

Bond Case Briefs

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Trustees of Dartmouth College v. Town of Hanover

Supreme Court of New Hampshire - November 6, 2018 - A.3d - 2018 WL 5796932

College sought judicial review of town planning board's denial of application for site plan approval for an indoor practice facility.

The Superior Court upheld the denial, and college appealed.

The Supreme Court of New Hampshire held that:

- Trial court unreasonably adopted abutter's conclusions regarding the potential impact the proposed practice facility's shadows would have on abutters' properties;
- Trial court erroneously interpreted the evidence and misconstrued planning board's deliberations in upholding the board's decision that the college's application failed to satisfy town's general considerations;
- College could not be prohibited from developing its property through the construction of an indoor practice facility, in a manner consistent with zoning requirements, by requiring it to maintain an open space to satisfy a general consideration for the harmonious and aesthetically pleasing development of the town and its environs;
- To the extent the trial court relied upon project's potential impact on property values to uphold town planning board's denial of college's application, evidence was insufficient to support such a conclusion;
- Evidence was insufficient to support trial court's conclusion that college refused to alter its plan site to address the concerns of abutters and to comply with town's site plan regulations;
- Planning board unreasonably relied upon personal feelings and ad hoc reasoning in denying college's application; and
- Builder's remedy was warranted.