

BARRE TOWN DEVELOPMENT REVIEW BOARD

MINUTES FOR DECEMBER 14, 2011

The Barre Town Development Review Board held a public meeting & hearing on December 14, 2011 at 7:00 p.m. at the Municipal Offices, Websterville, Vermont

Members Present:

Mark Nicholson, Chair
Shaun Driscoll
Jon Valsangiacomo

Cedric Sanborn
John Hameline
Charlie Thygesen

Members Absent:

Mark Reaves

Others Present:

Jeff Blow
Fred Connor
Paul Dupre
Carl & Mirla Davison

Michael Curtis
Perry Kiser
Don Marsh
Stephen Connor

Joe Greene
Manuel Carcoba
Philip Zalinger

Staff Present:

Chris Violette – Planning Director

A. 5:30 P.M. – SITE VISIT – NONE

B. 6:30 – 7:00 P.M. – PLANS AVAILABLE FOR REVIEW

C. 7:00 P.M. – CALL TO ORDER

D. APPROVE MINUTES

E. NON AGENDA ITEMS (max 10 minutes)

F. SUBDIVISION REVIEW

- 1) PRELIMINARY REVIEW
- 2) WARNED PUBLIC HEARINGS
- 3) CONCEPTUAL REVIEW

G. CONDITIONAL USE REVIEW (WARNED PUBLIC HEARINGS)

APPLICANT: WASHINGTON MENTAL HEALTH SERVICES, INC.

Request by Washington County Mental Health Services, Inc. for Conditional Use review for the purpose of operating a private school licensed and certified by State of Vermont serving children and adolescents kindergarten through twelfth grade. The subject parcel is located at 579 South Barre Road; Parcel ID 026/017.00; Zoned Highway Commercial; CUP-11000007.

Consultant:

Date: December 12, 2011

STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,
PLANNING OFFICER

This is a warned public hearing for conditional use review for the purpose of operating a K-12 private school. The applicant is before the DRB this month because the proposed use is a conditional use in the highway commercial zone therefore the Zoning Administrator cannot permit such a use until the DRB has granted approval through the CUP review process. The subject parcel is located at 579 South Barre Road which is located in a highway commercial zone.

The CUP process involves review of general and specific criteria in accordance with Barre Town Zoning Bylaw Article 5, section 5.5. Each criterion should be examined with a determination of how the project impacts each one and/or how the proposed use fits within the criteria and what conditions might be able to be placed on the applicant to help mitigate concerns that may arise from that particular criteria.

This application is very similar if not exactly the same to the CUP issues to Washington County Mental Health on September 19, 2011. Many of the determination from that application will be applicable here as well but this is a totally separate request.

The applicant is proposing to convert the former Formula Ford auto dealership into a multiple uses. Two of the uses are permitted; one is permitted after conditional use permit. The two permitted use are administrative offices and a daycare. Both of those only need change of use permits issued by me. The third, the private school is what is subject to this request.

While the applicant is not proposing significant change to the exterior of the building or the property as a whole, there will be substantial improvements to the interior. The applicant is showing that the school will have up to 75 students and 59 administrative, support and faculty members. The Office use is showing to have 90 employees.

The criteria are listed below with a narrative for each. The applicant has also submitted a narrative for each criteria which is included in your packets.

The impact on the capacity of existing or planned community facilities, to include but not limited to:

2. Emergency services:

All three of Barre Town's emergency services, through the Zoning Administrator, have reported no unusual impact on their services in the past from WCMH's operations. Obviously a facility of this magnitude will ultimately have an impact on emergency services, however, there is no reason to believe that it will impact beyond their ability to meet the demand.

3. Educational facilities:

This is not a residential use; no new demand on the town's educational facilities is expected.

4. Water, sewer, or other municipal utility systems:

The subject site is currently served by both municipal sewer (Barre Town) and water (Barre City). Serving the proposed use will not be a problem. As an auto dealership the subject site is already being assessed three sewer units. The Town Engineer will have to review the overall use of this site if Washington County Mental Health locates here, and determine if three sewer units is satisfactory or if that number needs to be adjusted. Additional sewer units, if necessary, have a fee of \$ 1,500 associated with them.

