

^e ^d ⁱ Court Overrules Harbor's ZBA

By Oliver Peterson

A 2006 Sag Harbor Village Zoning Board of Appeals decision to allow a subdivision on Vickers Street has been overturned by the New York State Supreme Court.

The ruling, handed down earlier this month, came in a case involving the ZBA's decision to approve the subdivision of a property in such a way as to create two nonconforming, 11,250-square-foot lots. As a result of the ZBA's actions, a group of neighbors filed a lawsuit. The court sided with the neighbors, saying the lots should have merged because they were at one time the property of a single owner.

Attorney Jeffrey L. Bragman, who represents the neighbors, said Monday that the decision set a good precedent for Sag Harbor because it will deter efforts to create new nonconforming properties and because it enforces village law as it's written, instead of allowing the board to interpret it as it sees fit.

Judge Jeffrey A. Spinner's ruling reaffirmed village merger statutes, stating that the ZBA's determination violated Sag Harbor's subdivision requirements.

He said the decision was "arbitrary and capricious and otherwise erroneous."

"I think it's a very good decision and a decision that's very protective of the Village of Sag Harbor," Mr. Bragman said, noting that the neighbors of the Vickers Street properties "were justifiably in an uproar" about the prospect of two houses and two septic systems where there should have been one.

The two properties were owned separately by a local man and his wife from 1970 to 1997, but when Walter White died in 1997, his wife, Vashti, became the sole owner of the combined 22,500-square-foot property. The village zoning code adopted in 1971 set minimum lot area at 20,000 square feet and, with the death of her husband, Ms. White faced the prospect of a forced property merge. To avoid the merger, Ms. White applied to the ZBA for a variance to maintain the lots as single and separate parcels.

In March 2006, Ms. White sold the parcels to 9 Vickers Street LLC and 11 Vickers Street LLC and in August, despite laws to the contrary, the ZBA approved the subdivision and separated the lots.

Mr. Bragman said the ZBA was step-

ping on the Village Board's right to legislate and interpreting the law to fit the board members' whims.

ZBA Chairman Michael Bromberg, who was on the board in 2006, said he was glad when he heard about the Supreme Court ruling. Mr. Bromberg and board member Denise Schoen, the two attorneys on the board, both voted against the subdivision.

Zoning Board member Anthony Hagen said he wasn't aware of the decision Tuesday, but he recalled the case and said Ms. White had been paying taxes on both properties for years. Some members felt that was unfair. "I wanted to preserve small, affordable lots that were in the Village of Sag Harbor," Mr. Hagen said. "I didn't want to see a mega-house go there."

"I think the decision should be lauded—it's a very strong message," Mr. Bragman said, noting that the ruling will help Sag Harbor modernize and follow the letter of the law, rather than simply thinking in terms of community interest and favoring neighbors. "We have rules of law, not of men," he quipped. "It's strong medicine for good planning."