

*Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2001-506

AUGUST TERM, 2002

	}	APPEALED FROM:
	}	
	}	In re Appeal of Thomas J. Morse
	}	
In re Appeal of Thomas J. Morse	}	DOCKET NO. 174-8-00 Vtec
	}	
	}	Trial Judge: Merideth Wright
	}	
	}	

In the above-entitled cause, the Clerk will enter:

Appellant Thomas J. Morse, appearing in this Court pro se, appeals the Environmental Court's decision upholding a notice of a zoning violation issued by the Town of Brighton Zoning Administrator for operating a lodging establishment in the Town's Special Industrial Zone without a conditional use permit. We affirm.

Appellant purchased the property at issue, known as the "Grand View," in February 1996. It was formerly owned by the Northeast Vermont Fish and Game Club, who used the property for club meetings and events, dances, banquets, bingo, overnight stays for club members, and other similar uses. On September 30, 1996, new zoning regulations for the Town of Brighton came into effect. Under those regulations, the Grand View was located in the Special Industrial Zone. Commercial uses, including hotel and motels, and dormitories, are conditional uses in the Special Industrial Zone under the regulations and require a permit. The record is not clear about what uses were permitted prior to September 1996 in the zone in which Grand View is located, however.

The zoning administrator for the Town of Brighton investigated an alleged zoning violation at the Grand View in February 2000. Sometime thereafter, the zoning administrator issued appellant a notice of violation for operating Grand View as a lodging establishment in the Special Industrial Zone. Appellant appealed the notice to the Town of Brighton Zoning Board of Adjustment, which upheld the notice of violation. Appellant then sought relief in the Environmental Court.

After taking evidence and considering the parties' arguments, the Environmental Court also upheld the notice of violation. In its decision, the court found that, even if appellant had used Grand View as a lodging establishment as of September 30, 1996, the evidence showed that he did not use the property in that manner for twelve months subsequent to that date. As a result, the Town of Brighton's zoning regulations prevented him from reestablishing such use without a permit. The court emphasized that appellant could continue to use Grand View for lodging if he applied for, and was granted, a conditional use permit from the zoning board of adjustment. An appeal to this Court followed.

Appellant first complains that a change in zoning regulations without a change in use of property cannot turn a lawful use of his property into a nonconforming use. Appellant's argument has no merit. A "nonconforming use" is defined by statute as "use of land or a structure which does not comply with all zoning regulations where such use conformed to all applicable laws, ordinances and regulations prior to the enactment of such regulations." 24 V.S.A. 4408(a)(1). That is exactly what happened in this case, assuming, as the Environmental Court did, that lodging in the area in which Grand

View is located was a lawful use prior to September 30, 1996. Assuming appellant or his predecessors in title used Grand View prior to September 30, 1996 as a lodging establishment, that use became nonconforming with the effective date of the new regulations.

Under those new regulations, however, a property owner could continue the nonconforming use indefinitely, absent an exception under the regulations. Brighton, Vt., Zoning By-Law 502 (Sept. 30, 1996). One exception provides that if the owner discontinues the nonconforming use for a period of twelve months, the owner may not thereafter reestablish that use. Id. 502.3. The Environmental Court found that appellant did not use Grand View for commercial lodging between September 30, 1996 and October 1, 1997. Therefore any lodging use of Grand View after October 1, 1997 was impermissible under the regulations without a conditional use permit. Appellant contends that the court's finding was error because one of his witnesses who stayed at Grand View in March 1996 testified that he had stayed there "later," in "another season" and had paid appellant for his stay. Whether that witness was credible, and what weight the court should have given his testimony are questions committed to the Environmental Court's discretion, not ours. See Kasnowski v. Dep't of Employ. Sec., 137 Vt. 380, 381 (1979). The court was free to disregard the witness's testimony, which given the lack of specificity in his testimony as to the date of the his alleged "later" stay would be reasonable. We find no error. <sup>(1)</sup>

Affirmed.

BY THE COURT:

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Jeffrey L. Amestoy, Chief Justice

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James L. Morse, Associate Justice

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Marilyn S. Skoglund, Associate Justice

1. Appellant's pro se brief consists primarily of confusing assertions and recitations of the evidence without argument or citations to relevant legal authority. To the extent appellant raises other arguments on appeal, his brief is so inadequate that we cannot discern them and therefore do not address them. See Johnson v. Johnson, 158 Vt. 160, 164 n.1 (1992) (Supreme Court will not consider arguments not adequately briefed).