

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION (CIVIL): AY  
CASE NO.: 502018CA002517XXXXMB

STEVEN ESRICK and  
ANNA ESRICK,  
Petitioners,

v.

VILLAGE OF NORTH PALM BEACH,  
Respondent.

Opinion filed: **OCT 26 2018**

On Petition for Writ of Certiorari from the Village of North Palm Beach Zoning Board of Adjustment.

✓  
For Appellants:

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✓  
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PER CURIAM.

Petitioners, Steven and Anna Esrick (“Petitioners”) filed a Petition for a Writ of Certiorari with this Court seeking review of the Village of North Palm Beach Zoning Board of Adjustment’s (“Zoning Board”) denial of their appeal of the Village’s revocation of a building permit. Petitioners argue that the Zoning Board’s decision violated the essential requirements of law and must be quashed. We agree.

Petitioners own Lot 69 of a planned unit development located within the Village of North Palm Beach, in Palm Beach County, Florida. The Village granted—then revoked—a permit allowing Petitioners to increase the length of their dock from approximately 70 feet to

approximately 100 feet. The Village determined that the permit was not in conformity with Village Ordinance 32-99. In making this determination, Village Staff relied upon Exhibit E of the Ordinance—an incorrect depiction of the area in which dock structures may be located under the text of the Ordinance—to ascertain that the permissible dock length for Petitioners’ lot is “approximately 70 feet.” The parties agree that the text of Ordinance 32-99 does not restrict the length of the dock at Lot 69.<sup>1</sup> The parties disagree as to what extent an exhibit may supplement the text of an ordinance.

A municipal government’s interpretation of an ordinance is due deference if it is reasonable. *Las Olas Tower Co. v. City of Fort Lauderdale*, 742 So. 2d 308, 312 (Fla. 4th DCA 1999) (“Generally, a reviewing court should defer to the interpretation given a statute or ordinance by the agency responsible for its administration. Of course, that deference is not absolute, and when the agency’s construction of a statute amounts to an unreasonable interpretation, or is clearly erroneous, it cannot stand.”) (citations omitted). The words used in a municipal code guide a reviewing court’s interpretation. *See Village of Longboat Key v. Islandside Prop. Owners Coal., LLC*, 95 So. 3d 1037, 1042 (Fla. 2d DCA 2012) (“As the wording of its laws binds a legislature, the Town is bound by the wording of its Code[]”); *see also Ocean’s Edge Dev. Corp. v. Village of Juno Beach*, 430 So. 2d 472, 474–75 (Fla. 4th DCA 1983) (noting that courts cannot amend an ordinance “as the town would have liked it to read” by ignoring the language of the code).

In this case, the Village’s interpretation is due no deference, as it is without support from

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<sup>1</sup> As the Village explains in its Answer Brief, the mechanism by which dock length limits are determined for lots in this planned unit development does not prescribe a limit for Lot 69:

“The area in which [docks] may be located is generally determined by the side setback extended. . . because of its unique configuration, the southern side property line extended for Lot 69 extends well into Prosperity Harbor. . . . Therefore, it is inapplicable to the southern terminus of Petitioners’ dock, and there is essentially no limitation on the dock length within the text of [the Ordinance].” Resp. Ans. Br. at 3-4 (underlining in original).

the text of the Ordinance. The Ordinance does not provide a limit of “approximately 70 feet” for dock structures at Lot 69. To the extent that the Village’s interpretation is based upon Exhibit E, such interpretation would be clearly erroneous, as Exhibit E is an incorrect depiction of the Ordinance. Exhibit E depicts a dock length limitation for Petitioners’ lot of “approximately 70 feet,” despite the fact that no such limitation exists in the Ordinance’s text. This Court will not read the Ordinance to provide a limit where there is none. The Village asks this Court to abide by its intent to comprehensively regulate the lengths of docks. However, the Village is bound by the wording of its Code, and its intent cannot override the words found—or not found—in the text. *See Longboat Key*, 95 So. 3d at 1042.

Accordingly, we GRANT the Petition and QUASH the decision of the Zoning Board.  
NUTT, CURLEY and SASSER, JJ. concur.

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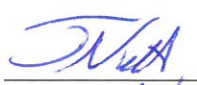
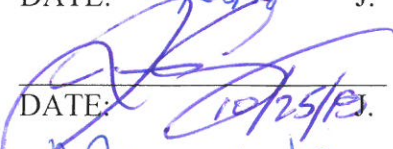
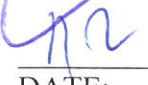
Date of Appeal: February 28, 2018

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DATE OF PANEL: OCTOBER 15, 2018

PANEL JUDGES: NUTT, CURLEY, SASSER

AFFIRMED/REVERSED/OTHER: GRANT PETITION

PER CURIAM OPINION/DECISION BY: PER CURIAM

| CONCURRING:   | ) | DISSENTING:          | ) | CONCURRING SPECIALLY: | ) |
|---|---|----------------------|---|-----------------------|---|
|   | ) | With/Without Opinion | ) | With/Without Opinion  | ) |
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