



**TOWN OF BRANDON
DEVELOPMENT REVIEW BOARD
APPEAL OF ZONING ADMINISTRATOR DECISION
FINDINGS AND DECISION**

In Re: Appellant: Frank James & Amy Laporte-James

Landowner: Town of Brandon

Application No. 6354

Introduction and Procedural History :

This proceeding involves review of an appeal of the zoning administrator decision submitted by Appellant: Frank James and Amy Laporte James under the Town of Brandon Zoning Bylaw.

The application was received by the Town of Brandon on September 29, 2024. A copy of the application is available at the Brandon Town Office, 49 Center St.

On October 9, 2024, a notice of public hearing was sent for publication to the "The Reporter."

On October 9, 2024, a copy of the notice of the public hearing was mailed to the appellant and landowner by certified mail and to the adjoining property owners by regular mail. List is included in the file, located in the Brandon Town Office, 49 Center St., Brandon.

The application was considered by the Development Review Board at a public hearing which was opened and closed October 30, 2024.

The Development Review Board reviewed the application under the Town of Brandon Zoning Bylaw, as approved May 7, 2012.

Present at the hearing were the following members of the Development Review Board: Sam Stone, Jack Schneider, John Peterson and Ralph Either.

Frank James Amy Laporte James, Bill Moore, Seth Hopkins, Larry Stevens Zoning Administrator were sworn in. Present for the hearing was Hillary Knapp, Secretary.

Frank James, Bill Moore, Seth Hopkins and Larry Stevens all provided testimony at the hearing.

Interested party status was given to: Frank James and Amy Laporte James and the Town of Brandon.

FINDINGS

Based on the application, testimony, exhibits, and other evidence the Development Review Board makes the following findings:

The appeal to the Zoning Administrators determination was to review and determine if there were zoning violations from issued permits at 110 Newton Road.

This appeal concerns the property at 110 Newton Road of which the Town of Brandon is the owner of the property and Frank James and Amy Laporte James are adjacent property owners.

This property was a FEMA buyout and per the FEMA and the State of Vermont rules, the building will need to be removed, and the land brought back to grade.

The Town of Brandon has asked about the possibility of a swale or other flood mitigation measures and these types of mitigations are not allowed to be used with the FEMA property.

Frank and Amy are concerned that when the building is demolished their properties and other properties will be at a greater risk of flooding.

Frank and Amy were asking that other flood mitigation techniques be considered before the building is demolished.

There is no conditions in the BLUO that state that a property owner has to maintain a building on a property and the Town is concerned that if the building is not allowed to be removed that they will need to maintain insurance and upkeep of the property.

At the Development Review Board hearing:

- Exhibit A was entered as evidence-A copy of pictures of James and Laporte James property during flooding events.
- Exhibit B- A letter from Kyle Medash stating that the property at 110 Newton Road did not need to go through ACT 250 review.

CONCLUSIONS OF LAW

- The BLUO states in section 808 (a) (1) states; "The removal of a building or other improvement in whole or in part, as long as the ground elevations under and adjacent to the removed structure remain unchanged."
- FEMA and the State of Vermont are requiring that the building be removed and that the land be brought back to grade. No other flood mitigation can be used on the property.
- The BLUO does not require a landowner to keep or maintain a building on their property.

DECISION AND CONDITIONS

Brandon Development Review Board

Appeal of Zoning Decision

Appellant: Frank James & Amy Laporte James Landowner: Town of Brandon

#6354

Based upon these findings, the Development Review Board voted 4 (approve) -0 (deny) to uphold the Zoning Administrators' determination (the appeal was denied) of compliance at 110 Newton Road (Parcel #0010-0000)

Dated at Brandon, Vermont, this 19 day of November 2024



Samantha Stone (Nov 19, 2024 13:21 EST)

Sam Stone, Chair

NOTICE: This decision may be appealed to Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.