VERMONT SUPERIOR COURT
Environmental Division
32 Cherry St, 2nd Floor, Suite 303,
Burlington, VT 05401
802-951-1740
www.vermontjudiciary.org

ENVIRONMENTAL DIVISION
Docket No. 21-ENV-00109

12 Old Orchard Lane CU & SP Review	DECISION ON MOTION

Bolger Hill, LLC seeks permission to move the locations of a proposed building envelope and driveway that were previously approved for the residential lot it owns in the Town of Jericho. Jim Carroll and Ben Young are two of the individuals standing behind Bolger Hill, LLC and acting on its behalf. The Jericho Development Review Board (DRB) granted the conditional use and site plan approvals necessary to accomplish that relocation but attached conditions of approval. Subsequently, Bolger Hill transferred a 1 % ownership interest in the property to each of Mr. Young, Mr. Carroll, and a trust, PMC Trust. Apparently taking issue with some of the conditions imposed by the DRB, PMC Trust subsequently filed this appeal. Neighbors Jon and Jean Asselin have filed a cross-appeal, challenging the DRB's approval. Mr. Young has entered an appearance as an interested party. Both Appellant and Cross-appellants have filed Statements of Questions.

Presently before the Court is a motion from the Town of Jericho to dismiss PMC Trust and Mr. Young as parties and to dismiss PMC Trust's appeal. Also before us are a filing from Mr. Carroll termed a motion to dismiss the Town's motion, which we treat as a surreply, and the Town's motion to strike that filing. PMC Trust proceeds through its trustee Jim Carroll, *pro se.* Ben Young also represents himself. The Town of Jericho is represented by Claudine Safar, Esq. and Zachary Chen, Esq. The Asselins are represented by Peter Raymond, Esq.

Background

1. This appeal is brought in the name of "PMC Trust," through its trustee Jim Carroll.

2. The property underlying this action (Property) is 12 Old Orchard Lane, in the Town of Jericho (Town).
3. The Property is also identified as Lot #4 of a four-lot subdivision approved in 2010.
4. Jim and Patricia Carroll reside at 20-22 Bolger Hill Road, Jericho, VT, which is adjacent to the Property.
5. Ben Young has entered a notice of appearance on behalf of himself as an interested party in this appeal. Mr. Young's present residence is unknown; he has given as a mailing address PO Box 1004, in the Town of Jericho.
6. Jon and Jean Asselin reside at 6 Orchard Hill Lane. 6 Orchard Hill Lane is also identified as Lot #3 of the 2010 subdivision that created the Property.

The Underlying Application and Decision

7. The application for conditional use and site plan review that led to the DRB decision now under appeal was filed with the Jericho DRB in approximately July 2021. A complete copy of that application has not yet been filed with the Court. The Asselins, in their cross-appeal, filed a one page "Development Review Board Hearing Application" that is either the cover page to the complete application or a separate request for a hearing thereon. That document is dated July 22, 2021. *See* Asselin Exhibit 4 to Reply in Support of Town's Motion to Dismiss.
8. The application sought permission to move the previously approved building envelope and other approved clearing sites on the Property.
9. This application became necessary after a 2020 conditional use and site plan approval for the same project lapsed. There are disputes that we do not resolve here about whether the 2021 application differs in any material aspect from the application resulting in the 2020 approval.
10. Regardless, the DRB's consideration of this application forms a separate proceeding from that held on the 2020 application, for purposes of participation and rights of appeal.
11. The "Development Review Board Hearing Application" document lists Bolger Hill, LLC; C.F. Trust; and Bolger Hill Farm as the applicants. It lists Bolger Hill, LLC as the sole Landowner

of Record, with an address of PO Box 1004, in the Town of Jericho. It is signed by Ben Young, whose signature line indicates that he is the assistant manager of Bolger Hill, LLC.

Bolger Hill, LLC and C.F. Trust

12. A record retrieved at an unknown date, but in any event after January 7, 2022, from the Vermont Secretary of State Corporations Division website indicates that Bolger Hill is a member managed LLC. The record lists a designated office address for the LLC of 20 Bolger Hill Road, and designated mailing addresses of PO Box 1004 and 22 Bolger Hill Road, all in the Town of Jericho.
13. This record also lists "C.F. Trust" as the sole member, principal, and registered agent of Bolger Hill, LLC. The given physical address for C.F. Trust is also 20 Bolger Hill Road, and designated mailing address also PO Box 1004.
14. The record lists "Bolger Hill Farm" as having been at one time an assumed business name for Bolger Hill, LLC, but indicates that this name has expired.
15. The parties have filed a "Certificate of Trust" with the Court for C.F. Trust. That certificate is dated October 5, 2021, and states that it complies with 14A V.S.A. 1013. It states that the trust was formed in 1989, that the settlors of the Trust were Jim and Patricia Carroll, that the trustees are also Jim and Patricia Carroll, and that the trust instrument is in existence, has not been revoked or amended, and gives the trustees the power to convey the Trust's interests in real property.

