

I just received a notice a public hearing regarding the May 16th hearing for Scalley Rt 3 104 LLC, and I need to clarify a few things:

1. This hearing notice names me and Aaron Foti as the requestors. It makes it seem like this is a personal request, which is now fueling this idea of a "witch hunt" that is being put forth by Dave Scalley, Building Inspector and Code Enforcement Officer.

First and foremost, I don't recall personally making any requests. What I did say, as Chairman of the Planning Board, is that I needed the SB to intervene since normally I would be asking the Building Inspector to intervene, but in this case, it wasn't an option but I need to stress, this is a request made as **Chairman of the Planning Board, and elected official of this Town.**

Here are some key facts:

1. The business as I understand it is operating a Warehouse for Storage and Distribution in zone R-B. Per page 13 of the Zoning Ordinance, this is NOT an allowed use in this zone, and therefore it is in violation of the Zoning Ordinance, unless and until a Variance is granted by the Zoning Board of Adjustments.

2. Furthermore, the building previously operated as a public office (fire station). Per section 802 of the Zoning Ordinance Article IV of the Site Plan Regulations of this Town, a Change of Use permit via Site Plan Review is required to change its use to a Distribution Center, and there has been no site plan review. I cannot fathom anybody buying an argument that a fire station is equivalent to a Red Bull distribution center, and either way, that would be for the Planning Board to decide, not any individual citizen.

2. As Chairman of the Planning Board, and NOT as private citizen, I made a request to the Selectboard to intervene on the basis of Section 801 of the Zoning Ordinance, which states that "it shall be the duty of the Board of Selectmen to enforce and administer the provisions of the Ordinance." My duty was to inform you, as the enforcement body, of a violation that I could not report to the Code Enforcement Officer due to the obvious conflict of interest. It is further noted that this duty is also captured by RSA 676:15-18.

In the past, Cease and Desist orders were handled quickly and expeditiously by Dave Scalley himself upon receiving a report. While you as a board may choose to deviate from how things have been done, and I'm all in favor of due process even in the face of such an obvious violation of our Ordinance and Site Plan Regulations, I do need to request that it be made clear that this is not a request fueled by any personal animosity, but simply a standard request made as Land Use Officer to the enforcement body of this town, which in this case falls upon the Selectboard.

2. I also need to point out that I will be out of town on that day, but I do not feel in any way that my presence is needed, as this is squarely a matter of the Selectboard enforcing the Zoning Ordinance as it is by statute required to do.

We are all here to serve this Town; let's not make things personal, and let's not demonize those who are trying to make sure that rules are applied fairly and transparently to all residents. That's not only my job - it is yours too. It is what we all were elected to do. I hope that the Selectboard can understand that and take responsibility for its duties, and not try to give the appearance that they are doing this because of a private citizens' request for action against another private citizen. This request should be coming first and foremost from the Selectboard, and not fall squarely on my shoulders.

Office of Selectmen

CARROLL, NEW HAMPSHIRE

P.O. BOX 146

TWIN MOUNTAIN, NH 03595

603-846-5754

Alessandro Foti
1800 US Route 302
Bretton Woods, NH 03575

May 1, 2023

**TOWN OF CARROLL
SELECT BOARD
92 SCHOOL ST.
TWIN MOUNTAIN, NH 03595**

NOTICE OF PUBLIC HEARING

**May 16, 2023
5:00 P.M.**

The Town of Carroll, New Hampshire Board of Selectmen will hold a Public Hearing at the Carroll Town Hall, 92 School Street, Twin Mountain, NH on Tuesday, May 16, 2023 at 5:00 p.m. The purpose of the hearing will be to receive evidence concerning a request made by Alex and Aaron Foti to issue a cease-and-desist order to SCALLEY RT 3 104 LLC for the use of property located at 104 Route 3 North, Twin Mountain, NH 03595, Map/Lot 206-023-000-000. Residents are welcome to attend and participate.



Alex Foti <axfoti@gmail.com>

RE: Notice of Public Hearing

1 message

Town of Carroll Selectmen <selectmen@townofcarroll.org>

To: Alex Foti <axfoti@gmail.com>

Thu, May 4, 2023 at 10:51 AM

Cc: Austin Alvarez <austinlalvarez@msn.com>

Dear Mr. Foti:

The Select Board will include your 5/3/23 email as part of the record at the hearing on May 16.

