

To: Board of Selectmen
From: Zoning Enforcement Officer
Date: October 4, 2022

You have requested that I document the Zoning Violations at 39 & 41 NH Route 25, Map 401 Lot 5, formerly known as Boyles Market.

In March of 2021 I learned that the owners were putting in new underground gas supply tanks and I informed the agents for the owner, Meena, LLC that Effingham Zoning Board and Planning Board Permits were required for any changes to the existing site.

Those I spoke to said they would apply for the appropriate permits, but were going to proceed with their work without permits. At that point they were in violation of the Planning Board Site Plan Regulations and they would also need a Special Exception from the ZBA to operate the gas station. They were not fined for proceeding because they immediately put in process the application to the ZBA for the Special Exception, which was granted on March 29, 2021.

An Application for Site Plan Review was submitted to the Planning Board on April 12, 2021 and Reviewed at the May 6, 2021 Planning Board meeting. It was then that it was recognized that Gas Stations are not allowed in the Groundwater Protection Zone, and that a Variance would be required before a Site Plan application could be accepted.

With the new requirement for a Variance, and the outcome for the process no longer assured, I issued a Cease and Desist on any site work being done at Map 401 - Lot 5 on May 13, 2021. The reasons given for the Cease and Desist were lack of Site Plan Approval as required by the Special Exception of 3/30/21 and by the Effingham Zoning Ordinance Article 10.

Work was halted, and the owners applied for and received a Variance on August 6, 2021. Since the Variance was granted, and the owners were proceeding with their Site Plan Application, there were no fines issued, although the Cease and Desist remained in place.

The original Special Exception included converting the old laundromat into an apartment. That conversion, which would have required a Building Permit, was abandoned, and there has been no evidence of any building changes taking place. A new six bedroom septic system was approved for operation on August 8, 2021. The two existing apartments appear to be occupied and the convenience store is closed.

I am concerned that there was/is contaminated soil at the location of the tanks that was removed without the proper oversight, which would fall under NH Hazardous Waste Remediation, overseeing the long-term remediation and management of contaminated sites in New Hampshire. The State Sites program regulates all sites where a hazardous substance or waste has been released or has the potential to be released i.e. contaminated sites in accordance with Env-Or 600.

Sites contaminated by petroleum products are managed under the Petroleum Remediation Program (many sites have both petroleum and hazardous waste contamination, and are then managed jointly by both programs). In the event of contamination, the responsible party is required notify the NHDES Waste Management Division at (603) 271-3899 within 60 days of discovery of a violation of the Ambient Groundwater Quality Standards of Env-Or 603.01. Initial Response actions should be conducted to reduce risks to human health and the environment in accordance with Env-Or 605.04.

10/4/2022