



Ranney Dairy Farm, LLC Major SD Appeal

DECISION ON MOTION

Ranney Dairy Farm, LLC (Applicant) seeks permission to subdivide a parcel it owns in the Town of Westminster (Town). In a January 3, 2022, decision, the Town Development Review Board (DRB) granted approval, with conditions. Subsequently, adjacent property owners (Neighbors) appealed the DRB's decision to our Court. Presently before the Court is Neighbors' motion to amend Question 15 of their Statement of Questions.

Neighbors filed their Statement of Questions on February 22, 2022. With the Town's support, Applicant moved to dismiss all but one of the questions. On May 31st, the Court denied in part and granted in part Applicant's motion. Specific to the motion before the Court, the Court ordered Neighbors to restate Question 15 and 16 or otherwise the Court would dismiss the Questions. Neighbors did not file restatements.

In a hearing on July 25, 2022, Neighbors requested an extension to restate Question 15. The reason offered for the additional time related to Neighbors' lawyer's personal needs. The Court granted the extension and ordered Neighbors to restate the question by August 5th. Again, Neighbors did not file a restated Question 15. Instead, on August 13, 2022, Neighbors moved to amend the Question. Shortly after, Applicant asked the Court to deny Neighbors' motion and dismiss Question 15 for failure to meet the deadlines. In response, Neighbors insist the subject matter of Question 15 remains integral to the Court's review, but do not address the failure to file a restated Question within the provided timeframes or the tardiness of their motion. Neighbors did not file a restated Question 16.

The Vermont Rules of Civil Procedure apply to appeals before this Court under V.R.E.C.P. 5(2). Pursuant to V.R.C.P. 16.2, the Court may set deadlines and may grant extensions "only on motion and a showing of good cause." Further, the Court may exercise its discretion to enforce

deadlines where a party makes “no showing that despite due diligence [they] had good cause for filing [...] late.” Carpenter v. Cent. Vermont Med. Ctr., 170 Vt. 565, 568 (1999) (holding a trial court judge did not abuse their discretion by enforcing the scheduling order). The Court provided Neighbors an opportunity to restate Question 15 and extended the timeframe upon Neighbors’ motion to August 5th. Neighbors failed to meet the deadline and offer no explanation for their failure. We therefore **DENY** Neighbors’ motion to amend. Moreover, we **DISMISS** Questions 15 and 16 in accordance with our May 31st decision.

Electronically Signed: 9/20/2022 10:41 AM pursuant to V.R.E.F. 9(d).

A handwritten signature in black ink that reads "Tom Walsh" with a stylized flourish at the end.

Thomas G. Walsh, Judge
Superior Court, Environmental Division