

Bond Case Briefs

Municipal Finance Law Since 1971

ZONING & LAND USE - MICHIGAN

Engel v. Monitor Tp. Zoning Bd. of Appeals

Court of Appeals of Michigan - September 13, 2016 - Not Reported in N.W.2d - 2016 WL 4770183

Neighbors appealed from a decision of township's zoning board of appeals granting property owners a nonuse variance from township zoning ordinance so as to permit the construction of an indoor horse training arena 30 feet from the shared property line.

The Circuit Court affirmed the decision of the zoning board of appeals. Neighbors appealed.

The Court of Appeals held that:

- Zoning board of appeals had authority to consider property owners' second application for nonuse variance;
- Sufficient evidence supported zoning board of appeals' grant of a variance; and
- Neighbors were not deprived of a fair hearing as a result of the participation of township's building inspector.

Township zoning board of appeals had authority to consider property owners' second application for nonuse variance, which sought permission to construct an indoor horse training arena 30 feet from their property line, despite contention that second application essentially sought rehearing of owners' first application for nonuse variance, which sought to construct the arena 14 feet from the property line, and which the zoning board of appeals had denied; second application was a new application because the location of the arena was different.

Sufficient evidence supported township zoning board of appeals' grant of property owners' application for a nonuse variance from township zoning ordinance requiring farm buildings not housing animals or poultry to be located at least 50 feet from all property lines, so as to permit construction of an indoor horse training arena 30 feet from the property line; township's building inspector testified that 60% of owners' 28-acre parcel was floodplain and 45% to 50% was wetlands, and that building the arena elsewhere on the property would require use of farmed pasture or fields, and owner of another horse farm testified that arena was needed so that horses could be "worked year round.

Neighbors who opposed property owners' application for a nonuse variance from township zoning ordinance so as to permit construction of an indoor horse training arena 30 feet from the shared property line were not deprived of a fair hearing as a result of the participation of township's building inspector; building inspector was a contractual employee of township who owed a duty of loyalty to the public, there was no evidence that building inspector, who was not related to or receiving compensation from property owners, had a personal interest in the case, and there was no indication building inspector pressured board of zoning appeals to reach its decision granting the variance.

