

Codes

From: Pilato, Robert (Victor, NY) <ROBERT.Pilato@veritivcorp.com>
Sent: Monday, January 4, 2021 9:50 AM
To: GOTCSIKG@GMAIL.COM; Codes
Cc: bobpilato@gmail.com
Subject: FW: Scanned document from HP ePrint user
Attachments: HPSCAN_20210104141732621_2021-01-04_142126619.pdf

George,

Please see the enclosed attachment on my sons paper work along with his answers regarding his code violations & a map of where he wants to locate the commercial logs on his property.

He would also like to mention the following again.

1. HE IS NOT SELLING ANY FIRE WOOD FROM HIS PROPERTY
2. THE WOOD IS ONLY USED FOR HIS HOME HEATING
3. HE ONLY HAS A PERSONAL PICKUP TRUCK & A LANDSCAPE TRAILER & DUMP TRAILER.
4. HIS LOG SPLITTER IS USED ONLY FOR PERSONAL USE AND IS SIMILAR TO ONE PURCHASED @ TRACTOR SUPPLY (IS NOT A COMMERCIAL UNIT)
5. HE HAS BEGUN TO CLEAN UP HIS PROPERTY, BASED ON WEATHER PERMITTING
6. HE DID FILL OUT THE PAPER WORK FOR A USE VARIANCE, BUT NOT SURE IF HE REALLY NEEDS ONE.
7. THERE IS NO MONETARY HARD SHIP AT THIS POINT.

Thank you for your time and he looks forward to hearing from you & Charles Floeser.

ROBERT PILATO, INDUSTRIAL PACKAGING SALES
Packaging Solutions

Veritiv 596 Fishers Station Drive
Suite 1A
Victor, NY 14564

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TOWN OF LIMA

7329 East Main Street
Lima, New York 14485

Charles Floeser
Code Enforcement Officer

585.624.7911
codes@townoflima.org

Bob Pilato
BDP Tree, LLC
2850 McCoy Road
Lima, NY 14485

December 15, 2020

As the Code Enforcement Officer of The Town of Lima, The DEC has informed me that you were told not to burn your commercial waste debris brought in from other properties at your property as part of your tree service business at the above address.

The other problem is that you are operating a business without a permit for the property at which you live. You need to go to the Planning Board to obtain a Commercial Business Use Permit to operate your tree service and firewood sales business at your home. Even after you obtain a Commercial Business Use Permit you will not be able to burn waste at your home. It will have to be disposed of in other legal ways. Enclosed please find the form to "Appeal to the Zoning Board for an Area Use Variance" for you to fill out and take to the Zoning Board of appeals. You could apply for your property to be a legal site to operate your business or Rent a commercial use property to operate and store your business use equipment that does not belong on a property that is not Zoned for your Business Use.

The following code violations need to be remedied:

- Town of Lima Zoning Code 250-88B for operating commercial businesses at your residence without first applying for and being granted a Special Use Permit from the Town of Lima. Appropriately applying for permits in advance of business activity informs you of the Zoning Code requirements and regulations for your businesses, and whether you may operate your businesses legally at your address. *I understand will ask for a Special Use permit if the Town of Lima feels it needs one*
- Town of Lima Zoning Code 250-88 D: Your commercial tree service business and commercial firewood production enterprises are incompatible with your neighborhood. *Firewood Production is for my Home Heating only. Not for Selling*
- Town of Lima Zoning Codes 250-88 D and 215 A: Emissions, noise and air pollution, exterior storage, refuse dumping and illegal disposal activities, including burning, associated with your commercial tree work and firewood production are prohibited on residential property. *Exterior Storage of Commercial Logs only. There will be No Burning, Dumping or*
- Town of Lima Zoning Code 250-88 D (6): Exterior storage of commercial business stock or materials are prohibited at your home, as well as any highly explosive or combustible material. For example: No prohibited materials including logs or downed trees which you have imported from commercial tree jobs, or similar material for firewood which you have otherwise obtained; split firewood, cut wood which is ready for firewood production, waste from firewood *please disposal*

I am only asking for Storage of my Commercial Log Loads which is used for my Home use, Commercial Log Load + Split fire wood to be stored behind my Home & Barn for personal Heating.

production or waste which is imported from other residences other than your own residence, or storage of other materials related to commercial business. External storage of commercial equipment, equipment implements, business vehicles or related materials is also prohibited.