5. Recreational facilities:

The proposed project plans for an onsite fenced in playground for students. It is not anticipated that any of Barre Town's recreational facilities will be impacted by the proposed use.

6. Conservation or other designated natural areas:

The project site has no known areas that are designated conservation and/or natural areas.

7. Solid waste disposal facilities:

Waste from onsite is shown to be disposed of by using dumpsters that will be secured on a concrete pad behind a chain link fence to the rear of the site. Common waste haulers will be used to remove the waste on a regular basis

and hauled to a landfill. The use of this building should not overburden the local haulers or the area landfills ability to manage the waste.

8. The character of the area affected as defined by the purpose(s) of the zone within which the project is located, and specifically stated policies and standards of the municipal plan;

The subject parcel is located in a highway commercial zone. The highway commercial zone is described as follows in the Barre Town Zoning Bylaw:

This district allow for large, higher intensity commercial developments such as automotive oriented businesses that either by their volume or by the nature of their business require larger lots than those in the other commercial districts. Uses include those generally associated with the traveling public such as overnight accommodations, gas stations, grocery stores and restaurants, which inherently see more traffic from customers and deliveries than office buildings.

While the description above does not specifically mention schools in highway commercial zones, the fact that they are a conditional use pretty much dictates that they be considered to fit in. Conditions may be imposed if necessary to mitigate concerns from one zone to another. In this particular case, the use does necessitate a large lot for both building size and parking. An office use is also a component of Washington County's proposal which is an allowed use. The previous approval for Washington County Mental Health was in a high density residential zone and found to be in character.

9. Traffic on roads and highways in the vicinity:

The project site is located on both a state class 1 paved road (Rt. 14/South Barre Road) and a town class 3 paved road (Snowbridge Road). The entrance currently serving the site from Rt. 14 is proposed to be eliminated. The result is that all traffic entering the site will use Snowbridge Road.

The site has two driveways on Snowbridge Road. The first driveway is approximately 120' from the intersection with Rt. 14 and is proposed to be a two way driveway. The second driveway is approximately 250' from the intersection and is proposed to be one way "out". These, at present, are the only two proposed points of ingress and egress.

The site itself currently has what appears to be another possible ingress and egress but it is not an official access at this time. Back when Smokehouse Lane was constructed, Formula Ford had a driveway built accessing the back of the property. That driveway crosses state land and last I knew does not have a legal right-of-way to do so which means it is unusable at this time. While I believe discussions are ongoing to remedy that situation, we cannot

count on it for this request.

I think there is little doubt of the ability for Rt. 14 to handle traffic generated by the use proposed herein and the two other uses that will occupy this building (daycare and offices). Snowbridge Road will be impacted as well as the intersection of Snowbridge Road and Rt. 14.

Is the impacted manageable? The overall impact would certainly be better if a second road such as Smokehouse Lane was available to spread traffic out. But, at this point as noted, a second road is not an option. It isn't like the previous use didn't utilize Snowbridge Road because it did, but it also had another access directly to Rt. 14. Further discussion is warranted.

10. Zoning bylaws and bylaws then in effect:

Of the three uses being proposed for this site, two of them are permitted. The only one in question, which is being review as part of the CUP request is the school. Barre Town Zoning allows private schools after conditional use review and approval. If such approval is granted, then the school use will be in compliance with the zoning bylaw.

A private school is also defined in Article 8 of the Barre Town Zoning Bylaw as: Any school certified by the State of Vermont, Department of Education, offering traditional academic subjects and/or technical and vocational education; including parochial, private, public, charter schools and vocational/technical schools.

As we learned from the previous CUP for Beckley Hill Road, Washington County Mental Health Services is state licensed and certified to operate a school.

11. Utilization of renewable energy resources:

There are no known renewable energy resources on this site. As such, no impact is expected.

12. The following standards are required by this bylaw

13. Any required extension or capital expense to the present maintained highway system:

I wouldn't anticipate any required extension or capital expense with regard to the highway system.

14. The impact on neighboring uses:

Neighboring uses are mixed between residential, commercial and industrial. Most activity associated with the private school will be during the day and should not impact any of those uses.

