

TOWN OF GRAY
ZONING BOARD OF APPEALS
AGENDA • AUGUST 24, 2022

**Zoning Board of
Appeals Regular
Meeting**

Henry Pennell Municipal Complex
24 Main Street
Gray, Maine

7:00 PM

I. MEETING COMMENCES

Roll Call

II. MINUTES APPROVAL

- a. ZBA July 27, 2022 Minutes

III. NEW BUSINESS: PUBLIC HEARINGS

- a. Fournier Variance Request:

Margo Fournier is requesting a practical difficulty variance for a 48.5 and a 44.25-foot reduction of a 50-foot rear line setback to construct a 10-foot by 12-foot shed on her property located at 3 Crescent Lane, Gray Tax Map 24, lot 313-93, in a Lake Zoning District.

- b. Copp Administrative Appeal:

Elvin and Randall Copp have filed an administrative appeal of an Order to Correct Violations dated June 28, 2022, regarding the use of their property located at 71 Portland Road, Tax Map 52, lot 32-24, in a Commercial Zoning District and two Shoreland Districts; Resource Protection and Limited Commercial.

IV. ADJOURNMENT

** The Town of Gray is an equal opportunity employer and complies with all applicable equal access to public accommodations law. If you are planning to attend a Town Council or Town committee or board meeting and need assistance with a physical disability, please contact the Town Manager's office at least 48 hours in advance of the meeting to have the Town assist you. 657-3339. TTY 657-3931.*

**TOWN OF GRAY
GRAY ZONING BOARD OF APPEALS
MINUTES – JULY 27, 2022**

Gray ZBA	Henry Pennell Municipal Complex	7:00 PM
Regular Meeting	24 Main Street, Gray, ME 04039	

I. MEETING COMMENCED AT 7:00 PM

This meeting took place in-person at the Town Office and via “Zoom” and began at 7:00 pm.

Roll Call:

Attendee Name	Title	Status
Brad Fogg	Chair	Present (In-Person)
John Swiger	Regular Board Member – Co-Chair	Present (In-Person)
Georgia Woodbury	Regular Board Member	Present (In-Person)
Douglas Webster	Planning & Community Development Director	Present (In-Person)
Tammy Munson	Code Enforcement Officer	Present (In-Person)

Brad Fogg welcomed new Board Member Georgia Woodbury. He stated that this Board is still in need of new volunteers.

II. MINUTES APPROVAL: Both sets of meeting minutes for the May 25, 2022 and June 22, 2022 meetings were postponed, since there is no quorum of members present, at this point, to approve or disapprove those minutes. An opinion on the ruling for those meeting minutes is needed. Brad Fogg asked Martin Meaney - Town Councilor, who was present at this meeting, to pass this on so the Board could get a ruling of how this should be handled.

The following motion was made to open the Public Hearing.

MOTION: *by John Swiger, seconded by Georgia Woodbury, to hear the Public Hearing request by April Piirainen for a Practical Difficulty Variance at 5 Chris Lane.*

VOTED: *3-0 (Passed).*

III. NEW BUSINESS: PUBLIC HEARINGS:

April Piirainen, 5 Chris Lane – Practical Difficulty Variance Appeal: *April Piirainen is requesting a Practical Difficulty Variance Appeal for a 11.7-foot reduction of a 50-foot front line (road) setback and a 0.75% increase in allowable lot coverage to construct a 700 square foot addition to the existing dwelling on her property located at 5 Chris Lane, Gray Tax Map 29, Lot 47-30, in a Rural Residential & Agricultural Zoning District.*

Present at this meeting was April Piirainen – Owner, who presented. The current front and rear setbacks are set at 50 feet with 15 feet on the sides. She said her home is at 39.1 feet and when the home was built, the standards were not what they are now. She is asking for this variance in order to add an addition on the side of her current home at the current 39.1 feet from the current road. Her home was built into a hill and in order to add an addition (25’ x 28’), they would have to excavate into that hill. The vertical height from the street to the top of the hill is approximately 12 feet. In her estimate, included in her application, it would cost roughly \$11,650 more in excavation costs to do the additional 11 feet, if no variance is granted. They would also be taking out more vegetation and trees by going further back from the road. This would be a significant financial difficulty. She said they are a young professional couple who loves the neighborhood and the area and wants to expand their family. John Swiger stated that it looks like they would be directly in-line with the existing properties in this area and not encroaching any more than it already is.

Tammy Munson, Code Enforcement Officer, stated in her cover memorandum that the addition would exceed the allowable lot coverage by 146.05 SF. Brad Fogg asked if it would be practical to make the addition a foot shorter. The current requirement is for the maximum lot coverage to not exceed 10%. Their surveyor estimated the current existing to be at 5.8% and the proposed to be at 9.0%. Brad Fogg asked Tammy to address that and she said she did not know if the surveyor had included decks and stairs as part of the lot coverage. She then added the numbers to see if she came up with the same numbers. Brad referred to the submitted drawing and said the stairs in the center of the structure are proposed replacement stairs to the home. He then asked April what stairs are to be removed? April responded with the existing stairs and deck. She said the deck and stairs will be the same. She went on to say that the proposed stairs will be more of an “L-shape,” instead of straight down. Tammy said she went through her calculations again. She said the Board could decide to go over a little on the lot coverage. She said this is a minor issue. Brad said if the deck/stairways to replace the current could be discounted, the proposed structure itself is 700 SF.

