**Mendon Zoning Board of Adjustment**

**Findings of Fact, Conclusions of Law and Decision**

**In Re: Appeal of Permit #2022-10**

**Appellants: Brian and Carol Gates**

**Appellee: Gordon Stake**

As noticed, the hearing on an appeal filed by Brian and Carol Gates regarding Zoning Permit #2022-10 was held at the Mendon Town Office beginning at 5:30 pm on February 27, 2025. Present in person were ZBA members Jack Kennelly, Harvey Zara and Teri Corsones; Appellants Mr. and Mrs. Gates; and Appellee Gordon Stake and his attorney, Rodney McPhee, Esquire. Zoning Administrator Greg Smith was also present in person. Megan Smith was present as an observer.

**Findings of Fact**

1. The shed that is the subject of Zoning Permit #2022-10 is located at 33 Terra Lane in Mendon, Vermont. Appellee constructed the shed in 2002 and expanded the shed in 2008. It was brought to appellee’s attention that a permit was needed for the shed in 2022. He applied for a permit and it was approved on May 17, 2022.

2. Appellants were aware of the permit three to four months after it was issued. They did not appeal the permit until January 17, 2025.

3. The basis for the appeal was that appellants argued that one of the distances on the application was inaccurate, that the shed did not meet setback requirements, and that the zoning permit should not have been approved.

4. Appellee was represented by Attorney Rodney McPhee; Attorney McPhee argued that the appeal should be dismissed for three reasons: (1) The appeal is untimely because the zoning permit was issued on May 17, 2022 and the Notice of Appeal was not filed until January 27, 2025; (2) the construction of the shed was completed in 2008 and any enforcement action is beyond the statute of limitations; and (3) Appellants are not interested parties and therefore have no standing to appeal.

**Conclusions of Law**

1. Article XI Section 1101 of the Mendon Zoning Regulations provides that “any interested person . . .may appeal a decision or act of the Administrative Officer within 15 days of the date of the decision or act by filing a notice of appeal with the . . . Zoning Board of Adjustment.”

2. 24 VSA 4465(a) similarly provides that a “notice of appeal must be filed within 15 days of that decision or act” regarding a decision or act of an administrative officer.

3. 24 VSA 4472 provides that “the exclusive remedy of an interested person with respect to any decision or act taken . . . shall be the appeal to the appropriate panel under section 4465 of this title.”

4. 24 VSA 4454(a) provides in relevant part that an enforcement proceeding relating to the failure to obtain or comply with any required municipal land use permit must be instituted within 15 years of the date of the alleged violation. Appellants allege that the shed is in violation of the zoning regulations because it did not meet setback requirements when it was expanded in 2008.

5. Because appellants did not file their notice of appeal within 15 days of when Mendon Zoning Permit #2022-10 was issued, their appeal is untimely and must be dismissed.

6. Because the alleged violation occurred in 2008 and more than 15 years have passed since the date of the alleged violation, any enforcement action is beyond the 15-year statute of limitations.

7. Because the appeal is dismissed and any enforcement action is beyond the statute of limitations, there is no need to address the third basis for dismissal that appellee cited regarding whether appellants meet the definition of “interested party”.

**Decision**

The Board’s vote to dismiss the appeal was unanimous. The appeal is hereby dismissed.

Any appeal of this Decision must be filed with the Clerk of the Environmental Division within thirty (30) days of the date of this Decision pursuant to 24 VSA 4471 and Vermont Rule for Environmental Court Proceeding 5(b).

Dated at Mendon, Vermont on April 10, 2025.

Jack Kennelly, Chair