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HAYWOOD CO, NC FEE \$23.00

PRESENTED & RECORDED

08-27-2009 11:03:15 AM

SHERRI C. ROGERS

REGISTER OF DEEDS

BY DEB SCHAEFER

DEPUTY

BK: RB 768

PG: 450-453

FILED

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
HAYWOOD COUNTY SUPERIOR COURT DIVISION
2009 AUG 17 AM 11:49
HAYWOOD COUNTY, C.S.C. 08-CVS-1193

JUDITH ANN SMITH and husband,)
DAVID SMITH,)
BY)
Plaintiffs,)
)
vs.)
)
IVA ELAINE VEAZEY, JOE)
LIPARI and EILENE LIPARI,)
Defendants.)

CONSENT ORDER

THIS MATTER having come on to be heard before the undersigned Superior Court Judge during the August 17, 2009 term of Haywood County Civil Superior Court. The parties hereto agree to resolve the above-captioned civil action by consent. Based upon the consent of the parties, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT:

1. Plaintiff, Judith Ann Smith, is the owner in fee simple of certain real property as described in a Deed recorded in Deed Book 329, Page 43, Haywood County Registry.
2. Defendant, Iva Elaine Veazey, is the owner in fee simple of that real property described in a Deed recorded Deed Book 707, Page 456, Haywood County Registry.
3. Plaintiff Judith Ann Smith and Defendant Iva Elaine Veazey's properties lie adjacent one to the other.
4. A dispute has arisen as to where the true boundary line lies between the adjacent properties being the eastern most boundary line of the Defendant Iva Elaine Veazey's property and the western most boundary line of Plaintiff Judith Ann Smith's property.
5. Each of the parties has had prepared a survey which depicts the disputed boundary line in two different places.
6. Defendants Joe and Eilene Lipari have resided within the residence located upon that property owned by Defendant Iva Elaine Veazey since some time in 2007.
7. Since the time that Defendants Joe and Eilene Lipari have resided within the residence, they had parked at least one, sometimes two vehicles in that property area located immediately to the east of where the exterior of the home is situated on the property of Defendant Iva Elaine Veazey to and

upon a portion of the Smith property lying across the boundary line between the two properties as depicted on that plat of survey entitled "Survey for Judith Ann Smith" prepared by L. Kevin Ensley, PLS, Drawing No: A-003-08 dated January 14, 2008 (hereinafter referred to as the "Ensley survey").

8. That this matter is properly before the Court.

CONCLUSIONS OF LAW:

1. That all the named parties are properly before the Court.
2. That the Court has jurisdiction over the parties and the subject matter herein.
3. That the parties consent and agree to the resolution of the issues in the above-styled case.

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby

ORDERED, ADJUDGED and DECREED:

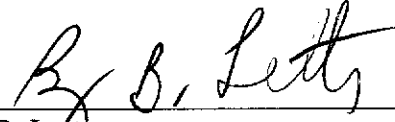
1. The true and undisputed boundary line between the properties of the parties is that line between the property of Plaintiff Judith Ann Smith, being shown as Lot 54 on the "Ensley survey" and the property of Defendant Iva Elaine Veazey, being shown as Lot 55 on the "Ensley survey". Said survey to be filed with the Register of Deeds of Haywood County at the cost of the Plaintiffs. That Defendants hereby quitclaim any and all right, title and interest to the Plaintiffs in that property lying East of the boundary line shown on said survey; and Plaintiffs hereby quitclaim all right, title and interest in any property lying West of said boundary line.
2. The Defendants shall have a license to park one vehicle in that area lying immediately to the east of the house situated upon the property of Defendant Iva Elaine Veazey and extending so far as necessary for the placement of a vehicle up to, including crossing over that boundary line agreed upon in preceding paragraph 1. Provided however, this license is granted subject to the following conditions:
 - a) Any vehicle shall be no closer than 15 to 18 feet to the paved portion, including the existing paved apron of Johnson Hill Drive. Further, any vehicle shall be parked as reasonably close as possible to the eastern side of the house located on the Veazey tract, but in no event, further than four (4) feet from said house.
 - b) Vehicles shall be restricted to passenger cars or pickup trucks, and shall be owned

and

regularly used by either Defendants Veazey, Joe Lipari, Eilene Lipari, or Defendant Eilene Lipari's mother, Marie Y. Henke. That any vehicle shall be tagged, licensed, operable, and insured (it being the intent that no "junk" or inoperable or commercial vehicles be parked in the licensed area).

- 3. That the Defendant's license described herein shall be for such period of time as Defendant Eilene Lipari or her mother, Marie Y. Henke regularly reside in the house currently located on the Veazey tract as their primary residence.
- 4. Upon a finding that the Defendants are in willful contempt of this Consent Order by this Court, after a properly filed and noticed for hearing motion to show cause for contempt, the license described herein shall immediately terminate.
- 5. The parties attest that this Consent Order is voluntarily entered into after ample opportunity to review the document with the individuals' advisors and counsel.

This the 17th day of August, 2009

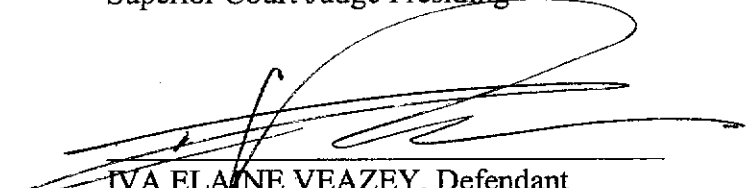


 Bradley B. Letts
 Superior Court Judge Presiding


BY CONSENT:



 JUDITH ANN SMITH, Plaintiff



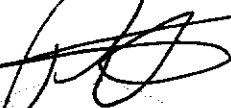
 IVA ELAINE VEAZEY, Defendant




 DAVID SMITH, Plaintiff



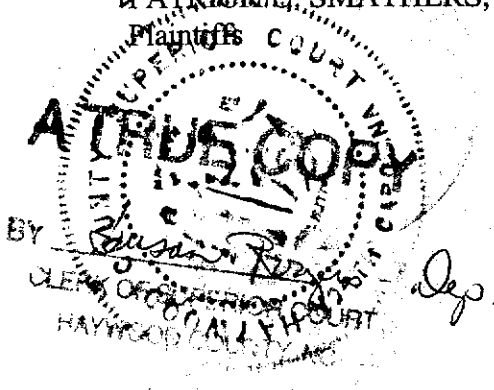
 JOE LIPARI, Defendant



 PATRICK L. SMATHERS, attorney for the
 Plaintiffs

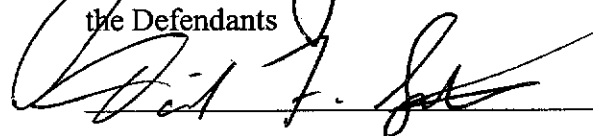


 EILENE LIPARI, Defendant





 JAMES W. KIRKPATRICK, III, attorney for
 the Defendants



DAVID F. SUTTON, attorney for the
Defendants