

**TOWN OF NORTHFIELD, VERMONT  
DEVELOPMENT REVIEW BOARD  
Minutes of June 23, 2022**

**7:00 pm at Brown Public Library Community Room  
(also available remotely via Town GoToMeeting Account)**

The meeting was called to order at 7:00 pm by Chair Bill Smith.

**Roll Call:** Present for the meeting were DRB members William Smith, Tim Donahue, Paul Brown, Steve Davis and Larry Garland. Also present was ZA & DRB Clerk Mitch Osiecki. Present also were members of the public Mark & Cheryl Lake (applicants/complainants), Alysa & Kevin Corrigan (respondents), John Lambert (applicant), and abutting landowners Sherry Brickey and Mark Albury. Two additional abutting landowners, Cindy Spaulding and Gordon Bock, participated remotely.

**Approval of Minutes:** Approval of minutes of May 26, 2022.

**Motion:** Paul Brown moved to approve minutes of May 26; Tim Donahue seconded.

**Vote to approve:** 5-0-0.

**Appeal of Permit #2022-38 (Fence permit issued to Mary & Edward Corrigan)  
Mark & Cheryl Lake (complainants) and Kevin Corrigan (respondent)**

Mark Lake explained his reasons for appeal of the issuance of a fence permit. He's concerned that the fence is on his boundary and that he will bear some responsibility for maintenance, which he doesn't want. He also stated that the fence was constructed without a permit, and is in violation of both municipal and state regulations. He added that the fence is also in violation of setbacks from a Green Mountain Power right of way. Mark stated that there is a nearby GMP "knuckle," or guy wire and nothing is allowed within 10 feet of it. He feels the applicant was improperly rewarded – they initially erected the fence without a permit and were subsequently granted a permit for the fence, which he feels is ugly and serves no legitimate purpose.

Mark added that there had previously been a privacy fence screening a barn on the neighboring property. He had no objection to that fence. That fence was dismantled and has been replaced by what he described as a boundary fence, which he objects to. He stated that under state law, he is responsible for maintenance of "his side" of the fence and doesn't wish to bear that responsibility. He also stated that he would bear liability should someone be injured on his side of the fence, again a burden he does not want.

Bill Smith asked how near this fence is to the property line. Mark initially stated that the fence is on the property line.

Bill asked Mitch if he had verified location of the fence relative to property boundaries. Mitch stated that no surveys of these parcels appear to exist; therefore, identifying the precise location of boundaries is often difficult. Zoning administrators typically rely on the applicant to attest that a fence is wholly on the applicant's property.

Mark stated that there is a Green Mountain Power pole on the boundary between properties and that the fence runs close to a "knuckle," or guy wire. Regulations require that a 10' radius around the knuckle must be kept clear.

Bill asked which side of the fence has the smooth, or finished side. Mark responded that the applicant has the finished side on his side; Mark has the ugly side.

Paul asked for clarification of what Mark had termed as several "code violations." Mark responded that, first of all, they had not received a permit before erecting the fence. Another concern was that when first constructed, the fence was nearly 9 feet tall. Also, the "bones" are on the wrong side of the fence. The fence has since been trimmed to 8 feet.

Mark was asked when the fence was erected. He responded that the fence was built between May 9-12. He added that he was informed on May 7 that the fence was going to be built. Mark stated that he raised his concern about the unpermitted fence to Mitch on May 13 and that a permit was issued on May 18.

Larry Garland asked for clarification about when the fence was originally constructed. There is a fence along the Lake-Corrigan boundary and also on the other side of the Corrigan property. Is that fence also new? There is a barn on this lot, which had a privacy fence around it. That fence was removed and fencing has been erected on each side of the Corrigan lot, near the boundaries. Mark stated that he's primarily concerned with the fence along his property.