There is 1,825 SF of actual structure – not stairway or deck. The proposed lot coverage is 2,106.25. The SF allowed is 1,960.20; therefore, with an average of 146.05 SF on lot coverage. There were no questions from the Board.

The following brief discussions and motions were made on the Criteria Questions a-f, per the Gray Zoning Ordinance 402.9.2.B.3.

John said their lot was built into a hill. The is a constraint. Brad said this would be a huge excavation.

MOTION: *by John Swiger, seconded by Brad Fogg, that the need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood.*

VOTED: *3-0 (Passed).*

It shall be noted that there was one letter of support from **Leah M. Pottle – 8 Alder Drive** that was e-mailed to the Code Office and forwarded to Board Members. Brad read the letter into the record. There were no other comments received. Brad said this request fits into the neighborhood quite nicely and is not disturbing to anybody else. John commented that it is in-line with the original setbacks and meets the setbacks.

MOTION: *by John Swiger, seconded by Georgia Woodbury, that the granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties.*

VOTED: *3-0 (Passed).*

The original owners built into the hill. Georgia said if they do excavation, it will change the neighborhood. John stated that they are trying to overcome the limitations of the lot. This was not their creation.

MOTION: *by John Swiger, seconded by Georgia Woodbury, that the practical difficulty is not the result of action taken by the petitioner or a prior owner.*

VOTED: *3-0 (Passed).*

Brad commented that they are not infringing on anybody's rights. They align with what's in the neighborhood.

MOTION: *by John Swiger, seconded by Brad Fogg, that no other feasible alternative is available to the petitioner.*

VOTED: *3-0 (Passed).*

John said the decks do not appear to impact the ability for water to go down through and still absorb underneath them. He does not see that this could adversely impact the natural environment at all.

MOTION: *by John Swiger, seconded by Brad Fogg, that the granting of a variance will not unreasonably adversely affect the natural environment.*

VOTED: *3-0 (Passed).*

There was no discussion by the Board.

MOTION: *by John Swiger, seconded by Brad Fogg, that the property is not located in whole or in part within shoreland areas, as described in Title 38, Section 435.*

VOTED: *3-0 (Passed).*

The main motion was made.

MOTION: *by John Swiger, seconded by Georgia Woodbury, to approve the request for the Practical Difficulty Variance submitted by April Piirainen for a 11.7-foot reduction of a 50-foot front line (road) setback and a 0.75% increase in allowable lot coverage to construct a 700 square foot addition to the existing dwelling on her property located at 5 Chris Lane, Gray Tax Map 29, Lot 47-30, in a Rural Residential & Agricultural Zoning District.*

VOTED: *3-0 (Passed).*

There was no discussion on the main motion. All the Board Members were in favor of the main motion and the consensus of the Board was that all the Criteria Items have been met with a vote of 3-0 in favor. Brad told the appellant that seven days is needed to prepare for the Board Chairs signature and that her Notice of Decision will need to be recorded.

Before Adjournment, Tammy Munson welcomed Georgia Woodbury to the Board and said she was excited to have her. She stated that this process is very valuable to the community.

Tammy also stated that there are currently two (2) applications for next month's meeting and possibly a third.

IV. ADJOURNMENT: There was no motion or vote taken; however, the meeting adjourned at 7:26 pm.

Respectfully submitted,

Doreen M. Christ
Transcriptionist/Minute Taker - Town of Gray



VARIANCE APPLICATION - PRACTICAL DIFFICULTY
 ZONING BOARD OF APPEALS
 TOWN OF GRAY MAINE

For Office Use Only
 Date Submitted: 7/25/22
 Tent. Sched. for: 8/24/22
 Amount Paid: \$300

PROPERTY INFORMATION

Property Location/Address	3 Crescent Ln.	Property Map/Lot	24 . 313 . 93 .
Zoning District	LD	Lot Acreage	0.45
Owner Name	Margo Fournier	Owner Phone Number	207-655-5204
Number of Dwelling Units	1		

APPLICANT

Name (if different than owner)		Email Address	mfournier6@maurie.rr.com
Mailing Address	3 Crescent Lane	Contact Phone Number	207-655-5204
Mailing City/State/Zip	Raymond, 04071	Alternate Phone Number	207-632-9333

VARIANCE INFORMATION

Per Gray Zoning Ordinance 402.9.2.B.3:

Practical Difficulty Variance: The Board may grant a variance from the dimensional standards of the Zoning Ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- No other feasible alternative to a variance is available to the petitioner;
- The granting of a variance will not unreasonably adversely affect the natural environment; and
- The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Describe request (description may be attached separately- plot plan/site map required to be attached)

	Current Requirement	Currently Existing	Proposed
Front Setback	50'		50'
Rear Setback	50'		18" + 69"
Side Setback	15'		15'
Other Setback (describe)	N/A	N/A	N/A
Max. Lot Coverage	20%	± 7.3%	± 7.9%
Min. Lot Area	80,000 SF	± 19,602 SF	± 19,602 SF
Min. Street Frontage	195	195	195
Other (describe)	N/A	N/A	N/A

A...I AM ASKING YOU TO ALLOW ME TO PUT UP A 10x12 SHED TO STORE MY SUMMER TABLES,CHAIRS, BBQ EQUIPMENT THAT WILL BE CLOSE TO MY POOL AND DECK INSTEAD OF CARRING AROUND EVERYTHING THROUGH MY BACK YARD AND DOWN THE ROAD UP THE DRIVEWAY THROUGH THE GARAGE TO STORE IN MY BASEMENT.