15. Intrinsic capability of the land and its surrounding areas to support the use:

The development of site proposed for this use was done decades ago and has operate as an auto dealership for most if not all of the time it has existed. Very little is changing to the land and/or the building other then renovations to the building and some relatively minor site work.

(B) SPECIFIC REVIEW STANDARDS FOR CONDITIONAL USE APPROVAL

1. Minimum lot size:

The minimum lot size for highway commercial zone is 1.0 acre. The project site is 6.1 acres which far exceeds the minimum lot site. Percent of lot coverage is also well under the maximum of 75%.

2. Distance from adjacent or nearby uses:

Several other uses including residential, commercial, and industrial are in close proximity to the proposed use. This area is a planned for mixed use

3. Criteria as adopted relating to site plan review pursuant to Article 5, Sec. 5.6 (6) of this bylaw:

See separate site plan applicant SP-11000007

4. Any other standards and factors that the bylaw may require:

Not sure that this is applicable.

5. Possible requirements by the DRB that the applicant install, operate, and maintain any and all devices which may be used to prevent or reduce fumes, gas, dust, smoke, odor, noise, vibration, or any similar nuisance. Performance standards shall be specified by the appropriate State regulatory agency:

There shouldn't be any impact from any of the items listed above so it is unlikely any measures will be necessary to mitigate concerns.

6. Off-street parking requirements in accordance with standards outlined in Article 3, Sec. 3.9 of this bylaw:

The applicant indicates that the total square footage for the project is 30,000sf. Using the 1 parking space for every 200sf formula, which is most likely the best formula to use, this project would require 150 parking spaces. The applicant proposes a deviation from that in their site plan narrative that in the end would show needing 122 spaces.

My calculations are a bit different because I show the overall building square footage being approximately 20,000sf. Using the 1 parking space for every 200sf of building size, I calculate that only 100 parking spaces would be required.

The difference in the two formula's may be that the applicant must be using total square footage but the actual requirement is only overall building size which does not include second floors etc. This may be flawed in some instances and may be in this case as well to some degree based on the number of people that will be housed at this site. Further discussion is warranted.

7. Loading/unloading facilities:

This applicant is not proposing a specific loading and unloading location. The nature of the use will likely be limited to small deliveries such as UPS or mail that will likely use the front entrance.

SUMMARY OF RECOMMENDATIONS & CONDITIONS:

Overall it is hard to argue that this site won't work for the proposed project, and think most of the CUP criteria support that. The administrative office use and the daycare are permitted. The area is certainly better able to handle traffic and fits in better than in other potential areas of town. The site is largely already developed. My main concern is only using Snowbridge Road for all the traffic entering and leaving this site. I understand the applicant has its hands tied somewhat because the other logical access isn't available. Maybe the access on Rt. 14 needs to be rethought?

1. Heating and ventilation units must be screened and placed so as to reduce potential noise concerns. Deferred to site plan approval.
2. Future uses of this building beyond what is being approved shall be reviewed following the Zoning Bylaw in affect at that time. It must be clear that given the numerous services provided by WCMHS, this approval is only for the private school as presented during the CUP process by the applicant as defined by the Town of Barre Zoning Bylaw.

3. Because being licensed or certified as a school is such a vital part of this approval and because licensees and or certifications are reviewed periodically by the Department of Education, WCMH must provide annually, their licenses or certification to the Zoning office to ensure state certification is maintained.
4. WCMHS shall work with the Town Engineer to determine the appropriate number of sewer units that will be necessary to comply with the Town of Barre Sewer Allocation Policy. A sewer allocation permit for the number determined shall be obtained by WCMHS.
5. A Knox Box (fire department access box) shall be installed. WCMHS shall work with the fire chief to obtain said box and shall install it to the Chiefs satisfaction.
6. Stops signs shall be placed at both curb-cuts for traffic entering Snowbridge Road.
7. One-hundred twenty-two parking spots shall be required.

ADDITIONAL COMMENTS:

CV read his staff comments for the record.

CV stated that general discussion should take place regarding access off Snowbridge Road.

Phil Zalinger stated that he and Washington County will supplement Chris' comments during their presentation.

