

David P. Silk, Esq.  
dsilk@curtisthaxter.com

August 19, 2021

**HAND DELIVERED**

[townclerk@parsonsfield.org](mailto:townclerk@parsonsfield.org)

David Bower - Town Clerk  
Town of Parsonsfield  
634 North Road  
Parsonsfield, ME 04047

[planning@parsonsfield.org](mailto:planning@parsonsfield.org)

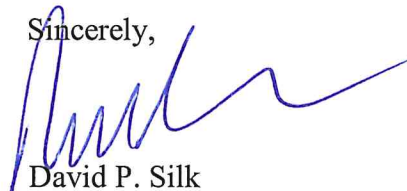
Parsonsfield Planning Board  
c/o Desirae Lyle  
Planning & Appeals Board Secretary  
Town of Parsonsfield  
634 North Road  
Parsonsfield, ME 04047

Re: Administrative Appeal From Planning Board July 22, 2021 Decision Approving Roger and Jennie Moreau's Third Application For Site Plan Approval

Dear Town Clerk David Bower and Appeals Board Secretary:

Enclosed please find the Application For An Administrative Appeal to Zoning Board of Appeals from the Planning Board's July 21, 2021 decision approving Roger and Jennie Moreau's Third Application for Site Plan Approval dated February 22, 2021 for a new commercial use/uses at 26 Reed Lane. Also enclosed is our firm check in the amount of \$250 for the fees.

Sincerely,



David P. Silk

Enclosures

David Bower, Town Clerk  
Desirae Lyle, Appeals Board Secretary  
August 19, 2021  
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DPS/lk

cc: Michael Nelligan  
David A. Lourie, Esq.

TOWN OF PARSONSFIELD  
APPLICATION FOR AN ADMINISTRATIVE APPEAL  
TO ZONING BOARD OF APPEALS

Name of Appellant Michael Nelligan c/o David Silk, Esq.

Mailing Address Curtis Thaxter, P.O. Box 7320

City or Town Portland State Maine 04112-7320

Telephone 207-774-9000 Map/Lot \_\_\_\_\_

email dsilk@curtisthaxter.com; mjnelligan@hotmail.com

Name of Owner Roger Moreau

The undersigned requests that the Board of Appeals Consider this Administrative Appeal:


Relief from the decision, or lack of decision, of the Code Enforcement Officer or Planning Board in regard to an application for a permit. The undersigned believes that (check one):

- An error was made in the denial of the permit
  - The denial of the permit was based on a misinterpretation of the ordinance.
  - There has been a failure to approve or deny the permit within a reasonable period of time.
  - Other See attached
- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please explain in more details the facts surrounding this appeal (please attach a separate piece of paper.) You should be as specific as possible so that the Board of Appeals can give full consideration to your case.

Application for an administrative appeal shall be filed with the **Town Clerk**, who shall notify the Chairman of Board of Appeals. A \$100 Application Fee and \$150 Escrow Fee **MUST** be paid with this application. Additional funds may be required to complete the processing of this appeal.

I certify that the information contained in this application and its supplement is true and correct.

Date: 08/19/2021 Appellant Signature:   
David P. Silk, Esq.

**You will be contacted by the Chairman of the Appeals Board to schedule your hearing.**

David P Silk, Esq.  
[dsilk@curtisthaxter.com](mailto:dsilk@curtisthaxter.com)

August 19, 2020

HAND DELIVERED  
Parsonsfield Zoning Board of Appeals  
c/o Town of Parsonsfield  
634 North Road  
Parsonsfield, ME 04047

RE: Appeal from the CEO's July 22, 2021 issuance of Building Permit #1429 to  
Roger and Jennie Moreau (26 Reed Lane -Rear Lot)

Dear Members of the Zoning Board of Appeals:

I represent Michael J. Nelligan of 550 Maplewood Road in Parsonsfield. His property directly abuts 26 Reed Lane.

Under Article VI(2)(A)(1) of the Town's Land Use and Development Ordinance ("Ordinance") you have the obligation to

*A. Administrative Appeals: 2. To hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance.*

Under Article VI(3)(B)(1), an application for appeal needs to include a "concise written statement indicating what relief is requested and why the administrative appeal ... should be granted."

This is a de-novo administrative appeal from the Code Enforcement Officer's July 22, 2021 issuance of Building Permit #1429 to Roger and Jennie Moreau, 26 Reed Lane, R19, Lot 44. Attached hereto as Exhibit A is Building Permit #1429. It is dated July 17, 2021, four days prior to when the Moreaus' obtained Planning Board approval on July 21, 2021 their Third Application for Site Plan Approval dated February 22, 2021.

