

ADMINISTRATIVE APPEAL

Findings of Fact:

The appellant is Kim M. Brenner, 22 Gates Road, Shrewsbury, Massachusetts 01545. The property in question is located at 63 Maine Street, York Beach ME identified as Map 20 Lot 64.

Copies of: application for Administrative Appeal, NOV dtd 8/21/18, warranty deed from Evan A. Walker to Kim M. Brenner, photos of subject property, letter from Kim Brenner dtd 8/30//18, receipt for pumping dtd 8/27/18, e-mail from Amber Harrison to Don Neumann, stop work notice dtd 9/10/18, excerpt from M.R.S.A. Title 38 Chapter 11 §1160 Connection of Private Sewers, excerpt from M.R.S.A. Title 30-A Chapter 161 §3428 Malfunctioning Domestic Waste Water Disposal Units; Abatement of Nuisance are all made part of the record.

The appellant requests an Administrative Appeal in regards to a Notice of Violation from the Town of York Code Enforcement Office concerning a malfunctioning septic system. The appeal was timely filed on August 30, 2018. The appellant has standing as the owner of the property. There were no conflicts of interest on the Board. The Board has jurisdiction to hear this appeal.

The relevant sections of the ordinance are State of Maine Statute Title 38 Chapter 11 §1160, Title 30-A Chapter 161 §3428, Town of York Supplemental Plumbing Ordinance and Non-Stormwater Discharge Ordinance.

The appeal was heard on September 12, 2018. Videotapes of the meeting are available in the Town Clerk's office for review.

Relevant facts are: 1) The public sewer was installed on this street in 2016. The septic system was working well at that time and the appellant said she didn't have the funds for a connection. 2) On August 14, 2018 the Assistant CEO was performing water quality testing at the culvert on subject property and noticed discharge entering the ditch. 3) Water samples were tested and found to have a high count of human bacteria, indicating a failing septic system. 4) An Order of Corrective Action was issued on 8/21/18 giving 10 days to correct the

malfunction. The requirement to pump the tank regularly was included in the letter because of the threat to public health. 5) The appellant has met with an excavator and plumber. The excavator said he can get the work done within 2 weeks, weather permitting. 6) The Public Utilities Commission allows the Code Office to work with the Water District to have the water shut off if there is a threat to public health and safety. It is a violation to stay in a dwelling unit with no potable water. 7) The Water Department was contacted and the water was shut off on September 10. 8) The tank was pumped on August 29 and the house was occupied over Labor Day weekend. One more pumping will be adequate. 9) The appellant will provide the Town with the pumping records and will keep the Code Office informed of the work in progress. 10) The appellant is allowed to work in the house and clean the basement for the contractor, but not "stay there."

MOTION: Motion by Ms. Garon, seconded by Mr. Kraus, to deny the Administrative Appeal of Kim Brenner regarding 63 Main Street, York Beach ME, Map 20 Lot 64, in that the CEO did not err in her determination that a failed septic within 200 ft. of the public sewer required connection within the 10 day time frame as required by State statute. That being said, Ms. Brenner has begun to remedy the situation. It is required that by Friday, September 14, Ms. Brenner will provide evidence of one more pumping of the septic and will provide the CEO with the contract from the contractor of her choosing to begin the required connection as soon as possible. By providing that documentation by close of business Friday, Ms. Brenner will demonstrate that she is moving forward and no fines will be levied.

VOTE: Passed 5-0 (in favor Mr. Lascelles, Mr. Swant, Mr. Carr, Ms. Garon and Mr. Kraus) Opposed: None

Judgment on Findings of Fact: September 26, 2018

Approved: 4-0-1 (In Favor: Swant, Garon, Kraus & Lascelles Opposed: NONE
Abstained: Carr)



L. Lascelles
9/27/2018