

Court Overturns Town ZBA Decision On Jamesport Manor Inn

A long-time battle over a proposed catering barn at the inn heats up.

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After over eight years of contentious legal action, the owners of the Jamesport Manor Inn might be one step closer to expanding their restaurant to include a catering barn.

In a decision filed on April 8, the New York State Supreme Court determined that the Riverhead Town Zoning Board of Appeals "was arbitrary and capricious" in dismissing an appeal by the owners of the inn, located on Manor Lane in Jamesport, which challenged a determination by Riverhead's planning director that an accessory catering barn on the four-plus acre site could not be added without a special permit.



The court overturned the dismissal and ordered the Riverhead ZBA to conduct a new hearing and render a decision based on the merits of the application.

Riverhead-based attorney John Ciarelli of Ciarelli & Dempsey PC, representing owners Matt Kar and Frank McVeigh, said he sees the most recent decision, handed down by Judge Joseph Farneti, as a "victory."

The case, which has been ongoing since an application for a site plan was submitted in 2005, involves the owners' wish for a permanent accessory barn structure to be used for on-site catering; originally, the 2005 application submitted called for a tent to be used for catering.

Riverhead Town Planning Director Rick Hanley had rejected both applications on the grounds that the proposals constituted an expansion of the pre-existing non-conforming restaurant use, and a special permit would be required.

The battle continued in the courts for years, and the most recent decision, Ciarelli said, means that the ZBA will have to have a new hearing and make a new decision based on the merits of the case. In the past, no decision was made on the case's merits, he said. "They just dismissed our case on procedural technicalities," he said. "We are hoping that the town does not appeal," he said.

Looking ahead at a timeline for the proposed catering facility, Ciarelli said, "assuming the ZBA makes the right decision and the town board doesn't contest it," should the project get the green light to move forward, the site plan process would follow. "I don't think we'd even begin to dream about

construction until the summer of 2014," he said. "We hope the ZBA makes the right decision. We want to move ahead with this."

In 2011, a decision handed down by State Supreme Court Justice Peter Fox Cohalan ruled that the town's demand that the inn's owners obtain a special permit before expansion could take place was "adopted contrary to the laws and procedures of the State of New York" and was, therefore, void. In other words, the public hearing that went against the owners was illegal.

The practical result was that, barring a successful appeal by the town, Kar and McVeigh had the court's permission to do what they have wanted to do from the outset – namely, build a standalone barn for catered events in the back of their restaurant and erect a temporary tent over the patio on the north side of the inn to accommodate an overflow of diners as needed.

Kar and McVeigh had maintained that the catering barn and tent were needed to make their restaurant economically viable.

A contentious public hearing on the permit application was held in early 2007. The town board, bowing to pressure from neighbors and then-Supervisor Phil Cardinale's insistence that a non-conforming use could not be expanded, turned down permission for the barn and tent. The only positive ruling was to permit Kar and McVeigh to expand the number of seats in their restaurant from 80 – the number of seats in the original restaurant on the property – to 120, a decision that the owners called "unacceptable."

A number of suits followed, including one filed by Phil Barbato, a Manor Lane resident, which was ultimately overturned by the State Supreme Court. In the interim, the original structure on the property – a circa 1870 former residence that had functioned for years as a restaurant – burned to the ground just weeks before it was to reopen following a substantial renovation.

Kar and McVeigh had the structure rebuilt from the ground up to mirror the original building, and the restaurant reopened for business in May 2007, with the owners maintaining they still needed the barn and tent to be successful.

In October of 2009, Kar and McVeigh had Ciarelli file suit in Supreme Court to reverse the town's decision.

Riverhead Town Supervisor Sean Walter said he was unable to comment on litigation.

Town Attorney Robert Kozakiewicz said the matter is being considered. "It's being reviewed with the zoning board counsel," he said. "We're going to look at any grounds to consider an appeal or motion before we make a decision to schedule it for the ZBA."