The Moreaus July 17, 2021 Building Application includes a reference to a site plan but as of July 17, 2021 no site plan had been approved. Attached hereto as Exhibit B is one of the site plans the Moreaus caused to be submitted to the Planning Board prior to July 21, 2021.

**BASIS FOR THE APPEAL:**

1. The underlying Planning Board Site Plan approval is invalid.

The Planning Board erred July 21, 2021 when it approved the Moreaus' Third Application for Site Plan Approval. See Exhibit C attached hereto (copy of Application for Administrative Appeal filed from the Planning Board's July 21, 2021 Decision). The attachment sets forth in detail why the Planning Board's decision is invalid. Absent a valid site plan approval, there was no basis for the CEO to issue Building Permit #1429.

2. The Building Permit Application is incomplete.

The information required by the application was not submitted. Since the building permit was incomplete, it should not have been approved. This is self-evident from a review of the application. For example, detailed drawings were not submitted.

3. The CEO lacked authority to issue the Building Permit.

As of July 22, 2021, the CEO was not certified by the State under 30-A M.R.S. §4451 in Comprehensive Planning or Land Use under 30-A M.R.S. §4301. His involvement in both the Planning Board Site Plan process and in acting on the Building Permit Application premised on a valid site plan approval was illegal and tainted the Board's actions. His unauthorized involvement also violates basic fairness and due process.

**REQUEST FOR RELIEF**

1. The Appellant requests that after the Board finds that this appeal application is complete. The Board should wait to hold a public hearing until after the Board holds a hearing and decides Mr. Nelligan's appeal from the Planning Board's July 21, 2021 decision approving the Moreau's 3<sup>rd</sup> Application for Site Plan Approval.

2. The Board ensures that the CEO must have no involvement in this appeal other than to transmit to this Board all the papers consisting of the record of his decision being appealed from.

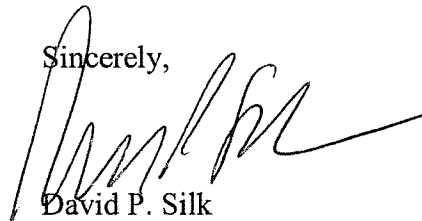
3. After a public hearing on the merits, the Board finds/concludes that Building Permit #1429 was unlawfully issued, and declares the permit null and void.

4. Such other relief as the Appellant may be entitled.

I look forward to appearing before you at the hearing regarding this appeal. I expect to present to you written material and oral arguments at that time.

We look forward to presenting our appeal to you.

Sincerely,

A handwritten signature in black ink, appearing to read 'David P. Silk', written in a cursive style.

David P. Silk

Enclosures:

- A. Building Permit Application dated July 17, 2021 and approved with a date of July 21, 2021, Permit # 1429
- B. Site Plan submitted to Planning Board
- C. Mr. Nelligan's August 19, 2021, Administrative Appeal to the Zoning Board of Appeals from the Planning Board's July 21, 2021 Decision

cc: Michael J. Nelligan (w/enclosures)  
David A. Lourie, Esq. (w/enclosures)

# TOWN OF PARSONSFIELD

## APPLICATION FOR BUILDING PERMIT

634 North Road, Parsonsfield, ME 04047

Tel: 207-625-4558



### FOR OFFICE USE ONLY

MAP# R19 LOT# 44 ACCT# \_\_\_\_\_

PHYSICAL ADDRESS: \_\_\_\_\_

BUILDING PERMIT # 1429

PLUMBING PERMIT # \_\_\_\_\_

SUBSURFACE PERMIT # \_\_\_\_\_

CONDITIONAL USE PERMIT # \_\_\_\_\_

ZONE \_\_\_\_\_

PARSONSFIELD BUILDING PERMIT 1429

NAME OF DEVELOPER: J. Winter  
SIZE OF LOT: 7,122 DATE SUBDIVISION WAS APPROVED BY TOWN PLANNING BOARD: 7/22/2021  
DATE SUBDIVISION WAS RECORDED AT REGISTRY OF DEEDS: \_\_\_\_\_  
PLAN BOOK \_\_\_\_\_ PLAN PAGE \_\_\_\_\_

### (1) Date of Application:

7/17/2021

### (2) Property Information: located on 26 Reed Lane road

Date purchased May 15, 2012 Property size 12 AC +/-

Purchased from Calnan

### (3) Owner/Applicant Information:

Property Owners Name: Roger + Jennie Morcan

Mailing Address: 26 Reed Lane Parsonsfield ME 04047

Telephone: (207) 793-4975 e-mail address: \_\_\_\_\_

Fax# (\_\_\_\_\_) cell phone #: 207-298-2012

### (if different than property owner)

Applicant's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: (\_\_\_\_\_) e-mail address: \_\_\_\_\_

