

STATE OF MAINE
Knox, SS.

SUPERIOR COURT
Docket No. CV-2021-0002
AP-2021-0002

Friends of Rockport,)
John Priestley,)
Mark Schwarzmnn,)
and Clare Tully,)
Plaintiffs,)

v.)

Town of Rockport,)
Defendant,)
and)
20 Central Street LLC,)
Party-in-Interest.)

Order on Post-Judgment Motions

John Priestley, David Barry)
David Kantor,)
Mark Schwarzmnn,)
and Winston Whitney,)
Plaintiffs)

v.)

Town of Rockport,)
Defendant,)
and)
20 Central Street, LLC,)
Party-in-Interest.)

Introduction

Following issuance of the court’s judgment in these two matters on January 3, 2022, the parties filed a series of motions seeking to clarify or change certain elements within it. Plaintiffs in the AP case ask the court to revisit its decision not to overturn the Planning

Board's decision with respect to scenic views. The related set of plaintiffs in the CV action asks that the Code Enforcement Officer be prohibited from issuing a renewed building permit unless 20 Central seeks, and the Planning Board approves, an amended site plan that reflects the court's rulings with respect to architectural harmony, traffic, and parking.

Defendant Town of Rockport asks for clarification as to whether the site plan was vacated or the matter simply remanded to the Planning Board for further consideration. It also renews arguments previously rejected by the court, and asks that the judgment in Count I of the civil action be vacated as duplicative of the relief afforded in Count III.

Discussion

The issue of scenic views was considered and analyzed at length in the court's decision. AP Plaintiffs' arguments renewing their request for intervention on this basis do not persuade the court its initial decision was either incomplete or in error. This request for relief must therefore be denied.

CV Plaintiffs' requests for the court's direction of town operations on remand require a more elaborate response. Broadly, the court was presented with a series of specific inquiries in these two cases. It answered them as it was able. In its orders of remand, the court called attention to the overlap between the two actions and the decisions town authorities would have to make in order to comply with both orders.

The court can discern in the parties' pleadings issues that may arise in further proceedings before the Planning Board and the Code Enforcement Officer and that may give rise to further issues on appeal. Given the length and expense of these proceedings, the court would like to resolve those issues now—but it has no authority to do so. The court can only act on the issues presented to it by the parties' pleadings and it did so in its judgment. To direct the town's management of the issues on remand would require the court to install itself extralegally as an ongoing referee of municipal processes.

The Town of Rockport inquires in its motion whether the specific relief afforded in the AP case involved vacating the Planning Board's approval of the site plan. No party has cited authority suggesting the plan had to be vacated to allow the Planning Board to accomplish the tasks required of it on remand. The court's decision, therefore, which does not specifically vacate the site plan, stands unaltered.

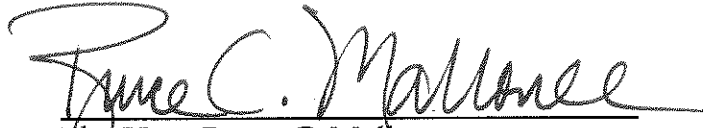
The town further asks that the court decline to issue relief under Count I of the CV complaint because it is redundant of the relief afforded under Count III. The point is logical, but the relief in Count III is predicated on the decision in Count I. The court declines to vacate that element of its judgment.

Conclusion and Orders

The court's decisions in these related matters did not because they could not provide exhaustive guidance as to how every interlocking issue on remand must be addressed procedurally on remand. The parties have not persuaded the court that any element of

its judgment and orders was in error. All post-judgment motions in KNOAP-2021-002 and KNOCV-2021-002 are therefore DENIED.

Dated: March 2, 2022


The Hon. Bruce C. Mallonee
Justice, Maine Superior Court

Entered on the Docket

March 3, 2022