Hearing on the Application

16. The DRB held a public hearing on Bolger Hill, LLC's application on August 25, 2021.
17. The final approved minutes from that hearing indicate that Jim and Patricia Carroll, Ben and Brianna Young, and Jean and Jon Asselin were all present at the hearing.
18. The minutes indicate that Ben Young presented Bolger Hill's application and "introduced himself as representing Bolger Hill LLC as well as himself and his wife Brianna who is a niece of Jim Carroll's - an abutter."
19. The minutes indicate there was conflicting testimony about whether the application materially differed from the application that was approved in 2020.

20. The minutes indicate that Jean and Jon Asselin presented written testimony ahead of the hearing and also presented oral testimony at the hearing.
21. There is no mention in the minutes of any written or oral testimony presented by PMC Trust or Jim Carroll.
22. After closing the taking of evidence, the DRB adjourned. It subsequently issued a written decision dated September 27, 2021, in which it approved the application, while imposing a number of conditions, including some that were required to be met before a permit was granted.

Subsequent Transfer of Minority Ownership Interests

23. The parties have filed a quitclaim deed with the Court, dated October 5, 2021. Through this deed, Bolger Hill, LLC purports to convey a 1% interest in 12 Old Orchard Lane to each of Jim Carroll in his individual capacity, Ben Young in his individual capacity, and Jim and Patricia Carroll as Trustees of PMC Trust. Bolger Hill also purports to "convey" to itself the remaining 97% ownership interest in the Property, despite already holding that interest.
24. The deed states that the grantees will hold the Property as tenants in common, "and their heirs, successors, and assigns, forever."
25. The deed mentions ten (10) dollars paid by Bolger Hill, LLC to itself as consideration for the conveyance, but does not mention any consideration given by Mr. Carroll, Mr. Young, or PMC Trust.
26. The deed is Signed by Jim Carroll as "Duly Authorized Agent" of Bolger Hill, LLC.[1]
27. Bolger Hill attempted to record this deed in the Town of Jericho Land Records on January 20, 2022 but neglected to include the page containing a notary's seal and signature. Apparently alerted of this defect by the Town's motion to dismiss, Bolger Hill subsequently recorded the deed in the Town of Jericho Land Records with this notarization on February 2, 2022.

[1] The parties have also filed a Resolution issued by Bolger Hill, LLC authorizing Jim Carroll to act as its agent in conveying a property interest in 12 Orchard Lane. That Resolution is dated October 5, 2021.

Appeal

28. This appeal was filed on October 27, 2021 by PMC Trust. The notice of appeal is clear that PMC Trust is the sole appellant. It is signed by Jim Carroll solely as a trustee for PMC Trust.
29. Subsequently, Jean and Jon Asselin filed a cross-appeal on November 30, 2021.
30. Ben Young entered an appearance as an interested party. Although the notice of appearance is dated November 18, 2021, it was not filed with the Court until December 3, 2021.
31. At a status conference on December 3, 2021, we denied on the record a motion filed by PMC Trust to dismiss the Asselins' cross-appeal as untimely; the appeal was not untimely.
32. The Town filed the present motion to dismiss on January 27, 2022.

Discussion

The Town has moved to dismiss Jim Carroll, Ben Young, and PMC Trust as parties and to dismiss the appeal. As a starting point, we note that Jim Carroll is not a party in his individual capacity, despite his representations in his responses to this motion. Mr. Carroll has entered an appearance only as trustee for PMC Trust. That portion of the motion is therefore moot. We also wish to clarify for Mr. Young and Mr. Carroll's sakes that Mr. Young is not an appellant. He sought party status with our court after the period to appeal the decision of the DRB had passed. *See* V.R.E.C.P. 5(b)(1). He is therefore a party who has entered an appearance pursuant to V.R.E.C.P. 5(c), claiming interested person status pursuant to 10 V.S.A. § 8504(n). As such, he "will be accorded party status unless the court otherwise determines on its own motion, [or] on motion to dismiss a party . . ." V.R.E.C.P. 5(d)(2).

