

STATE OF VERMONT

SUPERIOR COURT
Environmental Division Unit

ENVIRONMENTAL DIVISION
Docket No. 120-8-14 Vtec

Arthaud CU

JUDGMENT ORDER

This is an appeal from a Town of Charlotte Zoning Board of Adjustment (ZBA) decision denying conditional use approval for the demolition and reconstruction of a structure. The matter is now before the Court on Applicant's withdrawal of the application and his motion for Dismissal with Prejudice. The Biebuycks are self-represented. Appellant Paul Arthaud is represented by Liam L. Murphy and Katelyn E. Ellerman, Esqs. The Town of Charlotte, is represented by David W. Rugh, Esq.

Applicant Paul Arthaud no longer wishes to pursue the Conditional Use application and withdraws the application. He understands that the ZBA decision denying conditional use approval is now final. The Biebuycks wish to continue this appeal.

When an applicant withdraws the application at issue in our *de novo* review, the Environmental Division's subject matter jurisdiction ends. Additionally, the Environmental Division is without power to force an applicant to continue to pursue its application. While the Court is concerned that the practical effect of granting the motion to dismiss will be inefficient should a dispute underlying the subject property continue, we have no authority to extend or continue our subject matter jurisdiction.

For this reason, the motion for Dismissal with Prejudice is **GRANTED**. As such the ZBA's decision denying the conditional use approval application is final. This concludes the matter.

So ordered.

Electronically signed on July 17, 2017 at 2:22 PM pursuant to V.R.E.F. 7(d).



Thomas G. Walsh, Judge
Superior Court, Environmental Division

Notifications:

Liam L. Murphy (ERN 3953) and Katelyn E. Ellermann (ERN 6654), Attorneys for Appellant Paul Arthaud

David W. Rugh (ERN 1507), Attorney for Interested Person Town of Charlotte

Interested Person Nina Cucchiari

Interested Person Norman Ernsting

Interested Person Valerie Biebuyck

Interested Person J.C. Biebuyck

Mediator Donald R.(Tad) Powers