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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-110

JULY TERM, 2003

In re John Racine and Tanya Sousa	}	APPEALED FROM:
	}	Environmental Court
	}	DOCKET NO. 168-8-02 Vtec
	}	Trial Judge: Merideth Wright

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

Appellants John Racine and Tanya Sousa appeal from the environmental court= s summary judgment dismissal of their appeal in this zoning dispute. They argue that the court erred in determining that their property did not fall within ' 309 of the Town of Barton zoning bylaws, which applies to A corner lots,@ and therefore, that their garage violated town setback regulations. We affirm.

While this appeal was pending, appellee moved to strike exhibits A, B, and C attached to appellant= s printed case because they were not a part of the record below. We grant appellee= s motion to strike these documents. See Hoover v. Hoover, 171 Vt. 256, 258 (2000) (appellate review confined to record and evidence adduced at trial).

The following facts are undisputed. Appellants own a three-acre parcel of land on Berard Lane in the Town of Barton, Vermont. Appellant Sousa acquired the property in 1992, at which time there was an existing house with a garage attached on the southern side of the house. The boundary of the lot with relation to Berard Lane follows an approximately ninety-eight degree curve along the centerline of Berard Lane, forming the property= s southern and western boundary. In 1996, appellants removed the existing garage, and later relocated the driveway to the area where the old garage once stood.

In November 2001, without having first obtained a zoning permit, appellants began constructing a new detached garage/workshop on the east side of their house. The property is zoned as low density, which means that the front yard, defined as the shortest distance between the centerline of a highway right-of-way or road and the nearest point on a regulated structure, must be set back seventy-five feet. The southern side of appellants= garage is 25.2 feet from the centerline of Berard Lane. The western side of the garage, facing the house, is approximately eighty-five feet from the centerline of Berard Lane.

In April 2002, the town zoning administrator investigated appellants= property, and observed that the southern end of the garage appeared to encroach fifty feet into the seventy-five foot front-yard setback requirement. In response to this notice, appellants applied for a permit and setback variance for their garage, which the zoning board denied. Appellants did not appeal this denial. In May 2002, the zoning administrator issued a notice of violation for the construction of the garage. Appellants appealed this notice of violation, and requested that their initial permit application be reopened. Appellants maintained that the notice of violation should be overturned, and the original permit granted, because their lot should be considered a A corner lot@ under ' 309 of the zoning bylaws.[1] The zoning board denied the appeal on reconsideration after concluding that appellants= lot was not a A corner lot@ for purposes of ' 309. Appellants appealed

this decision to the environmental court, which granted summary judgment for the Town. The environmental court found that, for purposes of ' 309, A corner lot@ meant the intersection of two street property lines. Because such an intersection did not occur on appellants= property, ' 309 did not apply to them, and their garage consequently violated the setback requirements. This appeal followed.

On appeal, appellants challenge the environmental court= s interpretation of ' 309. They first argue that their property has two A front yards@ within the meaning of ' 309 because their lot has two yards adjoining a street. Thus, they maintain the court did not need to define A corner lot@ to conclude that ' 309 applies to their property. Second, they argue that the court interpreted the term A corner lot@ erroneously.

Zoning ordinances are interpreted according to the general rules of statutory construction. In re Casella Waste Mgmt., 2003 VT 49, & 6; In re Weeks, 167 Vt. 551, 554 (1998). Thus, we look first look to the plain meaning of the ordinance. In re Casella Waste Mgmt., 2003 VT at & 6. If the plain meaning of the ordinance is clear, we need go no further. Id. When interpreting zoning ordinances, we must read the relevant sections in context, and the entire scheme in pari materia. Blundon v. Town of Stamford, 154 Vt. 227, 229 (1990). We review the environmental court= s construction of a zoning ordinance to determine whether its interpretation is clearly erroneous, arbitrary, or capricious. In re Casella Waste Mgmt., 2003 VT at & 6.

The environmental court= s interpretation of ' 309 is not clearly erroneous, nor is it arbitrary and capricious. Section 309 expressly applies only to A yards on corner lots.@ We therefore reject appellants= first argument that, because they allegedly have two yards adjoining a street, the environmental court did not need to interpret the term Acorner lot. @The term Acorner lot@ is not defined by the town zoning bylaws, and thus the plain meaning of the bylaw is unclear. Applying principles of statutory construction, the environmental court looked to other provisions within the bylaws for guidance. The environmental court found that ' 313 of the bylaws described a A corner lot@ to include an area A formed by the intersection of two street property lines.@[2] The court found this definition consistent with the common use of the term A corner lot@ in zoning regulations throughout the United States. The court explained that, reading ' ' 309 and 313 together, the term corner lot in ' 309 must require the intersection of two street property lines. Therefore, because appellants= lot was not a corner lot under this definition, the court found that their garage violated the front yard setback of seventy-five feet, and it upheld the notice of violation. We find no error in the court= s interpretation of ' 309. See Blundon, 154 Vt. at 229; In re Casella Waste Mgmt., 2003 VT at & 6. We therefore agree with the environmental court that, because appellants= lot is not a A corner lot,@ their garage violates the front yard setback requirement.

Affirmed.

BY THE COURT:

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Jeffrey L. Amestoy, Chief Justice

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Marilyn S. Skoglund, Associate Justice

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Frederic W. Allen, Chief Justice (Ret.)

Specially Assigned

Footnotes

1. Section 309, entitled "Yards on Corner Lots," provides that "Any yard adjoining a street shall be considered a front yard for the purposes of this bylaw. Only one front yard is required to comply with the minimum depth requirement, however all other front yards shall either equal the minimum or be at least twenty-five feet in depth, whichever is less."

2. Section 313, entitled "Obstruction of Vision," provides: "On a corner lot regardless of the district, within the triangular area formed by the intersection of two street property lines and a third lie joining them at points 25 feet away from their intersection, there shall be no continuous obstruction of vision between the height of three feet and ten feet above the average grade of each street."