

Bond Case Briefs

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ZONING & LAND USE - VERMONT

In re Confluence Behavioral Health, LLC

Supreme Court of Vermont - December 8, 2017 - A.3d - 2017 WL 6102805 - 2017 VT 112

Neighbors appealed decision by town's development review board, which issued conditional-use permit to operator of proposed community therapeutic residence. The Superior Court, Environmental Division, affirmed. Neighbors appealed.

The Supreme Court of Vermont held that:

- It will review the Environmental Division's interpretation of permit conditions and local zoning ordinances without deference, overruling *In re Willowell Foundation Conditional Use Certificate of Occupancy*, 201 Vt. 242, 140 A. 3d 179, *In re Wagner & Guay Permit*, 153 A.3d 539, *In re Group Five Investments CU Permit*, 195 Vt. 625, 93 A.3d 111, and *In re Champlain College Maple Street Dormitory*, 186 Vt. 313, 980 A.2d 273, and
- Residence qualified as health care facility under town's zoning bylaws and, thus, operator was entitled to permit.

Proposed community therapeutic residence qualified as health care facility under town's zoning bylaws and, thus, operator of residence was entitled to conditional-use permit; fact that project was therapeutic community residence was not expressly listed as permitted in bylaws did not mean that use was prohibited, project met broad definition of health care facility by providing space for young adult males, all of whom had diagnosed mental health condition, to seek therapeutic attention under clinical supervision, statutory definition of health care facility included inpatient facilities and, thus, residence that provided treatment to people who stayed on property was encompassed within definition, and Department of Disabilities, Aging and Independent Living (DAIL), which was statutorily responsible for licensing and regulating long-term care facilities in which medical, nursing, or other care was rendered, licensed project.