May 13, 2021

Harvey & Josie Winslow
24 Anthoine Rd.
Windham, Maine 04062
Phone: 207-749-0940



To: David Nadeau, Jarrod Maxfield, Brett Jones, Mark Morrison, Nicholas Kalogerakis & Timothy Nangle

Dear Town Councilors,

I have been told by Code Enforcer, Chuck Daigle that a Council meeting will happen sometime soon to take up a **junkyard business transfer** on Anthoine Road in Windham. NO ABBUTERS HAVE RECEIVED NOTIFICATION OF THIS MAJOR CHANGE ABOUT TO HAPPEN ON THEIR ROAD.

The Town of Windham no longer allows new junkyards for obvious environmental pollution, and safety issues. Yet this land that has been vacant **for over 15 years** has suddenly, on or about, April 26, 2021 become an active junkyard in less than 2 weeks. Car carrier after car carrier filled with cars are being dumped onto this lot to make it appear to the Town Council that this has been an ongoing, active junkyard, ***which it has not***. (see attached State Statue 3754-A #5, letters D thru H). Where are the logs for this junkyard, showing date, title, dates which all fluids, refrigerant, batteries & mercury switches have been removed from vehicles? The answer is there are none. For at least 15 years when code inspectors looked at this junkyard it has been recorded as empty parcel as indicated in 2020 permit issued to Mr. Weatherby. The Town of Windham has deemed Anthoine Rd. as below standard to be accepted as a Town road even with improvements done by road association. However, the Town Council should be concerned about the welfare of over 42 homes that are on Anthoine Rd and the five roads that must use Anthoine Rd. to get to their property which accounts for at least 170 men, women and children's safety and welfare and protection who live there.

The present owner of junkyard, Lew Weatherby, has maintained a junkyard permit stating 26 Anthoine Rd. (in 2020) as address for Atlas Towing even though not one car has been sitting on this property for over 15 years. In addition Mr. Weatherby sold 2 ¼ acres of junkyard to us in 2003 . At that time there was maybe 2-3 cars in junkyard and Mr. Weatherby said he would remove them and he did. Sounds to me selling part of junkyard was an indication he wasn't going to use the rest of his property as a junkyard. We did not know for years later, after we built our house, that he still held on to his junkyard permit affecting Anthoine Rd. We the abutters had never been notified of permit renewals and only happened to see this in local newspaper back then. We went to that meeting and were told there is nothing we can do about it, but, if Mr. Weatherby tries to sell the junkyard we would be notified and could present our objections. We have not been notified of this meeting.
Code enforcer Chuck Daigle also said that Mr. Weatherby is leasing the land to Mr. Mike Bryant, the one buying it. How can this be? How can he lease a junkyard to someone not holding the permit for this junkyard? (see enclosed Title 30-A 3753 Permit required). Code enforcer Daigle also told me, Josie, there are future plans to put a building up for draining fluids and crushing cars. ***Imagine*** the impact to a neighborhood, on a dead end road that leads to Highland Lake. Imagine the impact to the road with big rigs going up and down a substandard road the town won't accept even with repairs by association. Imagine your children or parents or yourselves trying to walk on this sub standard road with wrecker vehicles hauling in junk cars and hauling out crushed cars and dangerous chemicals and materials, IMAGINE.

SAFETY CONCERNS:

Anthoine Road is a dead end road to Highland Lake . The five roads off from Anthoine are also dead end roads. The Junkyard is 5 tenths of a mile in which puts it in the middle of Anthoine road with houses located in front, on the sides, and in back of this vacant junkyard (up to 2 weeks ago) I have been reading up on dangers of junkyards and this news story from another state caught my attention. When junk vehicles are crushed, sometimes an explosion happens because the gas tank wasn't removed. People have recorded debris landing outside junkyards causing property damage, fire and injuries. So please imagine people who live on the end of the road and the 4 additional roads on that end trying to escape a scenario of explosion and fire. The nearest fire hydrant is located on Route 302, so over a half mile away. There is no well on the property. I think the town really needs to look at this and provide for the safety of its people and the safety of fire department personnel getting down this road to save houses and people. *This alone should be enough for the town to deny the transfer of ownership and denial of any permits for a junkyard.* ***Also, on a site map I have it shows that in 1983 conditions of approval signed by Windham Planning Board states a 50' buffer zone completely around the property, Lot 2 hereon with the exception of E. Bellanceau lot line, herein lot one. What does that mean? 50' deep from every property owner this land abuts? If so who is suppose to check on this? It certainly wasn't shielded 50' on Anthoine Rd. Violation right there!***

The Council is in a unique position to deny this transfer of business and I might be so bold to say deny the existence of this junkyard all together. We don't need this junkyard in Windham. Don't just look at the legal permit held on junkyard, look at how this junkyard fits in a Windham neighborhood that for over 15 years many new residents didn't even know existed, the simple answer is **It Doesn't**. There must be a course of action the Council could and should take to deny this transfer of ownership. I ask that you put the welfare of the people on this road first and check out all possible ways to ensure our safety and health.