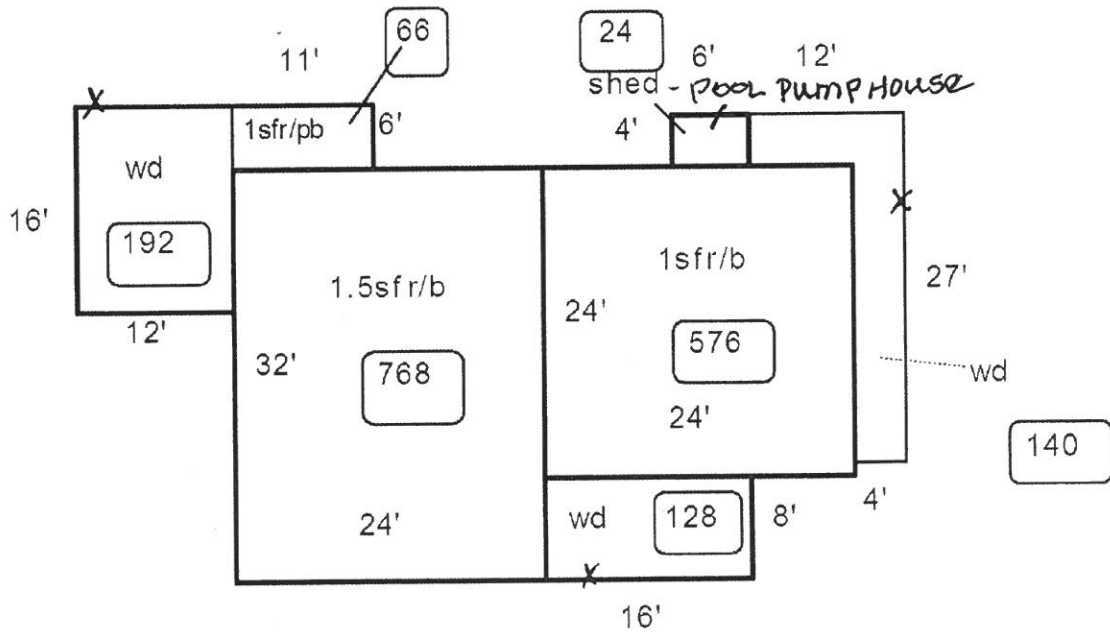
B...THE PROPOSED SHED WILL BE IN THE BACK YARD AND AWAY FROM THE ROAD. IT WILL BE ABUTTING THE LSLA GRAVEL PIT AND THE AREA IS FENCED IN.

C... 35 YEARS AGO I HAD MY DREAM OF A POOL IN MY YARD EVEN THOUGH I HAVE A HOUSE WITHIN WALKING DISTANCE TO LITTLE SEBAGO LAKE. YOU GRANTED ME THIS DREAM BUT NOW 35 YEARS LATER I AM FINDING THIS DIFFICULT TO MOVE EVERYTHING INSIDE AND I ALSO HAVE MEDICAL PROBLEMS ON TOP OF EVERYTHING ELSE. BY HAVE A SHED CLOSE TO MY POOL AND DECK WOULD MAKE EVERYTHING SO MUCH MORE CONVENIENT.

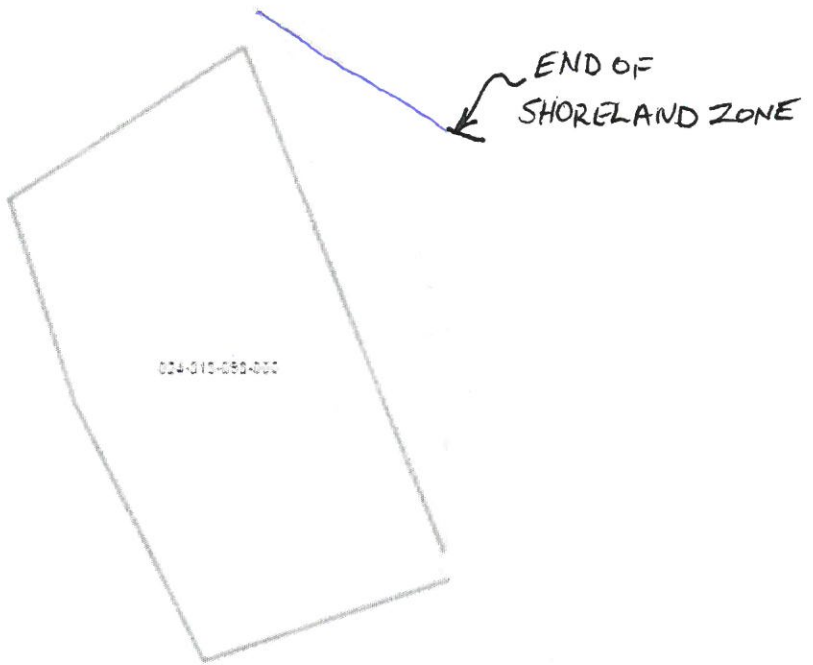
D...NO OTHER ALTERNATIVE.

