

Bond Case Briefs

Municipal Finance Law Since 1971

ZONING & PLANNING - CONNECTICUT

Cady v. Zoning Board of Appeals of Town of Burlington

Supreme Court of Connecticut - December 11, 2018 - A.3d - 330 Conn. 502 - 2018 WL 6444527

Landowner appealed a decision of the town zoning board of appeals upholding a decision of zoning enforcement official that neighbor's proposed map of property that included revised boundary lines between adjacent lots complied with zoning and subdivision regulations.

The Superior Court reversed the board's decision. Neighbor appealed.

The Supreme Court of Connecticut held that:

- Substantial evidence supported board's conclusion that neighbor's proposed lot line revision did not constitute a subdivision;
- Trial court's consideration of topography exceeded the scope of its review; and
- Town regulation governing the construction of a permitted building on a lot containing less than the prescribed area did not apply to the proposed lots.

Substantial evidence including a lot line revision map supported town zoning board of appeals' conclusion that lot line revisions proposed by neighbor whose property abutted landowners' property did not constitute a subdivision under zoning statute defining subdivisions; zoning enforcement officer reviewed the map, board sought to determine what the property looked like at time the town adopted its increased area regulations for new subdivisions, and the evidence showed that neighbor's three conforming lots simply were reconfigured into three differently shaped, yet still conforming, lots.

Trial court's consideration of whether the three lots in adjoining landowner's proposed lot line revisions were of the same topography as lots that had previously existed exceeded the scope of its review of town zoning board of appeals' decision that lot line revisions did not qualify as a subdivision under zoning statute defining subdivisions, where board had determined that there were three conforming lots that had been in existence prior to enactment of increased area regulations for new subdivisions and that the proposed lot line revisions did not divide any lot into three or more parts, and trial court disregarded the board's findings.

Topography of adjoining landowner's three proposed lots as compared to the lots' topography prior to adjoining landowner's proposed reconfiguration of lot lines could not be considered in determining whether the lot line revisions constituted a subdivision under zoning statute defining subdivisions; appropriate inquiry under the statute was whether one lot had been divided into three or more lots, and nothing in statute required or suggested that maintaining the topography of a lot was a consideration.

Town regulation governing the construction of a permitted building or the establishment of a permitted use on a lot containing less than the prescribed area did not apply to three reconfigured but preexisting lots, where the lots met the minimum size requirements prior to adoption of

regulation.