

Board of Abatement
Minutes and Decisions
4/5/2022

Board of Abatement (Board) Present: Chuck Martel (Chuck), Selectboard Member and Chair of BOA; Jared Cadwell (Jared), Selectboard Member and Justice of the Peace; Peter Forbes (Peter), Justice of the Peace; Doug Mosle (Doug), Lister; Danielle Howes (Danielle), Justice of the Peace; and, Patti Lewis (Patti), Town Clerk, Treasurer, and Delinquent Tax Collector

Appellants Present: None

Chuck opened the Board of Abatement (BOA) Hearing for:

Parcel ID #11-043 David Zaus

Chuck asked each Board Member if there were any conflicts of interest. Doug explained he was a neighbor and the President of their Road Association but did not feel there was a conflict of interest. All agreed. Patti recused herself in case of perceived conflict of interest as delinquent tax collector.

The Board packet was sent to the Appellant but no response was forthcoming from the Appellant.

The application to the Board was not sent to Appellant for this hearing but was sent to Mr. Zaus on December 14, 2021 offering him the chance to come before the Board. His request to clear the \$272.12 came with his letter dated 3/17/22 (received 3/28/22) with no application attached. Mr. Zaus did not attend the Board meeting today, there was no opportunity to ask the Appellant further questions. The Board proceeded with questions using the documentation provided from the Town Clerk records nonetheless.

Timeline of the mailing of 2021 tax bill and change of address requests were discussed.

2021 Tax Bills mailed on or around July 15, 2021. Mailed to New York as address of record. No return of tax bill received.

2021 Delinquent tax bill mailed November 9, 2021. Received back undeliverable on 11/16/21. Remailed to RR1 Box 68-70, Warren, VT on 11/17/21.

2021 Principal tax payment received on 12/13/21.

Mr. Zaus states he sent a hand written change of address to the town offices in July 2020 but the Town has no record of that change request. The only address change ever received from Mr. Zaus was on 12/9/21 asking the Town to change from NY to Warren.

9:25 a.m. – Jared made a motion to move into deliberative session. Doug seconded. All in favor, motion carried.

9:37 a.m. – Jared made a motion to close deliberative session. Chuck seconded. All in favor, motion carried.

Danielle made a motion to deny Mr. Zaus' request for abatement based on the fact that there was no manifest or apparent error on the part of the Lister, or the Town Clerk's processes. All documentation provided indicated that the Appellant interacted with the Town Clerk's office in August of 2021, paying funds toward his 2020 tax bill. At that time the Appellant made no inquiry regarding his tax bill, nor supplied a formal change of address form. The Appellant did not attend to the 2021 taxes until receiving

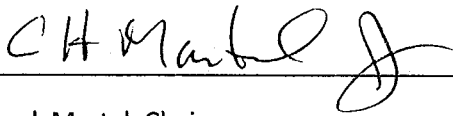
*certified to MR. Zaus
4/11/22*

a late notice forwarded in December of 2021. Documentation indicates that the Town Clerk followed all proper procedures, and no manifest or procedural error was made on the part of the Town Clerk with regard to notifying this property owner of the 2021 property tax obligation and penalties. Therefore, the fees for late payment are appropriate in this case.

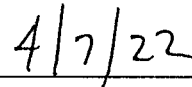
Chuck seconded. No further discussion, all in favor (Doug abstained) motion carried.

9:39 a.m. Jared made a motion to adjourn. Danielle seconded. No further discussion, all in favor, motion carried. Meeting was adjourned.

Respectfully Submitted: Patti Lewis



Chuck Martel, Chair



Date

**Board of Abatement
Hearing Agenda
April 5, 2022
9:00 a.m.**

Meeting at the Robert Vasseur Town Hall

**Meeting also via Zoom
Meeting ID 338 889 0421
Password 492597**

- 1. 9:00 a.m. - Parcel ID #11-043 – David Zaus**
- 2. Deliberative Session**
- 3. Other Business**

Patti Lewis

From: Patti Lewis <faystontc@madriver.com>
Sent: Wednesday, March 30, 2022 8:59 AM
To: 'dzaus@zausdownes.com'
Subject: Fayston Board of Abatement Hearing
Attachments: DOC033022-002.pdf

Dear Mr. Zaus,

The Fayston Board of Abatement (BOA) will meet on April 5, 2022 at 9:00 a.m. to hear your request for abatement of \$272.12, the outstanding balance on your account.

Please see attached packet which includes the notice, agenda, rules of procedure, criteria under which the BOA may abate, as well as the correspondence between yourself and this office.

While it would be great to have you attend (via zoom) it is not necessary if you are unable.

Please acknowledge receipt of this notice.

