

VERMONT SUPERIOR COURT, ENVIRONMENTAL DIVISION

Wyldwood Lodge LLC v. Joseph and Patricia Adams

Wyldwood Lodge · No. 25-ENV-00037 · Decided June 1, 2026

SUMMARY

The Vermont Superior Court Environmental Division denied Applicants’ motion for attorney fees after granting them summary judgment in a challenge to approval of alterations and enlargement of a nonconforming structure. The court held that no statutory or contractual exception to the American Rule applied and that the appellant’s conduct did not meet the narrow bad-faith or exceptional-justice standard for an equitable fee award.

CASE DETAILS

COURT	Vermont Superior Court, Environmental Division
WRITING FOR THE COURT	Joseph S. McLean
JURISDICTION	Vermont Superior Court, Environmental Division
DECIDED	June 1, 2026
DOCKET	25-ENV-00037
DISPOSITION	other
PROCEDURAL POSTURE	Applicants moved for attorney fees after the Environmental Division granted them summary judgment in an appeal by Wyldwood Lodge LLC from a Town of Poultney Development Review Board decision.
STANDARD OF REVIEW	The court applied the American Rule governing attorney fees and considered whether the exceptional bad-faith exception was satisfied.
PRECEDENTIAL VALUE	Unpublished trial-level decision; precedential status is unknown.
PARTIES	Wyldwood Lodge LLC v. Joseph Adams, Patricia Adams

TOPICS

- attorney fees
- summary judgment
- environmental law
- real estate
- civil procedure

PRACTICE AREAS

- attorney fees
- land use
- environmental permitting
- civil procedure

QUESTIONS PRESENTED

1. Whether the Applicants were entitled to attorney fees under a statutory or contractual exception to the American Rule.
2. Whether the exceptional bad-faith exception to the American Rule justified an award of attorney fees after the Applicants prevailed on summary judgment.

HOLDINGS

1. No statutory or contractual basis supported an award of attorney fees in this case.
2. The bad-faith exception did not justify an award because Appellant's questions were not facially frivolous and its conduct was not sufficiently outrageous, vexatious, oppressive, obdurate, or obstinate to constitute an exceptional case requiring fees.

KEY QUOTATIONS

“This Court applies the “American Rule” regarding attorney fees, which means that parties must bear their own attorney fees absent a statutory or contractual exception.” (at 1)

“This rarely-applied exception does not provide a legal basis for the relief that Applicants seek.” (at 2)

“Therefore, the motion for attorney fees is DENIED.” (at 3)

FACTUAL BACKGROUND

Wyldwood Lodge LLC challenged the Applicants' proposals to alter and enlarge a nonconforming structure at 2508 West Lake Road in Poultney, Vermont. The Applicants had applied twice to the Town of Poultney Development Review Board, which initially denied and later approved a substantially changed application. Appellant also challenged the Applicants' separate State Shoreland Permit before the Vermont Agency of Natural Resources, but that permit was not appealed to the Environmental Division.

PROCEDURAL HISTORY

Wyldwood Lodge LLC appealed the Town of Poultney Development Review Board's approval of Joseph and Patricia Adams' application to alter and enlarge a nonconforming structure. The Environmental Division granted summary judgment to the Applicants on April 16, 2026, resolving all four questions in Appellant's amended Statement of Questions. The Applicants then moved for attorney fees under the bad-faith exception to the American Rule; the court denied the motion.

DISPOSITION

other

CASES CITED

- Southwick v. City of Rutland, 2011 VT 105, ¶ 5
- DJ Painting, Inc. v. Baraw Enters., Inc., 172 Vt. 239, 246 (2001)
- In re Gadhue, 149 Vt. 322, 327, 329 (1987)

- Sprague v. Ticonic National Bank, 307 U.S. 161, 167 (1939)
- Harkeem v. Adams, 117 N.H. 687, 377 A.2d 617, 619-20 (1977)

OPINION

PER CURIAM.

Vermont Superior Court Filed 06/01/26 Environmental Division VERMONT SUPERIOR COURT ENVIRONMENTAL DIVISION 32 Cherry St, 2nd Floor, Suite 303, Docket No. 25-ENV-00037 Burlington, VT 05401 802-951-1740 www.vermontjudiciary.org 2508 West Lake Road Nonconforming Structure DECISION ON MOTION FOR ATTORNEY FEES In this matter Wyldwood Lodge LLC (Appellant) appealed a May 8, 2025 decision of the Town of Poultney (Town) Development Review Board (DRB) approving Joseph and Patricia Adams' (Applicants) application for alternations to, and enlargement of, a nonconforming structure located at 2508 West Lake Road, Poultney, Vermont (the Property).

