
Letter to the editor: Clare Tully

Rockport officials refused to apply ordinances; using taxpayer dollars to try to override the will of residents

Clare Tully

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A recent article in *The Camden Herald* quoted Tyler Smith, a principal in the Rockport Harbor Hotel project, as saying, "Yes, unfortunately for us and fiscally for the town, there are still frivolous appeals pending." Mr. Smith went on to say "...a Superior Court judge has ruled that there is little chance of success in their case".

Instead of relying on Mr. Smith's wishful thinking, we urge residents to read what Justice Mallonee actually wrote.

One of the issues before Justice Mallonee is whether the ordinance revisions that Rockport residents passed in the summer of 2020 should apply to the hotel project.

Those ordinances (a) limit any single downtown hotel to 20 rooms and (b) require a parking study, paid for by the developer, for any new construction.

Town officials have refused to apply these ordinances to the hotel and are even using taxpayer dollars to try to override the will of their residents in court. The Town and the developer claimed that we missed a deadline when the Town delayed the annual election for two months due to Covid. Justice Mallonee wrote the following in response:

"Plaintiffs did exactly what they were supposed to do when aggrieved; they employed a statutory process to secure the relief they sought. They did the hard work of gathering signatures, generating a vote, and persuading their neighbors to support their cause. They 'failed' only because their efforts ran afoul of a disease that overwhelmed the entire country. For the statutory relief Plaintiffs sought to be frustrated by a pandemic that ejected their neighbors from their jobs, schools, entertainment, churches and synagogues; the homes of their aged parents and infant grandchildren; and the hospital rooms of their dying loved ones, at a time when specific and substantial legal relief was otherwise offered by every body of State government, appears to contravene foundational ideas of participatory government. The court deems this to be irreparable harm of considerable magnitude."

Unlike our Town officials and the developer, Justice Mallonee also recognizes and respects our efforts to enforce Rockport's scenic view ordinance: "Plaintiffs have made a persuasive preliminary showing that construction of the hotel in accordance with 20 Central's building permit will close off sight-lines for townspeople that have existed for decades. In a scenic harbor side village in which both civic enjoyment and commercial success are predicated on scenic values, this could constitute a substantial loss. The potential loss is amplified by

potential congestion or other complications resulting from traffic and parking that exceeds municipal capacity.”

Justice Mallonee will make another ruling on the issues after the Rockport’s Zoning Board of Appeals hearing takes place tomorrow, June 30 at 5:30PM at the Rockport Opera House. The ZBA will hear an appeal of the Code Enforcement Officer’s approval of a building permit for the hotel. We are appealing the permit because it deviates substantially from the Planning Board’s approved site plan, to the detriment of Rockport’s beloved harbor and village.

The most troublesome change from the site plan to the CEO’s approved building permit relates to the use changes in the public spaces. During the Planning Board hearings, the developer characterized the top floor public space as a “top level restaurant (+/- 60 seats) [which] will be busiest in the afternoon and evening.” Yet, the permit application the developer submitted to the CEO is for a 132-seat event space. Similarly, during the hearings the developer said of the street level space “the main function of the lower level restaurant (+/- 24 seats) will be breakfast for the guests.” Yet, the developer later submitted the space as 34 seats with a bar and piano.

Taken together, this is a 98% increase in seating – 84 to 166. The developer clearly had planned to significantly depart from the approved site plan months before it submitted the building permit ,as evidenced by the following interview, “In the summer of 2022 or 2023, a wedding reception may be held on the top floor of a new hotel in downtown Rockport, giving the revelers an unparalleled view of the scenic harbor.

Downstairs in the bar and lounge area, a visiting musician may take a turn at the baby grand piano, entertaining other guests.” (“The Camden Herald” 11/13/20). If you agree that this overreaching permit should not have been issued in disregard of the approved site plan, please let the ZBA know by emailing them care of Orion Thomas at planning@rockportmaine.gov.

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