

STATE OF VERMONT

SUPERIOR COURT
Vermont Unit

ENVIRONMENTAL DIVISION
Docket No. 97-7-14 Vtec

Tilton Variance Application

JUDGMENT ORDER

This matter concerns property and structures on Maidstone Lake Road in the Town of Maidstone, Vermont (the Property) and the application by Larry and Deborah Tilton (the Tiltions) for a variance to allow construction of a roof over an existing porch located partially within the required 25-foot setback from Maidstone Lake. The Tiltions timely appealed the Town of Maidstone Zoning Board of Adjustment's (ZBA) decision dated June 5, 2014 denying their application. The Tiltions subsequently moved for summary judgment in their favor on all seven Questions filed in the Statement of Questions.

In a Decision on Motion issued June 24, 2015, the Court concluded that Question 3, 5, 6, and 7 raise issues outside this Court's jurisdiction. For this reason, Questions 3, 5, 6, and 7 were dismissed. Also in the June 24, 2015 Decision, the Court provided notice of our intent to grant summary judgment as to Question 1, 2, and 4 in favor of the Town of Maidstone pursuant to V.R.C.P. 56(f)(1). The Court reasoned that a variance is not necessary to enable the reasonable use of the property; that the hardship has been created by the Tiltions; that further expansion of a nonconforming structure within the setback alters the essential character of the neighborhood by increasing the degree of noncompliance with the Bylaws; and that the Tiltions could achieve their development goals without violating the setback.

Neither the Tiltions nor the Town of Maidstone responded to this intended action within the 15 days the Court provided for the parties to do so. For reasons stated in greater detail in the June 24, 2015 Decision, the Court therefore concludes that the Tiltions are not entitled to a variance under 24 V.S.A. § 4469(a) as a matter of law, and summary judgment is **GRANTED** in favor of the Town of Maidstone. Questions 1, 2, and 4 are therefore resolved against the

Tiltons, and the Tilton's application for a variance is **DENIED**. This resolves the matter now before the Court.

Electronically signed on July 17, 2015 at 01:47 PM pursuant to V.R.E.F. 7(d).

A handwritten signature in black ink that reads "Tom Walsh". The signature is stylized with a large, looping "T" and a cursive "Walsh".

Thomas G. Walsh, Judge
Superior Court, Environmental Division