

**IN THE COURT OF COMMON PLEAS OF
LYCOMING COUNTY, PENNSYLVANIA**

JONATHAN WYANT and	:	NO. CV-2025-01132
JENNIFER WYANT	:	
Appellants,	:	
	:	
vs.	:	CIVIL ACTION – LAW
	:	
ELDRED TOWNSHIP	:	APPEAL OF SEPTIC PERMIT
	:	REVOCATION
Appellee,	:	

OPINION & ORDER

BACKGROUND:

The above-captioned matter came before this Court for oral argument on the Local Agency Appeal, filed on August 11, 2025, by Jonathan Wyant and Jennifer Wyant (hereinafter collectively “Wyant” or “Appellants”) from the July 24, 2025, decision of Board of Supervisors of Eldred Township (hereinafter “Township” or “Appellee”) revoking the permit for an on-lot septic facility issued to Wyant on November 24, 2020 (the written decision bearing mail date July 24, 2025, will hereinafter be referred to as the “Revocation Decision”). The permit was issued for construction of an on-lot septic facility on Lycoming County Tax Parcel 11-310-112 (hereinafter the “Premises”). Years later, Township served Wyant with a Notice of Permit Revocation pursuant to 25 Pa. Code Section 72.28, from which Wyant filed a timely appeal. Hearing on that appeal was conducted on July 21, 2025. After the hearing, Township denied the appeal by the written Revocation Decision. Wyant filed a timely appeal to this Court.

In parallel litigation filed by the Township to Lycoming County docket 2025-00105, Township sought a preliminary injunction against Wyant related to use of the on-lot septic system. That injunction was denied by Opinion and Order filed February 24, 2025, a copy of which is attached hereto.

THE HEARING OF JULY 24, 2025:

The Court has conducted an exhaustive review of the transcript of the hearing conducted on July 21, 2025, as follows.

Hearing Exhibit 1 was an Application for An On-Lot Sewage Disposal System submitted and signed by Wyant on May 9, 2019 (hereinafter the “Application”). The Application was countersigned by the Township Sewage Enforcement Officer (hereinafter

“SEO”) on May 14, 2019. Hearing Exhibit 2 was a Notice of Permit Revocation pursuant to 25 Pa. Code Section 72.28.

The Township introduced the testimony of Sewage Enforcement Officer Paul Rapp (hereinafter “Rapp”). Rapp pointed out that the Application identified Lycoming County Tax Parcel 11-310-112 but not parcel 11-310-112A (N.T. 7). Rapp pointed out that the Notice of Revocation states that Wyant “may resolve this Revocation by submitting for approval an accurate Sewage Planning Module to the undersigned current Eldred Township Sewage Enforcement Officer” (N.T. 9-10). On cross-examination, Rapp admitted that the Notice of Revocation alleges that one basis for the revocation was a misstatement on the Application regarding the date of the subdivision of the lot, but that misstatement was made in the portion of the Application completed by the Township (N.T. 11-12). Rapp stated that Wyant was issued a permit on November 24, 2020 (N.T. 15-16). Rapp admitted that the Application does not have any location to write a tax parcel number, and that he does not know who wrote the tax parcel number on the Application (N.T. 16-17). Rapp admitted that the Application had accurate information regarding number of bedrooms (N.T. 19). On cross-examination, Rapp was unable to provide any authority for his conclusion that the Wyant garage is the equivalent of a separate building lot (N.T. 20-22). Rapp testified that he concluded that Wyant’s construction of a family care unit created a multi-family dwelling, equivalent to a duplex (N.T. 22-23). The parties agreed to introduce as Applicant Exhibit 1 the August 29, 2022, decision of the Eldred Township Zoning Hearing Board, granting Wyant a special exception to operate and maintain a Family Care Unit subject to five (5) conditions set forth in Section 7 of that decision. Those five (5) conditions included letter A: “comply with all septic regulations of Eldred Township at all times as those regulations are interpreted by the Eldred Township Sewage Enforcement Officer,” and letter D., “When Applicant’s mother and step-father no longer need to use the Family Care Unit as a dwelling, the septic shall be disconnected whether it is connected to the existing septic system for Applicants’ home or is a stand-alone septic system” (N.T. 23-24). Rapp testified that the permit was issued without a planning module “because that application has a false premise” (N.T. 25). Rapp testified that the prior SEO issued the permit but he would not have done so, without a sewage planning module, due to the attached garage (N.T. 26).

