

**LINCOLN ZONING BOARD OF ADJUSTMENT
ENTRY RULING RE: JUNE 5, 2022 REQUEST OF
KRISTI LAFAYETTE RE ENFORCEMENT**

The Lincoln Zoning Board of Adjustment (“ZBA”) is in receipt of e-mailed correspondence dated June 5, 2022 addressed to the members of the ZBA (“Correspondence”) (attached hereto as Exhibit A). Specifically, the Correspondence was written to “inform the ZBA board about a few aircraft incidents which have occurred in Lincoln”, and requesting “enforcement on behalf of many residents of Lincoln” presumably under Lincoln’s Zoning Regulations (“LZR”). The letter goes on to highlight several incidents which are alleged to have occurred on May 23, 2022 and June 3, 2022 involving airborne aircraft. In addition to enforcement, the letter seeks specific admonishment of Mr. Kyle Clark by the ZBA, as well as the filing of a formal complaint by the ZBA to the Federal Aviation Administration (FAA). The ZBA hereby rules as follows in responding to the Correspondence:

First, the ZBA is defined under Vermont law as an appropriate municipal panel (AMP), which is given authority to conduct certain limited functions spelled out in 24 V.S.A. §§4460 and 4461, which includes, in this instance, the consideration of an appeal “from a decision of the administrative officer pursuant to 24 V.S.A. §4465. . . .” *Id.* “A board of adjustment or development review board shall have the power to hear and decide appeals taken under this section including where it is alleged that an error has been committed in any order, requirement, decision, or determination made by an administrative officer under this chapter in connection with the administration or enforcement of a bylaw.” *Id.* *See also*, LZR at §712. In exercising that authority, the ZBA can only act through a majority of its members at a duly warned hearing.

Second, any issues relating to enforcement or violations of LZR are to be reviewed and, if appropriate, initiated by Lincoln’s Zoning Administrator (“ZA”) and not the ZBA. *See* 24 V.S.A. §4452 and LZR §714. The ZBA *may* be called upon to consider an appeal of the ZA’s initiation or declination of a notice of violation, but it is not statutorily enabled to initiate the process unilaterally. *Id.* To the extent that the Correspondence is seeking the issuance of a notice of violation under the LZR, the same must be initiated, if at all, through the office of the Lincoln ZA under the LZR; an action which has not, to date, been taken. To the extent that you are seeking enforcement of FAA regulations, the ZBA has no authority to enforce or adjudicate FAA regulations and the request should be directed to the FAA for investigation and/or appropriate action.

Third, the duly appointed members of the ZBA are endeavoring to maintain the integrity of their judicial roles in connection with the conduct of an ongoing hearing on a pending appeal involving a permit issued to Kyle Clark for installation and use of a personal landing strip. In doing so, the ZBA members will continue to avoid engaging in *ex parte* communications concerning the pending appeal or unilateral decisions made outside of a public hearing process.

For the above stated reasons, the ZBA declines to initiate the requested enforcement action sought in the Correspondence as being beyond the authority of the ZBA to initiate as requested.

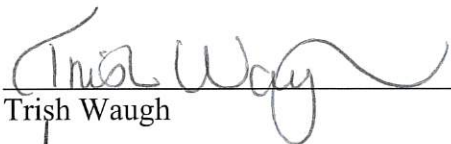
Dated this 13th day of June, 2022.

LINCOLN ZONING BOARD OF ADJUSTMENT MEMBERS

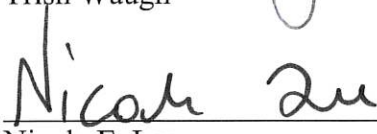


Tommie Thompson, Chair

Barry Olson



Trish Waugh



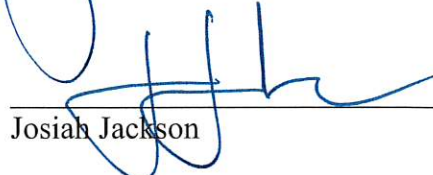
Nicole E. Lee

Stephen Halnon, as alternate

Serena Fox



James Warnock



Josiah Jackson

RECUSED

Harry Reynolds

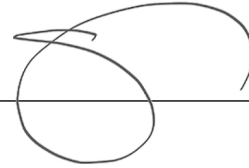
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Dated this _____ day of June, 2022.

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