

Building Permit 26-062 Appeal-Updated
Parcel 020135-1



Date: September 29, 2026

Brian and Kourtney Penatzer
580 Hardscrabble Road
Bristol VT 05443
Purchased: 08/30/2017

1.0 acres (house and garage)

Current owners: Samantha Sumner and Anthony Robideau
Land: 640 Hardscrabble Road, Bristol, VT 05443
Purchased: 09/04/2026

0.7 acres (land only)

We, Brian and Kourtney Penatzer, of 580 Hardscrabble Road are appealing the building permit issued to the property of 640 Hardscrabble Road. This is an empty property with no current structure on it at this time. We have serious concerns, both structural and procedural, that stem back from when we purchased our adjacent property in August of 2017. We have brought these concerns to the Town of Bristol including the Selectboard several times since July of 2018 when the first curb cut permit was issued.

We want to make it clear that we have nothing against the new owners, Samantha Sumner and Anthony Robideau, who purchased the parcel from his relative, John Heffernan. We are most certain that they were not made aware of the long standing issues that are present with building on this parcel before being offered the parcel.

In the following documents, you will find immediate concerns and other standing issues with the property and coordinating documents showcasing and legitimizing these concerns. We have included an appendix of the documents and listed them in with our concerns on the following pages. We ask that you look over all the documentation that we have provided with an open mind and without prejudice.

Thank you for your time and consideration of this matter.

Sincerely,

A handwritten signature in blue ink that appears to read "Brian and Kourtney Penatzer".
Brian and Kourtney Penatzer

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Section 3. The 640 Hardscrabble Road Property is a 0.7 acre vacant lot at this time that has been cleared of trees. Currently, a single family dwelling of no more than 3 bedrooms with a deck is proposed for this property. Below are listed immediate and continuing concerns on the property.

Immediate concerns of 640 Hardscrabble Rd property:

1. The 640 Hardscrabble Road property and 580 Hardscrabble Road property were originally one parcel. In 1981, Charles Brush asked the State of Vermont to allow him to subdivide the property from 1.7 acres (which in 2026 standards is below the minimum 2 acre size for RA 2) into two properties: 1.0 acre and 0.7 acre. As Act 250 was in place at this time, this most likely should not have happened because our house was already built at this time on the 1.7 acre parcel. Before 2017, both parcels were owned concurrently by the following owners: Charles Brush, then Carol Simko and lastly Wilma Wood. When we purchased the larger parcel of 580 Hardscrabble Road, the smaller 0.7 acre was also for sale. We were asked if we were interested on the day we looked at the property for the first time. After we went to purchase 580 Hardscrabble Rd, we were told we would not be permitted to purchase the 0.7 acre parcel to the west. Several neighbors including Ron and Karen McEachon also tried to purchase the property and were not permitted to do so. The house we live in sits close to the east boundary of the property in question. Building a house on said property would make it the closest house to another house on our portion of Hardscrabble road and would cause irreparable harm to our way of life. (Appendix documents 1, 2, 3, 4)
2. Water: As you are aware, we all have drilled wells on Hardscrabble Road. Our well was drilled in 1980 and our closest neighbor's well, Chris and Sarah Scrodin, was drilled in 2003. This was before we owned our property and we cannot speak to any issues that did or did not occur when the Scrodin well was drilled. However, due to the proximity of the proposed well on the property of 640 Hardscrabble, there are real concerns of the potential loss of water or damage to our existing well. We discussed these concerns in 2018 and 2023 to the Selectboard of Bristol when curb cut permits were issued to both Wilma Wood and John Heffernan, previous owners of the property. We also discussed this concern most recently at the September 14th Selectboard meeting for the new owners, Samantha Sumner and Anthony Robideau. We were told "There are wells drilled beside existing wells all over Bristol with no issues." We contacted several well companies and spoke with Sarah Chevalier whose family has been drilling wells in the Bristol area for decades including the Scrodin well. Sarah informed us that things can happen to existing wells when they are close to one another. Issues range from dirty water, loss of pressure, a pump failure due to broken up sediment being sucked up by the well pump from the drilling of the new well, or complete loss of water. When asked who would be responsible if any of these things occurred to our well after the new well is drilled, she stated it is a finger-pointing game with no one wanting to take ownership. She said her company in the past when things like this have happened works with the existing homeowner to remedy the situation at a decreased cost. She said that is not common practice amongst the drilling companies. Therefore, if something happens to our well that has worked well for decades, we would be on the hook for costs to repair it which could range into the thousands of dollars. We have attached a document (Figure 8) from the state of Vermont who did research on water well interference. The diagram Figure 8c shows