Zalinger stated that the only use at this site will be the administration office and private school, no daycare.

Zalinger stated that an adjustment has been made on Snowbridge Road so the impact is less where traffic is concerned.

Joe Greene – Joseph Architects – available to answer all questions and clarify the site plan drawings.

Sanborn stated the issue is Snowbridge Road when everyone is leaving for the day.

Greene stated that the primary use is a school function; traffic flow will fluctuate between 8:15 – 9:00 which is generally after the morning rush and depart between 2:30 – 4:00 leaving prior to the afternoon rush. A portion of the staff will also come and go throughout the day. The impact is minimal.

A discussion ensued regarding the whether there was a concern that all traffic is using Snowbridge Road. It was pointed out that the plans could be modified, keeping the existing Rt. 14 “entrance only”, if the DRB felt it was necessary. After some discussion, the DRB is comfortable with the plans, as presented, which eliminates the Rt. 14 entrance and shows the first Snowbridge Road driveway to be two way and the second one being an exit only.

CV asked about the site distance to the west; Greene stated it is approximately 180' to the bend of the road.

CV suggested that the trees be trimmed to increase the site distance as the visibility to the right is questionable.

CV asked if the loud speaker that is currently on site will be used; Greene stated no plans to use it.

CV asked about any sort loitering policy – students hanging out; there will be no after hours for the students per Curtis.

MOTION & RECOMMENDATION:

On a motion by Nicholson, seconded by Sanborn, the Development Review Board voted to approve the request by Washington County Mental Health Services, Inc. for Conditional Use review for the purpose of operating a private school licensed and certified by State of Vermont serving children and adolescents kindergarten through twelfth grade. The subject parcel is located at 579 South Barre Road; Parcel ID 026/017.00; Zoned Highway Commercial; Approval is subject to conditions 1 – 7; CUP-11000007.

DISCUSSION:

CONDITIONS Yes X No ___
MOTION BY: NICHOLSON
SECOND BY: SANBORN

ROLL CALL:

Mark Nicholson <u>YES</u>	Jon Valsangiacomo <u>YES</u>
Charles Thygesen, Sr. <u>YES</u>	Shaun Driscoll <u>YES</u>
Cedric Sanborn <u>YES</u>	*Jim Fecteau ___
Mark Reaves <u>ABSENT</u>	*John Hameline <u>YES</u>
*Paul Malone ___	

**Alternate Development Review Board Members*

H. SITE PLAN REVIEW (WARNED PUBLIC HEARINGS)

APPLICANT: WASHINGTON MENTAL HEALTH SERVICES, INC.

Request by Washington County Mental Health Service, Inc. for major site plan review for the purpose of exterior site improvements as part of their proposed conversion of a former car dealership into a private school. Site alterations include the enclosure of two existing carports totaling 4,140 sf, minor regarding of the existing parking areas and alterations to existing curb-cuts, a playground, and landscaping. The subject parcel is located at 579 South Barre Road; Parcel ID 026/017.00; Zoned: Highway Commercial; SP-1100007

Consultant:

Date: December 12, 2011

STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,
PLANNING OFFICER

This is the first of two warned public hearing for the purpose of major site plan review. The applicant is proposing to convert an existing commercial building with relativity minor exterior alteration to both the building and parking areas. The subject property is located at 579 South Barre Road and is located in a highway commercial zone.

Site plan review is required in accordance with Article 5, section 5.6 whereas no permit shall be issued by the Zoning Administrator when site plan is required. Major site plan review is required in this case in accordance (A) 1 a. under said article because the project includes an increase in size of the structure of more than 2,500sf.

Overall, changes being proposed to the site are not substantial due to the fact the site is already largely developed. It appears as though the exterior of the building will receive a pretty substantial face lift. Certainly the main entrance will be improved with a circular area in the front that will include some basic landscaping. The two “carports” on either side of what use to be the showroom are going to be enclosed and will become part of interior usable space. Only minor reshaping of the existing parking lot will occur with very limited (if any really) extension of it. There will likely be areas that are currently gravel that will be paved but essentially what you see is what you get. Having said that though, there must be something occurring along the north side of the building where the loading area is currently because the terrain here is uneven.

