

EAST HAMPTON STAR

SHINES FOR ALL

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EAST HAMPTON

Cartiers Win Battle, War Wages On

Judge denies request to stop second house on Main Street property

BY CHRISTOPHER WALSH

A temporary restraining order sought by East Hampton Village to prevent John and Suzanne Cartier from building a second house on their property at 105 Main Street was denied last Thursday.

The Cartiers have long sought to move the existing 2,575-square-foot house to the rear of their property, add 182 square feet to it, and construct a second house of similar size on the property. The couple would live in the new house, and their children and grandchildren would reside in the existing one.

Last month, the village board hired the law firm Lamb and Barnosky to commence legal action to "preclude the proposed disturbance" to the Cartiers property, which is covered by a scenic easement granted to the village in 1975.

According to Linda Margolin, of Bracken Margolin Besunder, who represented the Cartiers, Suffolk County Court Justice Ralph T. Gazzillo declined to grant the restraining order last Thursday.

Denial of a temporary restraining order is not especially significant, said Larry Cantwell, the village administrator. "That bears no prejudice on a judge's decision to listen to the case and hear the merits and make a decision. The judge said, 'Let's get to the facts and I'll make a decision,' which will take longer. The temporary restraining order doesn't stand on its own," he said.

But Jeffrey Bragman, an attorney who represented the Cartiers before the village zoning board of appeals, disagreed with that assessment. "I'm not particularly surprised by the decision of the court not to grant a temporary restraining order. The reason it's significant is that, in order to get a T.R.O., you have to prove that you're likely to win the case," said Mr. Bragman, citing the "likelihood of success on the merits" factor that a judge would consider. "Obviously, they failed in that effort. It's significant. It has some evidentiary significance. You don't go for it lightly."

The Cartiers initially sought a building permit to relocate the existing house,

build an addition, and construct a second house in 2010. That permit was denied, and earlier this year the couple applied to the Z.B.A. for variances. After four months of review, the zoning board determined that the requested variances were unnecessary because the proposed houses would both conform to its requirements for large lots.

Under current zoning, second houses for family members or domestic employees are allowed on certain properties provided that both houses would conform to zoning if the properties were divided in two.

But the village board believes that the scenic easement granted in 1975, when the Cartier property was subdivided and a portion of the original property was gifted to the village, does not permit construction of a second house there, Mr. Cantwell said last month.

"The fact that the village would seek injunctive relief and basically try to undercut and really eliminate a decision by one of its own boards, is, as far as I know,

Continued on A4

Win Battle

Continued from A1
unprecedented," Mr. Bragman said. "The village should concede this case and not fight what the zoning board found. I don't understand what the motive is. I've never seen this kind of reaction to the decision of its own board."

Gordon Bowling, whose house is adjacent to the Cartiers' property, was surprised by the denial of the temporary restraining order. Mr. Bowling has previously registered his opposition to construction of a second house on the Cartier property on the grounds that the scenic/large lot easement granted to the village also covers the Cartiers' property.

"That's disappointing," Mr. Bowling said of the denial, "because I do think an easement is important for the village, for the future of East Hampton. It's too bad because easements should mean something."

"I don't have anything personally against the Cartiers," Mr. Bowling said. "They're nice neighbors. I just don't be-

lieve that we should go back on an easement. It seems if you don't enforce an easement, the planning board has no tools. For the preservation of East Hampton it's an appropriate thing."

The case has been a difficult one, Mr. Bragman said, involving many hearings and strong opposition. But the zoning board, he said, "looked at the application and saw that it was very modest, and balanced it against the results that would happen if they denied it. And they acted very reasonably." Should the lot ever be sold, Mr. Bragman predicted, "They're going to tear down the house. We've done a zoning analysis. They can get something like a 9,400-square-foot house with all the amenities: pool, pool house, tennis court. . . . They're being myopic. They're looking at this application in horror that there could be two houses and not examining the long-term impact on the village. I think the Cartier case preserved the village's character, puts two very small houses on very large, one-acre lots, and retains the small-house charm of that central historic village area, which is really critical."

The village, Mr. Cantwell said, will continue its efforts to prevent the construction sought by the Cartiers. It has also proposed eliminating the section of the code allowing second houses on certain single lots. The change, subject to a hearing before the village board tomorrow, would prohibit people from building a second house on their property unless they first subdivide it. The hearing will begin at 11 a.m. at the Emergency Services Center on Cedar Street.