

LONDONDERRY TOWN COUNCIL MEETING MINUTES

1
2 **February 1, 2016**

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4 The Town Council meeting was held in the Moose Hill Council Chambers, Town Hall, 268B Mammoth Road, Londonderry,
5 NH.

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7 Present: Chairman John Farrell; Vice Chairman Jim Butler; Councilors Tom Freda and Tom Dolan; Town Manager Kevin
8 Smith; Executive Assistant Kirby Wade; Absent; Councilor Joe Green

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10 **CALL TO ORDER**

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12 Chairman Farrell opened the meeting with the Pledge of Allegiance. This was followed by a moment of silence for all the
13 men and women who serve us here and abroad and all first responders and the men and women who serve us here and
14 abroad.

15
16 **PUBLIC COMMENT**

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18 Chairman Farrell welcomed up Kenneth Gould, 3 Bittersweet Lane, who is the Chair of the Londonderry YMCA. Gould
19 stated that he was told that there is talk about getting a drug preventative program started in the community. Gould stated that
20 the mission of the YMCA is to help families and support communities. The YMCA is interested in collaborating with other
21 organizations and communities in helping create this program.

22
23 AL Baldasaro, 41 Hall Rd, stated that he got a call from one of his neighbors, Richard Belinsky, in regards to the situation
24 regarding a warrant article citizen petition. Baldasaro stated that after talking with the State, the Town didn't have a right to
25 shup the warrant article down. Baldasaro stated under Article 39.3, it stated "the Selectmen shall insert in their warrant for
26 such meeting the petitioned article with only such minor textual changes as may be required". Baldasaro referred to the Town
27 Charter where is brings you back to the State law. Baldasaro stated that he would just like to get the situation figured out for
28 one of the residents in the Town.

29
30 Christine Patton, 145 Mammoth Rd, stated that she wanted to introduce herself. She is a candidate running for the Budget
31 Committee.

32
33 Robert Cinelli, 9 Estey Rd, stated that he is here to address a wood cutting business being run out of his neighbor's house.
34 Cinelli stated that they have never gotten approval from the Town Council, Planning Board or neighbors. Cinelli stated that
35 he has tried selling his home by buyers have backed off based on the wood cutting business. Cinelli shared information with
36 the Council [see attached information and images]. Town manager Manager Smith stated that this information has been
37 passed along to the Town Attorney. The previous Code Enforcement Officer, Frank Holdsworth, had made a ruling that this
38 was an existing non-conforming use in a residential neighborhood. Attorney Ramsdell is looking at all of the documentation
39 on it to see if he agrees with that judgement. We are waiting for him to get back to us. Cinelli stated that he has signs posted
40 everywhere on his property line. Councilor Dolan asked Cinelli if he has spoken with the business owner to see if he can take
41 the signs down, etc. Cinelli stated that he has not.

42
43 Bonnie Hessey, 3 Estey Drive, stated that her property abuts the Potters business as well. Hessey stated that John Potter has
44 been harassing her family for years. Hessey addressed concerns she has with the business and business owner with the
45 Council. Hessey stated that he hasn't complied with the Ordinance. Chairman Farrell stated that she needs to voice her
46 concerns to the Police as well.

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48 John Potter Sr., 211 Circle, Apt. 20 in Derry, stated that his business is at 5 Estey Drive, addressed a couple of the situations
49 Hessey addressed. Potter stated that right now he doesn't know what he can and can't do. [See all attached document for
50 letters passed around]. Hessey had stated that Potter had tried to run over her son. Potter stated that he plows and he doesn't
51 remember ever trying to run over her son. Potter discussed how he has been running his business. Councilor Freda stated that
52 the statements made by Hessey tonight are serious statements. Chairman Farrell suggested that the Council wait to get the
53 feedback from the Town Attorney and go from there.

54
55 Richard Belinsky, 89 Hall Rd, stated that he didn't find out that the petition warrant articles on the 18th until the 20th or 21st.
56 Belinsky stated that he watched the meeting and it was said that the Secretary of State's office was going to be contacted.
57 Belinsky stated that he spoke with David Scanlan at the Secretary's office who stated that he was never contacted from the
58 Town. Belinsky stated that he knows he missed the date. Belinsky stated that the Town Council has no way to say no to his
59 petition. Belinsky stated that if his petition can't get on, he's going to ask the Town Council to freeze the accounts for a year.
60 Councilor Dolan stated that the Town Charter says that the Town Council is the only body who can enact an Ordinance.

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62

PUBLIC HEARING

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64 Motion to move into Public Hearing made by Councilor Dolan and second by Vice Chairman Butler.

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66 Chairman Farrell introduced Ordinance #2011-08 (A), a review and revisions to the Municipal Code, Title II, Chapters VI,
67 VII and X. Police Chief Bill Hart presented. There was no public comment. Motion to approve Ordinance #2011-08 (A)
68 made by Councilor Dolan and second by Vice Chairman Butler. Chair votes 4-0-0.