Paul asked Mitch if he had conducted a site visit. What violations, if any, were observed? Mitch responded that after being advised of the fence he made a visit to the site and confirmed that a fence was under construction. He stated that it's not that unusual for a property owner to undertake a project that needs a permit. Mitch stated that when he finds a project underway that requires a permit, his practice is to immediately advise the owner of the need for a zoning permit; he instructs them to submit a permit application at once. Mitch stated that he uses such occasions to explain what items need to be addressed in order for him to approve the permit application. In the case of a fence, there are three primary concerns:

1. The fence has to be entirely on the owner's property;
2. The fence must be not more than 8 feet in height;
3. The fence must have its finished side facing abutting property owners.

Mitch added that it is permissible to put a finished side on both sides of the fence, but the outside must be finished. Mitch further noted that while the regulations do not include an explicit setback for fences, he always advises people building fences that they must be able to repair and maintain a fence from their own property, unless they have received written permission from an abutting property owner to use the neighbor's property for purposes of repair and maintenance.

Mitch stated that, zoning regulations for fences do not define a required setback, so he's not able to require a specific setback for maintenance purposes.

Sherry Brickey, an abutting property owner, stated that she doesn't see the need for this fence. She noted that the fence thus far has a finished side on the owner's side, but not on the outside. She stated that the fence looks ugly to the abutter property owners.

There was some brief discussion about the property boundary between the Corrigan's and the Lake's. The Corrigan's own a double lot spanning the Dickinson Drive loop. The Lake's lot abuts the Corrigan lot on the back side of Dickinson Drive. The double lot does not have a straight boundary; there is a five-foot overlap along the back side of the Lake's lot. This does not affect the placement of the fence.

Mark stated that he was informed that the fence was being built, but was not consulted in any way. He never had the opportunity to talk to Ed Corrigan and have his concerns addressed. He does not feel there's any need for this fence.

Kevin Corrigan addressed the DRB regarding the construction of this fence. (*Background noise made some of his comments difficult to hear clearly*). Kevin acknowledged that the exterior side of the fence is unfinished, but affirmed that he does intend to put board on the outside of the fence. He stated that he was unaware of any issue regarding the utility right of way, but is willing to remedy this error.

Steve asked whether the fence is entirely on the Corrigan's property. Mitch stated that he typically relies on the applicant to attest that a fence is wholly on their own property. He stated that properties often do not have surveys showing precise location of boundaries. As he is not a licensed surveyor, Mitch does not try to establish or affirm boundary markings. Kevin stated he relied on markers to confirm he was constructing the fence on his side of the boundaries.

Kevin submitted photos of the fence; copies of these will be appended to the minutes.

Steve asked for clarification of a point from Mark Lake. Mark had stated that under state law, he is responsible for maintenance of his side of fence. Bill responded that he did not think that is the case. The owner/constructor of the fence is responsible for all repairs and maintenance.

Mark responded by citing state statute 24 VSA §3802. Copy attached to these minutes.

Mark stated that the Corrigan's own three abutting properties and that this initial fence is only the beginning of a project that will eventually see all three properties enclosed by fences. He feels this will become a sort of "compound" that will detract from the character of the neighborhood.

Larry Garland stated that he took a drive through this neighborhood in advance of the meeting. He noted several other fences in the development, some of which appear to be quite old. He noted that some fences could be seen through, or over, but others do entirely screen yards from view. In Larry's view, the fence on appeal does not create a unique problem for this neighborhood. Some neighbors may not like the fence, but that doesn't make it illegal.

Cindy Spaulding addressed the DRB. (*Attended remotely, and audio quality was poor.*) Cindy stated that as long as a fence has a permit and is in compliance with regulations it should be allowed.

Bill responded to Mark's citation of Vermont statute 24 VSA §3802. This statute refers specifically to a boundary fence, dividing two properties. In the present situation, the fence in question is entirely on the Corrigan's property. All responsibility for repair and maintenance will be borne by the Corrigan's.

