

Bond Case Briefs

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ZONING & PLANNING - MAINE

Andrews v. Town of Kittery

Supreme Judicial Court of Maine - July 9, 2026 - A.3d - 2026 WL 1980984

Owner of land on same road as proposed subdivision sought judicial review of town planning board's approval of conservation subdivision application submitted by applicants, arguing that planning board exceeded its authority by waiving street design standards in town's land use code and that such waivers constituted zoning variances that only board of appeals could grant.

The Superior Court affirmed planning board's decision. Owner appealed.

The Supreme Judicial Court held that planning board acted within its authority when it waived street standards in town's land use and development code.

Design and construction standards governing width of right-of-ways, travel pavement, paved shoulders, and street gradients, as well as design of intersections and required materials applicable to private streets in subdivisions were generally applicable, town-wide, waivable street standards, not "zoning" standards that an applicant could be excused from satisfying only by variance from town's board of appeals, and thus, planning board had authority to grant waivers under town's land use and development code; standards applied uniformly to all subdivisions, not tied to any particular zoning district, did not divide town into districts with unique regulations, and were imposed to vindicate traffic safety concerns that applied across zones.