E...THERE SHOULD BE NO AFFECT.

F...THE PROPERTY IS IN THE LAKE DISTRICT.



1434sf
COVERED STRUCTURES



3 CRESCENT LA.



**APPLICATION FOR ADMINISTRATIVE APPEAL
ZONING BOARD OF APPEALS
TOWN OF GRAY MAINE**

For Office Use Only
 Date Submitted: 7/26/22
 Date Paid/Initials: JTE
 Amount Paid: \$300

CONTACT INFORMATION

Name	James F. Pross	E-Mail Address	jpross@sta-law.com
Street Address	500 Canal Street	City/State/Zip	Lewiston, ME 04240
Phone Number	207-784-3200	Work Phone	
Name of owner on property which is subject to appeal:		Randall E. Copp & Elvin H. Copp	

APPEAL

Please describe in detail the facts surrounding this appeal, what you think is wrong about the decision which you are appealing, and what actions you want the board of appeals to take in this matter. If additional space is needed, please continue on a separate sheet of paper and attach it to this application.

Please see the Correspondence from Skelton Taintor & Abbott, submitted in connection with this Administrative Appeal.

CERTIFICATION

I certify that the information contained in this application is true to the best of my knowledge and belief.

Applicant Signature		Date	<u>7/22/2022</u>
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GRAY ZONING BOARD OF APPEALS APPLICANT INFORMATION PACKET

INTRODUCTION

The Gray Zoning Board of Appeals (ZBA) meets monthly as necessary to hear applicants who are either seeking variances to the Zoning ordinance or are seeking to appeal the decision of the Municipal Code Enforcement Official. The ZBA meetings are held on the 4th Wednesday of each month @ 7:00 pm in the Henry Pennell Municipal Complex at 24 Main Street. See posted schedule (Some exceptions made for Holidays).

THIS INFORMATION PACKET INCLUDES:

- ✓ Meeting schedule (includes application deadlines)
- ✓ Application Forms:
 - a. Administrative Appeal
 - b. Variance: Hardship
 - c. Variance: Practical Difficulty
 - d. Variance: Hardship/Shoreland
- ✓ Town of Gray Fee Schedule
- ✓ Affidavit granting permission for representation

REQUIREMENTS FOR APPLICATION SUBMISSIONS

Incomplete applications are NOT accepted. 14 copies of the submission are required (discuss quantity with staff).

ALL SUBMISSIONS MUST INCLUDE:

- ✓ Completed Application form (either Administrative Appeal OR Variance Request)
- ✓ Affidavit authorizing applicant/agent to represent the deeded owner, signed by owner (Not necessary IF owner will represent self at meeting and is the applicant)
- ✓ Short letter to Board Members explaining the basic intent of the request, include relevant history ***strongly recommended, not required***
- ✓ Proof of Right/Title/Interest- Copy of the deed(s) related to the property
- ✓ A survey that illustrates the request
- ✓ Any other documentation (ie pictures, prior Notice of Decisions, letters etc.) that help to make the case for the applicant ***recommended, not required***
- ✓ Payment (See Fee Schedule)

RESOURCES

All Gray applications and forms, as well as all Ordinances are available to print or download from the municipal website: www.graymaine.org . We highly encourage potential applicants to review the relevant portions of the Ordinances prior to application. For guidance regarding the ordinances or for preliminary consultations to address applicant questions please contact the Community Development Department at (207) 657-3112.

PERMISSION TO REPRESENT PROPERTY OWNER

PROPERTY & OWNER INFO			
Property Location/Address	71 Portland Road	Property Map/Lot	52 . 32 . 24 .
Zoning District	CRP	Lot Acreage	35.5
Number of Dwelling Units	0	Deed Reference	BK37717 PG314
Owner Name	Elvin & Randall Copp	Owner Phone Number	207-777-5521

I **Elvin & Randall Copp**, residing at **15 Mill Road, West Cumberland**
and 85 Pointers Way, Cumberland, am the deeded owner of the above referenced property.

I authorize **James F. Pross** to represent me & the above referenced property regarding application for **Administrative Appeal**

Authorization extended to: (Check all that apply)

- Submit application for the Zoning Board of Appeals
- Present case at the scheduled Zoning Board of Appeals / Planning Board Meeting
- Other (please describe) **See Required Affidavit to be filed by Appellants at Town Hall**

REPRESENTATIVE INFO			
Name of Individual	James F. Pross	Email Address	jpross@sta-law.com
Company Name (if applicable)	Skelton Taintor & Abbott	Primary Phone Number	207-784-3200
Mailing Address	500 Canal Street	Alternate Phone Number	
Mailing City/State/Zip	Lewiston, ME 04240	Other?	

James F. Pross

Printed Name

Signature

07/22/2022

Date

**Skelton
Taintor
& Abbott**

ATTORNEYS AT LAW

July 22, 2022

VIA HAND DELIVERY

Mr. Doug Webster
Zoning Board of Appeals
Henry Pennell Municipal Complex
24 Main Street
Gray, ME 04039

**RE: Administrative Appeal of July 28, 2022 Order to Correct Violation
71 Portland Road / Map 52 Lot 32-24**

Dear Mr. Webster and Members of the Zoning Board of Appeals:

Please be advised that I represent Randall E. Copp and Elvin H. Copp (the “Appellants”) with regard to the real property that they own at the above captioned address (the “Property”). This correspondence and the attached documents are submitted in support of the Administrative Appeal from the Code Enforcement Officer’s Order to Correct Violation dated July 28, 2022 (the “Order”). This correspondence will briefly outline the basis for the Administrative Appeal and is incorporated by reference into the Appeal Application. The Appellants will submit additional documentation, evidence, and argument at the to be scheduled hearing of the Zoning Board of Appeals (“ZBA”).