Cheryl Lake offered that the other fences in the neighborhood are quite a bit shorter than the Corrigan's fence. She stated that other fences are typically six feet or shorter. Added that Kevin has never explained why he needs such a tall fence on the property.

Mark restated his belief that there is no need for this fence to exist and that he wants it removed.

Paul Brown posed a hypothetical question to Mark: Would you have the right to build a fence on your property to screen from view activity occurring on a neighboring property? Mark responded that he would not do so. Paul asked again whether an individual has the right to erect a fence that complies with zoning regulations to screen other properties from view. (*Inaudible*). Mark repeated that he feels he has the right to know why this fence is being erected, but that the owner has not spoken to him despite his request that he do so.

Mark stated that he is concerned that this fence will detract from his property value and wants the fence removed.

Bill stated that the DRB does not have the authority to order the removal of lawful structures or fences. The DRB can order the owner of the fence to make changes to the fence to bring it into compliance with zoning regulations. Bill cautioned that the DRB can't order a legal fence to be removed.

Mark asked how he can get the fence removed.

Paul suggested that Mark's best option would be to have a discussion with his neighbor. Paul stated that Mark has brought to the attention of the DRB some potential issues with the fence. The DRB has the authority to ensure that the fence is in compliance with zoning regulations (height, finished side out, able to be maintained by owner). Beyond that, the DRB cannot order the removal of a fence that complies with zoning regulations.

Paul urged Mark to attempt to have a respectful dialog with his neighbor. He sympathized with the present circumstances and stated that poor relations with a neighbor is always a difficult situation. He hopes they can negotiate a resolution.

Sherry Brickey asked whether it is a requirement that the exterior side of a fence be finished if a neighbor does not object.

Bill responded that the zoning regulations are written to protect an abutter from the sorts of issues that have been raised tonight. Requiring the exterior of a fence be finished protect the neighbor from the aesthetics of having to look at the “ugly side” of a fence. But if the adjoining landowner states that they have no objection, yes that could possibly be allowed.

Mitch offered his thoughts on this question. His practice is to advise applicants of the requirements spelled out in the regulations; in this case, the exterior side of the fence is supposed to be finished. The regulations don’t provide for an exception to be made if no one objects. The hypothetical neighbor may move and a new neighbor may now object. Adhering strictly to the regulations avoids issues like this.

Kevin asked for clarification about compliance with GMP right of way and finishing exterior of fence. He stated that he will do what is required to comply with regulations.

Steve noted that his one concern is that the exterior side of the fence is finished. If that’s taken care of, he doesn’t see any other issues. He also noted that it’s unlikely GMP will be responsive to any questions about their right of way. He feels they will consider this a minor matter not worthy of attention.

Mitch said he will work with Kevin to resolve any issues with GMP.

No further questions from those in attendance.

**Motion:** Steve Davis moved to deny the appeal; Paul Brown seconded.

Larry Garland offered a friendly amendment that the fence must have the finished side facing abutters.

Friendly amendment moved and accepted by Steve and Paul. **Vote to deny appeal: 5-0-0.**

#### **Permit #2022-44 John Lambert (Conditional Use)**

John presented his request to build an addition to his garage at 809 VT Route 12A. The addition will be a 28’ x 28’, one-story addition.

Larry Garland noted there’s currently a lean-to near the proposed addition. He asked if this is to be removed. Correct.

John noted that the purpose of the addition is to provide additional storage space.

Setbacks were reviewed and appear to be more than adequate.

Gordon Bock, an abutting landowner stated that the has no objections.

Mitch commented that he also received a phone call from Sally Davidson, another abutter. She has no objections to the proposed addition.