The next time you are out in your yard in beautiful Windham and all you hear are birds singing, think of us listening to cars being crushed and our view will be, (no matter what rules are placed on junkyard,) that of rusting junk and the smell of gas and oil and other chemicals that did not get totally drained out. Then think of us **five, ten, fifteen or more years later** and that is what we will still be enduring, please don't let this happen. You have the power to stop this.

Sincerely,

Josie Winslow & Harvey Winslow
CC: Town Manager Tibbetts

Statue's

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

§3753. Permit required

A person may not establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard without first obtaining a nontransferable permit from the municipal officers of the municipality in which the automobile graveyard, automobile recycling business or junkyard is to be located, or from the county commissioners of the county of any unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. Permits issued to an automobile graveyard or junkyard under this section are valid until the first day of the following year; except that, beginning in calendar year 2004, permits issued to an automobile graveyard or junkyard under this section are valid until the first day of October of the following year. Permits issued to an automobile recycling business under this section are valid for 5 years from the date of issuance and are renewable provided that the permit holder furnishes a sworn statement, annually, on the anniversary date of the granting of the permit, that the facility complies with the standards of operation applicable at the time of issuance of the permit. A person operating a business that involves the recycling of automobiles may operate under a permit for an automobile graveyard or a permit for an automobile recycling business. [PL 2003, c. 312, §7 (AMD).]

SECTION HISTORY
PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 173, §4 (AMD). PL 2003, c. 312, §7 (AMD).

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* If not transferable how is Weatherby allowed to Lease to MR. Bryant and let him haul in junk Cars, Clear land etc. I was told he is Leasing junkyard via MR. Daigle, Code Inforcer.

Please look at sections I have marked Too.

§3754-A. Limitations on graveyard, automobile recycling business and junkyard permits

1. Highways; Interstate System and Primary System. A permit may not be granted for an automobile graveyard or junkyard within 1,000 feet of the right-of-way of any highway incorporated in both the Interstate System and Primary System or within 600 feet of the right-of-way of any other highway, except for:

A. Those automobile graveyards or junkyards that are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings or fences. Screening required by this paragraph must be:

(1) At a height, density and depth sufficient to accomplish complete screening from ordinary view;

(2) Well constructed and properly maintained at a minimum height of 6 feet;

(3) Placed outside of the highway right-of-way; and

(4) Acceptable to the municipal officers or county commissioners; and [PL 2003, c. 312, §9 (NEW).]

B. Those automobile graveyards or junkyards located within areas that have been zoned for industrial use and located more than 600 feet but less than 1,000 feet from the right-of-way of any highway incorporated in both the Interstate System and Primary System. [PL 2003, c. 312, §9 (NEW).]

[PL 2003, c. 312, §9 (NEW).]

2. Limitation on new permits. A permit may not be granted for an automobile graveyard or junkyard established after October 3, 1973 and located within 100 feet of any highway.
[PL 2003, c. 312, §9 (NEW).]

3. Public facilities. A new permit may not be granted for an automobile graveyard or junkyard that is:

A. Located within 300 feet of a public building, public park, public playground, public bathing beach, school, church or cemetery; and [PL 2003, c. 312, §9 (NEW).]

B. Within ordinary view from a facility under paragraph A. [PL 2003, c. 312, §9 (NEW).]

[PL 2003, c. 312, §9 (NEW).]

4. Public and private water supplies. A permit may not be granted for an automobile graveyard, junkyard or automobile recycling business that handles junk, scrap metal, vehicles or other solid waste within 300 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard, junkyard, automobile recycling business or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit under section 3753.

Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to the effective date of this subsection and handling junk, scrap metal, vehicles or other solid waste within 300 feet of wells that serve as public or private water supplies may continue to operate in those locations under the terms of those permits. Municipal officers or county commissioners may renew a permit allowing the continued handling of junk, scrap metal, vehicles or other solid waste within 300 feet of a well serving as a public or private water supply as long as no further encroachment toward the well occurs. The municipal officers or county commissioners may not renew a permit if there is substantial, credible evidence that the permitted activities have caused contamination of the well.
[PL 2005, c. 424, §3 (AMD).]

5. Operating standards. All automobile graveyards and junkyards permitted pursuant to section 3753 are required to comply with the following standards:

A. 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 properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water; [PL 2005, c. 247, §1 (AMD); PL 2005, c. 247, §7 (AFF).]

B. A vehicle containing fluids may not be stored or dismantled:

(1) Within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5;

(2) Within the 100-year floodplain; or

(3) Over a mapped sand and gravel aquifer; [PL 2003, c. 312, §9 (NEW).]

C. Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into the inland waters or tidal waters of the State or on the ice of inland waters or tidal waters or on the banks of inland waters or tidal waters in such a manner that they may fall or be washed into these waters; [PL 2005, c. 247, §2 (AMD); PL 2005, c. 247, §7 (AFF).]

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D. Junkyard and automobile graveyard owners must demonstrate at the time of licensing that the facility or facilities for which they seek permits are, or are part of, a viable business entity and the facility or facilities are actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade; [PL 2005, c. 683, Pt. A, §51 (RPR).]