four observation wells that were drilled around existing private citizen wells. There are two cones of depression from the private citizen wells. The distance of the observation wells to the private wells and the cone of depression diameter dramatically affected the performance of the observation wells. This is proof that we, along with the Scrodin well, could potentially lose well water due to the drilling of the new well on the 640 Hardscrabble Road property. (Appendix document 5 and 6)

3. We also have serious concerns about the decrease in assessed value depending on what type of property is placed on this small parcel. New 2026 assessment acknowledged a forested area to the west of our property. If this build is allowed to continue, it will null and void the current assessment of our property and current value will be diminished. This could jeopardize not only the value of our home, but also our ability to sell our home in the future if we decide to move on from Bristol, Vt. This is a real possibility due to the town of Bristol placing the interests of new builds above existing property owners, as we are and have been paying taxes to the town and the school district.
4. We purchased our home on Hardscrabble Road because we liked the privacy we got from all the trees that surrounded our home. We did not feel as if we were on display for all of our neighbors and that we were able to live our lives. If we did want to interact, we were close enough to walk down our driveway and down to a neighbor's house for dinner or a quick visit. If you read the RA 2 district description of our area in the Unified Development plan created by the town of Bristol, it states, "The district includes lands generally well-suited for moderate-density residential development. It goes on to say that consideration should be given to maintaining open space and providing opportunities for outdoor recreation in order to preserve the rural character that makes this district an attractive and pleasant place to live." That is why RA 2 has a minimum lot size of 2.0 acres. Going back to point 1 above, that is why this parcel should not have been allowed to be subdivided in 1981. As we have done research into current subdivisions in our area, parcels are not permitted to be smaller than the 2 acres. Therefore, the constant grandfathering of smaller parcels is diminishing the feel of Hardscrabble Road that we all love and what brought us here to Bristol. (Appendix document 7)

Other standing issues with the property:

1. The wastewater system and potable water supply permit that the previous owner Hardscrabble Rd LLC (Wilma Wood) used our address, 580 Hardscrabble Rd as the address of her business to obtain this permit unlawfully. At the time of the application with the state, Wilma Wood did not own 580 Hardscrabble Rd any longer. We purchased this property in August of 2017. The permit was issued May 2, 2018. The state is aware of this development when the first curb cut permit was issued in 2018 and again in 2022. They were discussing this with their legal department at the time of the emails. The state also admitted that they do not send employees to make sure that the site plan is followed. (Appendix Document 6, 9, 10)
2. The state approved site plan was not followed by previous owner Hardscrabble Rd LLC when a curb cut permit was issued in 2018 which led them to place the driveway where the primary septic system was to be installed and not where it is located on the approved site plan.. We came to the Selectboard regarding these issues with the site plan and the board dismissed our concerns

and allowed said landowner to deviate from the approved septic plan. (Appendix Document 6 and 10)

