

PUBLIC HEARING NOTICE: PITTSFORD ZONING BOARD OF ADJUSTMENT (ZBA)

On Monday, February 24, 2025; at 7:00 PM, at Town Offices (426 Plains Road) the Pittsford ZBA will conduct a Public Hearing (in-person and remotely via Zoom) to review an Appeal of a Zoning Notice of Violation issued to Frances Martindale &/or James Lertola (Owners) for allowing an unpermitted Campground operation on their property at 90 Chateau Way (Florence), Parcel I.D. #0938.

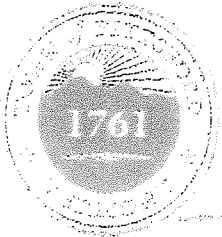
Interested Parties are to be signed/logged in by 7:15 pm and prepared to present testimony, or they may forfeit their right to appeal any decision by the ZBA in VT Superior Court (Environmental Division).

A copy of the Violation Notice and Appeal, as well as Zoom Log-in Instructions will be Posted in Town Office and at www.PittsfordVermont.com

For (remote) ZOOM conference participation:

For VIDEO conference <https://www.Zoom.us> Meeting ID 652 103 6395

For TELEPHONE only, Dial: 929 205-6099 Enter # upon prompt. Hit # again to join.



Town of Pittsford
"The Sunshine Village"

Municipal Office
PO Box 10, 426 Plains Road
Pittsford, VT 05758-0010

Office 802-483-6600
Fax 802-483-6512
www.pittsfordvermont.com

December 18, 2024

Delivered by USPS & USPS Certified Mail w/return receipt

Frances Martindale &/or James Lertola
P.O. Box 407
Pittsford VT 05763

RE: **Notice of Zoning Violation:** Unpermitted Campground operation at 90 Chateau Way (Florence); Lister ID #0938,
Tax Map # 18-700-0090

To the Property Owners;

The Town has received complaints about the number of Recreational Vehicles/Campers (RV) on your 2.9+/- acre Chateau Way ownership. An inspection revealed you have up to six RVs being occupied for longer than 21 continuous days, which are not connected to any approved water supply or waste-water disposal system. The single family one-bedroom house on the property is not approved for use by the RV owners.

VT defines a Campground as a Use of three or more Camps, Recreational Vehicles or Campers on a property, occupied by others than the property Owners. This is your formal NOTICE that you are in VIOLATION of Article III, Section 302 of Pittsford's Zoning Regulations (adopted 3/20/2019) for operating a Campground in the Town Industrial zone, which is Not an allowed Use. A copy of these regulations may be reviewed on www.PittsfordVermont.com

To avoid Town enforcement action you have Fourteen (14) Days from the date of this mailing to remove all the violating RVs, and bring your property into compliance with all Town Ordinances. You have the option to Appeal this action by the Zoning Administrator by filing the enclosed Appeal form with the required \$100.00 fee with the Town Clerk within Fifteen (15) Days of Notice date. The deadlines are calculated in calendar days. Failure to do either will make the VIOLATION final, and the Town will instruct its Attorney to initiate legal enforcement action.

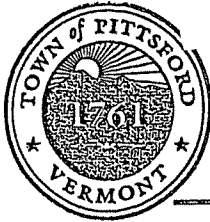
You are on Notice that you are Not entitled to additional warning for Violations continuing or occurring after the Fourteen (14) day window for Compliance, and each continued or additional Violation constitutes a separate offense.

The penalty per violation may be up to \$200.00 per day; and each day a violation continues constitutes a separate violation. Failure to pay penalties would be grounds for legal action that may include attachment of wages or property, liens, & collection agencies. This does Not include any penalties that VT may also access for Violation of their Health, Public Safety, and Act 250 regulations.

Respectfully,

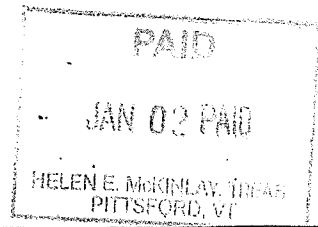
Jeffrey Biasuzzi, Zoning Administrator
Zoning@PittsfordVermont.com

Enc. / Cc: Za file (NOV Martindale & Lertola 12.18.2024), Twn Mgr.



