

# **Bond Case Briefs**

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## **ZONING & PLANNING - NEW YORK**

### **Stengel v. Town of Poughkeepsie Zoning Board of Appeals**

**Supreme Court, Appellate Division, Second Department, New York - December 12, 2018 - N.Y.S.3d - 167 A.D.3d 754 - 2018 WL 6519204 - 2018 N.Y. Slip Op. 08489**

Residential neighbors of site of proposed motor vehicle service facility brought article 78 action seeking to annual determinations of town zoning board of appeals granting area variances and special use permit to site's owner.

The Supreme Court, Dutchess County, denied petition. Neighbors appealed.

The Supreme Court, Appellate Division, held that board's decision to grant area variances had a rational basis and was not arbitrary and capricious.

Town zoning board of appeals' decision to grant application for area variances in connection with proposed motor vehicle service facility had a rational basis and was not arbitrary and capricious, even though the proposed variances were substantial and the applicant's alleged difficulty was self-created; evidence supported board's findings that proposed construction would not produce undesirable change in character of neighborhood, have adverse impact on physical or environmental conditions, or otherwise result in detriment to health, safety, and welfare of neighborhood or community, and board rationally concluded that benefit sought by applicant could not be achieved by feasible alternative method.