

STATE OF MICHIGAN
COURT OF APPEALS

CHRISTOPHER MEANY and DONNA
MORGAN,

UNPUBLISHED
February 17, 2004

Plaintiffs-Appellants,

v

CITY OF SAUGATUCK and SAUGATUCK
ZONING ADMINISTRATOR,

No. 243694
Allegan Circuit Court
LC No. 02-030796-AW

Defendants-Appellees.

Before: Schuette, P.J., and Meter and Owens, JJ.

MEMORANDUM.

Plaintiffs appeal as of right the circuit court order denying their motion for summary disposition and granting defendants' motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiffs brought this action for mandamus and declaratory judgment, requesting the court to order defendants to issue a building permit for construction on their property. Mandamus is an extraordinary remedy that may lie to compel the exercise of some measure of discretion, but not to compel its exercise in a particular manner. *Teasel v Dept of Mental Health*, 419 Mich 390, 410; 355 NW2d 75 (1984). In general, "[i]ssuance of a writ of mandamus is proper where (1) the plaintiff has a clear legal right to performance of the specific duty sought to be compelled, (2) the defendant has the clear legal duty to perform such act and (3) the act is ministerial, involving no exercise of discretion or judgment." *Vorva v Plymouth-Canton Community School Dist*, 230 Mich App 651, 655; 584 NW2d 743 (1998). The plaintiff must be without other adequate legal or equitable remedy. *Tuscola Co Abstract Co v Tuscola Co Register of Deeds*, 206 Mich App 508, 510; 522 NW2d 686 (1994).

Plaintiffs had an adequate legal remedy through an appeal of the decision of the zoning board of appeals. MCL 125.585(11). Plaintiffs have waived their challenge to a neighbor's standing to appeal to the ZBA. At any rate, where it was alleged that plaintiffs' construction would block the neighbor's lake view and reduce his property's value, we conclude that the neighbor was an aggrieved party who had standing to appeal to the ZBA. See MCL 125.585(5), *Brown v East Lansing Zoning Bd of Appeals*, 109 Mich App 668, 701; 311 NW2d 828 (1981), and *Joseph v Grand Blanc Twp*, 5 Mich App 566, 571; 147 NW2d 458 (1967).

Affirmed.

/s/ Bill Schuette
/s/ Patrick M. Meter
/s/ Donald S. Owens