The parking lot will be striped showing 122 parking spaces, with cross-walks and sidewalks around the building. A fenced in playground is proposed on the north side of the property. New LED lighting will be placed around the perimeter as shown on the site plan in addition to wall packs on the building. Two 1,000 gallon liquid propane tanks are shown underground behind the building.

In accordance with Article 5, section 5.6 (F), the following standards must be used when reviewing a site plan application.

- 1. The proposed land development as it complies with or compliments the policies, regulations, standards, and goals of the Town's Zoning Bylaw and its most recently adopted Town Plan;**

The highway commercial zone is intended for uses with high intensity. This means uses that require rather large sites because of either building size or parking requirements. Mixed use is also encouraged in highway commercial zones. The town plan states that every community strives to provide sound educational systems which address the needs of every sector of the population but does not suggest locations. However, the Zoning Bylaw allow the three uses proposed here, two permitted and one conditional use.

- 2. The convenience and safety of vehicular movement within the site, and in relation to adjacent areas of vehicular movement. This includes consideration of access management in regards to entrances and exits for the subject site;**

This property has a total of three accesses, one from Rt. 14 (South Barre Road) and two from Snowbridge Road. The applicant is proposing to eliminate the existing Rt. 14 "entrance only" access and would modify the two Snowbridge Road driveways. The first entrance (closest to Rt. 14) will be 26' wide and will allow two-way traffic (ingress and egress). The second driveway will be narrowed to 20' and is proposed to be an exit only.

The above driveway configuration means that all traffic to the site will enter the first entrance and circulate either around an island to the front of the building or to the back. It appears as though most traffic will circulate around the building and exit the second driveway. The plans show circulation to be one way once beyond the main entrance. Traffic will circulate through and around parking areas but clearly marked crosswalks are proposed.

- 3. The convenience and safety of pedestrian movement within the site, and in relation to adjacent areas of pedestrian movement. Also included for consideration is the relationship to any pedestrian access deemed necessary for adjacent properties and along public roads;**

The applicant has taken measures in the plans to allow for traffic flow while providing marked crosswalks and sidewalks for pedestrian traffic. There should not be any need for pedestrian access to adjacent properties.

- 4. Storm water and drainage to insure adequate consideration of storm water runoff and drainage issues in order to minimize the impacts of any**

development project on the adjacent property, the environment, and the Town. The applicant shall bear the responsibility for obtaining and meeting any and all permitting requirements of the appropriate state agency. The Town Engineer shall review the storm water runoff and drainage plan and shall approve the site plan and sign off on the design before the project may be approved;

Because this site exist and very little grading, regarding, or new disturbance is being proposed, the stormwater runoff will largely be unchanged. Currently the majority of the stormwater flows west to the rear of the property and into the Steven's Branch River. There is some flow from the front that is captured in existing stormwater handling systems.

It does not appear likely that any permits regarding stormwater will be required from the state.

5. The protection of historic or natural environmental features on the property under review, as well as on the adjacent areas;

There are no known historic or natural features to be concerned with on this site.

6. The impact of new development on public utilities such as water and sewer infrastructure and on other users/consumers;

This site is already served by municipal sewer (Barre Town) and water (Barre City) and both municipalities have the ability to serve this site even with an anticipated increase in demand. Sewer allocation will have to be reviewed but the site is currently being assessed three sewer units. The significant addition of people will likely means an increase in allocation will be necessary.

7. Signage that meets or exceeds the criteria established in this Bylaw, Article 7, Sec. 7.5.

No signage is being shown but if at some point there if there is to be signage, the applicable section noted above would have to be followed.

8. The utilization of renewable energy resources;

The applicant points out that the project is being designed to include numerous new windows and a potential clerestory feature for the roof. Windows will be used to maximize natural lighting.

9. Landscaping and/or screening to assist in mitigating undue impact of the proposed land development upon neighboring landowners;

The project does include some modest landscaping features. Plantings along the main entrance will certainly spruce things up. Overall the improvements in general should make the property look better even without significant landscaping.

10. The adequacy of parking as well as loading and unloading facilities including their impact on surrounding traffic patterns, in accordance with the provisions established in Article 3, Sec. 3.6 of this bylaw.