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70 Motion to close Public Hearing made by Councilor Dolan and second by Vice Chairman Butler. Chair votes 4-0-0.

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OLD BUSINESS

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NONE

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NEW BUSINESS

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78 Chairman Farrell introduced Order #2016-06, the expenditure of Maintenance Trust Fund which was presented by Steve
79 Cotton. Vice Chairman Butler stepped down due to a conflict of interest. Motion to approve Order #2016-06 made by
80 Councilor Dolan and second by Councilor Freda. Chair votes 3-1-0.

81

82 Councilor Butler rejoined the Council.

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BOARD/COMMITTEE APPOINTMENTS & RESIGNATIONS

85

86

NONE

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APPROVAL OF MINUTES

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90 Motion to approve the minutes from February 1, 2016 made by Councilor Freda and second by Councilor Dolan. Chair votes
91 5-0-0.

LONDONDERRY TOWN COUNCIL MEETING MINUTES

ADJOURNMENT

Motion to adjourn made by Councilor Dolan and second by Vice Chairman Butler. **Chair votes 4-0-0.**

Notes and Tapes by:	Kirby Wade	Date: 02/01/2016
Minutes Typed by:	Kirby Wade	Date: 02/16/2016
Approved by:	Town Council	Date: 02/22/2016

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TOWN COUNCIL MEETING 2/1/2016

WAS NOT AWARE OF WOOD CUTTING BUSINESS WHEN PURCHASED HOME

DICK POTTER HAD A SMALL BUSINESS

TODAY THAT BUSINESS IS RUN BY HIS SON JON POTTER WHO HAS TURNED IT INTO A LARGE COMMERCIAL BUSINESS

JON DOES NOT LIVE AT 5 ESTEY DRIVE ONLY WORKS THERE

30 HIGH GRAPPLE LOADS OF WOOD AND SCORES OF CUT AND SPLIT WOOD READY FOR SALE

OPERATING AN ILLEGAL COMMERCIAL BUSINESS IN A RESIDENTIAL AREA WITH NO PERMIT AND IS NOT GRANDFATHERED

HAVE A LETTER FROM THE TOWN STATING THAT THE BUSINESS IS NOT GRANDFATHERED (INCLUDED)

NEVER WENT IN FRONT OF TOWN COUNCIL FOR APPROVAL

NEVER WENT IN FRONT OF THE PLANNING BOARD

NEVER GOT APPROVAL FROM NEIGHBORS OR ABUTTERS

NO SPECIAL EXEMPTION ISSUED FOR COMMERCIAL WOOD CUTTING BUSINESS

HOURS RESTRICTED FROM 8 AM TO 4 PM. HAVE NOT CHANGED FROM LETTER BY MR FRANK HOLDSWORTH COMPLIANCE OFFICER IN 2008 TO LETTER FROM MR RICHARD CANUEL SENIOR BUILDING INSPECTOR IN 2015.

DICK POTTER RAN BUSINESS YEARS BEFORE SON TOOK OVER

DEVALUED MY PROPERTY VALUE AND MY NEIGHBORS INCLUDING IMPACTING HOMES ON CHASE ROAD WHICH IS BEHIND 5 ESTEY DRIVE

NEGATIVELY IMPACTED FAIR MARKET VALUE OF MY HOME

APPEARANCE OF 5 ESTEY DRIVE LOT ALSO DECREASES VALUE OF OTHER
PROPERTY ON ESTEY DRIVE

DUMPSTER, COVER IT, TRASH IN YARD SEEN FROM MY PROPERTY (PICTURES
INCLUDED)

BUYERS HAVE BACKED OUT OF MAKING OFFERS TO BUY AND BACKED OUT OF
PURCHASE AND SALES AGREEMENT BECAUSE OF THIS COMMERCIAL BUSINESS

HOME-BASED BUSINESS ZONING LAWS WERE NOT ADHERED TO (INCLUDED)

* NO TRESPASSING SIGN POSTING HAS TURNED THE PROPERTY INTO A EYESORE BY
USING MORE SIGNS THAN ARE NESCESSARY

LOOKING FOR ZONING ORDINANCE TO PROHIBIT COMMERCIAL WOOD CUTTING
BUSINESS ON ESTEY DRIVE

December 8, 2015

Residents of Estey Dr. Londonderry, NH

RE: Wood cutting business at 5 Estey Drive

Dear Neighbor,

I am writing this letter to inform you of the difficulties I am facing with regards to the sale of my property and the obstacles you may face in the future if we do not remedy this situation.

As you know we have been trying to sell our house for over 3 years now. The last 3 months we have listed with Keller Williams and have shown our home over 70 times. During this period we had 3 offers that were pulled when the people realized there was a wood cutting business next door. These 3 offers do not account for the offers that may have been made if this nuisance was not present.