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APPEAL APPLICATION to PITTSFORD ZONING BOARD OF ADJUSTMENT

Permit No. T.B.D. Date 1/1/25

Appellant Fran Martindale Address PO Box 407, Pittsford, VT Phone 802.236.1137
J. LOREOLA

Landowner F. MARTINDALE Address PO Box 407, Pittsford, VT Phone 802.236.1137

Location of Property 90 CITATEAU WAY

Tax Map Description: 18-700-0090 LISTED ID# 0938

Use this form to appeal a decision made by the Administrative Officer. A copy of this appeal must be filed with the Administrative Officer. Attach additional information sheets if needed. PLEASE FILL OUT ALL INFORMATION ACCURATELY AND COMPLETELY TO AVOID PROCESSING DELAY.

1) What is the specific ground(s) for the appeal?

There are several specific grounds for appeal. Please see attachment, page 1.

2) Give a description of the property with respect to which the appeal is taken (if this appeal is the result of the denial of a permit by the Administrative Officer, attach a copy of the original application).

Property description is attached on Addendum, page 2, no. 2.

3) What specific relief are you requesting with this appeal?

At the minimum, a 90-day stay of any enforcement action and a complete stay of any monetary penalties during the appeal process. See attached, page 2, no. 3.

4) Why do you believe such relief is believed proper under the circumstances?

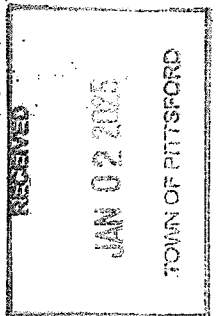
Primarily because it's winter and a 14-day window simply isn't feasible, especially when there are significant issues with the Notice of Violation. See addendum page 2, no. 4.

5) If a stay of enforcement is requested, a statement under oath that irreparable damage will result if such stay is not granted is required (Mark N/A if no stay of enforcement is requested).

Signature of Appellant _____

The _____ shall hold a public hearing on the appeal within 60 days of the receipt of the notice of appeal. A copy of the hearing notice shall be mailed to you at least 15 days prior to the public hearing. Testimony at the public hearing shall be limited to the specific issues raised by the appellant in his notice of appeal. Within 45 days of the conclusion of the hearing, the Board will render a decision.

1/3/25 APPEAL RECEIVED BY ZA w FEE RECEIPT



Permit No. _____ Fee Paid \$ _____ Date _____
Notice of hearing _____ Date of hearing _____