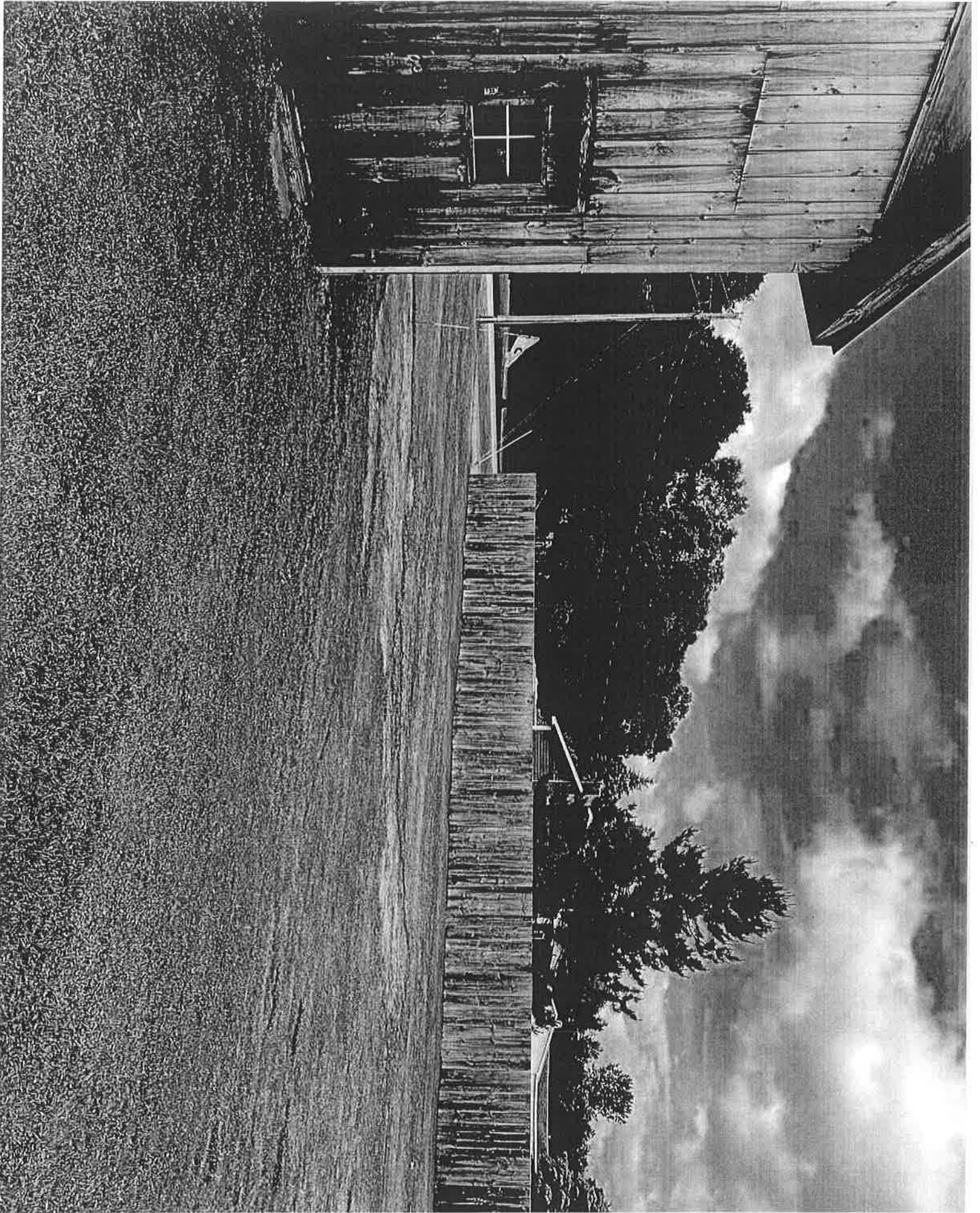
**Motion:** Tim Donahue moved to approve the Conditional Use as presented; Steve Davis seconded.