By Decision on Motion, dated April 16, 2026, the Court granted summary judgment in Applicants' favor. Presently before the Court is Applicants' motion for attorney fees. Appellant opposes the motion. In this matter, Appellant is represented by Justin Barnard, Esq. Applicants are represented by Frank Urso, Esq. Legal Standard This Court applies the "American Rule" regarding attorney fees, which means that parties must bear their own attorney fees absent a statutory or contractual exception.

Southwick v. City of Rutland, 2011 VT 105, 15; DJ Painting, Inc. v. Baraw Enters., Inc., 172 Vt. 239, 246 (2001). Although the Vermont Supreme Court has recognized the ability of trial courts to use their equity power to award attorney fees "as the needs of justice dictate," In re Gadhue, 149 Vt. 322, 327 (1987), this power may be invoked "only in exceptional cases and for dominating reasons of justice."

Sprague v. Ticonic Nat'l Bank, 307 U.S. 161, 167, 59 S.Ct. 777, 83 L.Ed. 1184 (1939). Circumstances that may justify an award of attorney fees may involve situations "where one party has acted 'in bad faith, vexatiously, wantonly, or for oppressive reasons' where the litigant's conduct can be characterized as unreasonably obdurate or obstinate, and where it should have been unnecessary for the successful party to have brought the action."

Gadhue, 149 Vt. at 329 (quoting Harkeem v. Adams, 117 N.H. 687, 377 A.2d 617, 619 (1977)) (emphasis added). Notably, in both Gadhue and Harkeem, the exception to the American Rule took shape after the plaintiff was forced to endure a second round of litigation Page 1 of 3 (including more than one trip to the state supreme court) to secure rights that should have been forthcoming after the first appearance.

Gadhue at 328–29; Harkeem at 620. Discussion In this case, Appellant challenged Applicants' proposals to alter/enlarge a nonconforming structure before the DRB in one action, and challenged

Applicants' State Shoreland Permit in proceedings before the Vermont Agency of Natural Resources (ANR) in another.

The DRB initially denied Applicants' proposal to alter/enlarge the nonconforming structure but later approved a substantially changed application. Appellant appealed the second application to alter/enlarge the nonconforming structure to this Court, raising four issues in its amended Statement of Questions.

As noted above, the Court granted summary judgment in Applicants' favor on the four Questions in Appellant's amended Statement of Questions. The Shoreland Permit was not appealed to this Court. There are no statutory or contractual grounds for an award of attorney fees in this case. Instead, Applicants argue that this Court should grant them an award of attorney fees based on the so-called "bad faith" exception to the American Rule.

This rarely-applied exception does not provide a legal basis for the relief that Applicants seek. While the Court concluded that Applicants were entitled to judgment as a matter of law on the four Questions raised by Appellant, those Questions were not facially frivolous, nor was Appellant's conduct so outrageous as to warrant an award of attorney fees.

Although Applicants won on the merits before this Court, multiple trips through the state court system were not required to secure their rights in the permit under appeal. 1 Applicants applied twice to the DRB (and were opposed by Appellant both times), but they prevailed on their first trip to this Court. Despite Applicants' contentions to the contrary, is there no strong indication that Appellant acted in bad faith, vexatiously, wantonly, or for oppressive reasons in conducting the litigation.

Litigation by its very nature is stressful, expensive and, for any number of reasons, can feel oppressive to all parties involved. The Court does not doubt that the appeal process was frustrating and costly for Applicants.

Moreover, aspects of both parties' filings took on a certain ad hominem quality at times. We cannot find, however, that Appellant's conduct was such that "dominating reasons of 1 The Court notes that, under Vermont's land use and environmental permitting regimes, an applicant or project may require multiple permits from different entities, each of which may be separately appealable in various contexts and to various degrees provided by statute.

Nothing in this decision implies or determines whether a party pursuing those statutory appeal rights for the same project inherently offends the American Rule. Nothing about Appellant's conduct in this case violates Gadhue such that an award of attorney fees is justified. Page 2 of 3 justice" require an award of attorney fees in this case.

Therefore, the motion for attorney fees is DENIED. Electronically signed on June 1, 2026, pursuant to V.R.E.F. 9(d). Joseph S. McLean Superior Court Judge Environmental Division Page 3 of 3