

JOHN BARTH

v.

TOWN OF WATERBORO et al.

Submitted on Briefs December 18, 2020

Decided December 29, 2020

Panel: MEAD, GORMAN, JABAR, HORTON, and CONNORS, JJ.

MEMORANDUM OF DECISION

John Barth appeals from judgments of the Superior Court (York County, *Douglas, J.*) (1) affirming, pursuant to M.R. Civ. P. 80B, the decision of the Town of Waterboro Zoning Board of Appeals regarding the denial of Barth's application for a building permit and (2) dismissing Barth's independent causes of action against the Town, Gary Lamb, "John Does 1-5," and "Jane Does 1-5." Although Barth's standing was not raised by the parties, we conclude that he lacks the minimum standing to pursue his Rule 80B appeal of the Board's decision because he is neither the owner of the property at issue nor an attorney authorized to represent the corporation that does own the property.¹ *See* 4 M.R.S. § 807 (2020); *All. for Retired Ams. v. Sec'y of State*, 2020 ME 123, ¶ 3, --- A.3d ---; *Bank of Am., N.A. v. Greenleaf*, 2014 ME 89, ¶¶ 6-7, 96 A.3d 700;

¹ Even if Barth had standing to maintain his challenge to the decision of the Zoning Board of Appeals, it is not at all clear from the administrative record provided to us that Barth's appeal to the Board was timely. *See* Waterboro, Me., Zoning Ordinance §§ 2.05, 13.02 (June 24, 2016); *Wilgram v. Town of Sedgwick*, 592 A.2d 487, 488-89 (Me. 1991). In any event, if we had considered Barth's Rule 80B appeal on its merits, we would have affirmed the Superior Court's decision. *See* Waterboro, Me., Zoning Ordinance §§ 2.03, 13.02 (June 24, 2016); *Friends of Lamoine v. Town of Lamoine*, 2020 ME 70, ¶ 19, 234 A.3d 214.

Witham Family Ltd. P'Ship v. Town of Bar Harbor, 2011 ME 104, ¶¶ 6-7, 30 A.3d 811; *Spickler v. York*, 566 A.2d 1385, 1390 (Me. 1989). Contrary to Barth's contentions, we also discern no error in the court's grant of the Town's motion for a judgment on the pleadings as to each of Barth's independent causes of action. See M.R. Civ. P. 8(e), 12(c), 80B(i); *Temple v. DiPietro*, 2015 ME 166, ¶¶ 26, 30, 130 A.3d 368.

The entry is:

Appeal of the Superior Court's decision as to the Town of Waterboro Zoning Board of Appeals decision is dismissed. Appeal of the Superior Court's dismissal of the independent causes of action is affirmed.

John Barth, appellant pro se

Jonathan W. Brogan, Esq., and Samuel G. Johnson, Esq., Norman, Hanson & DeTroy, LLC, Portland, for appellees Town of Waterboro, Gary Lamb, "John Does 1-5," and "Jane Does 1-5"

York County Superior Court docket number RE-2018-56
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