

William Schaumloffel  
4/6/18 Zoning Permit Application for  
Parcels #215149 and 215148

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**TOWN OF POULTNEY  
DEVELOPMENT REVIEW BOARD**

**IN RE: WILLIAM SCHAUMLOFFEL – 4/6/18 ZONING PERMIT APPLICATION FOR  
PARCELS #215149 and #215148**

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

**INTRODUCTION AND BACKGROUND**

On or about April 6, 2018, William Schaumloffel (“Schaumloffel” or “Applicant”) submitted a zoning permit application concerning two contiguous parcels of land identified as tax map parcel #215149 and tax map parcel #215148 which parcels are located in the Village Residential District (“VR”). The parcels contain an automotive maintenance and repair building with automotive sales (Parcel #215149) and a mobile home (Parcel #215148). On the application, the Applicant indicated in the detailed description of existing use: “Auto Maintenance, Auto Sales, Auto Repair” and in the detailed proposed use section: “Same as above with addition of a car wash.” On May 3, 2018, the Zoning Administrator denied the Application with reasons stated as “car wash not permitted in the VR District.” On May 10, 2018, the Applicant filed an appeal of the Zoning Administrator’s decision.

On June 14, 2018, the Poultney Development Review Board (DRB) convened a duly warned public hearing at the Poultney Town Office to consider the Applicant’s appeal. On June 14, 2018, the hearing was closed and the DRB began its deliberations.

All members of the DRB who have deliberated and have participated in this decision have reviewed all exhibits and other evidence and have personally attended the hearing in this matter.

The following members of the public attended the hearing, and those wishing to testify were sworn in to testify and/or present evidence as Interested Parties:

William Schaumloffel	Sheila Nichols	Tom Hannon
Joanne Sweeney	Ethel Contratti	Chris Goritz
Vern Nichols	Idris Atwood	Karen Atwood
Shannon Schaumloffel	Albert Lulek	Glen Sommers
Ben Thirkield	Kim Dillon Thirkield	Carol Bunce
Gary Marcy	Alicia Marcy	Derek Kerber
Lawrence Brown	Marie Kerber	Gregory Tucci
Linda Smith	Rod Smith	Terry Williams

Based upon the testimony of the interested parties appearing during the hearing and

the documents and evidence introduced at the hearing, the DRB finds, concludes and orders as follows:

### FINDINGS OF FACT

- 1) Parcel #215148 has operated as an automotive maintenance and repair business with accompanying auto sales for many years, and according to testimony provided by Gary Marcy, as far back as at least the 1950s; said parcel has been operated in the same consistent manner since the parcel has been owned by Applicant's family commencing in approximately 1989.
- 2) Parcel #215149 has been used as a residential rental property, as well as in conjunction with the business conducted on Parcel #215148, i.e. storage of vehicles, business records, vehicle repair parts, placement of snow, for many years and according to testimony provided by Gary Marcy, as far back as at least the 1950s; said parcel has been operated in the same consistent manner since the parcel has been owned by the Applicant's family commencing in approximately 1989.
- 3) Both Parcels are comprised of those lands and premises that are described in a Warranty Deed from Schammy Inc. to William Schaumloffel, and dated January 30, 2009 and of record in the Poultney Land Records at Book 140, Page 472.
- 4) Both Parcels are located in the Village Residential District ("VR") according to the Poultney Zoning Map.
- 5) The following documents were introduced by the Applicant, or interested parties during the hearing and have been admitted as Exhibits for the DRB's consideration: The DRB incorporates as part of the permanent record of this hearing, the following:

Application submitted by Applicant on or about April 6, 2018. Entered into evidence and labeled **Exhibit A.**

Hand-drawn map submitted by Applicant showing proposed setbacks. Entered into evidence and labeled **Exhibit B.**

Hand-drawn map depicting existing location of building, with label of "Filling Station." Entered into evidence and labeled **Exhibit C.**

Plot plan showing proposed dimensions of proposed building. Entered into evidence and labeled **Exhibit D.**

Notes submitted by Applicant addressing Section 711 of the PUB. Entered into evidence and labeled **Exhibit E**.

Collection of signatures in support of the "Expansion Project York Street Auto. Entered into evidence and labeled **Exhibit F**.

Hand-drawn sketch show lot dimensions in relation to dimensions of proposed building. Entered into evidence and labeled **Exhibit G**.

Printout labeled "21 Car Wash Industry Statistics and Trends" submitted by Applicant. Entered into evidence and labeled **Exhibit H**.

