

STATE OF MAINE
SAGADAHOC, SS.

SUPERIOR COURT
CIVIL ACTION
Docket No. BATSC-RE-2006-03
Docket No. WESDC-CV-05-289
(Consolidated)

SAGADAHOC
SEP 29 2011

AMH - SAG - 9/29/2011

JACOB B. KARBINER and)
SUSAN H. KARBINER,)
Plaintiffs/)
Counterclaim Defendants)
v.)
R. BRUCE MONTGOMERY and)
WANDA HADDOCK,)
Defendants/)
Counterclaim Plaintiffs)

**ORDER FOR ENTRY OF
FINAL JUDGMENT**

TOWN OF GEORGETOWN,)
Plaintiff)
v.)
R. BRUCE MONTGOMERY and)
WANDA HADDOCK,)
Defendants)
and)
JACOB KARBINER and)
SUSAN KARBINER,)
Parties-in-Interest)

The various issues in these consolidated matters were divided into two separate phases. The issues determined in the Phase One proceedings included the location of the common boundary line between the Karbiner property and property then owned by Bruce Montgomery and Wanda Haddock, whether the structure built by Montgomery/Haddock in 2005 violated the 20-foot setback requirement from that common boundary, and whether a stop work order issued by the Code Enforcement Officer of the Town of

Georgetown was violated by Montgomery/ Haddock. A trial was held on the Phase One issues on January 25, 28 and 29 of 2008, and the Court entered its “Findings of Fact and Conclusions of Law on Claims and Counterclaims (Phase One)” on June 4, 2008.

The Phase Two issues relating to the proper remedy and relief had been stayed pending determination before appropriate administrative officials of the Town of Georgetown regarding what, if any, relocation and/or modification of the structure would be in compliance with the Shoreland Zoning Ordinance of the Town of Georgetown. Considerable activity has taken place before various administrative officials of the Town of Georgetown on one or more permit requests submitted by Wanda Haddock, now sole owner of the property. Wanda Haddock filed a Petition for Review under Rule 80B to review the most recent Board of Appeals decision on April 14, 2010 upholding a Planning Board denial of Ms. Haddock’s most recent building permit request. This Court entered its Order and Judgment in Wanda Haddock v. Town of Georgetown, et al., CV-AP-10-4 on May 20, 2011, denying Petitioner’s appeal, affirming the Planning Board’s decision denying the permit request, and granting judgment to the Town of Georgetown on the appeal. An appeal of this decision to the Law Court was subsequently dismissed by stipulation. A consented to motion for entry of final judgment has been filed by the Karbiners.

This Court finds that the entry of final judgment in these consolidated matters is now appropriate under the circumstances presented. The Findings of Fact and Conclusions of Law on Claims and Counterclaims (Phase One) dated June 4, 2008 are incorporated herein. Pursuant to 30-A M.R.S.A. 4452(D) and (E), Wanda Haddock and

Bruce Montgomery are responsible for reasonable attorneys' fees, expert witness fees and costs incurred by the Town of Georgetown in the amount of \$63,102.20. The Court has been advised that any issues with respect to removal of the retaining wall on the Karbiner property and the presence of the underground power line on the Karbiners' property servicing the Haddock/Montgomery property have been resolved by agreement of those parties and therefore need not be addressed herein. Therefore, the Court hereby orders that the Clerk make the following entry on the docket:


- (1) Judgment is entered in favor of Jacob Karbiner and Susan Karbiner and against R. Bruce Montgomery and Wanda Haddock on all counts of the counterclaim filed by R. Bruce Montgomery and Wanda Haddock in Docket No. BAT-SC-RE-06-03.
- (2) Judgment is entered in favor of Jacob Karbiner and Susan Karbiner and against R. Bruce Montgomery and Wanda Haddock on the Karbiners' Complaint for Declaratory Judgment in Docket No. BAT-SC-RE-06-03 declaring that the common boundary between property owned by the Karbiners acquired by deed dated July 1, 1985, and recorded in the Sagadahoc County Registry of Deeds in Book 710, Page 22 and the property acquired by R. Bruce Montgomery and Wanda Haddock by deed dated June 10, 1999 and recorded in the Sagadahoc County Registry of Deeds in Book 1691, Page 312 (which property is now solely owned by Wanda Haddock) is as set forth on the Boundary Survey for Susan H. and Jacob B. Karbiner performed by Pamela A. Mount of Coastal and Woodland Surveying and dated June 13, 2005. The Abstract of Judgment attached to this Order shall be recorded in the Sagadahoc County Registry of Deeds with a certified copy of the Pamela Mount survey dated June 13, 2005.
- (3) Judgment is entered in favor of the Plaintiff Town of Georgetown against R. Bruce Montgomery and Wanda