Fax # (\_\_\_\_\_) cell phone #: \_\_\_\_\_

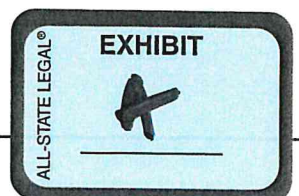
### (4) Type of Permit Requested (circle your request):

- |   |  |   |
|---|--|---|
| <input checked="" type="radio"/> (A) New Construction | <input type="radio"/> (D) Addition to existing structure | <input type="radio"/> (G) Change in Use |
| <input type="radio"/> (B) Remodeling                  | <input type="radio"/> (E) Mobile Home                    | <input type="radio"/> (H) Appeal Permit |
| <input type="radio"/> (C) Demolition                  | <input type="radio"/> (F) Conditional Use                | <input type="radio"/> (Other) _____     |

### (5) Complete statement of work: (size and type of structure, description of addition, etc....)

(A) Estimated value 14,000

garage 30x30



**(6) Contractor Information:**

(A) Building Contractor: Self Telephone # \_\_\_\_\_

Address: \_\_\_\_\_

(B) Plumbing Contractor: NA Telephone # \_\_\_\_\_

Address: \_\_\_\_\_

(C) Electrical Contractor: ? pricing out TBD Telephone # \_\_\_\_\_

Address: \_\_\_\_\_

(D) Other \_\_\_\_\_

**(7) Other Permits Required**

- (A) Driveway Permit from Maine D.O.T. (if driveway enters onto a State or State Aid Highway) *Already Have*
- (B) Plumbing Permits (1) Exterior SSWD must have current Soil Papers (3 copies of form HHE-200 from Maine soil engineer (2) Interior Plumbing Permit (Form HHE-211) from local plumbing inspector
- (C) Saco River Corridor Permit (if within 500 feet of Saco or Ossipee Rivers) from SRCC.
- (D) Planning Board Approval (if within Shoreland or Commercial Zone)
- (E) Conditional Use Permit (for some land uses, planning board approval required)
- (F) Flood Hazard Development Permit. (If property is within flood plain, available through building inspector)
- (G) Variance approval (if setback requirements can not be met, must have approval from Appeals Board)

**(8) Site Plan:** Attach or draw below a ***detailed*** site plan showing the location of all existing buildings, lot lines, setbacks from lot lines, streets, ponds, brooks, marshes, wetlands, etc. ***This information must be Accurate!***

*See Attached*



**(9) Project Information:**

A set of detailed plans and working drawings is required for all new construction. If plans are not required by the Code Enforcement Officer, check and answer all applicable questions below.

A Plan Waiver is granted by the Code Enforcement Officer: Initials: \_\_\_\_\_

Building:  
Length of building: 30' Width: 30' Stories: 1

Carrying beam  
Size of center carrying beam: 14" LVL Number of columns: 1

Floor Joists  
Size of floor joists: N/A Spacing o.c.: \_\_\_\_\_ Rows of bridging: \_\_\_\_\_

Roof:  
Size of roof rafters: 2x10 Spacing o.c. 16"  
Pitch of roof: \_\_\_\_\_ Type of roof: \_\_\_\_\_ Roof covering metal  
If a knee wall is used to cut down on span of roof rafters give the measurement from the plate to the wall: \_\_\_\_\_

Windows and doors: TBD  
Number: \_\_\_\_\_ Rough opening: TBD Header size: \_\_\_\_\_  
Remarks: \_\_\_\_\_

Concrete Work:  
Footing width: \_\_\_\_\_ Footing Height: \_\_\_\_\_ Mono Slab  
Basement or frost wall height: \_\_\_\_\_ Width: \_\_\_\_\_ Miller Furnace

Chimney:  
Size of chimney footing: \_\_\_\_\_ Fireplace footing: \_\_\_\_\_  
Flue size: Fireplace Wood stove: \_\_\_\_\_ Oil burner: \_\_\_\_\_  
Are all flues clay lined: yes no  
Remarks: \_\_\_\_\_

**ACTION BY LOCAL BOARDS (TO BE FILLED IN BY OFFICE ONLY)**

Action of the Planning Board (if required)  
Date Received: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Date Disapproved: \_\_\_\_\_  
Signature of Chairman: \_\_\_\_\_ Date \_\_\_\_\_  
(Note: if disapproved, attach a statement indicating findings and conclusions)

Action of the Site Review by Planning Board (if required)  
Date Received: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Date Disapproved: \_\_\_\_\_  
Signature of Chairman: \_\_\_\_\_ Date \_\_\_\_\_