The Town's challenge to PMC Trust and Mr. Young is one of standing. Standing is a "necessary component to the court's subject matter jurisdiction." Bischoff v. Bletz, 2008 VT 16, ¶ 15, 183 Vt. 235. We therefore evaluate a motion to dismiss for lack of standing under the V.R.C.P. 12(b)(1) standard for motions to dismiss for lack of subject matter jurisdiction. In re 34 Fitzsimonds Rd 3-Lot Subdivision, No. 68-6-18 Vtec, slip op. at 1 (Vt. Super. Ct. Envtl. Div. April 19, 2019) (Durkin, J.). When ruling on a motion under V.R.C.P. 12(b)(1), we accept as true all

uncontroverted facts set out by the nonmovant and construe them in the light most favorable to him or her. Rheaume v. Pallito, 2011 VT 72, ¶ 2, 190 Vt. 245.

The Town argues that the substance of the appeal, as indicated by the revised statement of questions, is to challenge the conditions imposed by the DRB upon the approved development. Only the owner of the property that is the subject of the review, they argue, would have standing to challenge conditions imposed by the DRB for being unfavorable to the use of that property. Bolger Hill, LLC is the owner of the property, they argue, and has not appeared before the Court.

As part of this argument, the Town contests the validity of the quitclaim deed that conveyed a 1% tenancy in common interest to each of PMC Trust, Jim Carroll, and Ben Young. In its motion, the Town challenges the deed based on the lack of notarization attached to the deed when it was recorded (or attempted to be) on January 20, 2022. The Town also challenges the deed for being witnessed by Patricia Young, who may or may not be a beneficiary of PMC trust, one of the parties receiving a conveyance. After the Town filed its motion, Mr. Carroll re-recorded the deed with the Town, with a notarization from October 5 attached. In its subsequent reply to the response to its motion, the Town puts forward two further arguments concerning the deed. One is that "the notarial acknowledgment pertained to Jim Carroll in his capacity as a Trustee of C.F. Trust, not as an authorized agent of Bolger Hill, LLC." The other is that the deed, even if properly executed and notarized on October 5, "would not have put appellants in the position of title owners until the date of recording."[2]

Only "interested persons," as defined by the statute governing municipal land-use processes, who "participated" (also a term defined by statute) in the proceedings below have standing to appeal a decision of an appropriate municipal panel to our Court. Hinesburg Hannaford SP Application, No. 112-10-18 Vtec, slip op. at 2 (Vt. Super Ct. Envtl. Div. Feb. 11, 2019)

[2] After the Town filed its reply, Mr. Carroll filed a "Motion to Dismiss the Town of Jericho's Initial/Supplement Motion to Dismiss Parties and Action and Supporting Motion From Cross Appellants." The Town subsequently filed a motion to strike that filing as well as a brief reply to its substance. Obviously, there is no such thing as a motion to dismiss a motion to dismiss. Mr. Carroll's filing most nearly approximates a surreply memorandum. Whether to allow a surreply is, however, at the Court's discretion. We may do so "if the memorandum would assist in clarifying the issues, particularly where the party seeking to file the memorandum is addressing newly raised factual or legal arguments by the opposing party." V.R.C.P. 7(b)(4). Here, there was no request from Mr. Carroll to file a surreply. Nor does the memorandum assist in clarifying the issues or respond to new arguments raised by the Town in its reply. We therefore do not consider the surreply or response thereto and **GRANT** the Town's motion to strike it.

(Walsh, J.) (citing 24 V.S.A. § 4471(a), 10 V.S.A. § 8504(b)). 24 V.S.A. § 4465(b) sets out the five categories of interested persons for zoning purposes and "[i]f appellants do not fit within an enumerated provision of [this section], they lack standing to contest a decision made by a zoning board." In re Gulli, 174 Vt. 580, 582 n.1 (2002).