Haddock in Docket No. WESDC-CV-05-289 finding that the garage structure built by R. Bruce Montgomery and Wanda Haddock in 2005 is 16.2 feet at its closest point from the common boundary with the Karbiner property and therefore is in violation of the 20-foot setback requirement of the Town of Georgetown Shoreland Zoning Ordinance.

- (4) Judgment is granted in favor of the Town of Georgetown against R. Bruce Montgomery in Docket No. WESDC-CV-05-289 for violation of the stop work order issued by the Code Enforcement Officer for the Town of Georgetown on or about December 22, 2005.
- (5) Judgment is granted in favor of the Town of Georgetown against R. Bruce Montgomery in the amount of \$3,000.00 as a civil penalty for violation of the aforesaid stop work order.
- (6) Judgment is granted in favor of the Town of Georgetown against R. Bruce Montgomery and Wanda Haddock in the amount of \$63,102.20 for attorneys' fees, expert witness fees and costs incurred by the Town of Georgetown.
- (7) The "garage" structure violative of the setback requirement must be removed from the property by Wanda Haddock and/or R. Bruce Montgomery on or before December 31, 2011, and the area revegetated by May 31, 2012.
- (8) Costs also are allowed to the prevailing parties Jacob and Susan Karbiner in the amount of \$3,000.00.

Pursuant to M. R. Civ. P. 79(a), the Clerk is hereby directed to incorporate this Final Judgment by reference in the docket.

Dated: 9-29-11



Andrew M. Horton, Justice

ABSTRACT OF JUDGMENT

A judgment has been entered in the Civil Action captioned Jacob B. Karbiner and Susan H. Karbiner v. R. Bruce Montgomery and Wanda Haddock, Docket No. BATSC-RE-2006-03 in Sagadahoc County Superior Court that affects title to real estate to property located in the Town of Georgetown. This civil action involved the location of the common boundary between property owned by Jacob B. Karbiner and Susan H. Karbiner acquired by deed recorded in Book 710, Page 22 in the Sagadahoc County Registry of Deeds, and property owned by R. Bruce Montgomery and Wanda Haddock acquired by deed recorded in Book 1691, Page 312 in the Sagadahoc County Registry of Deeds. This common boundary is the boundary between Lot 36 and Lot 37 on Loop Road reflected in the so-called Hill Plan recorded in the Sagadahoc County Registry of Deeds in Plan Book 4, Page 7. In accordance with this Court's Order for Entry of Final Judgment dated _____, 2011, the Court has established the location of the common boundary between the Karbiner property and the Montgomery/Haddock property to be located as shown on the Boundary Survey for Susan H. and Jacob B. Karbiner dated June 13, 2005 performed by Pamela Mount of Coastal and Woodland Surveying. A certified copy of the Mount Boundary Survey is recorded in the Sagadahoc County Registry of Deeds with this Abstract of Judgment. Any survey prepared by Malcolm McConnell previously recorded in the Sagadahoc County Registry of Deeds that purports to depict the common boundary between the Karbiner and the Montgomery/Haddock properties is rejected by the Court and not valid. Judgment has been entered for Jacob B. Karbiner and Susan H. Karbiner and against R. Bruce Montgomery and Wanda Haddock on all counterclaims asserted by Montgomery and Haddock in Docket No. BATSC-RE-2006-03.

Date: _____

Andrew M. Horton, Justice
Superior Court