Action of the Board of Appeals (if required)  
Date Received: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Date Disapproved: \_\_\_\_\_  
(Note: attach a statement indicating findings and conclusions)

Action of the Code Enforcement Officer:  
Date Received: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Date Disapproved: \_\_\_\_\_  
Permit Number: \_\_\_\_\_

Fee Charged: \_\_\_\_\_  
Note: if permit is denied, attach a statement of denial.  
REMARKS AND PERMIT CONDITIONS:

Building Permit # \_\_\_\_\_  
Plumbing Permit # \_\_\_\_\_  
Subsurface Permit # \_\_\_\_\_

Signature of Code Enforcement Officer: \_\_\_\_\_

*Garage Permit*

Fee Breakdown:	
<u>900</u> sf @ <u>.45</u> /sf =	<u>\$405.00</u>
_____ sf @ _____ /sf =	<u>25.00</u>
_____ sf @ _____ /sf =	_____
Total Fee Due:	<u>\$430.00</u>

**(10) Notes, conditions, and certification**

- The person submitting this application has to be the property owner or an agent acting with an affidavit from the property owner giving permission to act as agent.
- A copy of the recorded deed must be submitted with this application for a new structure being built on a vacant lot.
- It is the responsibility of the property owner to secure all Federal and State permit approvals, and attach a copy of each to this application. A notice in writing is to be sent to the Code Enforcement Officer of any amendments to be filed to Federal or State permits.
- The Code Enforcement Officer shall, within thirty (30) days of receipt of an application, issue the permit, or refer the applicant to the proper board. Failure of the Code Enforcement Officer to act on the permit within thirty (30) days will constitute a denial of the application.
- This application for a permit, if granted, is done so with the clear understanding on the part of the applicant that the construction is to meet the standards of the N.F. P.A. Life Safety Code 101, the National Electrical Code, and the Town of Parsonsfield codes by reference and must have one egress window in each bedroom or sleeping area containing 5.7 square feet of clear opening area.
- If any changes to the plan whatsoever, in location, design, plans, dimensions, or purposes of use are to be made, the permit holder shall first submit to the Code Enforcement Officer a revised plan showing all changes and a letter stating the reason for the change(s). The Code Enforcement Officer will review the change(s) and refer it to the proper board if necessary or approve or disapprove the change(s).
- It is understood that the applicant will notify the Code Enforcement Officer for the following inspections:
  1. Foundation inspection before backfilling
  2. Rough in before insulation and wall covering is installed
  3. Rough plumbing as per Plumbing Code
  4. An occupancy permit must be obtained before occupancy of any new structure and at the discretion of the Code Enforcement Officer.
- It is further understood and agreed by the applicant that he/she will comply with all existing ordinances of the Town of Parsonsfield and all Federal and State laws and/or regulations. Failure to do so will mean action will be taken under the appropriate section of the Parsonsfield Ordinance and/or Federal and State laws, using Rule 80K.
- It is the responsibility of the Property Owner and/or Contractor to see that all setbacks are met and that the structure being built is located on the proper building lot.

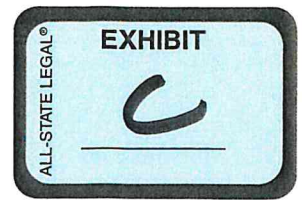
I the undersigned have read and understand this application and certify that it is accurate:

Signature of the Owner/Agent Ray M. [Signature] Date \_\_\_\_\_

Signature of Contractor \_\_\_\_\_ Date \_\_\_\_\_

**MUST RETURN ORIGINAL AND TWO COPIES OF COMPLETE APPLICATION TO THE CEO.**

TOWN OF PARSONSFIELD  
APPLICATION FOR AN ADMINISTRATIVE APPEAL  
TO ZONING BOARD OF APPEALS



Name of Appellant Michael Nelligan c/o David Silk, Esq.

Mailing Address Curtis Thaxter, P.O. Box 7320

City or Town Portland State Maine 04112-7320

Telephone 207-774-9000 Map/Lot \_\_\_\_\_

email dsilk@curtisthaxter.com; mjnelligan@hotmail.com

Name of Owner Roger Moreau

The undersigned requests that the Board of Appeals Consider this Administrative Appeal:

Relief from the decision, or lack of decision, of the Code Enforcement Officer or Planning Board in regard to an application for a permit. The undersigned believes that (check one):

- An error was made in the denial of the permit
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  - There has been a failure to approve or deny the permit within a reasonable period of time.
  - Other See attached
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

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I certify that the information contained in this application and its supplement is true and correct.

Date: 08/19/2021

Appellant Signature:   
David P. Silk, Esq.

**You will be contacted by the Chairman of the Appeals Board to schedule your hearing.**