

STATE OF MAINE  
CUMBERLAND, ss

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. AP-18-053

ELVIN COPP, et al.,

Petitioners

v.

ORDER

WILLIAM LONGLEY, et al.,

Respondents

REC'D CUMB CLERKS O  
APR 5 '19 PM 2:49

Before the court are petitioners' motion for trial of facts and motion to strike or dismiss respondent Town of Cumberland's counterclaim. For the following reasons, the motions are denied.

#### Trial of Facts

Petitioners' motion for trial of facts does not comply with Rule 80B(d) and (e). M.R. Civ. P. 80B(d)-(e). In addition, petitioners do not explain why evidence they now seek to add could not have been made part of the record below. See Baker's Table, Inc. v. City of Portland, 2000 ME 7, ¶ 9, 743 A.2d 237; New England Whitewater Ctr., Inc. v. Dep't of Inland Fisheries & Wildlife, 550 A.2d 56, 60 (Me. 1988). Petitioners allege bias by the Code Enforcement Officer and Town Manager. The court may only review the decision made by Town of Cumberland Board of Adjustment and Appeals. See Bryant v. Town of Wiscasset, 2017 ME 234, ¶ 11, 176 A.3d 176. Petitioners' motion for trial of facts is denied.

#### Counterclaim

Petitioners object to respondents' counterclaim because no answer was filed. M.R. Civ. P. 7(a). No answer is required in a Rule 80B action. M.R. Civ. P. 80B(a). Respondents filed their

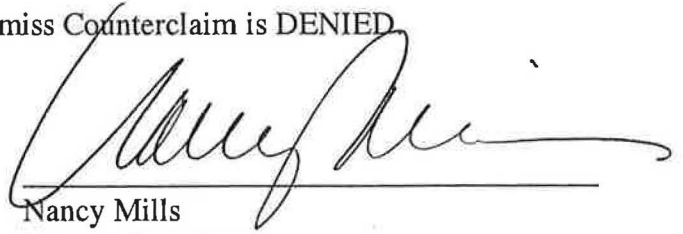
entry of appearance as required in a Rule 80B action. Id. A land use enforcement counterclaim such as respondents' counterclaim is permitted in a Rule 80B action. See Baker v. Town of Woolwich 517 A.2d 64, 66 (Me. 1987).

The entry is

Petitioners' Motion for Trial of Facts is DENIED.

Petitioners' Motion to Strike or Dismiss Counterclaim is DENIED.

Date: April 5, 2019



Nancy Mills  
Justice, Superior Court