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ZONING - NEW YORK

S & R Development Estates, LLC v. Feiner

Supreme Court, Appellate Division, Second Department, New York - December 26, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 08641

Property owner brought article 78 proceeding to challenge the determination of zoning board of appeals (ZBA) that owner's property was located in a one-family residence zoning district instead of a multihousing district. The Supreme Court annulled ZBA's determination. Town appealed.

The Supreme Court, Appellate Division, held that ZBA's determination was arbitrary and capricious and affected by an error of law.

Determination of the ZBA that the depiction of owner's property in town's official zoning map as located in a multihousing district was a result of a scrivener's error, was arbitrary and capricious and affected by an error of law, where the official zoning map of the town was the final authority as to the current zoning classification of any land located within, and there was no other zoning map or evidence to support finding a scrivener's error.