

Office of Selectmen

CARROLL, NEW HAMPSHIRE
P.O. BOX 146
TWIN MOUNTAIN, NH 03595
603-846-5754

MEMO

DATE: April 12, 2023

TO: Jules Marquis (Select Board Chairperson)
John Greer (Select Board member)
Ken Mills (Select Board member)

RE: Complaint of property use at 104 Route 3 North and request for a cease and desist to be issued.

On Tuesday, April 11, 2023 at approximately 2:45 p.m., I was approached by Crystal Bailey, Land Use Secretary regarding a request brought to her attention by Alex Foti, Planning Board Chair concerning the old fire station property, located at 104 Route 3 North, Twin Mountain, NH 03595. Foti believes that there should be a cease and desist issued to the property owner (Scalley Rt 3 104 LLC) immediately because the property has not had a site plan review to change its use, as it appears to be functioning as a distribution plant, with (Red Bull) occupying the property, as seen by the trucks parked at the property.

At approximately 3:00 p.m. Alex Foti came to my office, Crystal Bailey was also present, to personally voice his opinion on his complaint and request to have a cease and desist issued immediately because the property has not had a change in use and there has been no applications presented to the Planning Board concerning a site plan review. Foti expressed that his reasoning for the immediate cease and desist is that this is a flagrant violation and there has been a change in use in the property, as it appears to be operating as a distribution plant. I explained that the Building Inspector is the person that would issue the cease and desist, however in this situation I would have to get guidance on the proper steps, since the property owner is also the Building Inspector. Foti added that the Select Board would need to issue the document. I explained to Foti that I would reach out to legal counsel to ensure the proper steps are taken with the alleged offense; Foti agreed and left the building.

Heather Brown

Administrative Assistant
Town of Carroll

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TO: Jules Marquis (Select Board Chairperson)
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On Wednesday, April 12, 2023 at approximately 12:53 p.m. I was contacted by Aaron Foti via phone, who asked what the status is with the complaint filed by Alex Foti yesterday. I informed him that I have been speaking with legal counsel regarding the matter and he reiterated that it's the Select Board's responsibility multiple times, not legal counsel. Foti further insisted that this cannot wait until Monday and a cease and desist needs to be issued immediately and if the Select Board does not, he is going to go against the Select Board regarding them not acting upon this. I informed him again that I was speaking to legal counsel and waiting to hear back, he repeated that that it was the Select Board's decision and we needed to do something about it. Foti then asked if the Select Board even knew about it and I informed him that I had spoken with the Select Board Chair and was under the discretion to speak with legal counsel about the matter regarding the proper steps. I also asked Foti to please email me exactly what he is requesting so I can have more information in terms of what he is requesting, he said he would. Foti then asked for Selectman Jules Marquis' phone number because he wanted to talk to him about this. I in turn asked Aaron for his number and told him that I would contact Jules and pass the message along for him to call. Aaron reiterated that I needed to tell Jules that it was urgent and could not wait. I called Jules and gave him the message and the contact number.

Heather Brown

Administrative Assistant
Town of Carroll

Town of Carroll Selectmen

From: Aaron Foti <absfoti@gmail.com>
Sent: Wednesday, April 12, 2023 3:15 PM
To: Town of Carroll Selectmen
Subject: Business Operations at old Fire Station

Good afternoon,

There is a business operating out of the old fire station.

Due to a conflict of interest, I believe an outside inspector is hired to inspect Mr. Scalley's properties. I don't believe this has been done, nor has the Fire Department inspected the building for the new business.

Site Plan Regulations:

- Article II: Purpose, paragraph 1: states why it is important that these regulations are followed.
- Article II: Purpose, paragraph 3: states that a Site Plan Review is required for a change from one use to another.
- Article IV Section 4.01 convey when a Site Plan Review is required. There is an exemption clause in 4.01A but it lists a myriad of reasons that void the exemption. I think many of them apply including Increase in vehicular traffic, change in required parking, Increase in delivery or service vehicles, or heavy equipment, potential increase win hours of operation, increase in noise.

Uses:

Our table of uses is located in the Zoning Ordinance in section 403.1.

The use of this building has been from Article IV Section 403.1 b, 5: "Municipal buildings and facilities"

Unless the current operation in the building can be considered Municipal Buildings and Facilities (which it cannot) then it is a change of use.

Given the conflicts of interest at play already, and the fact that this has all happened completely in the dark, it certainly could give the appearance of foul play by the Building Inspector who should be aware of our ordinance and Site Plan Regulations.

The purposes indicated in the Site Plan Regulations are "to protect the public health, safety and welfare; to protect property values; to prevent premature and uncoordinated development of land without the adequate provision of public services and facilities; to avoid unnecessary and adverse impacts on neighboring property and uses; and to guide the character of development."

I strongly feel it is incumbent upon the select board to immediately issue a cease and desist for this property as it has, in my opinion, clearly violated our ordinance and site plan regulations. The Building Inspector, as an agent of the Select Board has had no issue issuing Cease and Desist orders to other properties for violations to the ordinance. So, further, it could be considered discriminatory to treat the Building Inspector differently than other landowners.

Again, given the facts presented above, I feel the SB has no choice but to issue an immediate Cease and Desist and require the property owner to follow the steps in our Ordinance and Site Plan Review Regulations just like everyone else has to.

Thank you,

Aaron Foti
ZBA Chairman

Town of Carroll Selectmen

From: Aaron Foti <absfoti@gmail.com>
Sent: Wednesday, April 12, 2023 4:09 PM
To: Town of Carroll Selectmen
Subject: Re: Business Operations at old Fire Station

Please find attached a photo from yesterday, April 11 showing the business operation happening in this building without the appropriate permits or approvals.



On Apr 12, 2023, at 3:15 PM, Aaron Foti <absfoti@gmail.com> wrote:

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ZBA Chairman