

Bond Case Briefs

Municipal Finance Law Since 1971

ZONING & PLANNING - MAINE

Balano v. Town of Kittery

Supreme Judicial Court of Maine - June 6, 2017 - A.3d - 2017 WL 2438496 - 2017 ME 110

Resident challenged decision by town planning board to approve a site plan application for development of a hotel.

The Superior Court affirmed the decision. Resident appealed.

The Supreme Judicial Court of Maine held that:

- Planning board's approval of a site plan application for development of a hotel with a flat roof was supported by substantial evidence and was not a variance, and
- Roof parapets were not included in calculating building height under town ordinance.

Town planning board's approval of a site plan application for development of a hotel with a flat roof was supported by substantial evidence and was not a variance under town ordinance. Ordinance authorized board to approve commercial building with alternative roof design if a pitched roof was not practicable, and board was presented with evidence that pitched roof on hotel would present safety issues and complicate accessibility of mechanical equipment.

Roof parapets were not included in calculating building height under town ordinance, and therefore, town planning board was authorized to approve site plan application for development of a hotel where building height complied with ordinance, and such approval was not a variance.