

**TOWN OF PITTSFORD, VT ZONING BOARD OF ADJUSTMENT (ZBA)
FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION & ORDERS**

Conditional Use Application #21-35-Amended

OWNER/Applicant: Travis Bovey, d.b.a. Boondock Motors
Postal Address: 670 Hollister Quarry Rd. Brandon VT 05733
Ph. (802) 236-0697 Email: TravisBovey@yahoo.com

Subject Property: 670 Hollister Quarry Rd., Pittsford VT

Parcel I.D. #0118

Tax Map #02-710-0670

INTRODUCTION

The Zoning Administrator (ZA) initially received an incomplete application in this matter on 12/3/2021, and a complete application with attachments and fee on 12/22/2021. *Application 21-35 - Amended* requests certain amendments to Zoning Permit 21-35. The application was referred to the ZBA on 12/29/2021. Notice of the Public Hearing was :

- a. posted in four public locations (including road Poster),
- b. The Applicant was notified of the scheduled Public Hearing by Certified Mail, 12/23/2021
- c. Abutting ownerships were notified by USPS (w/ Certificate of Mailing) 12/23/2021
- d. On 12/24/2021 and 12/28/2021 the Hearing Notice was published in the Rutland Herald.

A Public Hearing was held in-person and via Zoom remote conferencing on January 10 2022, and a quorum of the ZBA was in attendance. The Applicant was represented by Attorney David Grayck. Pittsford's Zoning Administrator, Pittsford's attorneys, and members of the Public were in attendance (in-person and remotely via Zoom). Participating Interested Parties that were sworn in, and presented testimony included, J. Biasuzzi (ZA), Jill Markowski, Peter & Barbara Cosgrove, and Greg Boudah.

Following receipt of testimony, the ZBA voted to close the Hearing, and the ZBA met in Deliberative Session; with the Town Attorneys, ZA, and ZBA secretary invited to attend to provide technical assistance.

Jurisdiction is taken under Articles XIV (Appeals), V (Conditional Uses, Uses Subject to Conditions), and XVII (Public Hearings) of Pittsford Zoning Regulations (PZR), effective 4/11/2019.

Upon Deliberation, the ZBA has considered the following Facts, Legal issues, Decisions, and Orders:

FINDINGS of FACT

1. The Applicant owns a 3.2+/- acre parcel on the north side of Hollister Quarry Road (T.H. 19). The property encloses the Applicant's single family residence; and two larger detached structures currently being used for maintaining the Applicant's truck fleet, other commercial vehicle repair, body work. The business's fleet engages in commercial hauling/trucking services and vehicle recovery (towing) and impoundment. The open area serves as parking or storage of customer or client vehicles and miscellaneous items.
2. Town Permit 21-35 (issued 9/8/2021, effective date 9/26/2021) allowed Boondock Motors to continue to operate this business with certain Conditions that established deadlines for compliance.
3. There were no Appeals to either the ZBA's Decision or the ZA's action in issuing the permit within the statutory periods.
4. *Application 21-35-Amended* specifically Requests for Relief:
 - a) A determination by the Pittsford Zoning Administrator with respect to the 12/3/2021 Bovey application be clarified and corrected.
 - b) A permit Amendment of Conditions e(3) and e(4) of (ZBA Decision) of 9/8/2021, requesting an extension of the Permit's deadlines for compliance of these Conditions to Friday, June 3, 2022.
5. Condition e(3) of Permit 21-35 required the Applicant to have provided the Town satisfactory evidence that an application to VT's ANR- Waste Water Division for a (Act 249) permit to operate the bathroom in the repair shop be submitted within 45 days of the ZBA's Decision (by 10/23/2021).

- 6. Condition e(4) required the Applicant to provide satisfactory evidence that an Act 250 permit was not required, or that an application to VT Act 250 for a permit to conduct its business be submitted within 90 days of the ZBA's 9/8/21 Decision (by 12/7/2021).
- 7. At time of the request for an extension, the Applicant had not complied with the deadline for Condition e(3). The Applicant timely requested an extension for condition e(4).
- 8. Area Residents submitted verbal and written testimony, citing regular and numerous violations of all other conditions of Permit 21-35.
 - a) As t the Applicant's attorney was participating in the Hearing via Zoom, and could not view the written testimony, the ZBA and Applicant agreed to have the written testimony mailed to Attorney Grayck USPS, and to be contested within seven days following receipt. The ZA mailed the testimonial exhibits on 1/12/2022; and has not received a response from the Applicant's attorney.

CONCLUSIONS OF LAW

- 1. Section 1301(C) of the Town Zoning regulations do not specifically authorize the ZBA to amend a Decision or Permit once requested past the statutory appeal periods. The Board is willing to consider granting the extensions requested upon review of the Applicant's application Cover and advise from the Town's attorney.
- 2. The Applicant has filed a separate Appeal of the ZA decision with regards to the initial (incomplete) Application filed, and the follow-up (complete) application. The ZBA will address that upon review of Application (Appeal) 21-48. The ZBA will consider the Request for Relief of Condition e(3) as the VT Waste-Water approval would be integral to and is a required condition of any VT Act 250 review and approval.

DECISION

The ZBA hereby grants extensions to Conditions e(3) and e(4) set forth in its Decision dated September 8, 2021 as follows:

- 1. The Applicant shall submit a complete application to VT's Waste Water Division (Act 249) on or before April 15, 2022. The Applicant shall submit to the Town satisfactory evidence that a complete application to VT's Waste Water division was filed for an Act 249 permit on or before April 15, 2022.
- 2. The Applicant shall submit a complete Act 250 application on or before June 3, 2022. The Applicant shall submit to the Town satisfactory evidence that a complete application for an Act 250 permit was filed on or before June 3, 2022.
- 3. No other Amendments to the ZBA's 9/8/2021 Decision or Permit 21-35 are granted.

The ZBA Members so voting as follows:

Stanley Markowski: Approve	Richard Conway: Abstain	Daniel Adams: Approve
Clarence Greeno Jr.: Approve	Ed Keith Jr.: Approve	Charles Simpson: Approve

The Decision of this Municipal Panel may be Appealed by an Interested Party, within 30 days of its signing date; by filing an Appeal to VT's Superior Court (Environmental Division), in accordance with 24 VSA chapter 117 Section 4471 and Pittsford's Zoning Ordinance, with a copy delivered to the Town Clerk.

Approved on behalf of the ZBA, this 22nd day of Feb. 2022 by Stanley Markowski X Chairperson

Received by the Zoning Administrator on Feb. 23 2022 by [Signature]