

# Shepard & Read

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**Sent via email to: [shastings@yorkmaine.org](mailto:shastings@yorkmaine.org)**

York Planning Board  
c/o Scott Hastings, Assistant Planner  
186 York Street  
York, Maine 03909

**RE: 7 Carriage Barn Lane, Tax Map/Lot 0051-0037-A  
Review of Driveway, Building Envelope and Septic Location  
Proposed by Philip Brown**

Dear Planning Board Members:

I am writing once again in my capacity as legal counsel to Ala Reid and Rozanna Patane. As you know, I was present on their behalf at the October 27, 2016 hearing, to which we brought our wetlands expert, Mark Hampton, and a number of other residents who were prepared to testify. Minutes before the hearing was to begin, the applicants' agent, Tim Decoteau, withdrew from the agenda and the board kindly allowed me to speak about the inconvenience that the late withdrawal caused.

We discovered last week that Mr. Decoteau has filed now a two-paragraph memo entitled "Planning Board Jurisdiction" and learned that the matter has been placed on your agenda for December 1<sup>st</sup>.

On behalf of my clients, I respectfully ask that the Board be very clear with the applicant regarding what is being presented and what you are scheduling for hearing. As the Board is well aware, the jurisdictional issue has already been argued by both sides and submitted to your Town attorney for review, whereupon she provided her written opinion that the Board DOES have jurisdiction. It was for that reason that we were placed back on the agenda for October 27<sup>th</sup>. Mr. Decoteau is now seeking to resurrect the jurisdictional issue and it is unclear whether he intends to even present his case in the context of a full public hearing process if he is unsuccessful. I have asked Scott Hastings this question directly, (i.e., whether we should be prepared to offer testimony at a full public hearing on the merits of this proposal once the jurisdictional issue is voted upon by the Board) but have not received a response. As such, it appears

that we will once again turn out the people who were prepared to testify at the last hearing and proceed if necessary.

Our position on the jurisdictional issue, which was endorsed by your Town attorney, remains unchanged. This is not a simple matter of which town employee or Board is currently responsible for administering the shoreland zoning ordinance; rather, it is directly connected to a specific note on a specific subdivision plan over which the Planning Board retained jurisdiction. To us, the fact that the Board rescheduled this application for a public hearing on October 27<sup>th</sup> after receiving the Town attorney's opinion establishes the fact that you have **already accepted** jurisdiction. Otherwise, the matter would have been sent back to the Code Enforcement Officer as Mr. Decoteau has been requesting.

Given these facts, the board should require Mr. Decoteau, *ASAP prior to next Thursday*, to definitively state his intentions and avoid a potential waste of your (and the public's) time. Is the intent to limit the meeting to a discussion of jurisdiction or will he be proceeding to present his case if that argument fails again?

As a professional courtesy, I am copying Mr. Decoteau with this letter via email.

Thank you for your consideration of these comments.

Sincerely,

**SHEPARD & READ**



Bruce M. Read, Esquire

BMR:ktr

cc: Tim Decoteau (via email)  
Ala Reid (via email)  
Rozanna Patane (via email)