

ADMINISTRATIVE APPEAL

Findings of Fact:

The appellant is Geli Walley, 229 Route One, York ME 03909. The property in question is located at 229 Route One, York ME, identified as Map 67, Lot 3.

Copies of application for administrative appeal, Notice of Violation & Order for Corrective Action dated March 10, 2017, letter from Geli Walley to York Board of Appeals dated April 10, 2017, quitclaim deed from Robert Kendall and Lily Kendall to David Walley and Geli Walley, Google Earth photo of subject property, Town of York tax map showing subject property, email correspondence between Mr. Walley, Reenie Johnson and Robert Lascelles regarding a request for a continuance, email & letter correspondence between Leah Rachin and Amber Harrison, CEO April 2017, 9 pages, 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 for failure to install a new septic system. There were no conflicts of interest on the Board. The appeal was timely filed on April 10, 2017. The appellant has standing as the owner of the property.

The relevant sections of the Zoning Ordinance are Article 2, §8.3.13, §18.8.2.1, and §19.1 – §19.5. Maine State 22 MRSA 42 and Subsurface Disposal Rules 10-144 CMR 241 also apply.

The appeal was heard on April 26, 2017. A video recording of the meeting was made as part of the official record.

Relevant facts are: 1) Ms. Walley and her late husband purchased the property in 1997. 2) On July 21, 2015, the Department of Marine Resources notified the Town of York Code Enforcement Office of a possible malfunctioning overboard discharge at the subject property. 3) The Maine DEP advised CEO Amber Harrison that there is no licensed Overboard Discharge at the subject property. 4) A Notice of Violation & Order for Corrective Action was issued by the CEO on August 12, 2015. 5) A replacement system was designed by Joseph Noel dated September 12, 2015. It has not been installed and will expire September 12, 2017. 6) A second Notice of Violation & Order for Corrective Action was issued on March 10, 2017. 7) Clam flats in the vicinity have been closed for 2 years due to elevated fecal coliform counts. 8) The discharge of untreated waste into the York River by the Appellant without a permit, is illegal under Maine Law and in violation of the ordinance. 9) The CEO was obligated to enforce the ordinance.

MOTION: Motion by Mr. Swant, seconded by Mr. Carr, to deny the Administrative Appeal in the matter of Geli Walley in that the CEO did not err in her determination.

VOTE: Passed 5-0 (Mr. Swant, Mr. Mottola, Mr. Carr. Mr. Lascelles and Mr. Moulton FOR).

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Opposed: None

Judgment on Findings of Fact: June 28, 2017

Approved: 4-0-1

In Favor: (Mr. Swant, Mr. Mottola, Mr. Lascelles, Mr. Moulton; **Opposed:** None; **Abstained due to absence:** Mr. Carr)

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