

Bond Case Briefs

Municipal Finance Law Since 1971

ZONING & PLANNING - MAINE

Upstream Watch v. City of Belfast

Supreme Judicial Court of Maine - August 3, 2023 - A.3d - 2023 WL 4939323 - 2023 ME 43

Environmental organization that was dedicated to restoration of mid-coast rivers and streams to their natural habitats sought review of city zoning board of appeals' (ZBA) dismissal of organization's appeal of city planning board's issuance of site plan permit, zoning permits, groundwater wells permit, and water intake/discharge pipes permit to applicant for proposed land-based salmon aquaculture project at site where highway crossed river.

The Superior Court affirmed. Organization appealed.

The Supreme Judicial Court held that:

- ZBA erred when it confined its review of organization's standing to information contained in application-to-appeal form, and
- Organization had associational standing to appeal to ZBA.

Whether city zoning board of appeals (ZBA) erred in confining its review of environmental organization's standing argument to organization's written response on its application-to-appeal form involved a legal interpretation of a land use regulation ordinance, and therefore Supreme Judicial Court would consider the issue de novo, in proceeding involving organization's challenge to city planning board's issuance of site plan permit, zoning permits, groundwater wells permit, and water intake/discharge pipes permit to applicant for proposed land-based salmon aquaculture project at site where highway crossed river.

City zoning board of appeals (ZBA) erred when it confined its review of environmental organization's standing argument to organization's written response on the application-to-appeal form for a challenge to city planning board's issuance of site plan permit, zoning permits, groundwater wells permit, and water intake/discharge pipes permit to applicant for proposed land-based salmon aquaculture project at site where highway crossed river, where land use regulation ordinance did not contain such a restriction and ordinance mandated that, when acting in an appellate capacity, the ZBA was to consider all evidence of record submitted in the underlying hearing.

Environmental organization that was dedicated to restoration of mid-coast rivers and streams to their natural habitats had associational standing to appeal to city zoning board of appeals (ZBA) to challenge city planning board's issuance of site plan permit, zoning permits, groundwater wells permit, and water intake/discharge pipes permit to applicant for proposed land-based salmon aquaculture project at site where highway crossed river, where at least one of organization's members was an aggrieved person, either as an abutter or as a possessor of land directly affected by the project, and land use regulation ordinance did not explicitly require that a party show a particularized injury to qualify as an aggrieved party.

