

STATE OF MAINE
CUMBERLAND, ss

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SUPERIOR COURT
CIVIL ACTION

JAN 25 9 00 AM '02

DOCKET NO. POR-AP-00-009
NM -CUM-1/25/2002

MARK SANBORN, et al,

Plaintiffs

v.

DECISION AND ORDER

TOWN OF GRAY, et al,

Defendants

The plaintiffs appeal the decision of the Town of Gray Zoning Board of Appeals (ZBA), in which the ZBA granted defendant Sullivan's appeal and variance request. For the following reasons, the decision of the ZBA is reversed.¹

Defendant Sullivan owns property in the Shoreland Zone of Gray. In 1987, defendant Sullivan erected a shed on the property but did not acquire a building permit. The Ordinance in effect in 1987 required a 75-foot setback from the high water line of a body of water and a building permit for any principal or accessory structure. See Record, Ex. H.

In 1999, the Code Enforcement Officer for the Town of Gray sent a notice of violation to defendant Sullivan and informed defendant Sullivan that the shed on his property was in violation of the Town of Gray Building Code and the Town of Gray Shoreland Zoning Ordinance. See Record, Ex. B. Defendant Sullivan wrote to the Code Enforcement Officer and requested that the town grant him a variance so

¹ The defendants did not file a brief.

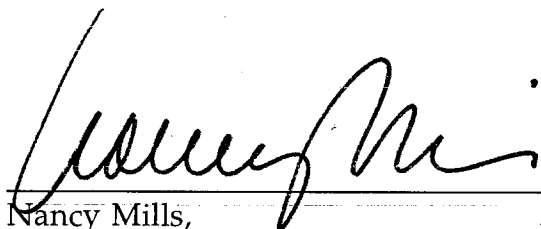
that the shed could remain on defendant Sullivan's property. See Record, Ex. C. Defendant Sullivan also applied to the ZBA for a variance. See Record, Ex. A. After two hearings, the ZBA voted in favor of a motion to "grant the appeal of the decision of the C.E.O." See Record, Ex. E. The chairman of the ZBA also signed a "Certificate of Zoning Variance Approval," which provided "Variance and Conditions of Variance: to grant appeal of the decision of the C.E.O." See Record, Ex. F.

There is no evidence in the record to support the grant of a variance. See Record, Ex. D at 5-6; Record, Ex. E; Record, Ex. G at 36; Record, Attachment 1 at 86-87; Goldstein v. City of South Portland, 1999 ME 66, ¶ 4, 728 A.2d 164, 165. There is no evidence in the record to support a finding, if made, that the shed was a non-conforming structure and not subject to the setback requirements of the ordinance. See Record, Ex. B; Record, Ex. D at 5-6; Record, Ex. E; Record, Ex. G at 4; Record, Ex. H, ¶1; Record, Attachment 1 at 83.

The entry is

The Decision of the Town of Gray Zoning Board of Appeals is REVERSED.

Date: January 24, 2002



Nancy Mills,
Chief Justice, Superior Court

Date Filed 01-31-00

CUMBERLAND

Docket No. AP-00-009

County

Action APPEAL - 80(b)

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JOHN GOOSETREY
GERALD GRANT
RONALD NORTON
PAMELA WILKINSON

THE TOWN OF GRAY
THOMAS REINSBOROUGH
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