

Permit # 26-13
Received 4/1/2026
Fee paid 4/8/2026

APPEAL TO THE ZBA

Gwen Sherow

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(717) 919-5555

Date: March 26, 2026

To:

Zoning Administrator / Zoning Board of Adjustments
Town of Pittsford
P.O. Box 10
426 Plains Road
Pittsford, VT 05763

**RE: Appeal of Zoning Administrator Determination dated March 12, 2025
and Zoning Administrator Determination dated March 18, 2026**

Property: 202 Windy Hill Rd
Applicant: David Hudson

NOTICE OF APPEAL

Pursuant to 24 V.S.A. § 4465, I hereby appeal the March 12, 2025 written determination issued by the Zoning Administrator regarding the 8' x 18' accessory structure, and the verbal determination by the Zoning Administrator regarding the same (Select Board Meeting).

TIMELINESS OF APPEAL

This appeal is timely as a matter of law.

The referenced determination was **not publicly noticed, posted, or otherwise made available to interested persons**, and no zoning permit was issued. Accordingly, the statutory appeal period did not begin to run.

Actual notice was given at the Select Board Meeting on March 18, 2026 when we received a copy of the Letter from Jeff Biasuzzi to David Hudson (dated March 12, 2025) from Ann Reed.

This appeal is filed within 15 days of **actual notice** of the decision.

The need for review is heightened by statements indicating that additional construction activities may be performed in the same setback area based on the same interpretation, risking continued noncompliance if not addressed.

GROUNDS FOR APPEAL

1. Error of Law – Misinterpretation of Bylaw Definitions

The Zoning Administrator erred in concluding that the shed is not subject to zoning requirements.

While the bylaws state that small sheds under 150 square feet are not considered “structures,” the bylaws do not exempt such sheds from zoning regulation or from applicable setback requirements.

The exemption from the definition of “structure” is limited and does not eliminate the obligation to comply with other applicable provisions of the bylaws.

Exempt does not mean unregulated—the bylaws explicitly say the opposite.

2. Error of Law – Improper Exemption from Setbacks

The determination improperly concludes that setback requirements do not apply.

Even where a structure is exempt from permitting due to size and/or use, it remains subject to setback requirements, unless explicitly exempted.

The bylaws contain no provision exempting sheds from setback requirements. In the absence of such an explicit exemption, setback requirements apply.

3. Improper Reliance on Non-Binding Legal Advice

The determination relies on statements attributed to “Town legal counsel.”

However:

- The zoning bylaws control
- Interpretations must be grounded in the adopted regulations
- Legal advice does not override clear bylaw language

4. Procedural Defect – Lack of Notice / Due Process

The determination was issued without:

- Public notice
- Permit posting
- Opportunity for affected parties to participate

This deprived interested persons of due process and further supports acceptance of this appeal as timely.

5. Failure to Enforce Zoning Bylaws

The Zoning Administrator has a statutory duty to administer and enforce the zoning bylaws. By declining to apply setback requirements to a structure subject to such standards, the Administrator has failed to enforce the bylaws as written.

6. Improper Reliance on Prior Informal Determinations

The Zoning Administrator has indicated that a prior administrator and/or Town counsel previously "ruled on" this issue and that a new determination should not be made. However, any such prior interpretation was not issued as a publicly noticed, appealable determination.

Unnoticed, informal interpretations cannot bind future enforcement, eliminate appeal rights, or override the adopted zoning bylaws. The Town retains an ongoing obligation to apply and enforce the bylaws as written.

Any interpretation must be grounded in the adopted bylaws. Advice of counsel does not supersede the text of the bylaws, which are the controlling legal authority.

RELIEF REQUESTED

The Appellant respectfully requests that the Zoning Board of Adjustments:

1. Reverse the Zoning Administrator's March 12, 2025 determination that the shed is not subject to setback requirements
2. Find that even if this shed is considered exempt from the definition of a structure, it is still a use of land and must comply with applicable requirements such as setbacks.
3. Require a zoning permit and full review, if applicable
4. Acknowledgement that the following sentence from Jeff Biasuzzi's letter to David Hudson dated March 12, 2025 contains information that directly conflicts with the Bylaws as written [see Page 16 of 2019 Bylaws "The following requirements apply to all uses, whether Permitted, Conditional, or Exempt. Conditional Uses shall meet the requirements of Article V, and all uses shall comply with all other applicable provisions of this Ordinance."]

"Town legal counsel has advised that only structures (per definition) are subject to permits and prescribed boundary setbacks."

5. Acknowledgement that the Bylaws - not staff comments or attorney advice - controls. The Zoning Administrator and Town counsel may provide interpretations, but those interpretations must be consistent with the bylaw text.

6. Acknowledgement that if a prior interpretation was not issued as a formal, noticed determination, it cannot bind future decisions or eliminate the right to appeal.
7. Require compliance with all applicable zoning requirements for applicable setbacks.
8. Direct the Zoning Administrator to enforce the zoning bylaws consistent with the Board's determination, including requiring correction of any violations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gwen Sherow". The signature is written in a cursive, flowing style.