**Vote to approve: 5-0-0.**

**Next Meeting:** July 28, 2022 at 7:00 pm.

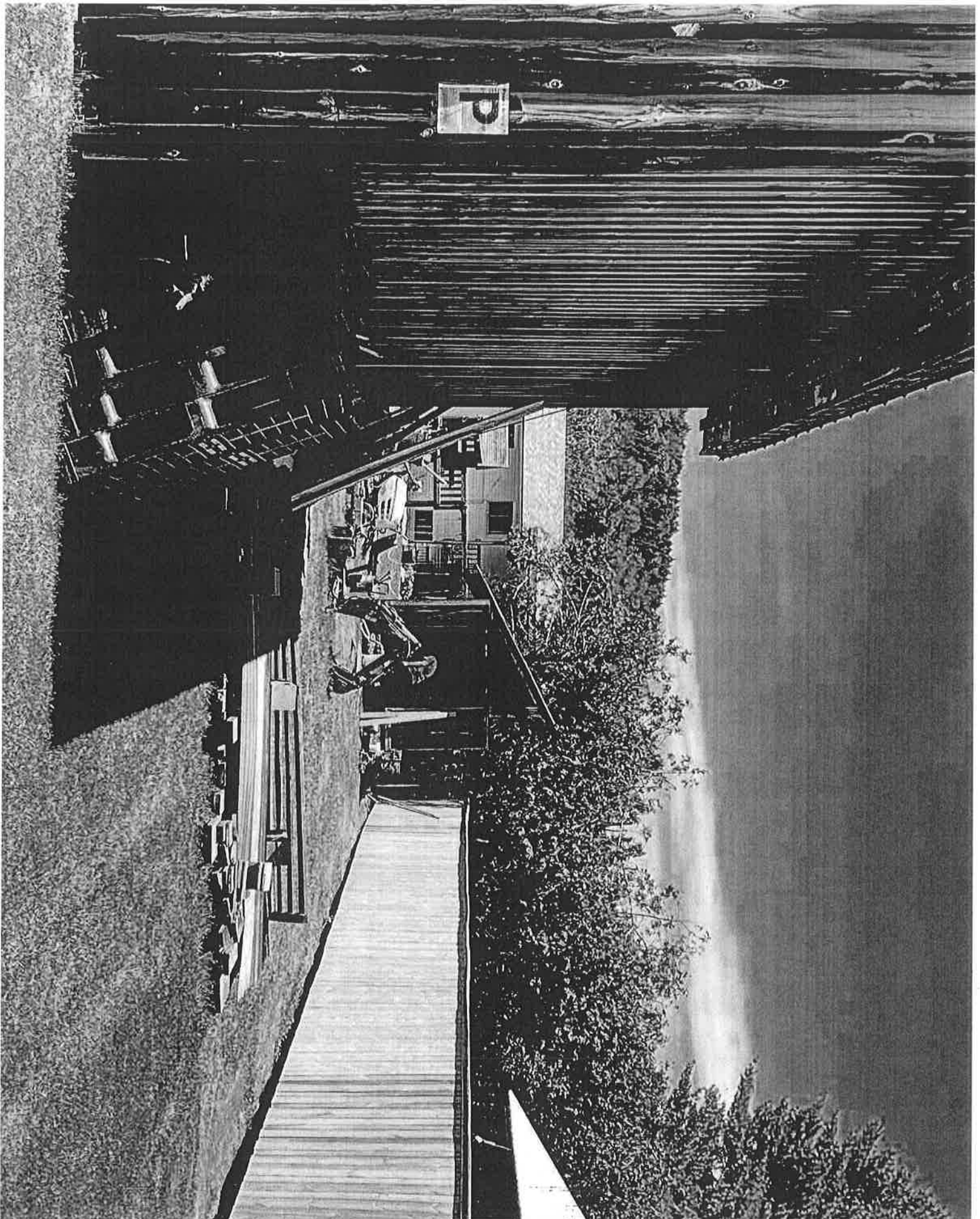
**Adjournment:** Paul Brown moved to adjourn; Steve Davis seconded. **Motion carried, 5-0-0.**

