

ADMINISTRATIVE APPEAL

Findings of Fact:

The appellants are Michael and Denise McNeice, 43 Union Street, Watertown MA 02471. The property in question is located on 114 Cycad Avenue, York ME, Map 25, Lot 16-K. It is in the Res 5 Zone and is owned by Peter and Donna Stephens of 18 Millstone Road, Windham, NH 03087.

Copies of Application for Administrative Appeal dated November 25, 2016, Letter from Abutters of 114 Cycad Avenue to the Board of Appeals dated December 20, 2016, Plan of Land Exchange dated 10/27/99, Letter from Marc Jacobs to Tobin Farwell dated August 10, 2016, Photos of 114 Cycad Avenue, GIS map of 114 Cycad Avenue, Site Plan dated 11/10/99, Surface Profile of 114 Cycad Avenue, Wetland Limits flagged by Joseph Noel in 1999, Town of York Zoning Ordinance Article Eleven, Email from William Ross to Mike McNeice dated December 16, 2016, Town of York Building Permit #2016-0782, Town of York Building Permit Application, Foundation Grading Plan C-1, Drainage Plan C-2, Impervious Plan C-3, Wetland Impact Plan C-4, proposed floor plans, proposed elevations, Warranty Deed from Wayne Trafton and Beverly Young to Peter and Donna Stephens dated August 11, 2015, Deed from Richard E. Young to Richard E. Young dated October 25, 1988, Deed from Patricia Scatchard to Michael and Denise McNeice dated December 28, 1982, Report from West Environmental to Michael McNeice dated January 23, 2017 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. The building permit application in question, #2016-0782 was approved on November 25, 2016, the appeal was timely filed on December 20, 2016. The appellants have standing as abutters to the property.

The relevant sections of the Zoning Ordinance are §5.3.1.1, §11.3, §11.3.6, §18.8.2.1

The appeal was heard on January 25, 2017. A video recording of the meeting was made as part of the official record.

Relevant facts are : 1) The Code Enforcement Office issued a building permit for a single family dwelling with attached carport and 1465 sf of fill onsite. 2) There was an extensive wetland system in the Nubble area prior to the original Trafton Hill development. 3) The wetlands on the subject property were delineated by wetland specialist Joseph Noel in 1999. 4) The wetlands on the subject property are naturally occurring and do not fall into a category that may be filled

according to §11.3.6, Other Uses. 5) The Code Office erred in determining that the wetland area is man made and therefore the permit is invalid.

MOTION by Mr. Swant, seconded by Ms. Garon, to grant the Administrative Appeal in the matter of Michael and Denise McNeice in regard to property located on 114 Cycad Avenue, in that the Code Office erred in determining that the wetland area is man made and therefore the permit is invalid and needs to be revoked based upon the requirement of not filling the wetlands.

VOTE: PASSED 4-1

In Favor: Ms. Garon, Mr. Swant, Mr. Lascelles and Mr. Kraus

Opposed: Mr. Moulton

Judgment on Findings of Fact: 2/8/2017

Approved: Vote 4-0-1

(In Favor: Mr. Kraus, Mr. Moulton, Mr. Swant, & Mr. Lascelles; Opposed NONE; Abstaining: Ms Garon)

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