

Bond Case Briefs

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ZONING & PLANNING - CONNECTICUT

Mayer-Wittmann v. Zoning Board of Appeals of City of Stamford

Supreme Court of Connecticut - November 5, 2019 - A.3d - 333 Conn. 624 - 2019 WL 5682694

Neighbor sought review of decision of city zoning board of appeals granting landowner's application for variances from setback requirements and height restrictions to reconstruct a sea cottage on his beachfront property after cottage was severely damaged by a hurricane.

The Superior Court dismissed. Neighbor appealed.

The Supreme Court held that:

- Sea cottage's status as a legally nonconforming accessory structure did not terminate due to lack of reconstruction within one year of hurricane, and
- Landowner established the existence of an unusual hardship warranting approval of application for variances.

Sea cottage's status as a legally nonconforming accessory structure with respect to setback and building height requirements did not terminate due to landowner's failure to reconstruct it within one year after it was severely damaged in a hurricane, notwithstanding city zoning regulation authorizing the reconstruction "as before" of buildings damaged in a calamity within 12 months of calamity, where it was not possible for sea cottage to be reconstructed and used as before it was damaged without any need to apply for variances from minimum flood elevation requirement.

Owner of beachfront property established existence of unusual hardship warranting approval of application for variances from setback requirements and height restrictions to reconstruct his hurricane-damaged sea cottage that was a legally nonconforming accessory structure and that was subject to city regulations applicable to flood prone areas, which required minimum elevation of structures; strict enforcement of regulations would have deprived owner of his constitutionally protected right to continue using sea cottage, and without variances in some form, owner would have been unable to reconstruct sea cottage, resulting in an inverse condemnation of his existing, legally nonconforming use.