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ZONING - CONNECTICUT

DelGobbo v. Town of Watertown

Appellate Court of Connecticut - June 25, 2013 - A.3d - 2013 WL 2993891

This action, commenced as a petition for a writ of mandamus, arose out of the widening of Guernseytown Road in Watertown, an event that necessitated the reconstruction of the plaintiffs' driveway by the town. The plaintiffs argued that the defendants violated the town zoning regulations in the reconstruction of their driveway and that they are entitled to have those regulations enforced. They sought an order requiring the town to enforce its zoning regulations, essentially against itself, so that their driveway will be reconstructed in such a fashion as to bring it into compliance with existing zoning regulations. The plaintiffs also requested that the court order the zoning enforcement officer to inspect and determine whether the existing driveway is in violation of the zoning ordinances, in contrast to an order that the town reconstruct the driveway so as to bring it into compliance with the current zoning regulations.

Essentially, the plaintiffs were arguing that, although the method employed or the decisions made by the zoning enforcement officer in performing her duties may be discretionary, it is not discretionary that she perform her job; the duty to perform her job is a ministerial one. For that argument to withstand scrutiny, however, the plaintiffs needed to establish that the zoning enforcement officer had a mandatory duty to inspect the plaintiffs' driveway, even in the absence of any prior request from them, to ensure that it complied with the zoning regulations.

Although the plaintiffs argued that the lower court erred in concluding that the actions or inactions of the zoning enforcement officer were discretionary and further erred in concluding that the case was controlled by *Greenfield*, the plaintiffs failed to set forth any law that supports their argument that the zoning enforcement officer had a mandatory duty to inspect and to opine on whether the driveway was in compliance with the zoning regulations. Additionally, the plaintiffs admitted that they requested a writ of mandamus without first having asked the zoning enforcement officer to inspect the driveway.

The appeals court concluded that the plaintiffs failed to demonstrate that the lower court abused its discretion in denying their request for a writ of mandamus. The judgment of the trial court was affirmed.