Re: Notice of Zoning Violation, Lister ID #9038, Tax Map # 18-700-0090

Addendum to Appeal Application to Pittsford Zoning Board of Adjustment

1. What are the specific grounds for the appeal?
 - a. Paragraph 1 of the *Notice of Zoning Violation* alleges "...you have up to six RVs being occupied for longer than 21 continuous days..." **This is a factually inaccurate allegation. At no time have there been up to six RVs at 90 Chateau Way occupied for any length of time.**
 - b. Paragraph 1 of the *Notice of Zoning Violation* states, "An inspection revealed..." This indicates that an improperly conducted inspection without a duly issued search warrant may have been conducted by the Zoning Administrator. According to the Zoning Administrators Handbook, issued by Vermont Land Use Education and Training Collaborative (October 2005):
 - i. Page 20: "The investigation often begins with a phone call or letter to the landowner, explaining the reason for the suspicion and asking the landowner to respond. If the landowner fails to respond satisfactorily, the ZA should contact the landowner again and ask for permission to visit the site." **This was not done.**
 - ii. Page 21: "A ZA who wants to gain access to a property to be sure of the nature and extent of a violation may ask the landowner for permission to inspect the property." **This was not done.**
 - iii. Page 21 also states: "Federal and state constitutional protections, however, prohibit a government official from conducting a search of private property without a search warrant issued by a judicial officer. A ZA must obtain a search warrant **before** going onto private property to search for evidence of a violation. The court may only issue a search warrant if the ZA can demonstrate 'probable cause'...to believe there is a violation of the bylaw." **This did not occur, yet the Notice of Zoning Violation issued December 18, 2024 states that an inspection of the property occurred.**
 - c. Paragraph 1 of the *Notice of Zoning Violation* states, "...which are not connected to any...waste-water disposal system." **Any waste water generated in the occupied campers is held in an industry-standard internal holding tank and is pumped regularly by A1 Septic.**
 - d. The *Notice of Zoning Violation* refers to the State of Vermont's definition of a campground without citing specific statutes. According to the State of Vermont Agency of Natural Resources, a "Campground – means 4 or more campsites on a lot that are occupied or made available to be occupied for vacation or recreational purposes by camping units, such as tents, yurts, teepees, lean-tos, camping cabins, and recreational vehicles." **At no time have property owners attempted to establish a campground at 90 Chateau Way nor are there any plans to attempt to establish one as the property is indeed located in an Industrial Zone. As there are only 3 occupied campers at this time, the property fails to meet the State's definition of a Campground, as is alleged in the Notice of Zoning Violation.**
 - e. The *Notice of Zoning Violation* specifically cites Article III, Section 302 of the *Town of Pittsford's Zoning Regulations (adopted 3/20/2019)*. This citation refers to the section of Pittsford's Zoning Regulations that prohibit campgrounds as either a permitted or conditional use in an Industrial Zone. **To be in violation of that particular town regulation, the property owner would have to be operating campground, which he/she is not. If the property doesn't meet the State's definition of a campground, then it can't be in violation of Section 302 as is alleged.**

- f. According to the State of Vermont Department of Environmental Conservation Drinking Water Groundwater Protection Division, "No wastewater/water supply permit is needed if: Sites are not connected via pipe to water or sewer services. There is no discharge of wastewater to the ground." This is referring specifically to "campgrounds", which the property in question is not, however, it should be noted that no wastewater is discharged to the ground and pipes are not present to connect the occupied campers to a sewer system because a sewage disposal company is used to pump sewage from the holding tanks.
2. Give a description of the property with respect to which the appeal is taken.
- The property in question is a 2.9+/- acre property located at 90 Chateau Way which contains a one bedroom-house. Historically, this property was the cite of a 4-unit trailer park. The water connections and sewage holding tanks are still present in the ground and accessible by a sewage company for clean-out.
 - When you enter the property three RVs are immediately observed, one to the left and two straight ahead. These RVs are not, and haven't been, occupied. They are currently used for storage. These RVs aren't roadworthy and aren't able to be driven off the property. Removal and disposal of these RVs would have to be done by a towing company with a large-enough truck and would be a significant expense for the property owner. Furthermore, as these are being used for necessary storage for the property owner, losing these RVs would result in additional items being strewn around the property.
 - If you turn 90-degrees left while facing the one-bedroom house located on the property, you'll see one camper to the far-left that is occupied by the property owner. Straight ahead, you'll see a camper occupied by another household, and towards the right, you'll currently observe 3 campers. Only one of these is actively occupied by another household. The others are used only as a shelter for dogs and additional storage space.
3. What specific relief are you requesting with this appeal?
- A 90-day stay of any enforcement action.
 - A stay of any monetary penalties during the appeal process.
 - Acknowledgement from the Town of Pittsford Zoning Board that a campground is not being operated on the property.
4. Why do you believe such relief is proper under the circumstances?
- A 14-day window is simply not feasible, especially given the winter season. As it is winter and the ground isn't easily traversable throughout the 2.9 +/- acre property, an effort to more fully clean it up will have to take place in the spring.
 - As the additional RVs/Campers aren't occupied and are being used for storage and dog shelter, there should be no urgency to implement enforcement actions. The property owner's due process rights allow her/him to be heard by the Zoning Board of Adjustment to bring all facts to light before penalties are assessed.