E. 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; [PL 2005, c. 247, §3 (NEW); PL 2005, c. 247, §7 (AFF).]

F. 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, appliances and other items within 180 days of acquisition. Motor vehicles, appliances and other items acquired by and on the premises of a junkyard or automobile graveyard 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 paragraph must be removed to the greatest extent practicable; [PL 2005, c. 247, §3 (NEW); PL 2005, c. 247, §7 (AFF).]

G. Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations; and [PL 2005, c. 247, §3 (NEW); PL 2005, c. 247, §7 (AFF).]

H. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles, appliances and other items before crushing or shredding. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable. [PL 2005, c. 247, §3 (NEW); PL 2005, c. 247, §7 (AFF).]

[PL 2005, c. 683, Pt. A, §51 (AMD).]

6. Rules. A permit, other than a limited-term permit as described in this section, may not be granted for an automobile graveyard or automobile recycling business that is not in compliance with all applicable provisions of the automobile dealer or recycler licensing provisions of Title 29-A, chapter 9. Municipal officers or county commissioners may award a limited-term permit conditioned upon an automobile graveyard's or automobile recycling business's demonstrating compliance with the

provisions of Title 29-A, chapter 9 within 90 calendar days of the issuance of the municipal or county limited-term permit.
[PL 2003, c. 312, §9 (NEW).]

6-A. Relationship to state storm water requirements. After October 30, 2005, municipal officers or county commissioners may reject an application for an automobile graveyard or automobile recycling business if the applicant has not demonstrated that:

A. A notice of intent has been filed with the Department of Environmental Protection to comply with the general permit provisions for storm water discharges; or [PL 2005, c. 247, §4 (NEW); PL 2005, c. 247, §7 (AFF).]

B. The Department of Environmental Protection has determined that a storm water discharge permit is not required. [PL 2005, c. 247, §4 (NEW); PL 2005, c. 247, §7 (AFF).]

[PL 2005, c. 247, §4 (NEW); PL 2005, c. 247, §7 (AFF).]

7. Local ordinances. This subchapter may not be construed to limit a municipality's home rule authority to enact ordinances with respect to automobile graveyards, automobile recycling businesses and junkyards that the municipality determines reasonable, including, but not limited to, ordinances concerning:

A. Compliance with state and federal solid waste and hazardous waste regulations; [PL 2003, c. 312, §9 (NEW).]

B. Fire and traffic safety; [PL 2003, c. 312, §9 (NEW).]

C. Levels of noise that can be heard outside the premises; [PL 2003, c. 312, §9 (NEW).]

D. Distance from existing residential or institutional uses; [PL 2003, c. 312, §9 (NEW).]

E. The effect on groundwater and surface water, as long as municipal ordinances on groundwater are no less stringent than or inconsistent with rules adopted by the Department of Environmental Protection; and [PL 2003, c. 312, §9 (NEW).]

F. Best management practices for automobile graveyards, junkyards and automobile recycling businesses developed by the Department of Environmental Protection. [PL 2003, c. 312, §9 (NEW).]

Municipal officers or county commissioners shall consider compliance with these local ordinances in deciding whether to grant or deny a permit for any automobile graveyard, automobile recycling business or junkyard and in attaching conditions of approval to a permit.
[PL 2003, c. 312, §9 (NEW).]

8. Applicability. Municipalities may apply local ordinances adopted previously under subsection 7 pertaining to automobile graveyards and junkyards to an automobile recycling business without amending those ordinances to include automobile recycling businesses. A municipality must provide notice of its intent to apply these ordinances at the time an application for an automobile recycling business permit is filed.
[PL 2003, c. 312, §9 (NEW).]

9. Right of entry. Municipal officers or their designees may, to carry out the provisions of this subchapter or to determine compliance with any laws, ordinances, license or permit approvals, decisions or conditions:

A. Enter any automobile graveyard, junkyard or automobile recycling business property and inspect all outside areas, equipment and activities at reasonable hours for compliance with the laws or ordinances set forth in accordance with this subchapter; and [PL 2003, c. 312, §9 (NEW).]

B. Enter any building on the property with the consent of the owner, occupant or agent to inspect the building and activities within the building for compliance with the laws or ordinances set forth in accordance with this subchapter. [PL 2003, c. 312, §9 (NEW).]

A municipal officer's or designee's entry onto property under this subsection is not a trespass. [PL 2003, c. 312, §9 (NEW).]

10. Standard for permit. The municipal officers or county commissioners may issue a permit to an automobile graveyard or junkyard if that automobile graveyard or junkyard meets the operating standards set forth in subsection 5. [PL 2005, c. 424, §5 (NEW).]

For purposes of revocation or suspension of a permit pursuant to section 3758-A, subsection 5, each of the standards set forth in this section is a condition of a permit. [PL 2005, c. 424, §6 (NEW).]

SECTION HISTORY

PL 2003, c. 312, §9 (NEW). PL 2005, c. 247, §§1-4 (AMD). PL 2005, c. 247, §7 (AFF). PL 2005, c. 424, §§3-6 (AMD). PL 2005, c. 683, §A51 (AMD).

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