Enclosed herewith are the required 14 copies of this correspondence and the appeal application. Also enclosed is a check payable to the Town of Gray in the amount of Three Hundred Dollars (\$300) in payment of the Application Fee for this Administrative Appeal. I also enclose a copy of the Deed for the Property, which is attached hereto as **Exhibit A**. The Appellants are delivering, or will deliver an original Affidavit authorizing me to act on their behalf regarding this Administrative Appeal, as indicated on the Town’s appeal forms preceding this correspondence in the packet.

The Zoning Board of Appeals met on June 22, 2022 to hear the Appellants’ Administrative Appeal on the April 28, 2022 Notice of Violation issued by former Code Enforcement Officer Scott Dvorak. On June 28, 2022, before a written decision was even drafted, let alone signed by the ZBA, Tammy Munson, Code Enforcement Officer, issued the Order. (A copy of the Order is attached hereto as **Exhibit B**). The Order sets arbitrary and

unreasonable timelines for the Appellants to take certain actions to bring the Property into compliance.

The first item on the Order requires that the Appellants secure a recycling or junkyard license from the Town of Gray within 60 days of the date of the Order.¹ The requirements of an application for obtaining such a license are spelled-out in State statute, 30-A M.R.S.A. § 3755-A. The statute requires that an applicant submit a Site Plan containing nine (9) different, specific features. (A copy of the statute is attached as **Exhibit C.**) Allowing only sixty (60) days to have a site plan prepared, submitted, and approved hardly seems reasonable, especially in light of the fact that an applicant for such a license is also required to demonstrate compliance with the operational standards set forth in subsection 3 of the statute.

The Appellants also contend that footnote #11 on the site plan does not require them to obtain the license they are being ordered to obtain. The plain language of the footnote imposes no requirement on the Appellants nor is such a condition spelled out in the December 7, 2005 Conditions of Approval. In any case, the Town has covenanted not to prosecute the Appellants for not having a license under 30-A M.R.S.A. § 3753. The imposition of this requirement in the Order constitutes a breach of Paragraph J of the Consent Agreement from 2003. The Town, in entering into that Consent Agreement usurped the CEO's authority to cite the Appellants for not having that license.

Item 3 on the Order requires the Appellants to "remove all parts of the recycling business and anything associated with it that is in the unapproved expanded area on the southerly side of the property as set forth in the Board of Appeals decision within 60 days of this letter." As noted above, the Board of Appeals Notice of Decision was not signed until July 11, 2022. The Board of Appeals did not indicate at the June 22nd hearing where the approved limits of the recycling business are at the southerly boundary. This requirement is vague. In an effort to get clarification as to where the Code Enforcement Officer wanted all parts of the recycling business relocated to, the undersigned attempted to arrange a meeting with the Code Enforcement Officer at the Property to have her tell the Appellants where she believes the limits of the recycling business are, based on her interpretation of the Site Plan. However, this invitation for an onsite meeting was denied and refused through the Town's attorney, who claimed that it is up to the Appellants to determine where the limits of the salvage yard are based on the site plan. Then, the Appellants are to apparently hope that the Code Enforcement Officer agrees with their interpretation of the site plan after undertaking substantial efforts to comply with this Item in the Order. Please be reminded that the site plan's salvage yard boundary shows only the "approximate" edge of the salvage yard. In short, the Appellants do not know what is required of them to comply with Item 3. It seems that the completed survey and overlay work required on page two of the Order will be a precondition to the Appellants complying with Item 3 on page one.

On page 2 of the Order, the CEO imposes additional unreasonable and arbitrary requirements on the Appellants. She demands an environmental assessment of the Property by a

¹ Note that the Order was sent to the Appellants by Certified Mail, and all timelines in the Order are based on the date of the Order, not the date of Appellants' receipt of the letter.

licensed engineer with a remediation plan, all submitted within sixty (60) days of the date of the Order. Upon inquiry to an engineering firm, this work takes at least ninety (90) days, due to the time it takes for sampling and test results. And, they are currently scheduling into October for surveying and engineering work. There simply is no reasonable basis for requiring an environmental assessment and remediation plan. Groundwater monitoring, and other environmental assessments were required as a part of the site plan approval process pursuant to the Consent Agreement in 2003. Additionally, 30-A M.R.S.A. § 3755-A provides for the requirements of a site plan and application for an automobile recycling business permit, and an environmental assessment is not one of them. Imposing additional requirements like an engineered environment assessment and remediation plan is pre-empted by state law which establishes the substantive requirements of an application, and the criteria for issuing a permit. This additional requirement is arbitrary and capricious, and is not grounded in any ordinance nor required by State law.

Furthermore, no Notice of Violation has been issued by the Town or the State of Maine indicating that there are any environmental violations on the Property. If an engineered environmental assessment and remediation plan were to be lawfully ordered and required, it should be limited to any area of the Property consisting of an expansion of the recycling business. The requirements of the Consent Agreement and the monitoring and other activities that the Appellants were required to comply with during the site plan approval process and thereafter resolved any concerns that the Town could legally claim to have with regard to the rest of the Property.

