

**State of Vermont
Superior Court – Environmental Division**

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ENTRY ORDER

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In re Fuller Bldg. Permit Appeal,

Docket No. 141-10-13 Vtec

(Elizabeth Armstrong appeal from Town of Addison ZA permit approval)

Title: Court's motion concerning timeliness of appeal

Filed: January 10, 2014

X Granted

Denied

Other

Bradbury and Ellen Fuller applied for a zoning permit for their planned replacement dwelling on their property at 3766 Lake Street in Addison, Vermont. The Fullers proposed that their new dwelling would have a 42' by 45' footprint, include two stories, and contain three bedrooms. The Fullers also requested a permit for a 10' by 20' detached utility shed. The Town of Addison Zoning Administrator ("ZA") issued the requested permit on August 9, 2013 and posted notice of the permit issuance on August 12, 2013.

No party filed an appeal of the Fullers' zoning permit with the Town of Addison Development Review Board ("DRB") within the required time period. In fact, as of this Court's initial conference, conducted on November 7, 2013, or even as of the date of this Order, no evidence has been submitted to the Court that an appeal has ever been filed with the DRB.

On October 28, 2013, Elizabeth Armstrong ("Appellant") filed an appeal of the ZA's permit with this Court, alleging improprieties with the manner in which the Fuller permit was issued, including insufficient notice to her, an abutting property owner. Appellant requests that this Court void the permit issued to the Fullers by the ZA. Both the ZA (Mr. Ed W. Hanson) and the Fullers dispute Appellant's allegations; they assert that the permit was issued properly, that the notice required by the Town of Addison Zoning Regulations was given, and that the Court should dismiss this appeal as having been improperly and untimely filed.

The Court concurs with the ZA and the Fullers. A party wishing to dispute a zoning permit issued by a zoning administrator must file a timely appeal with the appropriate municipal panel. 24 V.S.A. § 4465(a) (requiring that an appeal from "any decision or act taken by the administrative officer" must be filed with the appropriate municipal panel "within 15 days of the date of that decision or act"). In Addison, the appropriate municipal panel is the DRB. When a party fails to file a timely appeal with the appropriate municipal panel, that party is "bound by that decision or act of that officer . . . and shall not thereafter contest, either directly or indirectly, the decision or act . . ." 24 V.S.A. § 4472(d).

Appellant here was duty-bound to file a timely appeal with the DRB if she wished to contest the permit issued by the ZA to the Fullers. Her failure to do so foreclosed her right to challenge that permit, "either directly or indirectly." Id. The pending appeal must therefore be **DISMISSED**.

Thomas S. Durkin, Judge

January 10, 2014

Date

Date copies sent: _____

Clerk's Initials: _____

Copies sent to:

Appellant Elizabeth Armstrong
Applicants Bradbury and Ellen Fuller
Town of Addison Zoning Administrator Ed W. Hanson