

Mike Z

VERMONT ENVIRONMENTAL BOARD
10 V.S.A. Chapter 151

RE: Clearwater Realty by Memorandum of Decision
Peter M. Doremus, Esq. Application #4C0712-EB
Doremus Associates
112 Lake Street
Burlington, VT 05401

On March 23, 1988, an appeal was filed with the Environmental Board by Florence Woll, Gene and Sally Robertson, Dr. and Mrs. Paul Mayer, and Louis and Martina Kurrelmeyer through Thomas A. Little, Esq. from the Partial Findings of Fact and Conclusions of Law issued by the District #4 Environmental Commission on February 23, 1988. On March 24, an appeal of that decision was filed by Robert C. Roesler and Ronald I. Bouchard. Mr. Little's clients did not specify the reasons they believe the Commission was in error or the issues relevant to the appeal, as required by Board Rule 40(A). Mr. Roesler and Mr. Bouchard appealed the Commission's findings and conclusions under Criteria 1(B), 1(F), 2, 3, 4, 5, and 10. On April 19, the Board received a Supplemental Notice of Appeal from Mr. Little that identified Criteria 1(B), 1(F), 2, 4, 5, 8, and 10 as the criteria under appeal.

After the Commission reviewed this application for a 10-lot residential subdivision, it issued partial findings under Board Rule 21(A). It made positive findings on all the criteria pursuant to 10 V.S.A. § 6086(a) (1) through (10) except Criterion 1(B). With respect to Criterion 1(B), the Commission found that it cannot make a positive finding until it receives evidence that the Applicant had received adequate sewage allocation from the Fire District and a subdivision permit from the Agency of Natural Resources.

Board Rule 21(A) provides that when issuing partial findings, a Commission's affirmative findings may remain in effect, pending issuance or denial of a permit, for a reasonable time. 10 V.S.A. § 6086(c) and Rule 21(A) also provide that only findings with respect to Criterion 9 and Criterion 10 are final and subject to appeal to the Board. The findings made by the Commission in this case with respect to all criteria except 9 and 10 are therefore not appealable at this time. The findings made with respect to Criterion 10 were appealed by Robert Roesler and Ronald Bouchard and by Mr. Little's clients. The Board will stay the appeal with respect to Criterion 10 until the Commission issues final findings and conclusions and either grants or denies a permit.

Inasmuch as the Board expects that an appeal will be refiled on other criteria when the Commission issues its final decision, the Board will stay the appeal with respect to Criterion 10.

Clearwater Realty - Application #4C0712-EB
Memorandum of Decision
Page 2

ORDER

1. All appeals filed with respect to Criteria 1 through 8 are hereby dismissed without prejudice.
2. All appeals filed on Criterion 10 are hereby stayed.

Dated at Montpelier, Vermont this 21st day of April, 1988.

ENVIRONMENTAL BOARD



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