened without prior notice in order to make the necessary approvals during an emergency.
 - c. Paving the Town Office Parking Lot – Jim presented this project to Pike Industries (Caleb). Caleb stated the work would be done with separate equipment and a separate crew, so there would be no efficiency gained by waiting until the adjacent segment of Pomfret Road is paved, likely in 2024. Jim will prepare specs and get quotes from two other providers for comparison purposes. Emily suggests an electrical conduit be buried prior to paving in order to connect the Town Hall to the generator at the Town Office; Jim will ask the generator company what is needed. Regarding the upcoming Stage Road paving, the Selectboard feels the west end

- (toward Barnard) is in worse shape and that paving should start there and run east as far as available funding allows. The Library Street pothole will be filled in any event.
- d. Credit and Debit Card Policy – Ben moved and Emily seconded approval of the Credit and Debit Policy as presented, but with the reference to Selectboard approval of all expenditures of \$1,000 or more deleted (copious documentation is still required for all purchases). Unanimous.
 - e. Declaration of Inclusion – Ben moved and Meg seconded adoption of the Declaration of Inclusion as presented. Unanimous. John will inform the organizers.
 - f. Fuel Supply Agreements – Irving and Dead River submitted quotes for fuel oil, propane, and diesel for the town and library, starting October 1 for one year (the fire department is contracting separately with Junction Fuels). John moved and Steve seconded approval of the Irving agreements. Unanimous. Ben will scan the contracts and Emily will email Irving to confirm.
 - g. Delinquent Dog Licenses – Ben moved and Emily seconded that Cynthia notify delinquent dog license owners of the need to license their dogs, and that licenses must be obtained by August 2, 2023 to avoid possible penalties. Unanimous.
 - h. Warrants – Ben moved and John seconded approval for payment of the following warrants:

24001	\$ 75,975.98	A/P (approved at last meeting)
24002	9,628.91	Payroll
24003	70,801.56	A/P (includes ambulance fee and unpaid ambulance bills)

 Unanimous.
 - i. Approval of Minutes – Ben moved and Meg seconded approval of the July 5, 2023 meeting minutes with the “N/A” warrant amount corrected. Unanimous.
6. Meeting Wrap-Up
- a. Correspondence – A Bridgewater resident on Wayside Road expressed gratitude to Pomfret and its Road Crew for helping Bridgewater reopen that road. Driveway permit and letter re: Dinsmore Road to be discussed on Wednesday. Quality of life issue re: rooster crowing on Sessions Meadow (sender will be referred to the Zoning Administrator to determine if any zoning violations have occurred).
 - b. Assignments – Emily to inform Irving re the fuel supply agreements; Meg to contact Betsy Rhodes re invasives on the traveled way; John to confirm adoption of Declaration of Inclusion, refer rooster matter to Karen Osnoe; Ben to scan and send fuel supply agreements, send Abracadabra contact information to Jim; Jim to contact Abracadabra owners re: event parking; Cynthia to contact delinquent dog license owners.
 - c. Agenda for Next Meeting – Already published.
7. Adjournment – Ben moved and John seconded that the meeting be adjourned. Unanimous. The meeting was adjourned at 9:13 pm.

Town of Pomfret Selectboard
Draft Meeting Minutes
July 19, 2023

Attendance: John Peters, Benjamin Brickner, Steve Chamberlin, Meg Emmons, Emily Grube

Public: Cy Benoit (Tree Warden), Cathy Emmons, Josh Chisari, Mike Doten, Amy Robb, Margarete Pierce, Scott Pearce, Scott Barger, Jake Astbury, John Moore (Planning Commission), Gerry Fields, Glenn Morley, Greg Olmstead, Jamie Ziobro, Greg Hartford, John Morley