Parking is also a consideration as part of the conditional use review and in fact possibly more applicable there. To avoid confusion, I suggest deferring this criterion to the CUP's criteria regarding parking.

SUMMARY OF RECOMMENDATIONS & CONDITIONS:

There are no big issues here mainly due to the fact that the site already exists. Really the only reason this is a major site plan is because the two carports are being enclosed so that they are considered additions. But because the carports already exist, no additional impervious surface is being created. No additional stormwater runoff is occurring and site disturbance is minimal. The parking layout appears to be adequate and circulation of both vehicular and pedestrian appears to work well for the site.

I see no major complication and no reason not to approve this first request and move it to the second public hearing in January.

1. Fencing around the playground.
2. HVAC location.
3. Site distance looking west on Snowbridge Rd.

ADDITIONAL COMMENTS:

CV provided a summary of the staff comments.

Joe Greene stated that there are currently seven 26' light poles on the site with 2' base; proposing to remove the poles, but reuse the bases and add five new locations for a total of twelve poles that will be 20' high with LED controlled fixtures. Lights will be controlled by a time clock which allows them to be turned off at night. Six building mounted shoe box lights will also be used for security.

Sanborn asked if the property won't be as well lit with these new lights; Greene stated that it will be better lit with downcast and shielded lights.

Sanborn asked about landscaping; Greene stated they are showing some along Snowbridge Road.

Valsangiacomo asked if the playground is fenced in; Greene stated there will be a gated

area.

Valsangiacomo asked if it restricted to just the school; Dupre stated they hadn't really thought about it; Curtis stated they will ask their insurance company.

Valsangiacomo asked about signage; Curtis stated that at this time no thoughts on a sign; Dupre stated they haven't come up with a theme.

Sanborn asked what type of fencing will be used around the playground; Curtis stated that they need to obtain the requirements from the department of education. Sanborn requested that this information be present for next month.

Sanborn asked about HVAC; Greene stated they are still contemplating what system to use, there are two options and both are screened from Route 14; Sanborn requested that this information be provided for next month.

Greene stated that there will be an elevator so there is a tower on the roof to accommodate.

Sanborn asked about solar panels; Greene stated not yet, more windows are being added to bring in more natural light.

CV stated that site distance needs to be looked at by both the Town Engineer and WCMH's engineer.

MOTION & RECOMMENDATION:

On a motion by Sanborn, seconded by Driscoll, the Development Review Board voted to move the request by Washington County Mental Health Service, Inc. for major site plan review forward for the January 11, 2012 hearing for the purpose of exterior site improvements as part of their proposed conversion of a former car dealership into a private school. Site alterations include the enclosure of two existing carports totaling 4,140 sf, minor regarding of the existing parking areas and alterations to existing curb-cuts, a playground, and landscaping. The subject parcel is located at 579 South Barre Road; Parcel ID 026/017.00; Zoned: Highway Commercial; SP-11000007

DISCUSSION:

CONDITIONS Yes___ No___

MOTION BY: SANBORN

SECOND BY: DRISCOLL

ROLL CALL:

Mark Nicholson YES

Charles Thygesen, Sr. YES

Cedric Sanborn YES

Mark Reaves ABSENT

*Paul Malone ____

Jon Valsangiacomo YES

Shaun Driscoll YES

*Jim Fecteau ____

*John Hameline YES

**Alternate Development Review Board Members*

I. VARIANCES (WARNED PUBLIC HEARINGS)

J. FLOOD HAZARD REVIEW

K. APPEALS OF ZONING ADMINISTRATORS DECISIONS

APPELLANT: AVERY

Appeal by Anthony & Rita Avery of the Zoning Administrators issuance of a violation for property located at 210 Quarry Hill Rd whereas the property is being used for a home based business; Article 1, Section 1.3 of the Barre Town Zoning Bylaw; Parcel ID 006/011.00; Zoned: OBR

Date: December 12, 2011

STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,
PLANNING OFFICER

This is a warned hearing regarding an appeal of a decision I made to issue a zoning violation letter. We haven't seen too many of these over the years so this will be new to many of the board members. Essentially the board is acting in a quasi judicial capacity meaning the DRB is the judge and jury. You will hear the testimony from both sides and ultimately render a decision based on your interpretation of the Zoning Bylaw in question.

