

ADMINISTRATIVE APPEAL

Findings of Fact: The appellants are Michael and Tara Cicero, 7 South Street, York, Maine. The property in question is owned by Michael and Tara Cicero and is located at 1 Ripple Way, York, Maine. Map 90, Lot 75-A.

Copies of: application for Administrative Appeal dated September 13, 2017, Inspection Sign-Off and Occupancy Permit with the condition of a TCO dated August 15, 2017, Shoreland/Building/Use Permit Authorization to Proceed dated October 27, 2016, Shoreland/Building/Use Permit application dated October 11, 2016, proposed building elevation sketch plan dated October 20, 2016, main construction overlay for Cicero home, construction contract with Fortin Construction dated June 10, 2016, letter from George Bouchles to Jake Atherton dated August 3, 2017, subsurface wastewater disposal system application dated August 2, 2017, DHHS approval of subsurface wastewater disposal system dated August 5, 2017, Certificate of Compliance with Subdivision and Shoreland Zoning Requirements dated October 22, 2016, plumbing application approved May 10, 2017, Town of York Impact fee Program calculation dated October 27, 2016, construction safety check sketch dated July 22, 2016, copy of Tax Map 90 Lot 75-A, warranty deed from Arthur Vogel and Katherine Vogel to Michael R. Cicero and Tara Cicero dated August 28, 2015, blog re: Weyerhaeuser defective joists lawsuit, copy of class action suit v. Weyerhaeuser, copy of M.R.S. Title 17 Chapter 91 Subchapter 4 §2851 Dangerous Buildings, are all made part of the record.

The appellants request an Administrative Appeal in regards to a decision by the Town of York Code Enforcement Office in regards to a Temporary Occupancy Permit. The appeal was timely filed since the Temporary Certificate of Occupancy was issued on August 15, 2017 and the appeal was filed on September 13. The Board has jurisdiction based on Paragraph 7 of the building code dealing with occupancy permits. Mr. Cicero has standing as the owner of the property.

The relevant sections of the Ordinance are Paragraph 7 of the Building Code and M.R.S. Title 17 Chapter 91 Subchapter 4 §2851 Dangerous Buildings.

The appeal was heard on October 11, 2017. A video recording of the meeting was made as part of the official record.

Relevant facts are: 1) The appellants are the owners of 1 Ripple Way, York, Maine, where they are having a single family dwelling constructed by Fortin Construction. 2) The builder has installed floor joists manufactured by Weyerhaeuser. 3) The joists were treated with formaldehyde and have been recalled due to off-gassing of toxic fumes. 4) The Code Office conducted an inspection of the subject property. 5) The Inspection Sign-Off and an Occupancy Permit with the condition of a TCO allow the owners to move items in, but habitation is not



permitted. 6) Air quality test results for the building are pending. 7) A final Certificate of Occupancy which would allow the residents to move in has not been issued by the Code Office. 8) The CEO has agreed to include the air quality test results as a requirement for issuing a Certificate of Occupancy for habitation.

Motion: Motion by Ms. Garon, seconded by Mr. Swant, that the Administrative Appeal of Michael and Tara Cicero be denied in that the CEO did not err in issuing the TCO on August 15, 2017 regarding 1 Ripple Way, Map 90 Lot 75-A. The TCO is for personal property only and not for habitation.

Vote: Passed 5-0. (Ms. Garon, Mr. Carr, Mr. Mottola, Mr. Lascelles and Mr. Swant FOR)

Opposed: None

Judgment on Findings of Fact: Approved: 4-0-1

Approved: October 25, 2017 (**In favor:** Ms. Garon, Mr. Motolla, Mr. Swant. Mr. Carr; **Opposed:** None; **Abstained:** Mr. Lascelles)

