

Bond Case Briefs

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ZONING & LAND USE - NORTH CAROLINA

Thompson v. Town of White Lake

Court of Appeals of North Carolina - March 7, 2017 - S.E.2d - 2017 WL 899983

Landowner filed petition to challenge zoning decision of town's board of adjustment that stopped landowner from completing construction of a storage building in a residential neighborhood.

The Superior Court affirmed, and landowner appealed.

The Court of Appeals held that:

- Order was a final order for purposes of appeal, and
- Superior court misapplied a de novo standard of review.

Superior court order regarding landowner's permit to construct garage building was a final order for purposes of appeal, although landowner had asserted permit revocation as grounds for appeal but town's notice of intent did not actually revoke permit, where order fully decided whether building complied with ordinance and whether town board of adjustment was correct in affirming stop work order and notice of intent to revoke permit, and order remanded the matter only for the board to schedule landowner's compliance with the permit.

Superior court misapplied a de novo standard of review and entered new findings of fact contrary board of adjustment's finding that storage building was a commercial structure and was inconsistent with building permit. Determination that building was a commercial structure arose from board members' consideration of evidence presented at hearing and inferences drawn from the evidence, board also determined that the evidence presented did not support zoning inspector's allegation that landowner failed to develop building in accordance with the approved plans, and board affirmed stop work order based solely on the allegation that building would be used "for commercial purposes."