

## ZONING APPEAL

FOR Zoning Permit ZP-22-508

### Description of the decision under appeal

Joel Fitzgerald 94 Glen Road applied for a zoning permit for an in-home occupation, Facilities Management, along with a shed and extended driveway. He was granted a conditional permit (ZP# 22-508) to complete this work.

### Description of the property subject to the appeal

94 Glen Road is a single family 3 bedroom house on a corner lot in a RL zoned neighborhood.

### Background for appeal

John S. and Barbara W. George are appealing the issuance of this zoning permit because Joel Fitzgerald has continued to run his pool business, "Image Pools", with trucks, storage trailer, flatbed dual wheel trailer, excavators, and extremely toxic pool chemicals in a RL neighborhood with no permit, and believe that this zoning permit was issued in violation of the Comprehensive Development Ordinance. Before the issuance of this conditional permit, he has been running this business out of his home for 2 years.

We have issued an initial complaint to the city in December 2021 using the See it Click it Fix it system. We then filed an official a Housing/Zoning Complaint CPLT-22-96 on May 13th of 2022. William Ward, from Permitting & Inspections, sent 94 Glen Road (Joel Fitzgerald) a letter letting them know the city had initiated an investigation regarding the complaint. The complaint was for operating an in-home Occupation, Pool Business, without a zoning permit.

- "Description of Violation - *Mr Joel Fitzgerald Continually parks commercial dump truck, sometimes flatbed trailer with excavator. Mr Fitzgerald Runs <https://www.imagepoolsvt.com/> out of his driveway the constant loading and unloading, of pool equipment and chemicals in and out of vehicles. This started April 2nd 2022 after complaint in December 2021. I am not willing to have my neighborhood destroyed. This violation needs a cease and desist order. Last night he was loading chemicals stored under a tree at the corner of Glen RD And Chestnut Terrace.*" (This was very close to the city's electric and Power). Please look at his facebook business page--many of the pictures are taken right out front of his house.  
<https://www.facebook.com/pages/category/Swimming-Pool---Hot-Tub-Service/Image-Pools-Sp>

## Reference to the regularoty provisions applicable to the appeal

Joel Fitzgerald and Image Pools is in violation of several items listed in the Comprehensive Development Ordinance Section 5.4.6 (Home Occupations).

**5.4.6 (a) C.** *There shall be no vehicles associated with the home occupation except:*

*(i) A personal vehicle with no commercial identification can be used; and,*

*(ii) An occasional delivery vehicle such as a Postal Service, UPS, or FedEx truck, but excluding semi trailers or 18 wheel vehicles;*

*(iii) deliveries or pick-ups shall occur no more than an average of one (1) time per day between the hours of 8 am and 6 pm;*

There continues to be a dump truck and storage trailer stored on the property, though the excavator has been removed.

**5.4.6 (a) D.** *No goods are located on site except for samples or designs produced on site and no such samples or other materials associated with the home occupation may be stored outside of an enclosed structure;*

Pool Chemicals are stored on-site.

**5.4.6 (b) 7.** *No home occupation shall create sounds, noise, dust, vibration, smell, smoke, heat, humidity, glare, radiation, electrical interference, fire hazard or any other hazard, nuisance or unsightliness which is discernible from any adjacent dwelling unit;*

Fire-hazard: Pool chemicals such as oxidizers are extremely hazardous and are required by OSHA regulations to be stored in a fire-safe compartment. Wooden dwellings and auxillary buildings do not meet this storage requirement. For example, see OSHA 1926.152 - Flammable liquids. In addition, large quantities of chemicals may be required by certain EPA regulations to be stored in secondary containment.

Please see the American Chemistry Council's "Guidelines in the Safe Transportation, Handling, and Storage of Dry Chlorinated Pool Chemicals (2001)" for more information on the safe storage of pool chemicals.

Nuisance/unsightliness: Commercial construction vehicles on-site are visible from adjacent dwellings.

**5.4.6 (b) 8.** *The home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part.*

The commercial vehicles and toxic chemicals stored on site detract from the residential character of the neighborhood.

**Relief request by the appellant and grounds it is believed proper**

John S. and Barbara W. George are requesting a cease and desist of all operations pertaining to Image Pools VT and removal of all equipment, vehicles, and chemicals related to the business from this residential neighborhood. This is believed proper as a residential neighborhood is not zoned for the operation of a pool business.