The CEO also demands a full-scale survey of the Property by a licensed surveyor within 60 days and requires that it contain various features delineated on the survey. There is little chance that this could get done in 60 days, especially with the various delineations required and the overlay showing the *current footprint* of the business required at Paragraph 4 on page two. How can the Appellants be required to simultaneously remove the parts of their recycling business that are beyond the limits of the salvage yard on the approved site plan with sixty (60) days, as required by Item 3 on page one, while also providing an overlay to the survey showing the current footprint within sixty (60) days? The current footprint of the business has to first be surveyed before anything can be moved, and then the surveyors have to create an overlay to show what they think the site plan says. Then and only then, can the Appellants move anything from the alleged expanded area of the salvage yard. These two requirements imposed by the Order are self-conflicting and the timelines for compliance are arbitrary, and frankly impossible to comply with.

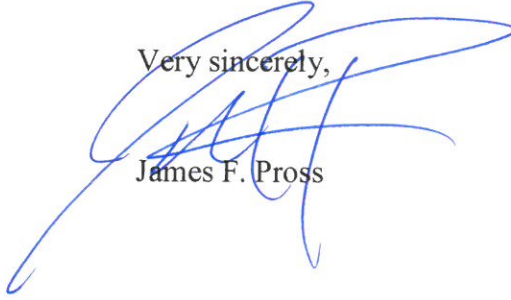
Under the Town's Code of Ordinances, Chapter 402.9.2(B)(1), the ZBA has the authority to modify or reverse the Order of the Code Enforcement Officer. The Appellants ask that the ZBA consider the practical impossibility of complying with the Order, and that it exercise its authority to modify or reverse it. The Appellants ask, at the very least, that the ZBA modify the timelines for compliance by imposing timeframes that are not practical impossibilities.

July 22, 2022
Page 4

I thank you for your attention to this matter. Please do not hesitate to contact me at any time regarding this matter.

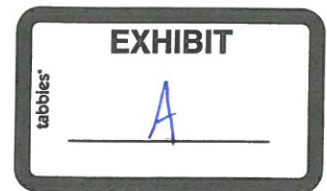
Very sincerely,

James F. Pross

A handwritten signature in blue ink, appearing to be 'J. Pross', is written over the typed name 'James F. Pross'. The signature is fluid and cursive, with a large loop at the top and a long tail extending downwards and to the left.

Enc.

Cc: Randall and Elvin Copp



DLN: 1002140128862

QUITCLAIM DEED WITH COVENANT

Elvin H. Copp with a mailing address at 15 Mill Road, West Cumberland, Maine 04021, grants to Elvin H. Copp with a mailing address at 15 Mill Road, West Cumberland, Maine 04021 and Randall E. Copp with a mailing address at 144 Gray Road, Cumberland Center, Maine 04021, as joint tenants, with Quitclaim Covenant, certain lots or parcels of land, together with any buildings situated thereon, located in Gray, County of Cumberland, and State of Maine, as more fully described in Exhibit "A" attached hereto and made a part hereof.

In Witness Whereof, the undersigned has hereunto set his hand effective this 15th day of January, 2021.

Witness:

[Handwritten signature]

Elvin H. Copp
Elvin H. Copp

STATE OF MAINE
ANDROSCOGGIN, SS

January 15, 2021

Personally appeared the above-named Elvin H. Copp, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

[Handwritten signature of Barbara E. Tracy]

Notary Public/Attorney at Law

Print Name:

My Commission Expires:

Barbara E. Tracy
Notary Public, State of Maine
My Commission Expires May 11, 2021

The preparer did not conduct a title search or examination in connection with this instrument on the property described herein, and therefore title is neither warranted nor guaranteed by the preparer. The preparer expresses no opinion as to the title the grantee will receive. The preparer of this Deed makes no representation as to the status of title, property use, zoning regulations, or any other matter.

EXHIBIT A

71 Portland Road, Gray, Maine

A certain lot or parcel of land, with any buildings thereon, located on the easterly side of the Portland Road, so-called, in the Town of Gray, County of Cumberland and State of Maine, being more particularly bounded and described as follows:

1. All land conveyed to Gerald E. Copp, also known as Jerald E. Copp, Elvin H. Copp and Ronald W. Copp by Dennis R. McLellan and Priscilla G. McLellan by deed dated April 11, 1975, recorded in the Cumberland County Registry of Deeds in Book 5687, Page 327, to which deed reference is had for a more particular description of the premises hereby conveyed.

2. All property conveyed to Elvin H. Copp, Ronald W. Copp and Jerald E. Copp by Maitland D. Trafford, et ux., by deed dated April 5, 1979, recorded in the Cumberland County Registry of Deeds in Book 4403, Page 262, to which deed reference is had for a more particular description of the premises herein conveyed.

EXCEPTED AND RESERVED are the following:

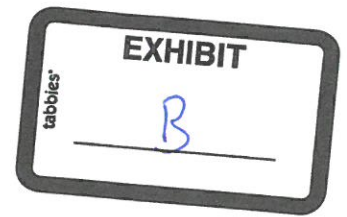
1. Property conveyed to Wallace R. Watson by deed dated February 28, 1986, recorded in the Cumberland County Registry of Deeds in Book 7093, Page 248.

