

**STATE OF VERMONT  
ENVIRONMENTAL COURT**

**Appeal of Yates, et al.  
(Eastview PRD Amendment Application)**

}  
}  
}  
}

**Docket No. 158-9-04 Vtec**

**Judgment Order**

This matter came on for a merits hearing on Tuesday, August 28, 2007 at the Franklin County Superior Courthouse. The hearing was preceded by a site visit, which was attended by all parties,<sup>1</sup> their counsel<sup>2</sup> and Judge Durkin.

Appellant Milton Yates challenges the approval of Robert and Nancy Cioffi's amendment application to modify the previously approved planned residential development ("PRD") called "Eastview" in St. Albans. The pending amendment application is limited to the Cioffis' request to be allowed to construct a single family residence instead of the approved duplex on the westerly side of the entrance to the Eastview development.

Appellee-Applicants provided the Court with Exhibits A through J, inclusive, and the testimony from three witnesses, all in support of their amendment application. Appellant offered his own testimony, which was interspersed with legal arguments in opposition to the amendment application. No other exhibits or witnesses were offered by any party. The evidentiary portion of the hearing began at 9:00 AM and was completed at about 10:30 AM.

The Court thereafter took a recess to deliberate on the evidence and applicable law, then reconvened just before 11:00 AM to announce on the record its Findings and Conclusions. Based upon such Findings and Conclusions, the Court enters this Judgment Order.

Appellee-Applicants' application to amend the previously approved PRD, solely for the purposes of (1) replacing the previously approved duplex with a single family home on the westerly side of the entrance to the Eastview development and (2) modifying the fifty foot perimeter and forty foot front setbacks from Congress Street for the proposed single family home is hereby **APPROVED**, subject to the following conditions:

---

<sup>1</sup> Elizabeth A. Yates and Marsha Leete were originally Co-Appellants in this matter, but have since withdrawn from the appeal, leaving Milton Yates as the sole Appellant.

<sup>2</sup> Appellant is an attorney and represents himself; Appellee-Applicants Robert and Nancy Cioffi are represented by Joseph F. Cahill, Jr., Esq.; the Town of St. Albans ("Town") is represented by David A. Barra, Esq.

1. The proposed single family home shall be constructed and completed as shown on Applicants' revised site plan (Exhibit B), floor plan (Exhibit H) and architect's renderings of the appearance of its exterior (Exhibits I and J).
2. In connection with the PRD amendment, the Town Zoning Bylaws/Subdivision Regulations are modified to allow this single family home to be built thirty-four feet from the edge of Congress Street, which is also the southerly perimeter of the Eastview PRD. Such setback modification allows the proposed single family home to reduce the encroachment upon the view of the adjoining home, when compared to the previously approved duplex, and to align in a more aesthetically pleasing fashion with the single family home on the easterly side of the entrance to the Eastview development.
3. All terms and conditions of the original PRD approval and subsequent amendments, not otherwise amended by this Judgment Order, the Findings and Conclusions entered into the record of the August 28, 2007 merits hearing, and this Court's Decision of April 17, 2007, shall remain in full force and effect.

The Court specifically concludes that the PRD permit amendment enacted here constitutes a minor amendment to the previously approved PRD permit; that replacement of the previously approved duplex with the proposed single family residence benefits and enhances the Eastview PRD, and that such minor amendment complies with the terms and conditions of Bylaws §§ 303(A) and § 417, 24 V.S.A. §§ 4407(3)(2004)<sup>3</sup> and § 4417 (2004).

Done at Berlin, Vermont this 29<sup>th</sup> day of August, 2007.

---

Thomas S. Durkin, Environmental Judge

---

<sup>3</sup> Because the pending application was filed prior to the effective date of the Permit Reform Act of 2004 that generally amended Chapter 117 of Title 24, 24 V.S.A. § 4407(3) (2004) controls this proceeding.