

October 19, 2021

7 Berry notice of Administrative Decision

#### Background:

Code enforcement received a complaint from Mr. Dirk Grotenhuis, on 6/3/21 in regards to violations at 7 Berry Road. The complaint had six items within.

I reviewed each items, than set up a visit with Mr. Frank Garrison (property owner) to inspect the property. I reviewed the file on this property. Complaints and actions go back over several decades (attached to this decision is a summary of events). I have had several office visits with Mr. Garrison and the town planner to review the file, discuss current and past violations and discuss what was required in the past and the direction of the present.

#### Complaint:

The written complaint identified 6 items. Some of these were valid, some were opinion and some it was determined could not be enforced at this stage.

1. Complainer is concerned about over use of the septic system
2. Concerns over solid waste removal
3. Un-permitted tree removal
4. Over population / parking
5. Shed not in setbacks
6. Covered bridge not being used as approved.

#### Ruling on complaint items:

Code Enforcement reviewed case history (to include building permits issued), current laws, state approvals, past violations, town ordinance, ZBA approvals. I then met with the town planner and road agent on several items. A conference call with town's legal counsel took place on 10/13/21. These decisions are based upon all of those with specific emphasis on what legal advised.

#### Complaint findings:

1. It was determined that there are currently more bedrooms than the State has approved for septic. There are currently 13 bedrooms with only 10 State approved for septic. The town in the past has issued building permits for the 13 bedrooms. Because the town had previously approved the 13 bedrooms and it has been operating that way for years, legal advised that it is not enforceable to mandate a reduction in bedrooms. However the owner must get State approval for 13 bedrooms meeting town setbacks by January 3<sup>rd</sup>, 2022. If they fail to do so by that date, the town may reduce the number of bedrooms to that which matches State approved septic.
2. Mr. Garrison has been made aware of the dumpster issues. He has agreed to submit a plan to reduce visibility to the neighbors, possible a privacy fence.

3. A tree was removed on a scenic road. The road agent was aware of this and advised the tree was a safety hazard and needed to go. No violation.
4. Over population / parking: A considerable time was spent researching this complaint. Initial approval required a site plan, which was never submitted. Mr. Garrison was asked to voluntarily submit a site plan, he declined. It has been decided that a site plan requirement cannot be enforced at this time due to the amount of time that has passed and several building permits that have been issued over the years. The issuing of building permits allowing expansion with approval negates the right to enforce the need of a site plan at this time. However any future expansion will require a site plan.

In regards to too many non-related people living there, the town does not control the amount of people that live in a residence, the only thing we can control is the amount of bedrooms (13 have been previously approved). We also cannot control the relationship of residents per Fair Housing, which prohibits discrimination due to family status.

There is nothing specific in our ordinance about the amount of residents per unit. Based upon all of these factors with advice from counsel, there is no violation about overpopulation, only a violation of the number of bedrooms based upon approved septic plans.

5. It was determined that the shed was moved without approval into an area that does not meet our setbacks. Mr. Garrison will apply for a variance to the setback issue. If a variance is not approved he has agreed to return the shed to its original spot or move it to an area that meets our zoning setbacks. Suspense date: November 22<sup>nd</sup>, 2021 to apply for a variance with the ZBA.
6. It was determined that there is no violation in the current use of the bridge, There are some building materials stored in the bridge which is intended for repair of the bridge.

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Dale Sylvia  
Code Enforcement

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Date

\_\_\_\_\_  
Frank Garrison

\_\_\_\_\_  
Date