Jonathan Wyant testified that, to his knowledge, when Wyant submitted the Application marked Exhibit 1, there was no parcel number listed (N.T. 33-34 and 44). When

he submitted the Application, his intention was to construct a single-family dwelling and a garage with no services to it (N.T. 34). At the time of the perc test, he worked with the then current SEO for Eldred Township, and Craig June (N.T. 34-36). After Craig June performed whatever services were required for the SEO to issue the permit, the permit was issued (N.T. 37). Wyant was not involved in that process (N.T. 37). No one has suggested that the permit was erroneously issued, until the Notice of Revocation (N.T. 38). Wyant applied to the Eldred Township Zoning Hearing Board for approval of a Family Care Unit. After that approval, he followed up with the then current SEO “on multiple occasions. (N.T. 38). The single-family home and the garage were constructed “long after the sewage permit was issued” (N.T. 39). The then current SEO told Wyant that “as long as I did not exceed three bedrooms and as long as the buildings were connected, that I would have absolutely no problem and there was another place in the township that had the exact same, or a very similarly or exactly situated situation as I did. And that one was approved” (N.T. 39). Wyant testified that his employment with the Pennsylvania Game Commission requires him to have a home office, so the total number of bedrooms with the family care unit is three (N.T. 40 and 42). He proceeded to connect the garage to the single-family home (N.T. 40). The SEO who gave him the approval never withdrew it (N.T. 41). He received a certificate of occupancy for the family care unit (N.T. 42). He did not falsify anything on the Application (N.T. 43). There has never been a fourth bedroom (N.T. 44). The occupants of the single-family home at the Wyant couple, and the occupants of the Family Care Unit are his mother and his stepfather (N.T. 45). He contends that he followed the instructions from the SEO who gave him the approval “to the letter” (N.T. 53). He was told that he could not exceed a total of three bedrooms and that the two structures must be connected (N.T. 53).

Former SEO Jami Nolan testified that the final inspection took place on May 13, 2022, and the home and garage were not yet completed (N.T. 57-58). When re-called later in the hearing, Nolan testified that he checked the box on the application “prior to 1972 (N.T. 77). He testified that the Neff property was approved for a Family Care Unit under the same process as the Wyant Family Care Unit (N.T. 78). With the Neff property, they added “a whole other addition” (N.T. 79).

The Township also presented the testimony of Robert William Everett, II from the Department of Environmental Protection (N.T. 59-72).

THE APPLICABLE CODE PROVISION

The Notice of Permit Revocation was issued pursuant to 25 Pa. Code Section 72.28, which provides as follows:

- (a) A permit shall be revoked by the local agency at any time for one or more of the following reasons:
 - (1) When a change has occurred in the physical conditions of lands which will materially affect the operation of an individual or community onlot sewage disposal system covered by a permit issued by the local agency under this chapter.
 - (2) When one or more tests material to the issuance of the permit has not been properly conducted.
 - (3) When information relevant to the issuance of the permit has been falsified.
 - (4) When the original decision of the local agency otherwise failed to conform with the act and this part.
 - (5) When the permittee has violated the act, this part or the requirements of the permit.
- (b) The notice of revocation of a permit shall be in writing to the permit holder and shall include the reasons for revocation, notice of the permit holder's opportunity to request a hearing before the local agency within 10 days of receipt of the revocation notice, and notice that no further construction or use of either the sewage system or the structure for which it is intended may take place until a new permit is issued or the revocation is reversed by the local agency.
- (c) If a permit holder fails to file a written request for a hearing under this chapter within 10 days after receipt of notice of revocation, revocation shall be final.

QUESTION PRESENTED

1. WHETHER APPELLEE COMMITTED AN ERROR OF LAW, OR ABUSED ITS DISCRETION, BY FINDING A BASIS FOR REVOCATION UNDER 25 PA. CODE SECTION 72.28.
2. IN THE ALTERNATIVE, WHETHER APPELLEE IS EQUITABLY ESTOPPED FROM REVOCATION OF THE PERMIT.

