

**Chelsea, Vermont, Development Review Board**  
**Meeting Minutes of July 30, 2014**

**Members Present:** Anne Carroll (Chair), Blaine Conner, Debra Melvin, Richard Allen, Cynthia Masterman, Arthur Goodrich

**Members Absent:** Laurence Allen

**Others Present:** Robert Button, Jr., Sheilagh Smith, Preston Bristow (AO and Clerk)

---

Chair Anne Carroll opened the meeting at 6:30 pm.

The **public hearing on an appeal by Robert Button, Jr.** of the zoning administrator's determination that the storage of a mobile home at 7 Creamery Road (Parcel #077-001) for a period of more than twelve months is a violation of the Chelsea Zoning Bylaw was opened at 6:35 pm with a reading of the Public Hearing Notice as posted and published. No conflicts of interest or ex officio conversations were disclosed. There were no interested persons present. Robert Button, Jr., Sheilagh Smith and Preston Bristow were sworn in.

The relevant documents in this appeal are:

- Permit #ZP12-12 dated June 20, 2012, for temporary storage of a mobile home.
- A letter to Robert Button, Jr. dated March 17, 2014 stating the mobile home was now in violation and offering until May 15, 2014 to bring the mobile home into compliance.
- A Notice of Violation for the mobile home dated May 21, 2014.
- An appeal letter from Robert Button, Jr. dated June 4, 2014 and signed June 5, 2014.
- A memorandum to the Chelsea DRB from the zoning administrator dated July 25, 2014.

Zoning administrator Preston Bristow testified that although the zoning bylaws aren't completely clear, when Robert Button, Jr. and Sheilagh Smith initially asked to place a mobile home in this location, he requested that Robert Button, Jr. apply for a permit for the mobile home as a temporary structure. Preston Bristow's recollection was that although Robert Button, Jr. didn't think he needed a permit, he complied because he expected the mobile home to be renovated and removed from the site within one year. When Gordon Newman questioned the DRB on why the mobile home was still in place after a year, Preston Bristow testified that he replied that enforcement was up to him, not the DRB, and he wasn't pursuing enforcement of the mobile home as a violation at that time because he wasn't sure if it was enforceable under the bylaws. Preston Bristow testified that he then consulted with attorney Peter Nowlan and it was attorney Nowlan's opinion that since a permit was applied for by Robert Button, Jr., and the permit was not appealed in the required 15 days, then the permit was final. Because the terms of the permit have not been met (storage not to exceed one year), a violation of the permit has occurred and should be enforced. Preston Bristow concluded his testimony that following his consultation with attorney Nowlan he has enforced the permit, his notice of violation has been appealed, and that is why we are here.

Sheilagh Smith testified that although Robert Button, Jr. applied for a temporary structure permit, it was with the understanding that a permit was not needed and that the zoning administrator asked for the permit so that a red "P" sign could be placed on the mobile home and he would not have to field a bunch of calls about it. Sheilagh Smith further testified that when Gordon Newman appeared before the DRB to ask about the mobile home, the zoning administrator reiterated that the mobile home was movable and not subject to the zoning bylaws.

Preston Bristow responded that, despite some initial uncertainty, it was his determination that the request fell under a temporary structure permit which was issued. When Gordon Newman requested in front of the DRB why the mobile home had not been removed after one year, Preston Bristow recounted his reply that he hadn't enforced removal of the mobile home because he wasn't sure how successful enforcement would be. It was after consulting with attorney Peter Nowlan that he decided to enforce the temporary structure permit as issued.

Sheilagh Smith asked the DRB if they did not remember Preston Bristow stating that the mobile home was moveable and not subject to the zoning bylaws at the time that Gordon Newman appeared and made his complaint. Chair Anne Carroll stated that she did not hear Preston Bristow respond in that way.

Chair Anne Carroll asked Sheilagh Smith what she was seeking as a decision from the DRB. Sheilagh Smith stated that her first preference was a decision that the mobile home is not regulated by the zoning bylaws. The mobile home is on wheels, it is moveable, it is unoccupied, it has no bathroom and no kitchen, and it is not hooked up to utilities. It is an empty shell. She feels it is analogous to the Gypsy Wagon on Marianne McCann's property that the zoning administrator determined was not subject to zoning.

The definitions of a "structure" and a "temporary structure" on page 52 of the zoning bylaw as well as the requirements for "temporary structures" under section 4.5 (page 24) and "travel trailers" under section 4.11 (page 27) were reviewed. Sheilagh Smith maintained that this mobile home does not meet any of those categories.

Robert Button, Jr. left the meeting at 7:00 pm.

Sheilagh Smith stated that her second preference was that a temporary structure permit be issued for another year to allow the intended renovation and sale of the mobile home to occur. Sheilagh Smith stated that the mobile home belongs to her and that she has a bill of sale. In response to a question from chair Anne Carroll, Sheilagh Smith stated that it was her intent to renovate the mobile home and remove it from the site in one year's time.

Sheilagh Smith requested that the verbal legal opinion that Preston Bristow received from attorney Peter Nowlan be obtained in writing for her to review and respond to. She said that the zoning administrator's recounting of what attorney Nowlan verbally told him was hearsay.

Preston Bristow responded that for attorney Nowlan's opinion to be obtained in writing and considered by the DRB and responded to by Sheilagh Smith would require this hearing to be recessed rather than closed. Recessing the hearing was discussed, but the DRB voted unanimously to close the hearing at 7:10 pm.

Sheilagh Smith left the meeting. Preston Bristow remained to recount the hearings scheduled for the DRB's upcoming August 13 and 27 regular meetings and to answer questions on the town's pending application for a FEMA hazard mitigation grant to elevate some structures and buyout others within the village district. Preston Bristow then left and the meeting was closed at 7:20 pm.

Preston Bristow was not present for deliberation which followed.

---

Findings and Decisions:

**Appeal of Notice of Violation of May 21, 2014 (by Robert Button, Jr.)** – Following deliberation, the DRB by unanimous vote provided the following decision:

The DRB finds that the mobile home is a temporary structure as defined in section 4.5 of the bylaw and as described in the original permit by the applicant. Therefore the permit was valid as written. As it has expired, the application is in violation as the zoning administrator determined.

Following this decision of the DRB that the mobile home is a temporary structure and is in violation of its permit, any action to enforce this decision falls in the hands of the Select Board. However, the DRB is happy to make a recommendation, as follows:

Since the owner of the mobile home, Sheilagh Smith, has testified that it is her intention to remove the mobile home within the year – as was her intention two years ago – the DRB suggests that the applicant reapply for a temporary permit before the DRB and the DRB would be in favor of approving a permit for three years, after which if the mobile home remained it would be determined to be outdoor storage of junk under section 4.2 of the bylaw.

Otherwise, the applicant can simply remove the mobile home now.

Compiled by,  
Preston Bristow, Administrative Officer and DRB Clerk