1. John called the meeting order at 7:02 pm.
2. Agenda Review – Ben moved and Meg seconded that items 5B (revised financial policies), 5D (Paving Town Office Parking Lot), 5E (Town Office Entryway Renovation), 5F (Warrants), and 5G (Approval of Minutes) be deleted; and that Fire Department Appropriations and Town Hall Revitalization Committee be added. Unanimous.
3. Public Comment – Cathy Emmons and Cy Benoit commended the Road Crew on how well the roads held up during the recent flooding.
4. Road Foreman’s Report – None.
5. Items for Discussion or Vote
 - a. Foliage Traffic Management – Meg presented a traffic management plan prepared by several Cloudland Road and Barber Hill Road residents that would entail closing both roads, posting traffic signs, moveable barriers and traffic control/law enforcement officers during peak fall foliage (from September 16 through October 22). The residents estimate the implementation cost will be \$18,500, and they have privately raised a GoFundMe to defray the same.^[*] The roads will remain open to local residents and their guests, emergency and agricultural vehicles. It is hoped that Woodstock will offer to coordinate on the signage, etc. to be placed in Woodstock and assist with the cost of the traffic control/law enforcement officer at the Woodstock end of Cloudland Road. Ben will contact the Woodstock Select Board chair to inquire. John will communicate with emergency services in Woodstock and Pomfret to explain the plan and determine if they can work around movable barriers in the event of an emergency. A final plan and decision is anticipated at one of the August 2023 Pomfret Selectboard meetings.
 - b. MERP Mini Grant – After consideration of the two solicited proposals for the Town Hall Feasibility Study, Meg believes the plan from Ulf Architecture, PLC to be best suited to the current phase of work. Mr. Ulf has offered a courtesy discount to the Town. Emily suggested that the results of an unrelated 2013 Town Hall scoping study may be useful and should be made available to Mr. Ulf. The \$7,500 cost will be paid primarily from MERP Mini Grant proceeds, with the balance paid from unallocated ARPA funds. Ben moved and Emily seconded that Ulf Architecture’s May 3, 2023 proposal be accepted. Unanimous.
 - c. Fire Department Appropriations – Scott Barger explained that additional turnout gear is needed to enable new personnel to attend training and become certified. There are

* **Editor’s Note:** See <https://www.gofundme.com/f/save-cloudland-road>.

- funds available in the related reserve account and other funds were appropriated for this purpose in the current fiscal year. The Selectboard explained that any expense over \$1,000 will require two price quotes unless only one provider is available. Scott also explained that the Fire Department will need to replace pagers and equipment at the radio repeater on Totman Hill, some of which is now 20 years old. Two quotes will be needed for this as well. It was suggested that the Fire Department's capital plan be updated to include these expenses on a timeline to assist with forecasting the anticipated costs. The Fire Department will return at a future meeting with price quotes and an estimate of the Department's immediate needs.
- d. Town Hall Revitalization Committee – Meg prepared a proposal for the objectives, members and deliverables of a new committee that will develop future uses of a revitalized Town Hall. Ben moved and John seconded that a Town Hall Revitalization Committee be created; that the committee be charged with assessing the Town Hall's historic functionality and collecting community feedback and engagement regarding ongoing utilization of the Town Hall by the public as a community center; providing this information to the Town to maximize the impact of efforts to improve the Town Hall's functionality; and strengthening connections within the Pomfret community; that the committee be comprised of Katie Brickner, Marie Cross, Meg Emmons and Gennie Lawrence (all appointed without term); and that the committee be directed to deliver a written report outlining findings and recommendations for uses of the Town Hall based on community feedback to the Selectboard on or about August 14, 2023, for presentation at the next available Selectboard meeting. Unanimous.
6. Meeting Wrap-Up
 - a. Correspondence – None.
 - b. Review of Assignments – Ben to contact Woodstock Select Board chair re: foliage traffic management, consult with Stitzel Page on legal matters; John to speak with emergency services in Woodstock and Pomfret re: Cloudland Road and Barber Hill Road closures; Meg to communicate with Ulf Architecture re: Town Hall feasibility study, and to organize the new Town Hall Revitalization Committee.
 - c. Agenda for Next Meeting – Dog Ordinance matters, delinquent dog license fines, foliage traffic management, Broad Brook Road zoning matter.
 7. Executive Session
 - a. Ben moved and Emily seconded that the Selectboard enter into executive session pursuant to 1 V.S.A. 313(a)(1)(F) to discuss confidential attorney-client communications. Unanimous. The Selectboard entered executive session at 8:55 pm.
 - b. The Selectboard exited executive session at 9:23 pm, with no decisions having been made therein.
 8. Items for Discussion or Vote
 - a. Dinsmoor Road Highway Access Application and Related Correspondence – Ben moved and Emily seconded that the recent highway access application, current and future correspondence related to the same be forwarded to the Town's outside counsel (Stitzel Page & Fletcher, P.C.) for review and recommendation to the Selectboard on how best to proceed. Unanimous.
 9. Adjournment – Ben moved and Meg seconded that the meeting be adjourned. Unanimous. The meeting was adjourned at 9:24 pm.