Per comparable properties that were sold in the vicinity, the original list price of our home was \$379,000. When no offers were generated, we dropped the price as low as \$328,900 feeling the lack of offers may be due to present market conditions and the lack of buyers. The latest offer came in at \$300,000 and we ultimately settled on a price of \$310,000 (this price is well below comparable sales but we were willing to take it).

Upon inspection of the property, the potential buyers noticed the noise that was created by the neighboring business and since one of the buyers worked at home during the day, the noise was just too much for him to deal with.

We have gone to the town to see if something could be done but they stated that the business is grandfathered. They will do nothing. In 2005 a complaint was made by one of our neighbors (enclosed) which limited the times and days that this business can be in operation. But this only limits the business hours and not the business. On a daily basis, the operation of the business is to abide by this requirement. Does it?

The current business environment has progressed over time and many people work remotely (especially in suburban towns like Londonderry) and as this business is "grandfathered in", the town is not taking this new work environment into their consideration. We feel they need to.

Other than the decline in property values due to this business in a residential neighborhood, there are other important considerations that must be addressed. We feel the business here is also a fire hazard, and a safety hazard and potentially health hazards. What would happen if your child or one of their friends was injured on the property? What if the dry wood on the property caught fire? How is this noise over the acceptable decibel level effecting your hearing and the hearing of your children? These factors are cutting into your property values and if we do not remedy this situation, the values of your property in close proximity to this business will continue to be below that of your neighbors.

I am writing this letter to inform you that you too may face these same problems if you try to sell your house. Perhaps if we act as a group the town will have to listen as there are power in numbers and if approached enough, the city will have to listen. Let's band together

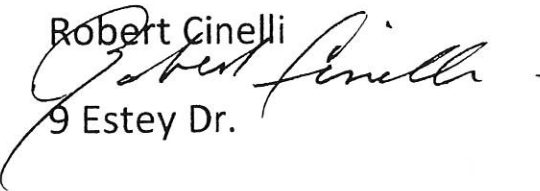
and fight this problem for our values, our health and the future of Estey Dr.

I am still going to pursue the town by bringing to their attention the nuisance created by this business in a residential neighborhood. I am also going to file for a tax abatement. I think all of you in the neighborhood should do the same. Perhaps if the town has to grant a decrease in their income, they will finally see that this business is a nuisance to everyone and if they start to lose income, they will finally take action.

I would also request that all of the neighbors receiving this letter to document the nuisance. At what times is the business operating? Do you smell any foul odors from the equipment being used in this everyday business? Is there ever an increase in the noise level that affects your right to quiet enjoyment of the property? Collectively, if we work together, maybe something can be done. Feel free to contact me if you would like to work together to end this situation.

Thank you for your consideration,

Robert Cinelli


9 Estey Dr.



TOWN OF LONDONDERRY
Building, Health & Zoning Enforcement

268 Mammoth Road
Londonderry, New Hampshire 03053
432-1100 ext. 115 Fax: 432-1128

February 9, 2015

Mr. Richard Potter
5 Estey Drive
Londonderry, NH 03053

Re: Timber / Cordwood Activity @ 5 Estey Dr., Londonderry, NH Map 3 Lot 3

Dear Mr. Potter:

The purpose of this letter is to inform you that this office continues to receive complaints regarding the disturbance your wood processing activity is causing the neighborhood.

If you recall, this matter was addressed a number of years ago by our former Code Enforcement Officer (CEO) in response to the same complaints. In a letter to you from the CEO, dated August 18, 2008, he agreed at that time to allow you to continue the cordwood business, provided you adhered to specific hours of operation. The letter stated that both you and Jon Potter agreed to limit activities to **8AM to 4PM Weekdays, 9AM to 1PM Saturdays (for out-going deliveries only)**, and **No operation on Sundays**. The CEO also warned you of possible civil penalties for non-compliance. That letter is enclosed for your reference.

I must inform you that there is a misconception that the cordwood business is a "Grandfathered" use on your property. For the business to be considered grandfathered, the wood-cutting activity had to exist before the adoption of the zoning ordinance in 1963. I can find no record that establishes any use of the property whatsoever prior to 1963. Therefore, this use is not in compliance. However, considering that a determination was made by the prior CEO to allow the business to continue, the concern for the cordwood use relates to the restricted hours of operation.

Therefore, you are hereby reminded of your obligation to comply with the previously agreed upon hours of operation. You shall immediately refrain from any wood processing activity outside of those established hours of operation. This shall include: no delivery of timber before or after hours; no wood-cutting or wood-splitting on site before or after hours; no loading or delivery of cordwood before or after hours.