Patti

NOTICE OF BOARD OF BOARD OF ABATEMENT
MEETING
TOWN OF FAYSTON

Notice is hereby given that the Board of Abatement within and for the Town of Fayston will on April 5, 2022 at 9:00 a.m. meet at the Fayston Municipal Offices in Fayston to hear your request for tax abatement.

Board of Abatement

By Patti Lewis Date 3/30/22
Chair/Clerk

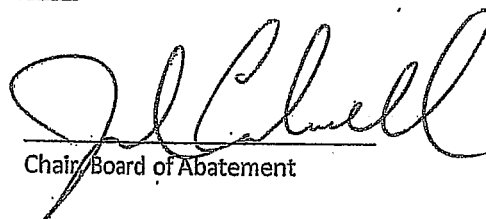
CC: Appellant
Board of Abatement

David Zaus 9:00 AM 4/5/22
Appellant Appointed Time Date

TOWN OF FAYSTON BOARD OF ABATEMENT

- A. **Purpose.** The Board of Abatement of the Town of Fayston is authorized under 24 V.S.A. §§ 1533-1537 to conduct hearings on requests for abatement of real and personal property taxes. The purpose of these rules is to establish uniform procedures for conducting abatement hearings and to ensure compliance with 24 V.S.A. §§ 1533-1537 and Vermont's Open Meeting Law.
- B. **Application.** These rules of procedure will apply to all abatement hearings conducted by the Town of Fayston Board of Abatement. A copy of these rules will be provided to each taxpayer requesting abatement.
- C. **Procedure.** A majority of the members of the Board of Abatement must be present in order to hold a hearing. In the alternative, a hearing may be held if the town treasurer, a majority of the listers, and a majority of the select board members are present. A concurrence of a majority of those present at the hearing is required to grant an abatement.
1. The chair of the Board will preside over each abatement hearing. The chair will rule on all questions of order and procedure. The chair may make motions and may vote on all questions before the Board. If the chair is absent, a chair *pro tem*, elected by the Board, will preside. Minutes from the meeting will be recorded in writing.
 2. Each taxpayer requesting abatement will be afforded a 20-minute hearing. If a taxpayer does not appear, the Board's decision will be based upon any information submitted by the taxpayer with his/her abatement hearing request form.
 3. The chair may exclude any irrelevant, unreliable, or unnecessarily repetitive evidence. Relevant evidence is any verbal testimony or document that tends to prove or disprove the appropriateness of abatement. Reliable evidence is any relevant evidence commonly relied upon by reasonably prudent people in the conduct of their affairs.
 4. The chair will conduct abatement hearings in the following sequence:
 - a. Open the hearing, stating the name of the taxpayer, property location and parcel ID number.
 - b. Ask the taxpayer and witnesses to take the following oath: *Under the pains and penalties of perjury, do you solemnly swear that the evidence you give in the cause under consideration shall be the whole truth and nothing but the truth?*
 - c. Request Board members to disclose any conflict of interest and/or *ex parte* communication.
 - d. Ask the taxpayer if he has received a copy of the Board's rules of procedure and whether he has any questions about how the hearing will proceed.
 - e. Ask the taxpayer to identify the statutory abatement category that the abatement request is being made under. These categories are set out at 24 V.S.A. §§ 1535(a)(1)-(9).
 - f. Allow the taxpayer to present verbal and documentary evidence supporting the abatement request to the Board.
 - g. Invite questions from the Board.
 - h. Close the hearing and explain that the Board will enter deliberative session and will issue a written decision within 30 days.
- D. **Amendment.** These rules may be amended by two-thirds/majority vote of the Board of Abatement.

Adopted by the Town of Fayston Board of Abatement on 11/2, 2016.


Chair, Board of Abatement

Limits on the board of abatement's discretion. The board is never required to grant a particular abatement. However, the board may not grant abatement in all cases. It only has the power to grant abatement if it finds that the taxpayer falls within the statutory criteria of 24 V.S.A. §1535.

Section 1535 provides that the board may abate in whole or part taxes, interest, and collection fees accruing to the town in the following cases:

- (1) When a taxpayer has died and has left no money or assets;
- (2) When a taxpayer has moved out of the state (this is used most commonly to abate taxes owed on mobile homes that have been abandoned);
- (3) When a taxpayer is unable to pay their taxes, interest, and collection fees;
- (4) When there has been manifest error or a mistake of the listers;
- (5) When the real or personal property that is the subject of the tax has been lost or destroyed during the tax year;

(6) Failure to claim a veteran's exemption under section. 32 V.S.A. § 3802(11) in time, so long as they file before October 1st, and so long as the failure to file was due to the claimant's sickness or disability or other good cause as determined by the board of abatement; but that exemption amount shall be reduced by 20 percent of the total exemption for each month or portion of a month the claim is late filed;

(7) and (8) were repealed in 2005

(9) taxes upon a mobile home moved from the town during the tax year as a result of a change in use of the mobile home park land or parts thereof, or closure of the mobile home park in which the mobile home was sited, pursuant to 10 V.S.A. § 6237.