Photographs submitted by Applicant with note showing business equipment stored in mobile home. Entered into evidence and labeled **Exhibit I**.

Photograph provided by Applicant depicting a hole he placed in the door of the shop to run water from the mobile home in times of freezing pipes. Entered into evidence and labeled **Exhibit J**.

Copy of Warranty Deed from Schammy Inc. to William Schaumloffel, and dated January 30, 2009 and of record in the Poultney Land Records at Book 140, Page 472. See Exhibit A-15. Entered into evidence and labeled **Exhibit K**.

Consumption Data submitted by the Applicant showing anticipated water consumption of 6.5 to 10 gallons of water per wash utilizing the IQ 2.0 Touch Free system. Entered into evidence and labeled **Exhibit L**.

Vermont Inspection Manual pertaining to rust/rot. Entered into evidence and labeled **Exhibit M**.

Letter of Appeal submitted by Applicant on or about May 10, 2018. Entered into evidence and labeled **Exhibit N**.

Letter received from Dan and Linda Danielson dated May 26, 2018 in support of the application. Entered into evidence and labeled **Exhibit O**.

- 6) According to the testimony provided by Gary Marcy, the business conducted on Parcel #215148 has always included the washing of vehicles, by hand, for its customers utilizing the business' automotive repair and servicing services, as well as other members of the community paying for car washes. According to testimony provided by the Applicant, his business has also provided similar services, and in connection with providing undercoating for customers' vehicles.

- 7) The Applicant proposes that the hours of operation of the auto repair business will be from 8:00AM until 5:00PM, Monday through Friday, and 8:00AM to 2:00PM, Saturday, and the car wash will be from 9:00AM until 7:00PM, Monday through Friday, 9:00AM through 6:00PM on Saturday, and 10:00AM through 4:00PM Sunday.
- 8) The Applicant proposes that the car wash portion of the proposed structure will be an automated touchless system, and there will be no vacuums or trash receptacles provided for its customers. The car wash will accept only credit/debit cards, and gift cards; no cash will be accepted.
- 9) The Applicant proposes that the car wash system will recycle much of its water, using approximately six to ten gallons of fresh (new) water per wash cycle. The Applicant proposes that the business will use approximately ~~22,000~~ <sup>11,000 M.T.</sup> gallons of water per day. There will be enough space for seven cars to line up in que to wait for the car wash without blocking sidewalks.
- 10) The Applicant proposes that the car wash will have a state-of-the-art filtration system which will filter out grease, dirt, soot, debris and other contaminants and/or foreign objects, and prevent the same from entering into the Village of Poultney's stormwater system and wastewater treatment plant.
- 11) The Applicant proposes that ingress to the car wash section of the building will be provided from York Street, and egress will be onto Wilson Avenue.
- 12) The Applicant proposes that ingress and egress to auto repair/service and auto sales sections of the building will be provided from both York Street and Wilson Avenue.
- 13) The Applicant proposes that there will be one curb cut on the York Street side of the building, and one curb cut on the Wilson Avenue side of the proposed structure.
- 14) The Applicant proposes to construct a steel building, beige in color, with blue or brown trim, with total square footage of 3,260 square feet, with 14 feet ceilings, with three service bays and a connected car wash located on the northeast corner of the building, with a maximum height of 25 feet high measured from the slope of the natural ground.
- 15) Currently the Applicant sells approximately 141 used cars per year from the location. The Applicant proposes to sell between 30-40 cars per year from the location once construction of the new structure is complete.

- 16) The Applicant proposes to remove the natural evergreen hedgerow located along the northerly sections of the Parcels and replace the same with a fence of suitable material not to exceed six feet in height to provide screening; the Applicant also proposes to place a like fence along the easterly boundary of the Parcels to provide screening, but not to the extent to block lines of sight for vehicular traffic.
- 17) The Application speaks to signage, but signage was not specifically discussed at the hearing.
- 18) As proposed, it is understood, that the new structure will be beige in color with either blue or brown trim. Office entrance will be on York Street. Two bay service doors will be on Wilson Avenue, and one bay service door will be on the northerly side of the structure, with a car wash bay being located on the northeast corner of the proposed structure.

