

Bond Case Briefs

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ZONING - CONNECTICUT

Schulhof v. Zoning Bd. of Appeals of City of Norwalk

Appellate Court of Connecticut - July 30, 2013 - A.3d - 144 Conn.App. 446

Residents of area adjacent to a certain island appealed zoning board's grant of island owner's application seeking setback variance to replace an existing nonconforming structure with a boathouse on the island. The Superior Court found that the board properly granted the application and that the variance did not substantially affect city's comprehensive zoning plan. Residents appealed.

The Appellate Court held that:

- Hardship existed for island owner, and
- Setback variance substantially conformed with the comprehensive zoning plan.

Setback variance sought by island owner to replace an existing nonconforming structure with a boathouse on the island substantially conformed with the comprehensive zoning plan: 1) boathouses were a use permitted in the conservation zone where the island was located; 2) the variance did not constitute an enlargement of a nonconforming structure; 3) area residents who opposed the owner's setback variance application did not present any substantive analysis or law to demonstrate that construction of the boathouse would be adverse to the environment or how it was not in the public interest; 4) the island was too small to conform to the two acre lot minimum of the conservation zone; and 5) and the setbacks from the mean high water mark overlapped, which, if enforced, prevented any structure from being built on the island.

Topographic conditions on the property involved in an application for a zoning variance may be the basis for granting a variance, as long as other properties in the area do not have the same problem.