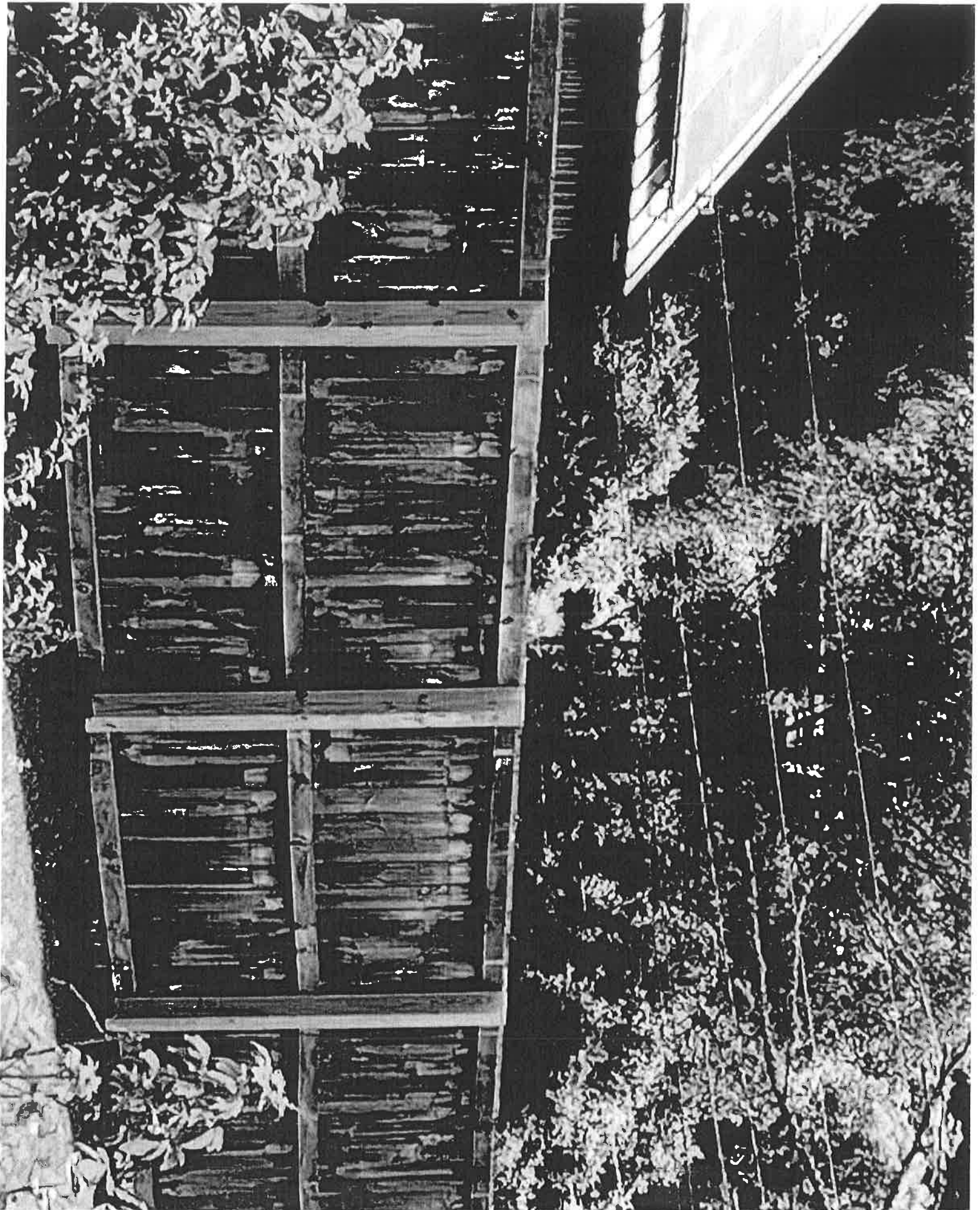
Meeting adjourned at 7:55 pm.

