

TOWN OF CHARLOTTE
ZONING BOARD OF ADJUSTMENT

In Re: Appeal by Kristen DeStigter

ZBA 15-02

I. Introduction and Issues Presented

This matter came before the Zoning Board of Adjustment, on May 20, 2015, by the appeal of Kristen DeStigter. The Appellant seeks to appeal the decision of the Charlotte Zoning Administrator who made the determination that two trucks and two landscaping trailers parked outdoors on the property would not constitute outdoor storage that exceeds the limits of a Home Occupation I. The property in respect to which the appeal is taken is owned by Christopher and Rebecca Fortin and is located at 2737 Lake road.

II. Meeting Attendance

The following people participated in the hearing: Kristen DeStigter, Liam Murphy, Katelyn Ellermann, Tim Hotaling, Jonathan Silverman, Christopher Fortin, Rebecca Fortin, and Michael Russell.

III. Exhibits

During the course of the hearing the following exhibits were entered into the record:

- Exhibit A- Email from Jeannine McCrumb to Michael Russell dated April 9, 2015.
- Exhibit B- Photographs of Fortin property submitted by appellant's legal counsel.
- Exhibit C- Vermont State Statute §4465.
- Exhibit D- Vermont Supreme Court Case- Re Appeal of Herrick.
- Exhibit E-Vermont Supreme Court Case- Re Appeal Griffin.

IV. Findings of Fact

1. The property in respect to which this appeal is taken is located at 2737 Lake Road and owned by Christopher and Rebecca Fortin.
2. The property is used for residential, agricultural, and commercial purposes.
3. On April 9, 2015, the Town Zoning Administrator responded to a question from the Appellees' attorney, Michael Russell, who sought to clarify how many vehicles were allowed to be stored on-site, under a Home Occupation I.

4. A Home Occupation I does not require a zoning permit, but among other things, it prohibits the use of outdoor storage. The Zoning Administrator determined that: “two trucks with trailers that each of the Fortins drives to and from “work” each day would not, on their own, constitute outdoor storage that exceeds the limits of a Home Occupation I.” The Zoning Administrator added that “this determination does not apply to any equipment or landscaping materials that the trucks and/ or trailers may carry and/or transport”.
5. On April 23, 2015, the Planning and Zoning Office received a Notice of Appeal regarding the Zoning Administrator’s April 9, 2015 email. The Notice of Appeal was submitted by Katelyn Ellermann, legal counsel for Kristen DeStigter.
6. As per Section 9.6, in accordance with Act [§4465], an interested person may appeal a decision or act of a Zoning Administrator within 15 days of the date of the decision or act by filing a notice of appeal with the Secretary of the Zoning Board of Adjustment.

V. Discussion

Procedural Review. As established by Section 9.6 in the Charlotte Land Use Regulations, Title 24 VSA §4466, and Title 24 VSA§4465, the Appellant has met all three of the procedural appeal conditions. The Appellants filed the appeal within the allotted 15 days of the Zoning Administrator’s decision. The Zoning Administrator’s determination was sent via email on April 9, 2015, and the Appellant filed their appeal on April 23, 2015. The Zoning Board finds that the Appellant meets the definition of an interested person (as defined by 24 VSA § 4465(b) (3), and that the Appellant has submitted a complete Notice of Appeal (as defined by Section 9.6 (A) (1) and 24 VSA § 4466).

Substantive Review. Having found the procedural requirements were met by the Appellant, the Zoning Board shall determine if the Zoning Administrator properly followed the applicable regulations when rendering her decision.

Section 4.11 (A) (1)

Home Occupation I status includes those that only employ the resident(s) of a dwelling; that occur within a portion of the dwelling and/ or within an accessory structure to the dwelling; and generates no more than 12 business-related vehicle trips per day.

While Section 4.11 (A)(1) does not place restrictions on the types of businesses considered appropriate as a Home Occupation I, the Zoning Board believes that this “allowed by right” form of Home Occupation was intended for limited business uses (and generally confined within an existing

residence or accessory structure) , such as home offices. The Zoning Board understands that a landscaping/ snowplowing business will have difficulties meeting the constraints of a Home Occupation I designation. The Zoning Board believes that if the Appellees wish to limit their business footprint within the constraints of a Home Occupation I designation, it is important that business activities adhere to the restrictions prescribed in Section 4.11 (A) (1) without any ambiguity. For this reason The Zoning Board disagrees with the Zoning Administrator’s determination that the two empty landscaping trailers would not constitute outdoor storage greater than what is allowed by a Home Occupation I. The large landscaping trailers are equipment used for business purposes and, as such, must be stored indoors or offsite.

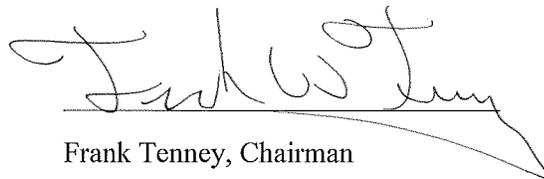
The Zoning Board finds that the outdoor storage of two pickup trucks, which are associated with the business, but also used for commuting purposes by the owners of the Home Occupation, would not constitute outdoor storage of “business equipment” and, as such, may be stored outside. This right does not extend to large commercial vehicles used for business purposes, such as the dump truck, which must be stored indoors or offsite.

VI. Decision

Based upon these findings, the Board finds the Zoning Administrator was incorrect in her determination. All vehicles and equipment used for business purposes associated with the Home Occupation I must be stored indoors or offsite, including the empty landscaping trailers. Two pickup trucks, which are associated with the business, but that are also used for commuting purposes, would not constitute outdoor storage of business equipment, and as such, may be stored outside. The dump truck, excavators, equipment trailers, and all other equipment and materials used to execute the landscaping/snow plowing business, must be stored indoors or offsite.

Vote: 3 Ayes, 1 Absent.

Dated at Charlotte, Vermont, this 15th day of September, 2015.

A handwritten signature in black ink, appearing to read "Frank Tenney", written over a horizontal line.

Frank Tenney, Chairman

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.

