UTILITIES - PENNSYLVANIA

Kretschmann Farm, LLC v. Township of New Sewickley

Commonwealth Court of Pennsylvania - January 7, 2016 - A.3d - 2016 WL 72779

Landowners sought review of township's approval of gas utility's request for conditional use permit to construct gas compressor station. Township's board of supervisors affirmed the decision, and landowners sought review. The Court of Common Pleas affirmed. Landowners appealed.

The Commonwealth Court held that:

- Board's determination to uphold grant of conditional use permit to gas utility contained findings of fact and conclusions of law necessary for meaningful appellate review;
- Landowners' challenge to constitutionality of underlying ordinance was not preserved for appellate review; and
- Landowners failed to show that they were refused the opportunity to be fully heard at hearing on gas utility's conditional use application, and thus were not entitled to expand the record on appeal.

Determination of township's board of supervisors to uphold grant of conditional use permit to gas utility to construct gas compressor station contained findings of fact and conclusions of law necessary for meaningful appellate review, even though it did not refer to objecting landowners' testimony or documents, including e-mails expressing concern about environmental and health impact of compressor station. Gas utility satisfied requirements for conditional use approval, such that objectors needed to establish substantial evidence on which finding of harm could be based, and fact that board did not mention offered testimony and alleged evidence could reasonably be interpreted as board's conclusion that evidence presented was not compelling and did not warrant discussion.

Objecting landowners' challenge to the constitutionality of township ordinance amending zoning requirements with respect to oil and gas activities, on appeal from decision upholding grant of conditional use permit to gas utility for construction of gas compressor station, was rendered unpreserved for appellate review by landowners' failure to pursue their challenge in accordance with applicable procedures, including submission to zoning hearing board to governing body along with request for a curative amendment.

Objecting landowners failed to show that they were refused the opportunity to be fully heard at hearing on gas utility's conditional use application to construct gas compressor station, and thus were not entitled to expand the record, on appeal from decision affirming grant of conditional use permit, to include transcripts of two public hearings that took place on underlying ordinance. Landowners filed an appeal challenging the constitutionality of ordinance before township zoning hearing board, but subsequently withdrew the challenge.

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com