

# Law Office of James A. Dumont, Esq., P.C.

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August 24, 2022

Tommie Thompson, Chair, Zoning Board of Adjustment  
Town of Lincoln  
Town Hall  
Lincoln, VT  
By email: [zoningadmin@lincolnvermont.org](mailto:zoningadmin@lincolnvermont.org); [architects@gmavt.net](mailto:architects@gmavt.net)

*Re: APPEAL OF BICKNELL TRUST ZONING PERMIT ISSUED ON JUNE 1, 2021  
(Application 22-028)*

Dear Tommie and Members of the ZBA:

I write on behalf of Sarah Laird, Dan Guy, Peg Sutlive, Jacquelyn Tuxill, Alison Zimmer, Louise Rickard and Christine Fraioli with two purposes.

First, I regret to inform you that we have not been able to reach a negotiated settlement. In the end, we were unable to settle on agreed conditions, and my clients felt the negotiations had run on too long, and it was better for the ZBA to make a decision on the matter.

My clients also remain convinced that the absence of a Z notice on a public right of way (as argued in my letters of May 2, 2022 and July 1, 2022), and refusal to return calls or respond to the requests of the ZA and ZBA Chair on this matter, as they testified, should lead to a Notice of Violation.

We believe the appeal was timely because Sarah Laird, as she testified, did not know about the permit, or the building, prior to late March 2022, and an appeal was filed within a week. See Ms. Laird's affidavit and my letters dated April 10 and May 2. As you know, only one appellant is needed for a timely appeal.

In hearings and written communications, the Bicknells have repeatedly implied that my clients are underhanded and unfair, and that this is an attack on the Bicknells' rights to use their land as they like, and on them personally. My clients would like to make clear that their objectives in appealing this permit are instead to conserve the natural environment of Mt Abe and protect the viewshed of the entire town of Lincoln. They sought to represent the interests of the town of Lincoln as expressed in the town plan.

The structure will be used for two months a year, while the natural environment and views of Mt Abe will be marred for the entire town, throughout the year, and indefinitely. Building at 2300' in a way so disrespectful of the community of Lincoln is a terrible development and precedent, and one that our town plan expressly does not support. The ZBA Chair, as he testified, reassured many around town over many years that a structure

would not be built in that location because it ran counter to the town plan, and when the permit was made known to him, he sought to impose conditions, of the type we suggest below.

Therefore, I write to submit thirteen proposed conditions that we believe should be incorporated into a site plan review permit. These are the permit conditions we request:

1. The cabin location should be shifted one hundred feet back from the western edge, and towards the east/the ponds and forest. Despite what was claimed by the applicant to the ZA, there are no limitations to building there, any more than in the current location. The ZA also testified to discussions with the Bicknells in which the Bicknells assured her that the cabin would not be visible from around town. The ZA did not fabricate these assurances. As identified in Dan Guy's testimony (and also in his affidavit, which is presently before you as part of the NOV appeal), the location of the cabin does not align with the permit sketch, and has been moved forward. Moving it back will help to make it less visible and will bring it more into conformance with the assurances provided to the ZA.

2. The maximum height of the cabin will be 20 feet, measured from the top of foundation to the peak of the roof. This is significantly higher than the one story cabin originally applied for, and we remain unsure if the square footage complies with that on the permit because the Bicknells have refused to date to share the plans. When you receive the plans, we ask the ZBA to calculate total square footage of the structure, and consider whether the structure now being built aligns with the permit application - on number of stories, square footage, etc.

3. Shutters must be installed on all windows facing west or south and must be used to cover windows except when occupied (and occupancy shall be governed by State wastewater permits).

4. Curtains shall be installed on all south-facing and west facing-windows; at night, if interior lights are on, the curtains must be drawn.

5. Non-glare coated glass shall be installed on all windows on the southern and western side of the cabin and on any other window that faces west.

6. No exterior lighting will be allowed on the western side of the cabin, and on the other sides only dark-sky compliant exterior lights that are motion-activated will be allowed.

7. The existing birch tree on the southwest corner of the foundation shall be kept in place, with cutting allowed only of the branches on its north side. If it dies or is trimmed other than on its north side or is cut other than on its north side, it will be replaced by a row of balsams along the south side of the cabin, up to the southwest corner. The balsams must be at least 8 feet tall when planted, there must be at least 3 of them, they must be planted the same distance from the cabin as the birch tree currently is, and they must be allowed to grow except to the extent branches overlap the cabin. If any balsam doesn't survive, it must be replanted.

8. The roof must be painted dark green, dark blue, black or brown.

9. The cabin must be natural wood color or black or dark brown.

10. No further tree-cutting on any side (north, south, east or west) of the clearing in which the cabin is located will be allowed, other than removal of any dead or dying tree that would jeopardize the cabin. A 20-foot band of brush, and trees, along the western edge of the present clearing will be allowed to grow up, and will not be cut again, in order to help screen the structure from the town.

11. There shall be no additional structures further west than the east wall of the cabin in its present location, or the west wall if moved to the location we seek above in paragraph 1.

12. The zoning administrator or her representative may visit the property to ensure compliance within 90 days after permit is issued and at least once per calendar year after that.

13. Without a permit amendment granted by the zoning administrator after no less than 15 days' notice and opportunity to comment prior to any decision by the Zoning Administrator (which notice shall be through Front Porch Forum or its successor as determined by the Zoning Administrator), there shall be no: a) expansion of the width, length or height of building, b) expansion of the number of days occupied per year beyond 60, c) addition of septic disposal, d) change in use of shutters, e) change from no-glare glass, f) change in use of curtains, g) change in exterior lighting, h) change in the color of the roof or the color of building siding, i) change in the trees required along the south edge of the cabin, j) change in the prohibition against tree-cutting or the requirement that a 20-foot band along the west edge be allowed to regrow, or k) change in the location of additional structures.

My clients and I thank you for all your hard work on this matter.

Sincerely,

*Jim*

James A. Dumont, Esq.

cc: James Carroll, Esq.

David Cooper, Esq.

Andrew Lechner, Esq.