On November 8, 2011 I sent Anthony and Rita Avery a notice of zoning violation. The letter indicated that they are in violation of Article 1, section 1.3 whereas no land development shall commence unless in accordance with the Barre Town Zoning Bylaw.

Land development is defined in Article 7, section 7.2 as:

The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, landfill, or the filling of land with dirt or other material for the purpose of changing the contour of the land and **any changes in the use of any building or other structure, or land**, or extension of use of land. (24 VSA §4304 (10)). Note: refer to Article 5, Sec. 5.8 for the definition of development in a

Special Flood Hazard Area which may or may not differ from this definition.

The Avery's own a single-story two unit dwelling on Quarry Hill Road. The Avery's acquired the house and land in Sept. of 2006. A couple of years ago it became obvious that something was occurring at this site because of an increase in "stuff". This stuff I would say included numerous vehicles and construction equipment as well as just plain junk. It also appeared as though overnight the carport had been turned into a repair shop. I'm not sure what led to this sudden change but in a short period of time this rather nice uncluttered property became consumed with stuff and became the #1 complained about property in Barre Town.

Not knowing exactly what was going on and given my nature of giving people the benefit of doubt, I gave it some time. Over the course of about a year, the property only seemed to get worse, with more vehicles, construction equipment etc. I asked around a bit and was given plenty of free advise but in the end it appeared as though the Avery's own and operated at least two business, one business being an earth moving construction company and other being a snowplowing company. In fact a search of the Vermont Secretary of State website found names associated with Anthony Avery either now or in the past as AC Universal Contractors, Inc. and Cutting Edge Plowing and Sanding.

Deciding enough time had passed and the Avery property was simply becoming more of an eyes sore, I wrote them a letter dated March 11, 2011 informing them that it appeared to me as though they were operating a business from their 210 Quarry Hill Road house and advised them to contact me so I could better understand exactly what was going on there and whether any permits were necessary. In addition, I advised them of the Town's junk ordinance so they could determine for themselves if they might be in violation of it.

Over a month went by with no response and no sign of anything changing on the property so I again wrote the Avery's on April 27, 2011 reminding them that I was waiting for a response. Shortly after that letter was mailed, Mr. Avery appeared in my office on May 2, 2011 a bit disgruntled. We discussed the letters and what was taking place on his property. I informed him that if he was running a business, he could possibly do so with proper permitting. He then asked what he would need to do to get proper permitting. After I informed him of the home based business section of the zoning and for which it seem he'd most likely fit into, he said that he would think about it and would decide what to do. Mr. Avery took permit applications with him. At the same time he informed me that he would not admit to whether he was running a business or not because he did not like some of the potential restrictions that could be placed on him.

I have yet to hear back from Mr. Avery regarding our discussion in May. However, I will admit that after that discussion the Avery's did make an attempt to clean up their property. Several vehicles were sold or removed and some of the junk seemed to disappear. The construction equipment such as a dump truck, bucket loader, and other smaller equipment remained for some time. At some point during the early summer, the dump truck and bucket loader disappeared. However, five pickup trucks that had had plows on them

remained. The plows had been removed from the trucks once the snow season was over and stored to the rear of the property.

While better, the Avery property has been less than stellar all summer. Then in October, I watched daily as one truck after another went through the "carport" repair facility and the plows were readied to be used. I should also add that many of these trucks were fitted with sanding units in the beds of the truck. You will note in the pictures that I supplied taken on November 8, 2011, several of the trucks, plows, and sanders. Also note in the pictures that under the carport is a hay mulcher that was being worked on.

Upon looking into AC Universal further, they have had and do have plowing contracts with the State of Vermont. I spoke with Mike Wichrowski who is the facilities administrator for the Department of Fish and Wildlife. Mr. Wichrowski informed me that AC Universal in past years had contracts with the state to plow 70 to 75% of the states plowed fishing accesses. This year, while AC Universal did put in a bid for the fishing access contract, they were not awarded the contract.

