

Bond Case Briefs

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ZONING & PLANNING - MINNESOTA

Schulz v. Town of Duluth

Supreme Court of Minnesota - December 4, 2019 - N.W.2d - 2019 WL 6519674

Landowners sought zoning variance to build retirement home on their property. After town planning and zoning commission granted variance, neighbors, who lived adjacent to landowners and alleged that construction of home would obstruct their view of lake, appealed. The town board of supervisors denied neighbors' appeal and granted landowners' variance application, and neighbors appealed.

The District Court granted town's motion to dismiss action. Neighbors appealed. The Court of Appeals affirmed, and neighbors appealed.

The Supreme Court held that:

- To perfect appeal and confer jurisdiction on district court, aggrieved party appealing zoning variance is only required to serve municipality;
- Neighbors' failure to timely serve landowners and make them parties to their action, seeking judicial review of town board of supervisors' decision, did not mean that district court lost jurisdiction over neighbors' action;
- Statute, governing judicial review of municipal planning decisions, and town ordinance required that timely service of request for judicial review be made only on the municipality;
- District court acquired jurisdiction over neighbors' action when neighbors properly served town, regardless of neighbors' improper service on landowners;
- District court erred by dismissing neighbors' action with prejudice, rather than joining the non-municipality defendants; and
- Landowners were "necessary parties" to neighbors' action.