- *Only Equipment is a Dump Trailer & a Landscape Trailer. I have one pickup truck, which is used for personal use also.*
- Town of Lima Zoning Code Solid Waste 215-3. Importing commercial tree waste onto your residential property, and burning commercial waste is prohibited at your residence. Piles of commercial tree waste deposited on residential land are prohibited.

There will be No Burning of Commercial waste will be removed, weather permitting.

- Town of Lima's Solid Waste Code 215, any NYS Department of Conservation code has authority within the Town of Lima and therefore, Town of Lima Solid Waste Code authorizes town employees to enforce NYS law as they are written, unless the Town of Lima regulations are more stringent. NYS DEC codes prohibit importing of waste of any kind onto your property from any other source for disposal on your property by any means, including burning of that waste. Burning of man-made / household waste is prohibited. Burning of couch cushions, foam, rugs, bagged garbage, synthetic goods, plastic, tires, and other non-organic material is illegal in New York State.

I Agree. There will be No Burning or Importing of waste on my property.

- Town of Lima Zoning Code 250-88 D (6): Burning of commercial tree waste generates offensive smoke and odor and is prohibited at your residence. Offensive smoke or odor is prohibited when it is noticeable at or beyond your property line.

I Agree

- Town of Lima Zoning Code 250-88 C (11): All evidence of commercial business equipment not characteristic of residential use is prohibited on residential property. Professional log splitter must be removed from property

My Log Splitter is a Normal Residential Splitter. Similar to one that you would purchase from Tractor Supply

- Residential property must be maintained according to residential character: Under Code 250-88D (6) No exterior storage on the premises of material used in the home occupation.

I Agree & Any Exterior Storage will be removed

- Town of Lima Zoning Code 250-88 D (6) and Solid Waste Code 215. All evidence of commercial business storage and/ or refuse waste must be physically removed from your residential property including stockpiles of tree logs, tree waste, partially burned logs or stumps, and completely burned char and bonfire incinerated waste. Disposal of waste materials must be done in a legal manner, burning of any of this material is prohibited.

In speaking with Charlie Floesel, he agreeded the stockpiles of tree logs could be cut up for home use only. All other materials will be removed.

- Remediation of the property to residential character is required. After removing all evidence of prohibited materials, (burned tree stumps and tree matter that cannot be burned in an interior burning device of a dwelling) then you are required to reseed lawn on residential property around dwelling and structures where commercial activities have damaged lawn surfaces. You are required to maintain, and mow lawn to less than 10" grass height.

I Agree, & will abide, weather permitting

- New York Property Maintenance Code 302.4 Weeds (*and in this case weeds and grass vegetation areas are to be mowed to the normal height of lawns*) Existing lawn has been allowed to grow beyond 10" height. You are required to mow and maintain your front lawn between barn and McCoy Road and Briggs Road frontage. Un-mowed grass of existing residential lawn areas is prohibited.

I Agree

- Town of Lima Solid Waste Code 215-7 Permit requirements. (A). No person shall construct, modify or operate a solid, industrial hazardous or hazardous waste management, treatment, storage or disposal facility within the Town of Lima without a siting, construction and operating permit issued by the Town Board pursuant to the provisions of this article. Illegal refuse dumping or disposal of waste on residential property is prohibited.