The statute therefore in some ways narrows a court's traditional standing analysis, by limiting the classes of persons who may appeal a zoning decision. Yet it does not negate certain constitutional requirements of standing, including the requirement that a party assert an injury-in-fact. Capitol Plaza 2-Lot Subdivision & Capitol Plaza Major Site Plan, No. 3-1-19 Vtec, slip op. at 5 (Vt. Super. Ct. Envtl. Div. Nov. 12, 2019) (Walsh, J.) ("The right of appeal under § 4465(b)(4) is part of 'the legislature's restrictions on the legal relief available in zoning cases' and does not eliminate the need for appellants to demonstrate the elements of constitutional standing when challenged.") (quoting Garzo v. Stowe Bd. of Adjustment, 144 Vt. 298, 302 (1984)). That injury-in-fact must be a person's own: "The prudential elements of standing include the general prohibition on a litigant's raising another person's legal rights . . . ." Hinesburg Sand & Gravel Co. v. State, 166 Vt. 337, 341 (1997).[3]

We therefore agree with the Town that, generally speaking, a party asserting interested party status solely as an owner of property adjoining the subject parcel, pursuant to § 4465(b)(3), does not have standing to contest conditions imposed by the DRB on the basis that those conditions unduly restrict the use of the subject parcel. Only the person asserting interested party status under § 4465(b)(1) as an owner of the subject parcel may raise such a challenge (A § 4465(b)(3) party may, of course, challenge a DRB-imposed condition for not adequately protecting the party's interests in its own abutting property). We also agree with the Town that the Revised Statement of Questions, though in places difficult to decipher, exclusively challenges the DRB's approval for imposing conditions unfavorable to the subject parcel. Were PMC Trust therefore appearing solely in its capacity as an owner of adjoining lands, we would agree with the Town that PMC Trust's appeal must be dismissed for a lack of standing.

Relatedly, were Ben Young only appearing as a purported "co-applicant," as his notice of appearance states, and if he lacked any ownership interest in the Property, he would likely need

[3] We conclude that prudential standing requirements generally apply in zoning cases as well.

to be dismissed as an interested party as well. *See* Mad River Valley Enterprises, Inc. v. Town of Warren Bd. of Adjustment, 146 Vt. 126, 129 (1985) (finding that the trial court should have dismissed the appeal of a co-applicant for a permit, where it had determined that the evidence did not support a finding that the applicant had any ownership interest in the property).

We conclude, however, that both PMC Trust and Mr. Young have sufficiently notified the Court that they intend to appear in their capacity as tenants-in-common, each holding a 1% interest in the Property. PMC Trust's standing to raise the challenges presented in the Revised Statement of Questions must derive from this ownership interest, as must Mr. Young's standing to appear as an interested party.[4]

The question we must answer in ruling on this motion to dismiss is whether the uncontroverted facts put forward by PMC Trust and Mr. Young, granting them all reasonable inferences, plausibly support the idea that at the time this appeal was filed, each entity possessed a property interest sufficient to qualify as an owner of 12 Old Orchard Lane under 24 V.S.A. § 4465(b)(1).

First, we consider two legal issues. The first is whether a person who acquires an ownership interest in a property after a decision of a zoning board pertaining to that property may appeal that decision as an owner of the property. The second is whether a one-percent ownership interest is sufficient.

As to the first question, our case-law is clear that zoning approvals "run with the land." See Hannaford SD Revision, Nos. 68-5-14 Vtec, 69-5-14 Vtec, 70-5-14 Vtec, slip op. at 12 & n.5 (Vt. Super. Ct. Envtl. Div. Apr. 12, 2016) (Walsh, J.). The rights and obligations that zoning law creates in owners of land governed by municipal land use permits must therefore also run with the land. Absent any statutory indication to the contrary, it must be assumed that one such right is the right to appeal the permit itself within the statutorily established time limits. Given that "[f]ailure to timely appeal a permit condition 'binds the successor in interest'" to that condition, *see* Zins 2-Lot Subdivision Denial, No. 115-10-19 Vtec, slip op. at 6 (Vt. Super. Ct. Envtl. Div. Dec.

[4] We note that Mr. Young has not indicated that he is presently an owner or occupier of land in the immediate neighborhood of the property.

15, 2020) (Durkin, J.) (quoting In re Hildebrand, 2007 VT 5, ¶ 11, 181 Vt. 568), a successor in even partial interest must be free to appeal such a condition to protect its own interest in the property.