3. The work on the property since Mr. Heffernan purchased the property in 2019 and then selling it to his relative on 9/4/2026, work has been done on weekends starting at sunrise. There has been no communication with neighbors. It has not been pleasant to be woken up to the sounds of bulldozers pushing trees over towards your bedroom. As we were not aware in 2023 that a building permit was authorized for work on the now 640 Hardscrabble Road. When we made contact for the first time with Mr. Heffernan, it was not a pleasant conversation. We ended up at a Selectboard meeting in October 2023. We spoke at the public forum regarding the parcel and links to Mr. Heffernan. Mr. Heffernan sits on the Selectboard and authorizes permits which is a conflict of interest when it applies to his own properties. After the meeting, there was no additional work done on the parcel. On labor day 2026, we came home from a camping trip to find the parcel's new growth ripped up and a post with orange ribbon placed near our property line and telephone pole at the road. At the time, there was no building permit on the property since June of 2023. That permit had expired in 2025. We were not aware that the parcel had been sold to a relative of Mr. Heffernan. After speaking with the zoning administrator, a cease and desist was placed on the parcel until all paperwork was up to date. AZ Larsen discussed with me that a new permit was issued in the Fall of 2024, but was never picked up. AZ Larsen reissued the permit in January of 2025, yet it was never placed on the property against the zoning regulations of the town of Bristol. AZ Larsen emailed me regarding the new work to the parcel which stated the parcel had been transferred to new owners. (Appendix documents 12, 13, 16)
4. We attended the Selectboard meeting on September 14, 2026, as did the new owners as a new curb cut permit for 640 Hardscrabble Road was on the agenda. On the Selectboard webpage, it states that "With exception of unavoidably time-sensitive matters that would be in the Town's interest for the Selectboard to consider, the deadline for items to be placed on the agenda and submission of supporting materials is the end of the day the Wednesday before the Selectboard meeting." The curb cut application was dated on September 10, 2026 (Thursday). When we asked the Selectboard why this would have been placed on the agenda, the Chair Ian Albinson stated that he has the purview to pick items to place on the agenda even if they come after the Wednesday deadline. It would be in Mr. Heffernan's interest to have this permit to be issued immediately so work could continue as he is on the permit to do the work for the new owners, Samantha Sumner and Anthony Robideau. (Appendix document 14)
5. The September 2026 curb cut permit that was resubmitted when work has been done since 2018. As seen on the application, existing unauthorized driveway access has been drawn in with red pencil and is being accepted even though it is in conflict with the state approved primary septic system location. During the September 14, 2026 Selectboard meeting, the board stated that there was no curb cut application/permit on the 640 Hardscrabble Road. We raised our hand to dispute that as we have had the curb cut application/permit since it was issued in 2018 by Kris Perlee, the zoning administrator at that time. We were unaware that Mr. Perlee was sitting behind us at this meeting. AZ Larsen stated that the permit was not found in the office at this time. We were asked if the board could see Wilma Wood's curb cut application. There was discussion by the members as to why they were issuing a new permit when clearly there was a permit. We spoke up to state that we gave them the application/permit that we were adamantly against. (Appendix document 10 and 15)

Section 4. As stated in Immediate concerns 1, the minimum lot size for RA 2 is 2 acres. The current property is being grandfathered in as a buildable parcel. Section 405 allows nonconforming parcels provisions for becoming buildable parcels with a lack of care for existing homesteads in the area and how it will affect the overall feel and appeal of the RA 2 district. This information is again stated above in the immediate concerns 1 of section 3.

Docket Number: 97-039

Date Decided: May 1, 1998

Appeal of Lloyd W. & Elizabeth W. Weeks

Vermont Supreme Court

This case was about a landowner in Middlebury that wanted to join 2 parcels of land. It did not work out in their favor as there was a large ravine between the two adjacent parcels which would have made it difficult to use them functionally together. That is not the case with the existing subdivided parcels of the existing 580 Hardscrabble Road homestead and the new 640 Hardscrabble Road undeveloped parcel.