David Zaus

RR1 - Box 70
Warren VT 05674

917 602 7100

dzaus@zausdownes.com

to:

Town of Fayston
866 North Fayston Road
Fayston, VT 05660

17 March 2022

Enclosed please find a Xerox copy of the hand-written Change of Address note that I sent to you when I left NYC in July 2020 moving to VT. I just uncovered it. All admin correspondence equip was in transit at this point. I did not receive any correspondence from you re my tax situation until Nov of this past year. I do not feel I should be penalized for the situation w the tax. I paid as soon as I rec'd your bill.

I have since sold the property and am expecting to close on 6 April 2022. Please clear this expense prior to that time. Thank you for your understanding and cooperation.

Sincerely,


David Zaus

CC:

Sales Agent
Bill Elliot
Sugarbush Realty

Attorneys

Marcy Brigham
Peet Law Group
55 Patchen Road
South Burlington, VT 05403

COPY

PLEASE FORWARD MAIL TO VT ADDRESS
-THANK YOU!

TO: TOWN OF FAUSTON
366 N. FAUSTON ROAD
FAUSTON, VT 05660

ATTN: PROPERTY OF DAVID ZAKS

25 July 2020

RE: ZAKS PROPERTY'S - ADJACENT 2 LOTS
LOCKWOOD BROOK / GERMAN FLATS RD
5.3 ACRES
CHANGE OF ADDRESS

OLD: DAVID ZAKS
85 FRANKLIN ST
NY, NY 10013

NEW: DAVID ZAKS
RR 1 - MAILBOX 70
WARREN, VT 05674

I AM MOVING PERMANENTLY TO MY VT CONDO
AT #2 N. MAIN CONDAMINIUMS
- SEND ANY MAIL REFERENCE REGARDING PROPERTY

COPY

COPY

Town of Fayston

David Zaus
RR1 – Box 70
Warren, VT 05674

December 14, 2021

Dear Mr. Zaus,

We received your letter dated Dec 9, 2021 as well as your check for \$2624.00, which has been applied to your account. Thank you.

We have looked back in our files and have found that the only address change we received from you was written on April 12, 2019 to change your mailing address to the Franklin Street, New York, NY address (the address to which we sent the 2021 tax bill). We did not receive a returned tax bill in the summer from the post office. However, we did receive back the delinquent tax notice sent in Nov 2021 from the post office which indicated that your mail forwarding had expired and also gave us your Warren, VT address. We re-sent the delinquent tax bill to you immediately.

We have included the application and rules of procedure for the Board of Abatement if you wish to ask for the interest and penalties to be abated – it is not at my discretion alone to abate those fees. Please return the application to me should you choose to go before the Board of Abatement

We will also forward the copy of your wife's death certificate to the Lister's office to determine if language in the deed allows for her name to be removed from the tax bill.

Please don't hesitate to contact us with any questions.

Kind regards,

Patti Lewis

Patti Lewis

Town Clerk, Treasurer, Delinquent Tax Collector

COPY

TOWN OF FAYSTON
866 NO FAYSTON RD
NO FAYSTON, VT 05660

DELINQUENT TAX COLLECTORS NOTICE AS OF 03/02/2022

PARCEL NUMBER : 11-043-

ZAUS DAVID
ZAUS DONNA
85 FRANKLIN ST, SUITE 100
NEW YORK, NY 10013-3408

Year	Principal	Interest	Penalty	Other	Total Location
2021	242.97	9.71	19.44	0.00	272.12 0 GERMAN FLATS RD

TOTAL AMOUNT DUE 272.12

Remit Payment to :
DELINQUENT TAX COLLECTOR
TOWN OF FAYSTON
866 North Fayston Road, Fayston, Vermont 05660

Patti Lewis, DTC - faystontres@madriver.com/802-496-2454 x 1

Town of Fayston

David Zaus
RR1 – Box 70
Warren, VT 05674

December 14, 2021

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Please don't hesitate to contact us with any questions.

Kind regards,



Patti Lewis
Town Clerk, Treasurer, Delinquent Tax Collector

ZAUS

David Zaus
85 Franklin Street
New York, NY 10013

917 602 7100
dzaus@zausdownes.com

12 April 2019

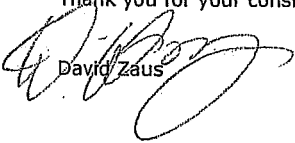
re: Land Tax 11 - 043 -

I have not received your invoice until now. You have been sending this bill to my late wife Donna Downes Zaus. She passed away on 13 April 2012.

