

ADMINISTRATIVE APPEAL

The Appellant is Spiro, Ernest & Eleni Paras, 2292 Post Road, Wells, ME 04090. The property is located at 16 Railroad Ave, York Beach, ME 03910, in the YBVC District and is identified as Tax Map 27, Lot 10, and contains 13,000 sq. ft..

Copies of the Board of Appeals Application and continuation, dated October 11, 2016; Warranty Deed; Evidence of Standing; Authorization of Personal Representative; CEO Notice of Violation & Order for Corrective Action, dated September 12, 2016; Ltr from Spiro Paras to State Fire Marshall, dated October 3, 2016; Kitchen equipment specifications; Ltr. from Fred Emanuel to Mr. & Mrs. Ernest Paras and structural project description, dtd Feb 17, 2012; Ltr. Michael P. Boyd, Esq. to Mary Costigan Esq (Town Counsel of York) dtd Nov 2, 2015; Ltr. To Whom it May Concern from Spiro Paras, undtd; Ltr from Spiro Paras to Luke Vigue dtd Feb 27, 2015; Ltr Spiro Paras, undtd.;Ltr. Charles & Catherine Libby to Spiro Paras, dtd Sep 21, 2016; Statement Spiro Paras; Seacoast Online article, undtd; Ltr. Luke Vigue Asst CEO to Spiro Paras, dtd Mar 4, 2015; 3 individual Building Permit Applications dated 2/27/15, are all made part of the record.

The Appellant is requesting an Administrative Appeal from the Town of York Code Enforcement Notice of Violation & Order for Corrective Action
The decision being appealed is from the Town of York Code Enforcement Notice of Violation & Order for Corrective Action dated and signed September 12, 2016.

The relevant sections are:

- 1.) The Town of York Supplemental Building Ordinance
- 2.) The International Building Code 2009 ("IBC 2009) §105.1
- 3.) Maine Uniform Building & Energy Code ("MUBEC").
- 4.) 2009 Uniform Plumbing Code §103.1.1; §103.1.2
- 5.) NFPA 101 Life Safety Code 2009 & 2006 Ed §4.6.10.1, §10.1.1, §7.1.1
- 6.) 32 M.R.S. §1102-B.1
- 7.) 32 M.R.S. §1201
- 8.) Ordinance §19.2 & 19.3

Application for appeal was filed on October 11, 2016 and was therefore timely. Appeal was continued (at the Appellant's request) from December 28, 2016, and further continued until January 25, 2017. The matter was heard on January 25, 2017 with the Appellant in absentia, having been first given formal notice of the hearing by registered, certified mail 10 days in advance of the hearing date.

Relevant facts are: 1.) Appellant is appealing a Notice of Violation & Order for Corrective Action issued by the CEO on Sept 12, 2016. 2.) The Appellant has been involved in prolonged dispute with the CEO and Town of York over unpermitted modifications to the subject property known as Paras Pizza and as to non-conformances to various building and safety codes on the subject property. 3.) This matter was the subject of an Appeal by the Appellant that was denied by the BOA on April 22, 2015. 4.) On October 14, 2015 the CEO, Police Department, Fire Department Sewer and Water

District and Department of Public Works inspected the subject property and found numerous violations. 5.) The Appellant submitted 3 building permits requests on Nov 5, 2015. 6.) The CEO required the Appellant obtain a State Fire Marshall Approved Plan prior to granting the permits. 7.) On September 12, 2016, the CEO had not received a Plan approved by the State Fire Marshall, nor had the deficiencies been corrected. 8.) The CEO thereupon issued the Notice of Violation & Order for Corrective Action being appealed. 8.) §19.2 states it shall be the duty of the CEO to enforce the provisions of the ordinance. 9.) §19.3 states: Upon finding a violation the CEO shall speak with or notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structure, and abatement of nuisance conditions. A summary of each warning and a copy of such written notice shall be maintained as a permanent record. 10.) Nine violations were listed in the Notice of Violation and a schedule for correction was provided, as of this date none have been corrected. 11.) For a mixed use building such as Paras Pizza, the State Fire Marshall's Office has to issue a permit before the Code Office can issue one. 12.) The CEO in issuing the Notice of Violation & Order for Corrective Action on Sept 12, 2016 acted within the scope of her authority in Administration of the Ordinance and did not err.

MOTION Ms. Garon, **SECOND** by Mr. Moulton, that the Administrative Appeal by Spiro, Ernest and Eleni Paras, in regards to a notice of violation by the Town of York Code Enforcement Office regarding property at 16 Railroad Avenue, York Beach, Map 27, Lot 10, be denied in that the CEO did not err in her Notice of Violation requirements.

VOTE: 4-0-1 Motion Passed. (In Favor: Briton Garon, Michael Swant, Robert Lascelles, Leon Moulton; **Opposed:** None; **Abstained:** John Kraus)

A video recording of the hearing was taken and is to be made part of the official record.

Judgment on Findings of Fact:

Approved: 2/8/2017 by the vote of 3-1-0

Vote:

(In Favor: Mr. Swant, Mr. Kraus & Mr. Lascelles; **Opposed:** Mr. Moulton; **Abstained:** Ms. Garon)

