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Mimassi v. Town of Whitestown Zoning Bd. of Appeals

Supreme Court, Appellate Division, Fourth Department, New York - January 2, 2015 - N.Y.S.2d - 2015 N.Y. Slip Op. 00075

Petitioner commenced Article 78 proceeding seeking, inter alia, to annul town zoning board of appeals determination to deny his application for area variance. The Supreme Court, Onondaga County, denied petition, and petitioner appealed.

The Supreme Court, Appellate Division, held that:

- Determination was not arbitrary and capricious because board failed to adhere to its precedent, but
- Board was required to engage in necessary balancing test, weighing benefit to applicant of granting variance against any detriment to health, safety and welfare of the neighborhood or community affected thereby, taking into account five statutory factors.

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