Heather Brown

Administrative Assistant
Town of Carroll

From: Alex Foti <axfoti@gmail.com>

Sent: Wednesday, May 3, 2023 1:49 PM

To: Selectmen <selectmen@townofcarroll.org>

Cc: Austin Alvarez <austinlalvarez@msn.com>

Subject: Notice of Public Hearing

Dear Selectboard,

I just received a notice a public hearing regarding the May 16th hearing for Scalley Rt 3 104 LLC, and I need to clarify a few things:

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Minutes of 4/19/2023

April 24th, 2023

Carroll Board of Selectmen

Meeting Minutes

April 19, 2023

"These minutes of the Town of Carroll Select Board have been recorded by its Secretary. Though believed to be accurate and correct they are subject to additions, deletions and corrections by the Select Board at its next meeting when the Board votes its final approval of the minutes. They are being made available at this time to conform to the requirements of New Hampshire RSA 91-A:2."

Minutes recorded by Heather Brown, Secretary

Board Members: Jules Marquis, John Greer, Ken Mills

Members of the Public: David Scalley, Mike Hogan

The meeting was called to order at 9:00 a.m. by Chairperson Marquis.

Pledge of Allegiance.

SITE VISIT (104 ROUTE 3 NORTH) – Chairperson Marquis briefly discussed the purpose of the site visit today, noting it is a public meeting. The Board also noted that this is something the Building Inspector would do, however because of the situation the site visit is being conducted by the Select Board and they are going to gather facts.

David Scalley explained that as the Building Inspector, he would not be able to go to site visit without a building permit. However, Scalley agreed to allow that the Select Board and the Secretary to conduct a site visit at his property today. Scalley further requested that no members of the public be allowed inside the building. The Board briefly discussed and agreed. Chairperson Marquis reiterated that this is a public meeting and that the Select Board is only there for observation. David Scalley stated that he believes this is a personal witch hunt with Planning and Zoning and requested that it be put in the minutes. The Board briefly discussed the purpose of the visit again and reiterated that it was only to look and observe.

The Board, the Secretary, and David Scalley left the Town Hall at 9:12 a.m.

The Board, the Secretary, and David Scalley arrived at 104 Route 3 North at 9:15 a.m.

The Board conducted a site visit of the property. The individuals present at the site visit were Chairperson Marquis, Selectperson Greer, Selectperson Mills, the Secretary, and David Scalley (owner of the property). The Board briefly discussed:

- Average number of people at the site (estimated 3-6 people currently, usually only 3-4)
- Average number of vehicles at the site (estimated 3-6 vehicles parked outside currently, usually only 3-4; there is only 3 trucks inside, one in each bay)
- Hours of operation (estimated-Trucks leave between 5:30 a.m.-6:30 a.m. and return between 3:00 p.m.-5:00 p.m.)
- Deed restrictions.
- Uses in R-B zone.
- Condition of the building.
- Life Safety.

The Board, the Secretary, and David Scalley left 104 Route 3 North at 9:30 a.m.

The Board, the Secretary, and David Scalley arrived at Town Hall at 9:34 a.m.

SCHEDULE A HEARING DATE – The Board discussed a date to hold a public hearing and decided on Tuesday, May 16, 2023 at 5:00 p.m.

Selectperson Mills wanted to make the Board aware that he reached out the Fire Chief to inquire about the traffic from the past when the building was the fire station, noting that there were also events, trainings, etc. that occurred there.

The Board asked David Scalley if there were any threats of life safety at the building. Scalley responded zero.

The Board discussed the possibility of having a Select Board meeting following the Public Hearing on May 16th and is tentatively planning to do so.

David Scalley wanted to bring to the Board's attention that all five members of the Zoning Board attended the Select Board meeting on Monday night. Mike Hogan also stated that he is an alternate on the Planning Board and further indicated that there were two members of Planning Board also in attendance on Monday night.

Selectperson Mills made a motion to adjourn the meeting. Selectperson Greer seconded. All in Favor: Mills-AYE, Greer-AYE, Marquis-AYE; and the motion passed unanimously. Chairperson Marquis declared the meeting ended at 9:46 a.m.