

Bond Case Briefs

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ZONING & LAND USE - MAINE

Bryant v. Town of Wiscasset

Supreme Judicial Court of Maine - December 19, 2017 - A.3d - 2017 WL 6459673 - 2017 ME 234

Property owners brought action for judicial review of decision of town planning board, which approved business owners' application to expand building used to store fireworks, and property owners additionally brought independent claims, alleging that planning board had violated their due process rights by denying them notice and an opportunity to be heard, and seeking declaratory judgment on claims regarding conflict of interest, procedural due process, and storage of fireworks on business owners' property.

The Superior Court affirmed planning board's decision, entered judgments in favor of planning board on due process claims, and dismissed claim for declaratory relief. Property owners appealed.

The Supreme Judicial Court of Maine held that:

- There was substantial evidence before planning board to support its conclusion that business owner's fireworks storage building and proposed extension complied with applicable fire code, and thus planning board's approval of proposed extension was proper;
- Planning board took adequate remedial measures to give property owners opportunity to be heard, and no prejudice resulted to property owners, and thus planning board did not violate property owners' procedural due process rights;
- Planning board's decision to approve site plan review application was not voidable under statute which provided that such decisions were voidable if board or its officials had conflict of interest; and
- Property owners' independent claims for due process violations and declaratory relief lost their controversial vitality and any further decision would not have provided any real or effective relief, and thus such claims would be dismissed as moot.

There was substantial evidence before town planning board to support its conclusion that business owner's fireworks storage building and proposed extension complied with applicable fire code, and thus planning board's approval of proposed extension was proper, where business owner asserted multiple times that he had approval from State Fire Marshal, which was by statute state agency that regulated fireworks, property had been approved for storage of fireworks prior to business owner's application for proposed expansion, and town's attorney advised planning board that Inspection Supervisor of State Fire Marshal's Office informed her that no additional approval was necessary for proposed expansion.