

Bond Case Briefs

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ZONING - NEW YORK

Huszar v. Bayview Park Properties, LLC

Supreme Court, Appellate Division, Second Department, New York - September 18, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 05906

Petitioners commenced proceeding under Article 78, seeking review of two determinations of town's board of zoning appeals granting applications for certain area variances submitted by member on behalf of limited liability company (LLC) property owner. The Supreme Court granted the petition and annulled the determinations. Appeal was taken.

The Supreme Court, Appellate Division, held that:

- Board had jurisdiction over the applications, and
- Board's determination had a rational basis and was not arbitrary and capricious.

Town's board of zoning appeals had jurisdiction over applications for area variances submitted by member of LLC property owner, where: 1) board was clearly aware that LLC was owner of the property, and that member was acting on LLC's behalf; and 2) each application was accompanied by an owner's affirmation form which reflected that LLC was owner of the property, and that member was its agent.

Determination of town's board of zoning appeals granting applications for certain area variances submitted by member on behalf of LLC property owner had a rational basis and was not arbitrary and capricious, where the board properly balanced the requisite statutory factors, and it found that benefit to the LLC outweighed detriment to the health, safety, and welfare of the neighborhood or community.