

FILED

Vermont Superior Court
Environmental Division

SEP 21 2010

VERMONT
SUPERIOR COURT
ENVIRONMENTAL DIVISION

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E N T R Y O R D E R
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Chiorgno Building Permit Application
Project: Chiorgno Permit Application
Applicant: Vincent Chiorgno

Docket No. 71-5-10 Vtec

Municipal DRB Other

REMAND ORDER

On May 5, 2010, Applicant Vincent Chiorgno appealed a decision of the DRB for the Town of Pownal overturning the Zoning Administrator's grant of a permit for him to build an addition on his existing camp, on the basis that it fails to meet the access requirements of § 3.3 of the Zoning Bylaws. Applicant represents himself in this appeal; he seeks remand to the DRB, claiming, among other things, that he had proved to the DRB that he has the required access and was not trespassing on his neighbor's property. That neighbor, Ms. Deborah Nicholas, has entered an appearance in this appeal, representing herself.

The Town of Pownal did not enter an appearance in the appeal; however, it had designated Mr. Nelson Brownell, who serves as the Zoning Administrator as well as the Chair of the Selectboard, to participate in pretrial telephone conferences in this matter. Mr. Brownell participated in the June 21, 2010 telephone conference, but was unavailable to participate in the telephone conference held on September 20, 2010.

As discussed in the telephone conferences on June 21, 2010 and September 20, 2010, the DRB decision that is the subject of the present appeal completely lacks the "statement of the factual bases on which the [DRB] has made its conclusions and a statement of the conclusions " required by 24 V.S.A. § 4464(b)(1) for all DRB decisions (not only those from towns that have adopted the more formal on-the-record proceedings). The Court's entry order issued on July 20, 2010, also outlined the issue and reminded the parties that the June 24, 2010 scheduling order, as extended by entry order on July 13, 2010, gave the parties until August 17, 2010, to file any pretrial motions. No motions or requests to remand were filed, other than as stated in Appellant's Statement of Questions.

Neither the DRB's written decision nor the minutes of its hearing in this matter have any factual findings or legal conclusions. Therefore, the DRB decision in this matter is hereby VACATED, as failing to comply with the minimum statutory standards of 24 V.S.A. § 4464(b)(1), and this matter is REMANDED to the DRB for it to take any appropriate further action, CONCLUDING THIS APPEAL. It will be up to the DRB whether it wishes to hold any additional hearings, or simply to deliberate and vote again, and to issue a new decision, with findings and conclusions, based on the evidence presented at its prior hearing.

In any event, any appeal of a future decision of the DRB will require a new timely notice of appeal, and will receive a new docket number. Any request for waiver of a filing fee should be accompanied by a copy of this order.

Meredith Wright
Judge

21 Sept 2010
Date

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Date copies sent to: 9/21/10
Copies sent to:

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Clerk's Initials aca

- Appellant Vincent Chiorgno
- Interested Person Deborah A. Nicholas
- For Informational Purposes Only Town of Pownal