

Bond Case Briefs

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ZONING & PLANNING - MASSACHUSETTS

Bellalta v. Zoning Board of Appeals of Brookline

Supreme Judicial Court of Massachusetts, Suffolk - February 8, 2019 - 481 Mass. 372 - 116 N.E.3d 17

Neighbors sought review of decision of zoning board of appeals which allowed homeowners' request for special permit to modify roof, which would have increased preexisting nonconforming floor area ratio.

The Land Court Department entered summary judgment upholding decision. Neighbors applied for direct appellate review.

After grant of review, the Supreme Judicial Court of Massachusetts held that under the "second except clause" of statute governing modification of nonconforming structures, creating explicit protections for one- and two-family residential structures and allowing increases in nonconforming nature of such structures upon finding of no substantial detriment to neighborhood, a variance from local bylaw is not required for modification of preexisting nonconformity.