Should this office receive any similar complaints after this date, you shall be cited for violation. Be advised that violation of the ordinance is considered a misdemeanor for which you may be subject to a civil penalty in the amount of \$275 for the first offense and \$550 for subsequent offenses for each day the violation continues after the date of this written notification, in accordance with the State Statute RSA 676:17.

Mr. Richard Potter
February 9, 2015
Page 2

If you have any question, please do not delay in contacting my office. Your understanding and cooperation is greatly appreciated.

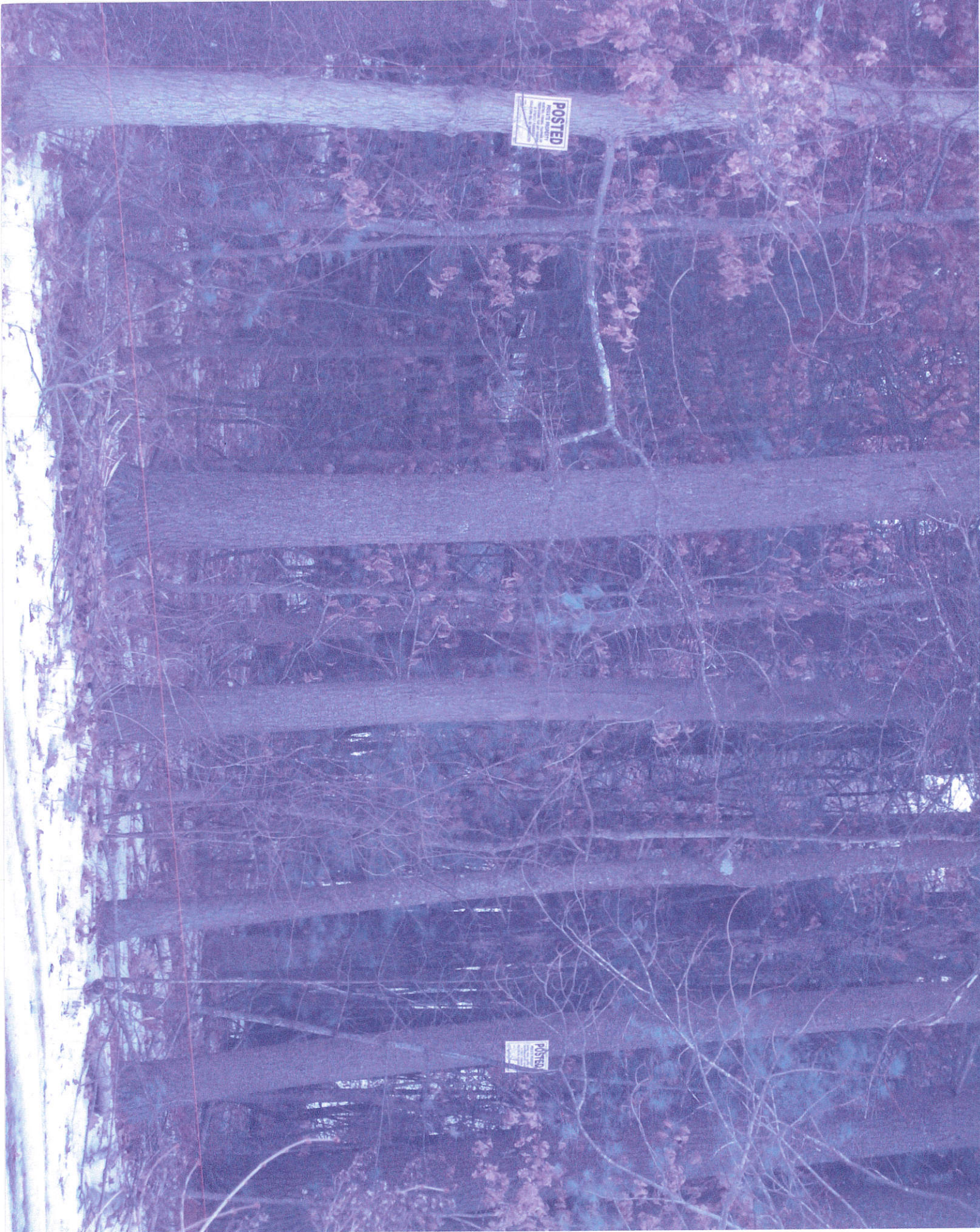
Sincerely,

A handwritten signature in black ink, appearing to read "R. Canuel". The signature is written in a cursive style with a large initial "R" and a long, sweeping underline.

Richard G. Canuel
Senior Building Inspector
Code Enforcement Officer



POSTED



POSTED
NO TRESPASSING
NO UNLAWFUL DISPOSAL OF SOLID WASTE
NO UNLAWFUL DISCHARGE OF LIQUID WASTE
NO UNLAWFUL DISCHARGE OF SOLID WASTE
NO UNLAWFUL DISCHARGE OF LIQUID WASTE

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