I spoke with Vince Blaisdell of Building and General Services. Mr. Blaisdell informed me that AC Universal was successful in two contract bids that he handled through the State of Vermont. AC Universal will be plowing the Montpelier state office complex which includes the Middlesex State Police barracks, as well as a separate contract for McFarland House in Barre. As part of the contract, AC Universal will be responsible for plowing, salting/sanding, and spring clean up.

I guess the argument can be made that the pickup trucks with plows and sanders, that didn't do anything all summer but all of a sudden were readied to go, are just personal vehicles. I suppose it is possible that AC Universal has another fleet of plow trucks at a different location ready to go when the snow flies. I suppose both of these things are possible, but what is rationale behind having numerous plow trucks ready to go at the 210 Quarry Hill location at the same time having these plow contracts. Seems obvious to me.

Mr. Avery correctly point out that the Secretary of State's corporate information doesn't mean that just because the mailing address for the corporation happens to be the address of the house that the business is being run from the house. What it does prove is that the Avery's do own a snowplowing business called AC Universal Contractors and that they do business as Cutting Edge Plowing and Sanding. So I guess we don't dispute that.

Mr. Avery also correctly points out that there is no limit as to the number of vehicles one can have on their property as long as they are legally registered and inspected. He can own as many as he wants. However, I maintain that those vehicles are being use as part of this plowing business. Once the plows were taken off the trucks this spring, most of them sat untouched until October when they began their servicing in preparation for the upcoming plow season.

Mr. Avery is also correct that you can work on your own vehicles when you want. I don't

make the claim that the carport is not legal, but if it is being use to maintain vehicles and equipment used in association of the plowing business than it is a function in violation of Barre Town's Zoning.

At this point, most everything else that had been stored at 210 Quarry Hill Road such as the ten wheeled dump truck with AC Universal on the side of it is gone. The mini excavator is gone and the hay mulcher is gone. It seems as though the property is coming closer to compliance the closer we get to the hearing date. That is good news. However I firmly believe that the Avery's are operating a plowing business from the house located at 210 Quarry Hill Road in violation of Barre Town Zoning.

It is my opinion that there is only one verdict that the DRB can come to and that is the same as what I just said, the Avery's at 210 Quarry Hill road are operating a business from their home in violation of Article 1, section 1.3.

While it might be desirable to talk to the Avery's and see what can be worked out and how to bring them into compliance, that is not what the purpose of this hearing is. Either the DRB finds that they are in violation or they are not. If the DRB upholds my decision, then the \$100 fine should begin immediately.

SUMMARY OF RECOMMENDATIONS & CONDITIONS:

ADDITIONAL COMMENTS:

MOTION & RECOMMENDATION:

On a motion by Nicolson, seconded by Sanborn, the Development Review Board voted to continue the appeal by Anthony & Rita Avery of the Zoning Administrators issuance of a violation for property located at 210 Quarry Hill Rd whereas the property is being used for a home based business; Article 1, Section 1.3 of the Barre Town Zoning Bylaw until January 11, 2012; Parcel ID 006/011.00; Zoned: OBR

DISCUSSION:

CONDITIONS Yes___ No___

MOTION BY: NICOLSON

SECOND BY: SANBORN

ROLL CALL:

Mark Nicholson YES

Charles Thygesen, Sr. YES

Cedric Sanborn YES

Jon Valsangiacomo YES

Shaun Driscoll YES

Mark Reaves ABSENT
*Paul Malone ____

*Jim Fecteau ____
*John Hameline YES

**Alternate Development Review Board Members*

L. OTHER

M. FOLLOW-UPS

N. CORRESPONDENCE

STATE
TOWN
MISCELLANEOUS

O. ROUNDTABLE

P. ADJOURN!

On a motion by Sanborn, seconded by Valsangiacomo, the Development Review Board voted to adjourn the meeting of December 14, 2012 at 8:19 p.m.

Respectfully Submitted,

Heidi Bennett

Mark Nicholson, Chair

Cedric Sanborn

Mark Reaves

Jim Fecteau

John Hameline

Charlie Thygesen Sr.

Shaun Driscoll

Jon Valsangiacomo

Paul Malone