As to the second question, our caselaw has not established, that we are aware, a minimum ownership interest that a tenant-in-common must possess in order to have the right to appeal a zoning decision under 24 V.S.A. § 4465(b)(1). Some limited precedents support the idea that a very small percentage is enough. For example, in Town of Sandgate v Colehamer, the Vermont Supreme Court found that the trial court should have dismissed, for lack of standing, the appeal of an occupier of property who possessed no title to the property, even though he had made some of the mortgage payments on it. The Court stated, however, "While something less than record title to land may be sufficient to confer standing, defendant has failed to show that he has any title at all." Town of Sandgate v. Colehamer, 156 Vt. 77, 83 (1990). This holding implies, albeit faintly, that title to only a small percentage of a property may be sufficient to create interested party status and standing.

We note that courts in other states have found partial ownership to be sufficient to create standing in the zoning context. *See* Havens v. Union Township, 2019-Ohio-1401, 2019 WL 1591841 at ¶ 27 (Ohio Ct. App. 2019) (holding that the owner of a one-fifth interest in a property had standing to pursue a writ to compel municipal zoning enforcement against his neighbors); Caporizo v. Zoning Bd. of Appeals of City of Stamford, No. CV 960150391S, 1997 WL 344740, at *2 (Conn. Super. Ct. June 12, 1997) (mem. op.) (holding that "an undivided interest in the common elements of a condominium association" within the statutorily established proximity to a permitted development was sufficient to grant standing to appeal the permit).

In sum, we conclude that the one percent property interests PMC Trust and Ben Young each claim to have acquired in 12 Old Orchard Lane on October 5 would be sufficient to establish them as property owners at 12 Old Orchard Lane with a right to appeal the conditions the DRB attached to the permit at issue. We must, however, also address the Town's objections to the deed conveying those interests to PMC Trust and Ben Young, under the standards for a motion to dismiss.

First, we find no support for the Town's argument that the notary's statement affixed to the deed, describing it as a deed executed by Jim and Patricia Carroll as Trustees of the C.F. Trust,

invalidates the conveyance from Bolger Hill, LLC. We accept it as an uncontroverted fact alleged by the non-moving parties at this stage that C.F. Trust is or was the sole member of Bolger Hill, LLC. We would not find it odd for a deed conveying land held by a single-member-managed LLC to be signed by that member. Moreover, even if this description were in error, we do not find as a matter of initial impression that an erroneous statement of the notary acknowledging a deed would act to invalidate the deed in its entirety. The deed states unequivocally that the conveyance is from Bolger Hill, LLC.

We find equally little support for the Town's argument that, by virtue of 27 V.S.A. § 342, the deed was not effective until it was recorded in the Jericho land records. 27 V.S.A. § 342 reads, "A deed of bargain and sale, a mortgage or other conveyance of land in fee simple or for term of life, or a lease for more than one year from the making thereof shall not be effectual *to hold such lands against any person but the grantor and his or her heirs*, unless the deed or other conveyance is acknowledged and recorded." (Emphasis added). This provision establishes what a grantee must do to protect its claim to title from others who dispute that title. The statute does not suggest, however, that immediate recording of a deed is necessary to take on the other rights and obligations of land ownership, including the rights of participation and appeal under § 4465(b)(1). Indeed caselaw establishes that a deed is "effective" when delivered. *See* Spero v. Bove, 116 Vt. 76, 86 (1950) ("A deed does not take effect until it is delivered. To constitute a delivery of a deed the grantor must part with the custody and control of the instrument permanently, with the intention of having it take effect as a transfer of title, and must part with his right to the instrument as well as with the possession of it."). The deed was effective for creating a right of appeal when it was delivered to the grantees, which appears to have occurred on October 5.

Any other purported defects with the deed have not been sufficiently argued or proved at this time to declare it invalid. PMC Trust and Mr. Young have plausibly alleged facts that, if proven, would give them standing to bring and appear in this appeal, respectively. That is all that is required to survive this motion to dismiss. The possibility of this real ownership interest is also what distinguishes the case, for purposes of this motion, from Mad River Valley Enterprises, Inc. v. Town of Warren Bd. Of Adjustment, 146 Vt. 126 (1985) and Town of Sandgate v Colehamer.

We have already discussed the holding of Sandgate. In Mad River Valley Enterprises, the project developer pursuing an appeal claimed title pursuant to an assignment of a purchase and sale agreement reached separately by the developer's corporate officers with the record titleholder; the trial court found, however, that there was no evidence of such an assignment. The Supreme Court therefore found that the trial court should have dismissed the appeal for a lack of standing, due to the developer's lacking any ownership or even equitable interest in the property. Mad River Valley Enterprises, 146 Vt. 126, 129. Here there is evidence, at least sufficient to survive a motion to dismiss, of such an ownership interest.