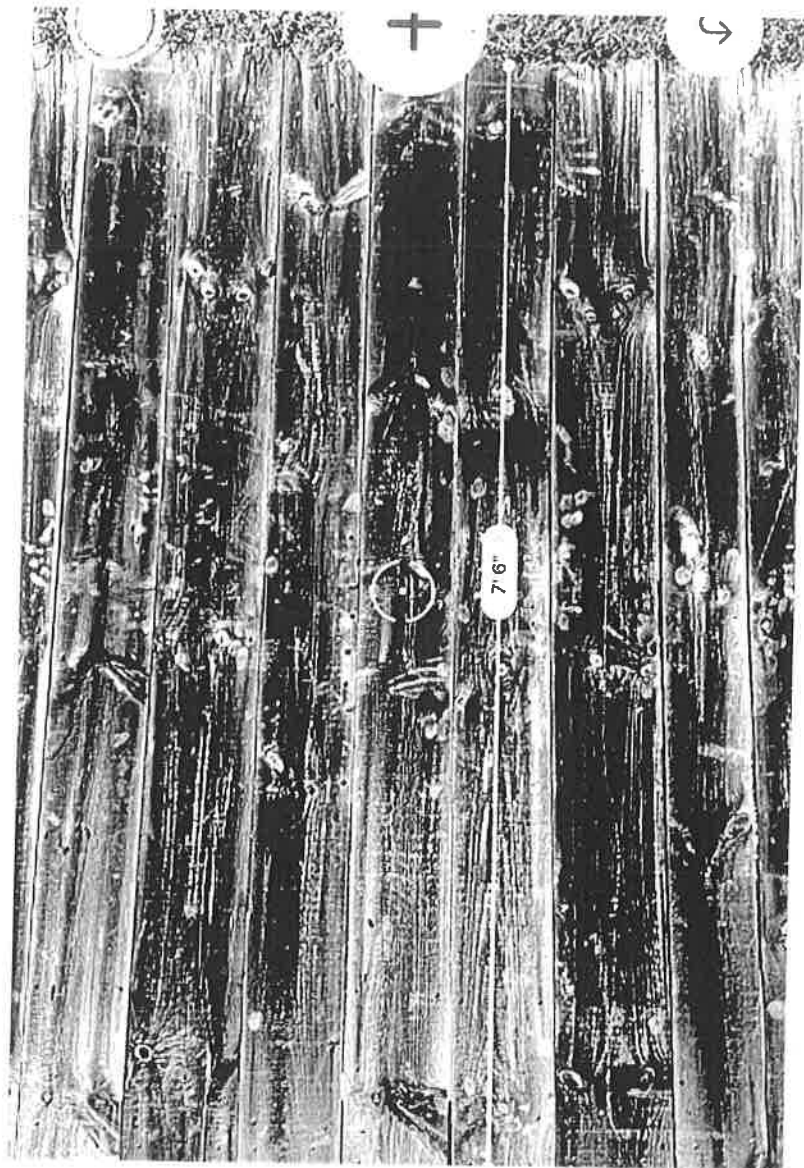












# **The Vermont Statutes Online**

## **Title 24 : Municipal And County Government**

### **Chapter 109 : Fences And Fence Viewers**

(Cite as: **24 V.S.A. § 3802**)

#### **§ 3802. Maintenance**

Owners or occupants of adjoining lands, where the lands of both parties are occupied, shall make and maintain equal portions of the division fence between their respective lands. The owner of unimproved and unoccupied land adjoining occupied land of another person shall make his or her proportion of a fence between such lands unless the selectboard of the town where the improved land lies, on request of either party, and on reasonable notice by the selectboard to parties interested, decides that such owner ought not to be compelled to make any part of such fence. The decision of the selectboard in such case shall be recorded in the town clerk's office and shall be final between the parties. The selectmembers shall receive for their services the fees of fence viewers.