In this ruling by Vermont Supreme Court, 1998, listed the following additional cases: "Brum v. Conley, 572 A.2d 1332, 1334 (R.I. 1990) (despite qualifying as a nonconforming use as to area at the time of the ordinance's enactment, the parcels merged because the ordinance expressly stated that "if two (2) or more contiguous lots . . . are under single ownership at any time after the effective date . . . such lots shall be considered to be an individual parcel")

As stated in immediate concerns 1, our house was built on the 1.7 acre property in 1980. In 1981, Charles Brush asked the state of Vermont to subdivide the 1.7 acre parcel into 0.9 and 0.8 acres. It ended up being 1.0 and 0.7 acres. At the time of subdivision, Charles Brush continued to own both parcels. He then sold those parcels to Carol Simko together. As Carol Simko owned both our parcel (580 Hardscrabble Road) and the un-addressed 0.7 acre parcel, both parcels should have been considered an individual single parcel. Carol Simko then sold both parcels to Wilma Wood. Wilma Wood owned both parcels until we came to purchase the house in August of 2017. At that time, Wilma decided to list only the 580 Hardscrabble Road property and not the un-addressed 0.7 acre property. As stated above in section 3, we were not permitted to purchase both properties together as all other owners since 1979 had done so. Thus, bringing us to the current situation where a potential house could be built on a non-conforming property.

As we cannot find any information regarding a Unified Regulations Plan for Bristol at the time of the subdivision, we reverted to Act 250 in section 3. Also, we are unable to see Act 250 as it is written when the subdivision happened in 1981. (Appendix Document 17)

Section 5. In conclusion, as you can see from all the points made and documents attached, this parcel has made our life on Hardscrabble Road very difficult. We never know what is going to happen next to us or whether we will come back home from being away with damage to our property due to trees being removed from the adjacent land causing our trees to lose rooting and fall onto our home, if we will have well water at the same rate and clarity as we have now, or the peace and tranquility that we have grown to love about Hardscrabble Road will be gone forever.

The homestead of 580 Hardscrabble Road was the first home built on the land that Charles Brush owned in the late 1970s. It was built on 1.7 acres of land that should have never been allowed to be subdivided

in 1981. All neighboring lands with homes on them are at least two acres, with some twenty times that. A house built fifty feet from our home will forever change 580 Hardscrabble Road. As none of us can change the fact that the subdivision happened after our home was built, the development board can protect our home from further harm by not allowing any further construction on the 640 Hardscrabble Road parcel. We believe that these two parcels should be reunited as originally intended in the 1979 Charles Brush plan and also as what Vermont Supreme Court has rendered possible in their ruling in 1998.

Thank you for your time and consideration and we look forward to hearing from you regarding your decision on our appeal.

Signed: Burt Burt Kenneth Burt

Date: 9/30/2026

**Penatzer 640 Hardscrabble Road Bristol VT Appeal
Appendix of Attached Documents-Updated**

1. Property Map of Charles and Virginia Brush, June 1979
2. Proof of when 580 Hardscrabble Road was built, 1980
3. Land use permit, subdividing 1.7 acres after our house was built, Charles Brush, 1981
4. Current Property Map of surrounding area around 640 Hardscrabble Road, September 2026
5. Figure 8 Well Interference Document, 2009.
6. ANR Form I, Wastewater System and Potable Water Supply Permit, and Site Plan for lands of Hardscrabble Road LLC, March 6, 2018. (Please note that Hardscrabble Rd, LLC used 580 Hardscrabble Road as address of business when in fact it was not owned by the owner of the LLC, Wilma Wood at the time of the application)
7. Bristol zoning district RA 2, 2024.
8. Closing Statement for 580 Hardscrabble Road showing purchase dated 08/30/2017
9. Email correspondence with the state of Vermont employees David Swift and Angela McGuire regarding the use of our address for the wastewater and well permit, Fall 2023.
10. Wilma Wood Curb Cut application dated June 26, 2018
11. Selectboard meeting minutes dated July 23, 2018
12. Selectboard meeting minutes dated October 23, 2023
13. Public Forum notes read to the Selectboard from Kourtney and Brian Penatzer, October 23, 2023
14. Curb cut application, Samantha Sumner and Anthony Robideau, dated September 10, 2026
15. Selectboard meeting minutes dated September 14, 2026
16. Email correspondence with AZ Larsen, September 2026
17. Appeal of Lloyd W. & Elizabeth W. Weeks, Vermont Supreme Court, 1998