
ZONING & LAND USE - NORTH CAROLINA

Hampton v. Cumberland County

Court of Appeals of North Carolina - December 5, 2017 - S.E.2d - 2017 WL 6001873

Property owners sought petition for writ of certiorari, challenging order of the County Board of Adjustment, affirming in part and modifying in part a notice of violations penalizing owners for violating county's zoning ordinance by operating a firing range on their property without a site plan and permit.

The Superior reversed. County appealed.

The Court of Appeals held that:

- Findings were insufficient to support Board's order;
- Factual findings were for the Board, rather than the appellate courts, to make in the first instance; and
- Owners' acquisition of a federal Farm Identification Number did not render operation of shooting ranges exempt from county zoning regulations.

Findings of the County Board of Adjustment were insufficient to support its order affirming in part and modifying in part a notice of violations penalizing property owners for violating county's zoning ordinance by operating a firing range on their property without a site plan and permit; ordinance provided exceptions from zoning regulation of outdoor firing ranges, and Board failed to make findings regarding how the ranges were used and who used them.

Where findings of the County Board of Adjustment were inadequate to support its order affirming in part and modifying in part a notice of violations penalizing property owners for violating county's zoning ordinance, appellate courts could not properly make findings of fact on disputed evidence, but were required to remand for the Board, as the finder of fact, to decide such factual issues in the first instance.

Property owners' acquisition of a federal Farm Identification Number did not, alone, render subsequent construction and operation of shooting ranges on the property a farm use exempt from county zoning regulations.

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