

**TOWN OF CUMBERLAND**  
**BOARD OF ADJUSTMENTS AND APPEALS MINUTES**  
Thursday, October 11, 2018

**Roll Call: Board Members Present:** R. Scott Wyman - Chairman, Andrew Black, Christian Lewis, Matthew Manahan, Michael Martin & Sally Pierce. **Staff:** Code Enforcement Officer Bill Longley & Town Manager Bill Shane. **Board Members Absent:** Ronald Copp, Sr. & Amanda Vigue. **Others Present:** Randy Copp, Nancy St. Clair, PE, Jeffrey Bennett, Esq. (counsel for the Copps), Natalie Burns, Esq. (counsel to the CEO), Leah Rachin, Esq. (counsel to the Board), and neighbors Tanya Marston and Robert Maloney.

Chairman Wyman called the meeting to order at 7:00 pm and reviewed Board procedures.

**PUBLIC HEARING: Interpretation Appeal:** Elvin H. Copp owner of property at Pointer Way as shown on Tax Assessor Map R07, Lot 57 C, and Randy Copp appeal the Code Enforcement Officer's issuance of a determination regarding NOV- Notice of Violation issued 7-10-18 for "Extraction of Earth Materials" as defined in section 315-04 which is not an allowed use within the Rural Residential District 2 (RR2) Zone per section 315-06.B.1 for the property located in the Rural Residential District 2 Zone. This is an interpretation appeal under section 315-77.B.1 of the Zoning Ordinance.

Chairman Wyman introduced the item.

The Board concluded that: (1) the within appeal is timely having been filed within the requisite 30 days under § 315-77(D)(1) of the Ordinance); (2) the Copps have standing to appeal (as the parties named in the NOV); and (3) abutters were duly notified of the proceedings and public hearing notices were published as required under § 315-77(C)(1).

Jeffrey Bennett, Esq., said that he is here to represent both Randy Copp and Elvin Copp.

Chairman Wyman disclosed that he is aware of a violation from the Department of Environmental Protection and he does not know anything more about it. This may be brought up in testimony. The Board does not know anything about it except for what has been provided to them tonight.

Mr. Black disclosed that in his capacity with the Attorney General and as Chief of the Professional Financial Regulation Division there are attorneys that work for him and one case currently involves Atty. Bennett. Mr. Black said that he is not involved with the case personally but he does supervise the attorney who is involved. Mr. Black said this will not in any way effect his ability to be a disinterested fact finder. Atty. Bennett said that he is aware of this and has no objection. The Board expressed no objection to Mr. Black's participation.

Chairman Wyman asked if there is anyone present to testify in favor of the appeal.

Jeffrey Bennett, Esq. presented the Copps' case and answered questions.

Nancy St. Clair, Civil Engineer - St. Clair Associates, provided testimony regarding the site in support of the Copps' case and answered questions from the Board.

Mr. Copp provided testimony and answered questions with input from Atty. Bennett.

Chairman Wyman asked if there is anyone present to testify against the appeal.

William Longley, Jr., Code Enforcement Officer, provided testimony in support of the Notice of Violation and answered questions.

Natalie Burns, attorney for Mr. Longley, objected to Atty. Bennett's questioning of Mr. Longley and said that Atty. Bennett's questions had been asked and answered.

Bill Shane, Town Manager, provided testimony in support of the Notice of Violation and answered questions. Mr. Shane displayed a 2018 Google map of the site that he found today that was not part of the Board's materials.

Chairman Wyman called for a five minute break at 9:52 pm. The meeting reconvened at 9:57 pm.

Tanya Marston, 26 Mystical Way, provided testimony in support of the Notice of Violation and answered questions.

Robert Maloney, 18 Maloney's Ridge Way, provided testimony in support of the Notice of Violation and answered questions.

Mr. Copp provided additional testimony.

Mr. Shane answered questions from Atty. Bennett. Mr. Shane stated he was done with his testimony and left the podium.

Atty. Burns objected to Atty. Bennett's cross examination and stated that the Board has the right to control testimony so that it does not become unduly repetitious and the Board can control testimony when the testimony is not advancing the case.

Atty. Bennett said that the witness has removed himself and stated for the record that Mr. Shane and Mr. Longley both testified to photographs where an image was taken from 2012 and attached to the Notice of Violation as a benchmark and then they have gone straight to a 2018 image and said that the 2018 image compared to 2012 image proves that the Copps are in violation. Atty. Bennett continued that the point of his cross examination is to show that Mr. Longley and Mr. Shane know that this is untrue.

Mr. Shane returned to the podium and answered additional questions.

Mr. Copp provided additional testimony and answered questions.

Chairman Wyman asked if there is anyone wishing to testify on a neutral basis. There was no one wishing to speak.

Chairman Wyman closed the public portion of the meeting.

Mr. Manahan moved to deny the Interpretation Appeal in the name of Elvin Copp and Randy Copp and to uphold the Code Enforcement Officer's NOV, seconded by Mr. Manning. The Board deliberated on the matter. Atty. Rachin indicated that she will draft the findings for the Board to review at their next meeting. The motion was then **VOTED, 6 yeas – unanimous, motion carries.**

**Administrative Matters:** Approval of the minutes of the minutes for the March 10, 2016 and the May 10, 2018 meetings.

Mr. Lewis moved to approve the March 10, 2016 meeting minutes, seconded by Mr. Martin and **VOTED, 4 yeas, 2 abstained (Manahan & Wyman), motion carries.**

Mr. Manahan moved to approve the May 10, 2018 meeting minutes, seconded by Ms. Pierce and **VOTED, 4 yeas, 2 abstained (Black & Lewis), motion carries.**

**Adjournment:** Mr. Martin moved to adjourn the meeting at 10:58 pm, seconded by Ms. Pierce and **VOTED, 6 yeas – unanimous, motion passes.**

A TRUE COPY ATTEST:

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R. Scott Wyman, BoAA Chairman

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Christina Silberman, Admin. Asst.