I Agree

The following illegal dumping or disposal of waste practices are prohibited:

- Burying waste is prohibited. *I Agree*
- Importing waste onto property from other locations is prohibited. *I Agree*
- Burning organic waste of any kind or origin, other than organic materials from one's own property is prohibited. (There is no way that all these trees were ever grown on your property, the DEC has confirmed this fact). *I Agree*
- Burning any synthetic waste of any kind including plastics, carpeting, foam padding, household bagged garbage, couch cushions or foam furnishings, fabrics, recyclable containers, tires, leaves, roofing, etc. is prohibited. *I Agree*

Legal disposal practices, of the debris that is on your property, that can be taken include:

- 1- Removing refuse from property to a municipal dump station.
- 2- Utilizing dumpster services to haul away refuse,
- 3- A licensed commercial garbage or recycling pickup company.

Regards,

Charlie Floeser

Charlie Floeser
Code Enforcement Officer

Robert C. Puhler 1/4/21

Proposal

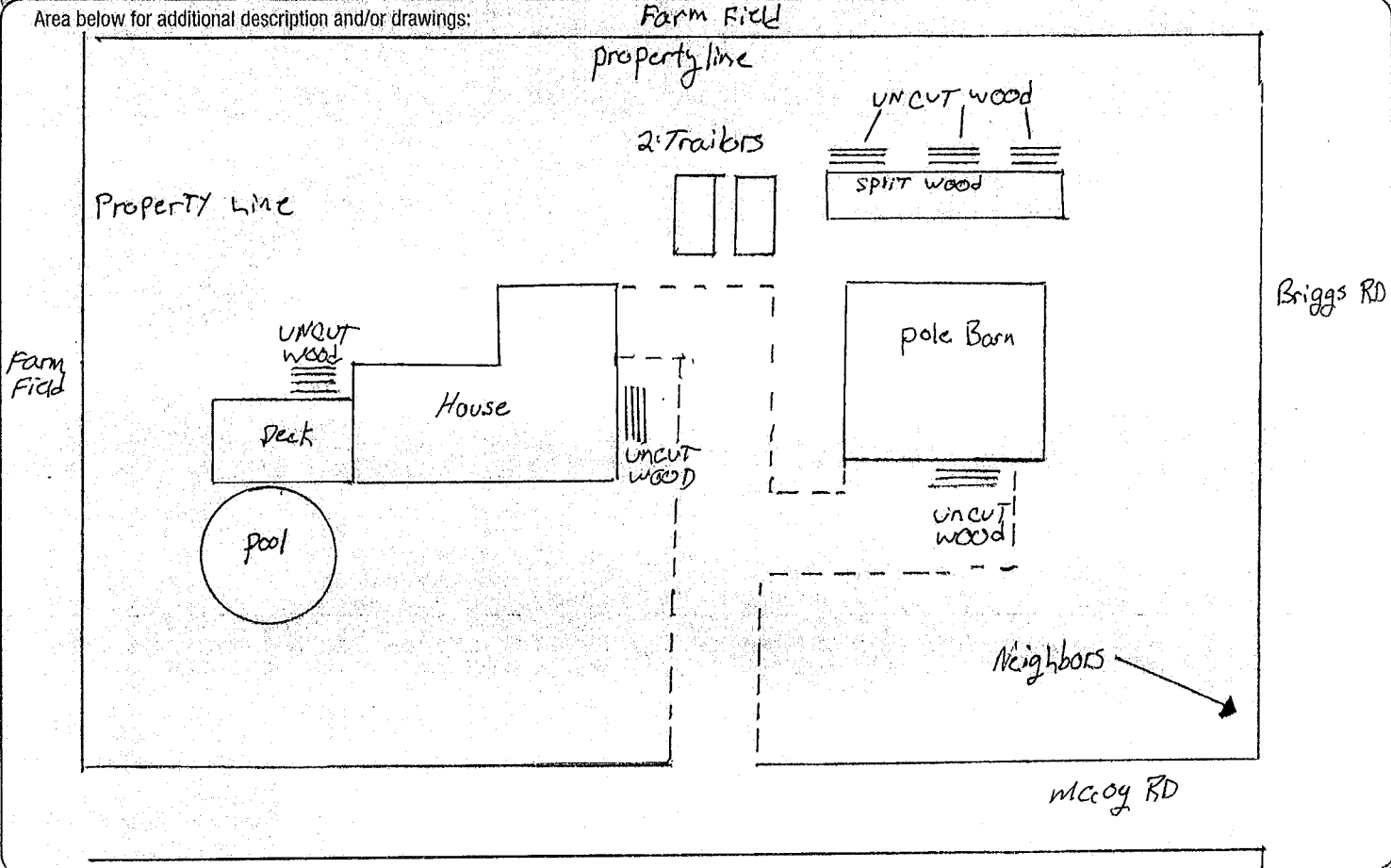
PROPOSAL NO.	DATE <u>1/4/21</u>
BID NO.	ARCHITECT