ANSWER TO QUESTION PRESENTED

1. APPELLEE COMMITTED AN ERROR OF LAW, OR ABUSED ITS DISCRETION, BY FINDING A BASIS FOR REVOCATION UNDER 25 PA. CODE SECTION 72.28.
2. IN THE ALTERNATIVE, APPELLEE IS EQUITABLY ESTOPPED FROM REVOCATION OF THE PERMIT.

ANALYSIS

1. APPELLEE COMMITTED AN ERROR OF LAW, OR ABUSED ITS DISCRETION, BY FINDING A BASIS FOR REVOCATION UNDER 25 PA. CODE SECTION 72.28.

This Court has reviewed the nineteen (19) “Findings” contained in the written Revocation Decision. Many are not true Findings of Fact, but merely legal conclusions which support the Township’s pre-ordained outcome. The Court will address each of the nineteen (19) “Findings,” as follows:

1. This Appellee Finding is a true Finding of Fact and is supported by the record.
2. This Appellee Finding is a true Finding of Fact but is not supported by the record. At the time of the final inspection on May 13, 2022, construction had been commenced on both a single-family dwelling and a garage. While the construction plan provided for three bedrooms, Wyant always occupied the home with two bedrooms and one home office. The third bedroom was established in the garage structure, consistent with the Township approval of a Family Care Unit.
3. This Appellee Finding is a true Finding of Fact but is not supported by the record. The record does not support a Finding of two tax parcels, although there may be two tax parcels. The Court notes the language “believed to be 11-310-112A.” The record lacks sufficient evidence upon which to base that Finding.
4. This Appellee Finding is a true Finding of Fact, but is not supported by the record. The record does not support a Finding of two tax parcels, although there may be two tax parcels. The Court notes the language “believed to be 11-310-112A” in Finding 3. The record lacks sufficient evidence upon which to base that Finding.
5. This Appellee Finding is a true Finding of Fact, and is supported by the record.
6. This Appellee Finding is not a true Finding of Fact, but a Conclusion of Law. Rapp testified to his contention that a Sewage Planning Module should have been required at the time of the Application.
7. This Appellee Finding is not a true Finding of Fact, but a Conclusion of Law, and is not support by the record.
8. This Appellee Finding is not a true Finding of Fact, but a Conclusion of Law, and is not support by the record.
9. This Appellee Finding is not a true Finding of Fact, but a Conclusion of Law. The precise language of the Section is set forth above.

10. This Appellee Finding is a mix of Finding of Fact and a Conclusion of Law. The record supports a Finding that, after the final inspection on May 13, 2022, Wyant applied for and received approval for a Family Care Unit, and modified the single-family home and garage to accommodate that Family Care Unit, as approved.
11. This Appellee Finding is a true Finding of Fact, and is supported by the record.
12. This Appellee Finding is a true Finding of Fact, and is supported by the record (with the sole exception of the underlining of “at all times”).
13. This Appellee Finding is a true Finding of Fact, and is support by the record, with the sole exception of the reference to “on an adjoining lot.” The record does not support a Finding of two tax parcels, although there may be two tax parcels. The Court notes the language “believed to be 11-310-112A” in Finding 3. The record lacks sufficient evidence upon which to base that Finding.
14. This Appellee Finding is not a true Finding of Fact, but a Conclusion of Law, and is not support by the record.
15. This Appellee Finding is a true Finding of Fact and is supported by the record.
16. This Appellee Finding is a mixed Finding of Fact and a Conclusion of Law. The record supports a Finding that both Wyant and former SEO Nolan appear to be of the opinion that the Township “bends rules.” The record supports a Finding that Wyant did not obtain or submit a Sewage Planning Module. The record supports a Finding that Rapp contends that a Sewage Planning Module should have been required at the time of the Application. The balance of this paragraph appears to contain legal conclusions.
17. This Appellee Finding is not a true Finding of Fact, but a Conclusion of Law.
18. This Appellee Finding is a mixed Finding of Fact and a Conclusion of Law. The Finding that Rapp has issued a revocation is a true Finding of Fact, and is supported by the record. The balance of this paragraph appears to be a legal conclusion, based upon the Board reaction to the evidence presented by Appellant.
19. This Appellee Finding is not a true Finding of Fact, but a Conclusion of Law, and is not support by the record.