Please correct your invoice to:
DAVID ZAUS
85 Franklin Street, Suite 100
NEW YORK, NY 10013 - 3408

I enclose 1/2 the principal due: \$1168.33. Please do not charge penalties or late fees. I will forward the balance soon as I can afford to. I am a US ARMY (Vietnam service) veteran, living on Social Security income only.

Thank you for your consideration.


David Zaus

COPY

TO LISTERS 4/22/19

DAVID ZAUS

RR1 - Box70
Warren VT 05674

917 602 7100

9 Dec 2021

to:
Town of Fayston
866 N. Fayston Road
N. Fayston, VT 05660

re: Parcels # 11-043.

1) Enclosed is a check for the tax principal - \$2624.

2) I have sent in a change of address and a Death Certificate (for my late wife Donna Downes) in the fall of 2020. However no one at the Fayston office has noted or acknowledged this. I never received timely billing for this property tax prior to 11/08/21. I do not feel I am responsible the interest and penalties that you have levied to me. I would have paid this as soon as I received the timely tax billing. (The envelope containing the TAX COLLECTORS NOTICE you forward to me was relabeled and dated 17 Nov. - **ORIGINALLY THIS WAS PROBABLY SENT TO A VACANT BUILDING AT 85 FRANKLIN ST. NYC.**

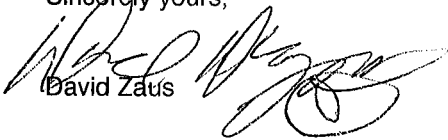
3) I enclose a copy Death Certificate, and an additional notice of the AddressChange Request. I also enclose the modified envelope that shows this item was resent - which explains why I never received the original tax billing statement in a timely manner. The post office in NYC does not readdress improperly sent mail on a consistent or timely manner. This late payment is not my error.

3) I have resided at in Warren VT since 25 July 2020.

Please ensure that I receive timely requests for tax billing in the future.

Sincerely yours,

David Zaus



Rec'd
12/13/2021

Town of Fayston
866 N. Fayston Road
Fayston, VT 05660
faystontc@madriver.com

Address Change Request

Name: DAVID ZAUB

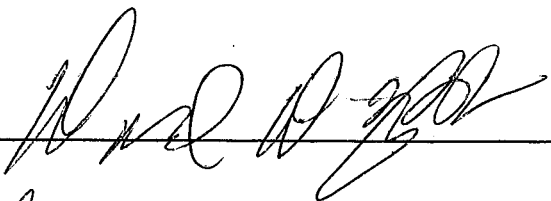
Property Location (911 address): 11-043

NEW Mailing address:

DAVID ZAUB - RR 1 - BOX 70, WARREN VT 05674

FORMER Mailing address:

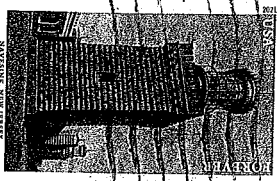
85 FRANKLIN ST. NEW YORK, NY 10013 (off 25 J 049 2009)

Signature: 

Date: 9 Dec '21

DAVID GARCIA
RRL-Box 70
WARREN VT 05674

3/28

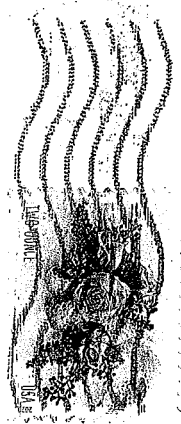


Town of Fayston
866 North Fayston Road
Fayston, VT 05660

POSTNET barcode

TOWN OF FAYSTON
866 N. Fayston Road
Fayston, VT 05660

BURLINGTON VT 05604
17 NOV 2001 PM 11



TAX BILL ENCLOSED

PE 1 BOX US-70
WARREN, VT
05674-9716

0567489716

POSTNET barcode

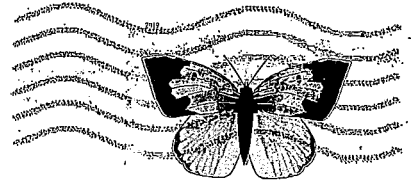
FAYSTON
Fayston Road
on, VT 05660

L ENCLOSED

recvd 11/16/21

BURLINGTON VT 054

09 NOV 2021 PM 1 T



USA
NON-MACHINEABLE SURCHARGE

ZAUS DAVID
ZAUS DONNA
85 FRANKLIN ST, SUITE 100
NEW YORK, NY 10013-3408

IA

015 NFB 1 72010011/09/21
FORWARD TIME EXP RTN TO SEND
ZAUS
RR 1 BOX 68-70
WARREN VT 05674-9716

RETURN TO SENDER

*remailed
11/17/2021
E Δ of address
request.*

COPY