Robert C Pilato
 ADDRESS 2850 McCoy RD
Lima NY 14485

PHONE NO. _____ DATE OF PLANS _____
 WORK TO BE PERFORMED AT: _____

We hereby propose to furnish the materials and perform the labor necessary for the completion of Storage of logs For My own Personal Home Heating, Not For Sale

Area below for additional description and/or drawings:



All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of _____ Dollars (\$ _____) with payments to be made as follows.

ACCEPTANCE OF PROPOSAL The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature _____
 Date _____ Signature _____

TOWN/VILLAGE OF LIMA

7329 East Main Street, Lima, NY 14485 Email: codes@townoflima.org Web Site: Lima-ny.org Telephone: 624-7911

APPEAL TO THE ZONING BOARD FOR AN USE VARIANCE

SECTION I: APPLICANT INFORMATION

APPLICANT OWNER (if not applicant) ATTORNEY/AGENT
NAME: Robert C. Pilato _____
ADDRESS: 2850 McCoy Rd _____
Lima, N.Y. 14485 _____
TEL./FAX: 585-704-9443 _____
E-MAIL: BobPilato@gmail.com _____

Applicant's interest in the premises: Owner Lessee Under option to lease or purchase

Applicant must be the property owner. If applicant is lessee or one with an option to lease or purchase the property in question then an Owner's signed consent statement must be attached.

SECTION II: PROPERTY INFORMATION

1. Property Address: 2850 McCoy Rd.
2. Tax Parcel No.: 57-00-1-11.0
3. Zoning District: AG

4. The following designations are located on the property: (check all that apply)

N/A Historic Preservation Overlay Stream Corridor Protection Overlay
 Steep Slope Protection Overlay N/A Land Conservation District
 Wetland Protection Overlay Flood Plain

5. Deed restrictions or covenants applying to property: N/A.

6. Has a ZBA variance been granted for this property? Yes No

When: _____ For what: _____

7. The applicant requests relief from the following Town / Village Zoning Ordinance: 250-88 B ?

8. A use variance is requested to permit the following: Asking for Approval to be granted
a. Special Use Permit from the Town of Lima for my
Commercial Tree Service business and storage of Commercial
Business Equipment (dump trailer & Landscape Trailer)
Commercial area to be used for Personal Home Firewood Heat.
No Selling of FIREWOOD

Address: 2850 McCoy Rd
Lima, N.Y. 14485

SECTION III: USE VARIANCE QUESTIONS (add additional information as necessary)

In order for the Zoning Board of Appeals to grant a Use Variance, an applicant must prove that the Zoning Regulations create an unnecessary hardship in relation to the property. In seeking a use variance, New York State law requires an applicant to prove all four of the following "tests".