2. Property conveyed to Wallace R. Watson by deed dated January 7, 1988, recorded in the Cumberland County Registry of Deeds in Book 8139, Page 104.

The premises are conveyed subject to any easements and restrictions of record and this deed includes all rights, easements, privileges and appurtenances belonging to the premises hereinabove described.

Being the same premises conveyed by Quitclaim Deed with Covenant from Ronald W. Copp, Sr. and Eleanor M. Copp to Elvin H. Copp dated July 1, 1988 and recorded in the Cumberland County Registry of Deeds at Book 14447, Page 121.

The preparer did not conduct a title search or examination in connection with this instrument on the property described herein, and therefore title is neither warranted nor guaranteed by the preparer. The preparer expresses no opinion as to the title the grantee will receive. The preparer of this Deed makes no representation as to the status of title, property use, zoning regulations, or any other matter.



TOWN OF GRAY

Henry Pennell Municipal Complex
24 Main St, Gray Maine 04039
www.graymaine.org

CODE ENFORCEMENT OFFICE

Tammy Munson, Lead Code Enforcement Officer
cco@graymaine.org

June 28, 2022

Mr. Elvin H. Copp
Mr. Randall Copp
15 Mill Road
West Cumberland, ME 04021

RE: ORDER TO CORRECT VIOLATION

71 Portland Road, Gray, ME

Tax Map 052 Lot 032-024

Zone: Commercial, Limited Commercial and Resource Protection

Certified # 7190 1886 9780 0423 9712

Dear Elvin and Randall Copp:

This letter serves as a follow up to the Board of Appeals meeting held on June 22, 2022, regarding your appeal from the Notice of Violation issued by the Town on April 22, 2022. The following is a list of items that need to be addressed with corrective dates for compliance:

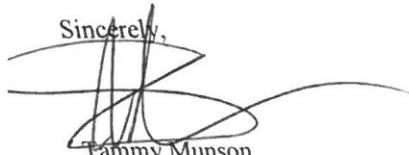
1. Secure a recycling or junkyard license from the Town of Gray as required under footnote #11 of the December 9, 2005, approved site plan within 60 days of the date of this letter.
2. Remove all vehicles, including but not limited to semi-tractor trailers, school busses, concrete form trucks and any other vehicle more than twenty feet in length or nine feet in width from the parking spaces shown on the approved site plan located along Route 100 within 30 days of the date of this letter. No parking of vehicles shall occur outside of the approved parking areas shown on the plan. Storage of vehicles shall be limited to the areas shown on the approved site plan.
3. Remove all parts of the recycling business and anything associated with it that is in the unapproved expanded area on the southerly side of the property as set forth in the Board of Appeals decision within 60 days of the date of this letter.
4. Remove the unapproved road that leads to the unapproved expanded area and restore the surface vegetation by planting native species approved by the Town of Gray. These may include evergreen trees and native shrubs. Prior to planting, you shall submit a restoration plan to me for review and approval.

Based on the evidence presented in the hearing and the unapproved expansions of the recycling area, the Town has significant concerns regarding the environmental impact these operations have had on the property. The following is a list of items that need to be addressed with corrective dates:

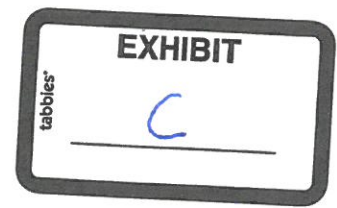
1. A fluid collection, spills and contaminant plan shall be submitted and fully implemented within 30 days of this notice.
2. An environmental assessment shall be conducted by a State of Maine licensed Engineer within 60 days of the date of this notice and shall include an remediation plan to bring the property into full compliance by mitigating any environmental violations.
3. A full-scale survey of the property prepared by a State of Maine licensed surveyor, which delineates all resource protection areas, wetlands, shoreland zones and any other protected areas, shall be submitted to the Town within 60 days of the date of this notice.
4. An overlay map of the approved site plan dated December 9, 2005, shall be shown on a separate sheet and shall display the current footprint of the business including the unapproved expansion and shall be submitted within 60 days of the date of this notice.

please note, there are portions of a wetland of significance located on this property. The wetland complex is part of Gray Meadows and is associated with Wiggins Brook and the Pleasant River drainages. There are several concerns about the potential impact your actions have had on this protected area. If full compliance is not achieved within 90 days of the date of this letter, the Town of Gray will consider all necessary enforcement actions. We strongly recommend you contact the Department of Environmental Protection and secure all necessary permits from their agency. If I can be of further assistance, please contact me at 207-657-3112.

Sincerely,



Tammy Munson
Code Enforcement Officer



Title 30-A: MUNICIPALITIES AND COUNTIES
Part 2: MUNICIPALITIES
Subpart 6: REGULATION, LICENSES AND PERMITS
Chapter 183: ECONOMIC REGULATION
Subchapter 1: JUNKYARDS AND AUTOMOBILE GRAVEYARDS

§3755-A. Automobile recycling business permits; operation standards

1. Application. An application for an automobile recycling business permit must include the following information:

A. The name and address of the property owner; [PL 1993, c. 173, §6 (NEW).]

B. The name and address of the person or entity who will operate the site; and [PL 1993, c. 173, §6 (NEW).]

C. A site plan, including:

(1) Property boundary lines;

(2) A description of the soils on the property;

(3) The location of any sand and gravel aquifer recharge areas;

(4) The location of any residence or school within 500 feet of where the cars will be stored;

(5) The location of any body of water on the property or within 200 feet of the property lines;

(6) The boundaries of the 100-year flood plain;

(7) The location of all roads within 1,000 feet of the site;

(8) A plan for containment of fluids, containment and disposal of batteries and storage or disposal of tires; and

(9) The location within the property boundary lines where vehicles are drained, dismantled or stored. [PL 1993, c. 173, §6 (NEW).]