Gwen Sherow



Town of Pittsford

"The Sunshine Village"

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March 12, 2025

Mr. David Hudson
202 Windy Hill Rd.
Pittsford VT 05763

RE: ZA zoning review to construct an 8' x 18' accessory structure on Parcel 0110,
Tax Map 19-358-0202

Dear Mr. Hudson,

As you requested, I have reviewed applicable Town Zoning Regulations (adopted 3/20/2019) regarding installation of a 144 sq. ft. detached accessory structure on the western portion of your 202 Windy Hill Road ownership, located in the Rural zoning district

Zoning exempts a local permit requirement for a structure with a floor area less than 150 sq. ft. (refer to Sections 105(2) and Section 300). There is no height limitation other than 40 (vertical) feet (Article IV) specific to this shed. Further, Article XX (Definitions) clarifies that a small shed not exceeding 150 sq. ft. is not a "Structure". Town legal counsel has advised that only Structures (per Definition) are subject to permits and prescribed boundary setbacks. However, I recommend that any shed near a boundary should be set far enough within your property so it may be maintained without crossing onto a neighboring ownership. The site plan you have provided (copy attached) indicates you propose setting the structure five (5') feet east of your western property line.

I determine that, under current zoning rules, the proposed shed as sited does not require a Town permit.

Yours,

Jeffrey Biasuzzi, Zoning Administrator
zoning@PittsfordVermont.com

Enc.

Cc: Za file, M. Warfle, L. Wright

CEV

ARTHUR D. & DEANNA L. MARTIN
 BOOK 64 PAGE 234
 FEBRUARY 4, 1972

RONALD D. PETERSON
 BOOK 61 PAGE 423
 AUGUST 13, 1966

LOT # 5
 0.55 ACRES

LOT # 4
 0.55 ACRES

APPROXIMATE
 WATER MAIN

12' x 8' SHED

5' SETBACK
 TO PZ

5/8" REBAR OR STEEL
 PIN SET. FLUSH

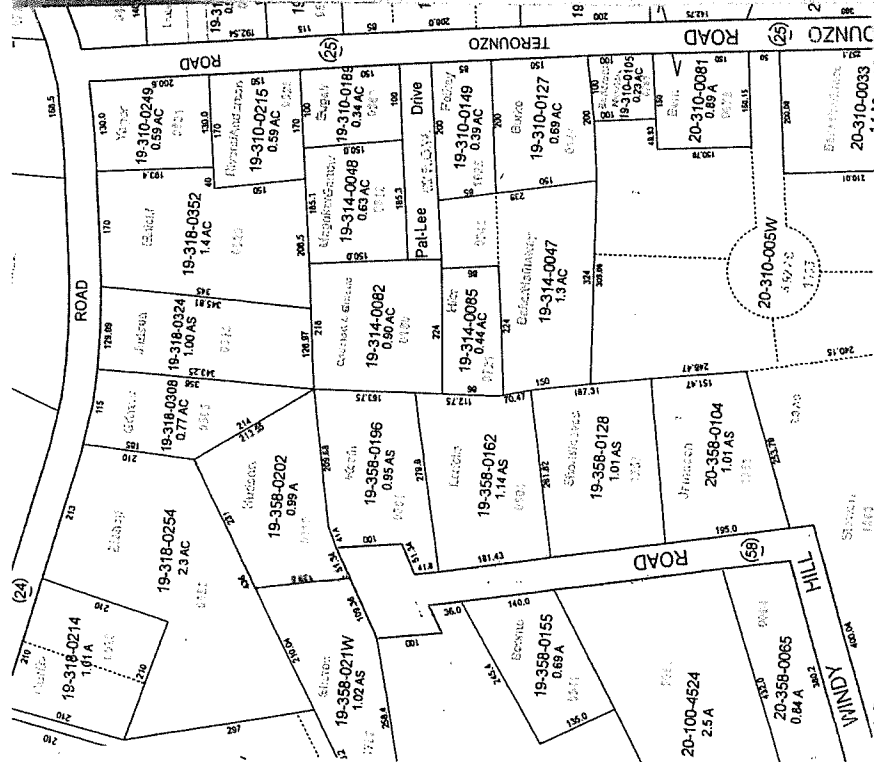
100.0'

TO BE CONVEYED
 TO THE TOWN
 OF PITTSFORD
 (0.114 ACRES)

100.0'

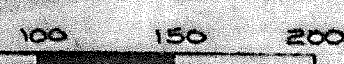
SHERMAN M. & RENA
 C. PARKER
 BOOK 64 PAGE 151
 JULY 5, 1972

WINDY HILL LA
 TOWN HIGHWAY



TO THE TOWN OF
 PINKER SURVEYS IN

LEGAL
 MAP
 19-358-0222



HUDSON
 19-358-0222
 #010