
ZONING - NEW HAMPSHIRE

Town of Newbury v. Landrigan

Supreme Court of New Hampshire - February 6, 2014 - 75 A.3d 1091

Town petitioned for injunctive relief and imposition of $2,000 fine against property owners for unlawful subdivision of lot without planning board approval. The Superior Court granted relief, and property owners appealed.

The Supreme Court of New Hampshire held that:

- Merger of contiguous, non-conforming lots, independent of town ordinance, was possible based on conduct of landowners in abandoning or abolishing individual lot lines, and
- Evidence supported trial court's finding that landowners, and their predecessors in interest, by their conduct, abandoned lot line that divided two lots, resulting in merger of lots into single lot.

Evidence supported trial court's finding that landowners, and their predecessors in interest, by their conduct, abandoned lot line that divided two lots, resulting in merger into single lot, and therefore, that subsequent subdivision of lots without approval of planning board was unlawful. Town had originally deeded two contiguous lots to owners' predecessor, who recorded plan that did not separate two lots. Property was subsequently transferred by deed three times, and ultimately to owners. Each deed did not contain internal boundary lines between two lots, owners understood they were buying single lot, and owners recorded survey plat, which showed lots separated by dotted line, which, according to town's expert, meant that lot lines had been abandoned as to the property being separate parcels.

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