The record does not support any of the bases for revocation listed in the Notice of Revocation. For that reason, the Court concludes that Township committed an error of law, or abused its discretion, by finding a basis for revocation under 25 Pa. Code Section 72.28.

2. IN THE ALTERNATIVE, APPELLEE IS EQUITABLY ESTOPPED FROM REVOCATION OF THE PERMIT.

In the alternative, even if the Court found a basis for revocation under 25 Pa. Code Section 72.28, the Court would be constrained to conclude that Township is equitably estopped from revoking the permit. In the matter of *McLogie Properties Inc. v. Kidder Township Zoning Hearing Board*, 298 A.3d 1193 (Pa.Cmwlt. 2023), our Commonwealth Court found both that the property owner was entitled to a variance by estoppel, and that the Township was equitably estopped from enforcing the ordinance.

A party seeking a variance by estoppel must satisfy four elements: (1) the municipality's failure to enforce the zoning ordinance for a long period, when the municipality knew or should have known of the violation but acquiesced in the illegal use; (2) good faith and innocent reliance by the landowner on the validity of the use throughout the proceedings; (3) substantial expenditures by the landowner in reliance on the belief that the use was permitted; and (4) unnecessary hardship from denial of the variance, such as the cost to demolish an existing building. *Skarvelis v. Zoning Hearing Bd. of Dormont*, 679 A.2d 278, 281 (Pa. Cmwlt. 1996).

McLogie Properties Inc. v. Kidder Township Zoning Hearing Board, 298 A.3d 1193, 1199 (Pa.Cmwlt. 2023)

Equitable estoppel may arise from “an informal promise implied by one's words, deeds, or representations” that induces reasonable reliance by another to his detriment. *In re Jackson*, 280 A.3d 1074, 1083 (Pa. Cmwlt. 2022). Thus, the two essential elements of equitable estoppel are inducement and justifiable reliance. *Belleville v. David Cutler Grp.*, 118 A.3d 1184, 1199 (Pa. Cmwlt. 2015). Equitable estoppel may be asserted against the government. *Jackson*, 280 A.3d at 1083; *see also Chester Extended Care Ctr. v. Dep't of Pub. Welfare*, 526 Pa. 350, 586 A.2d 379, 382 (1991). “The inducement may be words or conduct and the acts that are induced may be by commission or forbearance provided that a change in condition results causing disadvantage to the one induced.” *Belleville*, 118 A.3d at 1199 (quoting *Zitelli v. Dermatology Educ. & Rsch. Found.*, 534 Pa. 360, 633 A.2d 134, 139 (1993)); *see also Jackson*, 280 A.3d at 1083.

McLogie Properties Inc. v. Kidder Township Zoning Hearing Board, 298 A.3d 1193, 1205 (Pa.Cmwlt. 2023).

Here, Wyant sought a certificate of occupancy for a Family Care Unit, and obtained it. The then current SEO advised him that the terms of the permit included that there be no more than a total of three bedrooms, and that the two structures must be connected. Wyant made the modifications required. Wyant testified that he followed the instructions from the SEO who gave him the approval “to the letter” (N.T. 53). There was no evidence to the contrary. In light of the fact that Wyant sought Township approval of the Family Care Unit, obtained that approval, and performed construction on the single-family home and garage consistent with the terms of the approval, the Court concludes that Township is equitably estopped from withdrawing its approval.

ORDER

And now, this 22nd day of June, 2025, for the reasons more fully set forth above, the Local Agency Law Appeal filed August 11, 2025, is **SUSTAINED**, and the Revocation Decision related to the on-lot septic facility issued to Wyant on November 24, 2020 (bearing mail date July 24, 2025) is **REVERSED**.

BY THE COURT,

William P. Carlucci, Judge

cc: Court Administrator
Marc S. Drier, Esquire
Scott T. Williams, Esquire