

Bond Case Briefs

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ZONING & PLANNING - NEBRASKA

Bruning v. City of Omaha Zoning Board of Appeals

Supreme Court of Nebraska - May 17, 2019 - N.W.2d - 303 Neb. 146 - 2019 WL 2150381

Landowners sought review of city zoning board of appeals' denial of variance for their agricultural-zoned land that they had been leasing for use as automobile storage and landscaping and boiler repair businesses.

The District Court affirmed. Landowners appealed.

The Supreme Court held that:

- Substantial evidence supported denial of a variance based on unnecessary hardship, and
- Landowners were not deprived of all beneficial or reasonable use of their property.

Substantial evidence supported city zoning board of appeals' denial of a variance, on the basis of unnecessary hardship, from requirements regarding maximum building coverage, maximum impervious surface coverage, landscaping, and the required number of parking stalls, for agricultural-zoned land that landowners had been leasing for use as automobile storage and landscaping and boiler repair businesses, even if landowners had made investments and some neighbors supported landowners; record included recommendations from city, numerous exhibits, input from stakeholders, and testimony offered at four hearings, and evidence showed that landowners unilaterally altered the permissible use of property by leasing portions of buildings to several commercial entities and others.

City zoning board of appeals' denial of variance to landowners who had been leasing buildings in their agricultural-zoned property for use as automobile storage and landscaping and boiler repair businesses did not deprive landowners of all beneficial or reasonable use of their property such as would constitute a legally cognizable hardship, where the agricultural district allowed uses of horticulture, single family residential, park and recreation services, kennels, and stables, and also allowed, subject to approval of a conditional or special use permit, campgrounds, religious assembly, agricultural sales and service, sports and recreation, and veterinary services.