

# Permit not needed for Babylon treehouse, court rules

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## Long IslandSuffolk

A large treehouse in a Babylon neighborhood does not require a permit, a judge ruled. Credit: Jessica Rotkiewicz

An appeals court ruled that a Babylon Village man was within his right to build an 86-square-foot treehouse without a permit, records show.

The Appellate Division of the State Supreme Court handed down the Dec. 20 decision that reversed a lower court's ruling that John Lepper, who built the treehouse for his children, violated village code.

The higher court found that the village failed to establish facts, including that the treehouse constituted a building as defined in village code, thereby requiring a permit.

**Village fines Babylon man over treehouse** John Lepper, of Babylon Village, built a treehouse in his backyard for his son's birthday. On Nov. 5, he discussed problems he has had with the village over the structure, which he has been ordered to take down. (Credit: Jessica Rotkiewicz)

Village Court Judge John Rafter had convicted Lepper on four charges of violating village code and imposed sentences, including fines and ordered the treehouse removed.

Lepper paid the \$475 fine and appealed the decision.

"I feel great," Lepper said.

Babylon Village attorney Gerard Glass says the decision is no surprise because village officials knew there was an issue in the way the summons was written, and they could not correct it after the fact.

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"This has no impact on the case whatsoever," Glass said. "This has nothing to do with the substantive issues of the cause of why he didn't get a building permit."

Lepper has been battling with village officials since spring 2018 over the treehouse. He began constructing it at his Cockenoe Avenue home for his children Bayden, 6, and Brianna, 5.

He said he didn't think he needed a permit because the 86-square-foot treehouse is less than the 90 square feet permitted in the village code for gyms and playgrounds.

But after he started building the structure, he received a letter from village officials saying he needed a permit and was later told he also needed a survey and architectural drawings.

He applied for a building permit and submitted the survey and architectural drawings, his Dix Hills-based attorney Cory Morris said.

Rafter ruled in October 2018 that the treehouse is a building, not a gym or playground, and is subject to building laws.

Lepper also sued the village and its officials in federal court over violating his First Amendment rights. He said the village has targeted him because he reported finding a medical syringe on his property.

All sides agreed that while the case winds its way through federal court, Lepper will not continue work on the treehouse and village officials will not further fine or remove the structure.

"I'm going to take this decision back to federal court to see what the judge has to say," Lepper said. "Hopefully the stay will be lifted and allow the kids to use their treehouse and leave this family alone and enjoy their property."

Deborah Morris is a native Long Islander and covers the town of Huntington.