[PL 1993, c. 173, §6 (NEW).]

2. Standards for permit. The municipality may issue a permit to an automobile recycling business if the business demonstrates that the business meets the operation standards set forth in subsection 3 ([../30-A/title30-Asec3755-A.html](#)).

[PL 1993, c. 173, §6 (NEW).]

3. Operation standards. An automobile recycling business licensed under this section must meet the following standards.

A. The site of the yard must be enclosed by a visual screen that complies with the screening requirements of section 3754-A ([../30-A/title30-Asec3754-A.html](#)). [PL 2003, c. 312, §11 (AMD).]

B. A vehicle containing fluids may not be stored within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5 ([../38/title38sec436-A.html](#)). [PL 2003, c. 312, §11 (AMD).]

C. A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery or public playground or park that existed on the date the permit was issued. [PL 1993, c. 173, §6 (NEW).]

D. A vehicle may not be dismantled or stored over a sand and gravel aquifer or aquifer recharge area. [PL 1993, c. 173, §6 (NEW).]

E. A vehicle containing fluids may not be dismantled or stored within the 100-year flood plain. [PL 1993, c. 173, §6 (NEW).]

E. Except as provided in subsection 3754-A, subsection 4 ([../30-A/title30-Asec3755-A.html](#)), a vehicle may not be dismantled or stored within 300 feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator's abutting residence. [PL 2003, c. 312, §11 (AMD).]

G. A vehicle may not be located or dismantled closer than 20 feet from any lot line, unless the operator has notarized written permission from the abutting property owner. [PL 1993, c. 173, §6 (NEW).]

H. Dismantling of a vehicle must be performed in accordance with the following standards.

(1) Batteries must be removed.

(2) All fluids, including but not limited to engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be drained into watertight, covered containers and must be recycled or disposed of in accordance with applicable federal and state laws, rules and regulations.

(3) Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground.

(4) Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations.

(5) A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed.

(6) All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power within 180 days of acquisition. Motor vehicles acquired by and on the premises of an automobile recycling business prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable.

(7) All fluids, refrigerant, batteries and mercury switches must be removed from vehicles before crushing or shredding. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable.

[PL 2005, c. 683, Pt. A, §52 (AMD).]

[PL 2005, c. 683, Pt. A, §52 (AMD).]

4. Revocation or suspension of permit. For purposes of section 3758-A, subsection 5 ([../30-A/title30-Asec3758-A.html](#)), each of the standards set forth in this section are conditions of a permit.

[RR 2003, c. 1, §32 (COR).]

5. Relationship to automobile graveyard permit. A person who recycles automobiles but does not qualify for, or loses, an automobile recycling business permit may apply for an automobile graveyard permit.

[PL 1993, c. 173, §6 (NEW).]

SECTION HISTORY

PL 1993, c. 173, §6 (NEW). RR 2003, c. 1, §32 (COR). PL 2003, c. 312, §11 (AMD). PL 2005, c. 247, §5 (AMD). PL 2005, c. 247, §7 (AFF). PL 2005, c. 683, §A52 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.
If you need legal advice, please consult a qualified attorney.



AFFIDAVIT OF AUTHORITY

Date: July 25, 2022
To: Town of Gray, State of Maine
From: Owner: Randall Copp & Elvin Copp
Re: Property: 71 Portland Road, Gray, Maine (Tax Map 52 Lot 32-24)

We, Randall Copp and Elvin Copp, the Owner(s) of 71 Portland Road, Gray, Maine (the "Property") first being duly sworn do hereby designate and authorize Attorney James F. Pross to act as our agent and to represent the Owners with regard to an Administrative Appeal of the "Order to Correct Violation" (the Order) issued by Tammy Munson, Code Enforcement Officer, on June 28, 2022. This authority includes but shall not be limited to the filing of the Administrative Appeal, communicating directly with the Town and its representatives regarding the Order, the Administrative Appeal, or any matter involving the Property, and appearing before the ZBA at any duly noticed Administrative Appeal hearing it holds.

Executed this 25 day of July, 2022.

Deborah Z. Carrad
Witness

By: Elvin Copp
Name: Elvin Copp

Deborah Z. Carrad
Witness

By: Randall Copp
Name: Randall Copp

STATE OF MAINE
COUNTY OF Cumberland

Personally, appeared before me the above-named **Randall Copp and Elvin Copp**, known to me, this 25 day of July, 2022, and made oath that the foregoing Affidavit is their own free act and deed.

Mary MacDonald
Notary Public/ Maine Attorney at law
Print/type name: Mary MacDonald
My commission expires: _____

MARY R MACDONALD
Notary Public, State of Maine
My Commission Expires Nov. 22, 2026