

Bond Case Briefs

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ZONING - NEW HAMPSHIRE

Dembiec v. Town of Holderness

Supreme Court of New Hampshire - November 13, 2014 - A.3d - 2014 WL 5859514

Landowners brought declaratory judgment action alleging that town was estopped from enforcing zoning ordinance in regard to landowners' property. The Superior Court dismissed petition. Landowners appealed.

The Supreme Court of New Hampshire held that zoning board lacked authority to grant relief requested, and thus landowners were not required to exhaust administrative remedies.

Zoning board lacked authority to grant relief requested by landowners in their declaratory judgment action, and therefore landowners were not required to exhaust administrative remedies before bringing declaratory judgment action asserting that town was estopped from enforcing one-dwelling-per-lot zoning ordinance with regard to landowners' property, after zoning compliance officer advised landowners that he would not issue certificate of compliance for newly-built home on property due to existence of other dwelling unit on property, even if action required resolution of factual issues. Applicable statutes did not confer general equitable jurisdiction upon zoning board, and landowners failed to meet requirements for either a variance or an equitable waiver from ordinance's dimensional requirements.