Although the Town does not raise this, in addition to being an interested person, a party must have participated in the proceeding below, through oral or written testimony, to bring an appeal under 24 V.S.A. § 4471. There is sufficient evidence that Ben Young participated in his personal capacity to have standing—the minutes of the DRB hearing refer to him stating that he was appearing both on behalf of Bolger Hill, LLC and on behalf of himself. There is no similar evidence of participation by PMC Trust through its Trustees Jim and Patricia Carroll. Our precedents establish, however, that as a subsequent property owner, PMC Trust may benefit from the participation of its predecessor (and continuing co-tenant), Bolger Hill, LLC in the proceedings below. Willowell Found'n CU, 142-10-12 Vtec, slip op. at 12 (July 10, 2014) (finding the participation during DRB proceedings of a predecessor-in-ownership to current neighbors to satisfy the participation requirement for current neighbors), *aff'd* by In re Willowell Found. Conditional Use Certificate of Occupancy, 2016 VT 12, 201 Vt. 242 (overruled on other grounds by In re Confluence Behav. Health, LLC, 2017 VT 112, 206 Vt. 302). The participation requirement is therefore satisfied, as is the interested person requirement.

There is a further reason that we do not dismiss this appeal. We are not suggesting that Bolger Hill, LLC is a necessary party to this action, but even if it were, nearly all the natural persons who are associated with Bolger Hill, LLC are before us, formally or informally. Ben Young, who signed the application as the Assistant Manager for Bolger Hill has entered an appearance. Jim Carroll has not entered an appearance on his own behalf, but he is participating in the appeal on behalf of PMC Trust. While the other trustee of C.F. Trust, Patricia Carroll, has not participated to date, she is a trustee of PMC Trust, which has entered an appearance. With all the natural

persons who have any ultimate stake in Bolger Hill present or able to appear, we would want to give a purported defect time to be cured, in light of our judiciary's stated policy of resolving cases wherever possible on their merits rather than a technicality. Colby v. Umbrella, Inc., 2008 VT 20, ¶ 4, 184 Vt. 1.

To be abundantly clear: Bolger Hill, LLC is not present before the Court, since it has not filed an appeal or otherwise entered a notice of appearance. Neither PMC Trust nor Ben Young, as they have appeared in their own capacities, may represent Bolger Hill, LLC's interest in the Property. If it wishes to enter an appearance, because it is a corporation, Bolger Hill must appear through an attorney, unless our court makes an exception. Vermont Agency of Nat. Res. v. Upper Valley Reg'l Landfill Corp., 159 Vt. 454, 455 (1992). For us to permit representation by a non-attorney, we would require Bolger Hill to demonstrate that the four factors described in Upper Valley Reg'l Landfill Corp. have been met:

> "(1) the organization cannot afford to hire counsel, nor can it secure counsel on a pro bono basis, (2) the proposed lay representative is authorized to represent the organization, (3) the proposed lay representative demonstrates adequate legal knowledge and skills to represent the organization without unduly burdening the opposing party or the court, and (4) the representative shares a common interest with the organization."

Id. at 458. That has not occurred here. But we will not foreclose the possibility of Bolger Hill, LLC's appearance by dismissing the action, particularly given our finding that PMC Trust and Mr. Young have standing to dispute the conditions of the permit, given their ownership interests in the Property.

Conclusion

For all the reasons discussed above, we hereby **GRANT** the Town's motion to strike the surreply filed by Mr. Carroll, and **DENY** the Town's motion to dismiss PMC Trust and Mr. Young as parties and to dismiss the appeal.

During the initial stages of this matter, Mr. Carroll was very vocal about his interest in this matter proceeding quickly and efficiently. We specifically note that the decision to proceed as a self-represented party without legal training has thus far caused considerable delay due to

problematic documents and procedural missteps. We attempt in this Decision to clarify the parties properly before the Court, and the issues they have standing to raise. With this clarity, we expect the parties to exercise restraint in motion practice that has thus far been unnecessarily voluminous, duplicative, and combative.

In a separate notice, the Court schedules this matter for a status conference to establish a schedule leading the matter to resolution pursuant to V.R.E.C.P. Rule 2(d).

Electronically Signed: 4/7/2022 7:52 AM pursuant to V.R.E.F. 9(d).

Thomas G. Walsh, Judge

Superior Court, Environmental Division