

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DIANE PRINCE,	:
Appellants	:
	: No. 04-01890
vs.	:
	: CIVIL ACTION - LAW
ZONING HEARING BOARD OF	:
CUMMINGS TOWNSHIP,	:
Appellee	:
	:
CUMMINGS TOWNSHIP,	:
Intervener	: Land Use Appeal

ORDER

AND NOW, this ____ day of April 2006, after oral argument, review of all parties' briefs, review of the Appellee's certified record and review of the written decision of the Cummings Township Zoning Hearing Board (hereinafter "Board"), the Appeal of Diane Prince is hereby **DENIED**.

The court cannot find that Appellant Prince has a vested right to build the cabin as requested. This court may not substitute its judgment for that of a local agency unless the board manifestly abused its discretion. See Ramando v. Zoning Board of Haverford Township, 61 Pa.Cmwlt. Ct. 242, 245, 434 A.2d 204, 206 (1981). The court finds that the Board's findings were supported by substantial evidence. Ramando, supra.

The court notes the testimony of Cummings Township Zoning Officer William Wolf that the original permit application of Ms. Prince on February 25, 2004 was for a seasonal dwelling having 448 square feet of floor area. N.T., August 25, 2004, pp. 13-44. The structure was described by Ms. Prince as "open deck with a loft on top". See Exhibit A-4. The zoning officer believed the request was for a pavilion based upon drawings submitted by Ms. Prince and

conversations with Ms. Prince. N.T., pp. 14-15. The zoning officer then approved the application for a building permit.

Subsequent to the approval, Ms. Prince described the building as a cabin. The zoning officer realized the building was not consistent with the permit approval and the zoning officer noted the building envisioned by Ms. Prince could also be used as an overnight sleeping facility or as a rental unit for a family. N.T. p. 17. Thus the zoning officer revoked the permit by letter dated June 10, 2004. Board Exhibit 8. The zoning officer also realized at this time that the building would also be in violation of the flood insurance map effective March 18, 2004 since the location of this building by virtue of the map line change would have been in the floodway. See letter dated July 17, 2004, from the zoning officer to Ms. Prince.

The evidence accepted by the Board indicated that the changes to the building planned by Ms. Prince were significant. The changes or differences were such that there was no right which could be viewed as being vested.

Accordingly, the Court cannot say that the Board manifestly abused its discretion in denying Ms. Prince's appeal. In light of the evidence, the appeal of Ms. Prince is hereby **DENIED.**

By The Court,

Kenneth D. Brown, P.J.

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