#### **CONCLUSIONS OF LAW**

- 19) Pursuant to the Poultney Unified Bylaws (the "PUB"), Article III Table of Uses, an automotive repair business is not a permitted use in the VR.
- 20) The DRB concludes, upon consideration of the testimony provided by the Applicant and Gary Marcy, the business operations conducted on both Parcels are pre-existing nonconforming uses in accordance with Section 701 of the PUB.
- 21) The DRB concludes that a nonconforming use may be enlarged with the approval of the Development Review Board provided certain criteria is followed. See PUB §704.
- 22) The DRB concludes that currently the structure located on Parcel #215149 does not meet the required setbacks for the VR District; the Applicant proposes to remove the structures on both parcels and replace them with one structure that meets all setback requirements for VR. The proposed new structure will be larger than the combined square footage of the current auto repair building and the mobile home, but will not exceed thirty (30%) percent more of the area of the two current structures combined.
- 23) The DRB concludes that the building located on Parcel #215149 is a pre-existing nonconforming use in VR, and has operated as an auto repair/service business, car wash business, and auto sales business.
- 24) The DRB concludes that the mobile home located on Parcel #215148 is a pre-existing nonconforming mix-used structure, having been a residential structure

as well as being used for business purposes directly related to the businesses conducted on Parcel # 215149.

- 25) The DRB concludes the building located on Parcel #215149 is a pre-existing nonconforming structure in that it does not conform with all the required setbacks for VR.
- 26) As proposed, it is understood, and the DRB concludes, that the Applicant will merge both Parcels, and the lots will be deemed merged in accordance with Section 1403 of the PUB.
- 27) As proposed, it is understood, and the DRB concludes, in accordance with Section 704, subsection B, of the PUB, the DRB determines that the character of the neighborhood will not be changed substantially or adversely effected, in accordance with Section 711 of the PUB, by the Applicant's proposal.
- 28) As proposed, it is understood, and the DRB concludes, in accordance with Section 704, subsection C, the proposal to increase the total building square footage from 2,560 square feet to 3,260 square feet, does not exceed thirty (30%) percent more area.
- 29) In rendering this decision, the DRB has considered, and factored in, all matters outlined in Section 711 of the PUB.
- 30) In connection with matters recited in Section 711 of the PUB, the DRB concludes that the Applicant shall situate a curb cut on the Applicants own property delineating and identifying the points of ingress and egress, and delineating and identifying the corner of Wilson Avenue and York Street, which curb shall be approximately thirty five feet (35 ') long along Wilson Avenue, and twenty five feet (25 ') along York Street, and the Applicant shall coordinate with the Village of Poultney as to the placement of cement sidewalks, or striped sidewalks (as are currently encircling the Applicant's parcels), as the Village of Poultney Board of Trustees see fit and appropriate.

### **ORDER/DECISION**

Insofar as the application, and appeal, as filed seeks use of Parcel #215149 and Parcel #215148, as one merged lot, with an auto repair/service/sales with three separate service bays, and an office, as well as an automated touchless car wash bay, the same is approved on condition that Applicant applies for, receives, and complies with (a) all necessary water and sewer allocations from the Village of Poultney; (b) a Water Supply and Wastewater Permit from the State of Vermont, if the State of Vermont determines one is required; (c) any and all other required State and Federal permits; (d) a permit for

signage complying with the PUB from the Town of Poultney Zoning Administrator; (e) all necessary, and required permissions to relocate and/or disturb sidewalks and curb cuts effecting the sidewalks owned and maintained by the Village of Poultney, from the Village of Poultney Board of Trustees; and the Applicant complies with (f) the matters stated in the Findings, and Conclusions herein; and (g) the matters stated in the materials entered herein as Exhibits, which matters and Exhibits are incorporated herein as if more fully and accurately recited herein, such as, but not limited to, setbacks and setback conformities, hours of operation, building materials, car wash materials/equipment, water consumption, screening placement and materials, ingress and egress proposals.

Motion made by Ernie DeMatties, seconded by Jaime Lee.

### APPEAL PROCEDURE

Any interested person who has participated in this proceeding may appeal this Decision of the Development Review Board to the Superior Court, Environmental Division within thirty (30) days of this decision under PUB §1001(b) and pursuant to 24 V.S.A. §4471. Upon the failure of any interested person to appeal this decision to the Superior Court, Environmental Division, this decision will be final. See 24 V.S.A. §4472(d).

DEVELOPMENT REVIEW BOARD MEMBERS for the decision

Mark Reed - chair  
Ernie DeMatties  
Jaime Lee

Dated at Poultney, Vermont, this 26 day of July, 2018

Copy to: William Schaumloffel (Certified Mail)

Without Exhibits