

Bond Case Briefs

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ZONING & LAND USE - NEW YORK

Expressview Development, Inc. v. Town of Gates Zoning Bd. of Appeals

Supreme Court, Appellate Division, Fourth Department, New York - February 3, 2017 - N.Y.S.3d - 2017 WL 460597 - 2017 N.Y. Slip Op. 00874

Owner of landlocked, undeveloped parcels of land and potential purchaser of parcels brought hybrid proceeding challenging, under article 78, denial by town zoning board of appeals of application for use and area variances to construct on parcels billboards that would be visible from highway, and seeking declaration that town code section prohibiting commercial signs not located on site of business for which they advertised was unconstitutional.

The Supreme Court, Monroe County, dismissed action. Owner and potential purchaser appealed.

The Supreme Court, Appellate Division, held that:

- Denial of application was not arbitrary and capricious for alleged failure to adhere to board precedent;
- Board's determination that owner and potential purchaser failed to establish factors constituting unnecessary hardship required for issuance of use variances was not arbitrary and capricious;
- Substantial evidence supported board's determination that billboards would have negative and adverse effect on character of neighborhood; and
- Owner and potential purchaser failed to state claim that board's denial violated their equal protection rights.