1. THE APPLICANT CANNOT REALIZE A REASONABLE FINANCIAL RETURN ON INITIAL INVESTMENT FOR ANY CURRENT PERMITTED USE ON THE PROPERTY. "Dollars and Cents" proof must be submitted as evidence. The property in question cannot yield a reasonable return for the following reasons: _____

A. Submit the following financial evidence relating to this property (attach additional evidence as needed):

1) Date of purchase: _____ Purchase Amount: _____

2) Indicate dates and costs of any improvements made to property after purchase:

<u>Date</u>	<u>Improvement</u>	<u>Cost</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

3) Annual maintenance expenses: \$ _____

4) Annual taxes: \$ _____

5) Annual income generated from property: \$ _____

6) Assessed value: \$ _____

7) Appraised value: \$ _____

8) Appraiser: _____ Date: _____

Appraisal assumptions: _____

B. Submit the following sale information relating to this property.

1) Has the property been listed for sale with the Multiple Listing Service? No
If "yes" for how long? _____ Original listing date: _____

2) Original listing price: _____
If listing was reduced, describe when and to what price _____

3) Has the property been advertised online and in newspapers?
If "yes" describe frequency and name of publications: _____

4) Has the property had a "For Sale" sign posted?
If "yes" list date sign was posted: _____

5) How many times has property been shown and with what results? _____

2. THE FINANCIAL HARDSHIP RELATING TO THIS PROPERTY IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE NEIGHBORHOOD (this hardship may not apply to a substantial portion of the zoning district or neighborhood.) This previously identified financial hardship is unique for the following reasons:

*No Financial Hardship
Relating to this Property*

ILLUSTRATIONS OF UNIQUENESS:

- Topographic or physical features preventing development for a permitted use.
- Why would it be possible to construct applicant's proposal and not any of the permitted uses?
- Board member observations of property and surrounding area.

3. THE GRANTING OF THIS VARIANCE WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD. Changes that will alter the neighborhood or district character would be at odds with the purpose of the Zoning Ordinance. The requested variance will not alter the essential character of the neighborhood or district for the following reasons:

No Alteration to the property

NEIGHBORHOOD CHARACTER FACTORS:

- Board members observations.
- Expected effect of proposal on neighborhood, i.e. change in parking patterns, noise levels, lighting, traffic, etc.

4. THE ALLEGED HARDSHIP HAS NOT BEEN SELF CREATED. An applicant cannot claim "unnecessary hardship" if that hardship was created by the applicant or if the applicant acquired the property knowing (or was in a position to know) the conditions for which the applicant is seeking relief. The hardship has not been self created for the following reasons:

*No Financial Hardship
Relating To This Property*

SELF-CREATED:

- What were the permitted uses at time of property purchase by applicant?
- Was property received through inheritance, court order or divorce?
- Were substantial sums spent on remodeling for a use not permitted by zoning?

SECTION IV: APPLICATION CHECKLIST

YES NO NR

- | | | | |
|--------------------------|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Agricultural Data Statement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | State Environmental Quality Review Form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | County Planning Board Referral |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | An instrument survey map or tape location map that shows all existing and proposed structures, setback dimensions and property area. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Fee paid at time of application. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Sign posting by Building Inspector. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Notification of surrounding property owners by Building Inspector. |

The Zoning Board reserves the right to request additional information, as necessary, to support an application. Town/Village staff will review the application and related information as submitted and determine that the application is complete or if additional information is required in order for the Zoning Board to adequately review the application. Applicant shall submit any supplementary information requested no later than one week prior to the Zoning Board meeting date in order to afford time for review of information prior to the meeting. The applicant shall submit ten (10) complete sets of all materials.

SECTION V: DISCLOSURE AND APPLICANT CERTIFICATION

DISCLOSURE

Does any Village/Town officer, employee, or family member thereof have a financial interest in this application?

Yes No

If "yes", the name, address and nature and extent of this interest must be detailed below:

Name: _____

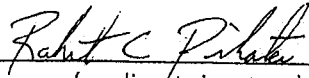
Address: _____

Nature/Extent of Interest: _____

APPLICANT CERTIFICATION

I/we, the property owner(s), or purchaser(s)/lessee(s) under contract, of the land in question, hereby request an appearance before the Zoning Board of Appeals.

By the signature(s) attached hereto, I/we certify that the information provided within this application and accompanying documentation is, to the best of my/our knowledge, true and accurate. I/we further understand that intentionally providing false or misleading information is grounds for immediate denial of this application.



(applicant signature)

(applicant signature)

Address: _____