

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2024-0614, William Bartoswicz & a. v. Town of Effingham, the court on September 18, 2025, issued the following order:

The court has reviewed the written arguments and the record submitted on appeal, and has determined to resolve the case by way of this order. See Sup. Ct. R. 20(3). The plaintiffs, William Bartoswicz and Tammy McPherson, appeal an order of the Superior Court (Klass, J.) upholding a decision of the planning board for the Town of Effingham approving a site plan application for a gas station. On appeal, the plaintiffs argue that the trial court erred by upholding the decision over their arguments and the assertions of their retained expert that the application violated certain environmental and local land use regulations. We affirm.

Judicial review of planning board decisions is limited. See Trustees of Dartmouth Coll. v. Town of Hanover, 171 N.H. 497, 504-05 (2018). The trial court is required to treat the board's factual findings as prima facie lawful and reasonable, and it may not set the board's decision aside absent unreasonableness or an identified error of law. Id. at 504. It is the burden of the party challenging the board's decision to persuade the trial court that, by the balance of probabilities, the board's decision was unreasonable. Id. The trial court's role is not to determine whether it agrees with the board's findings, but whether there is evidence upon which such findings reasonably could have been based. Id. We, in turn, will reverse the trial court's decision only if it is unsupported by the evidence or legally erroneous. Id. We review the trial court's order to determine whether a reasonable person could have reached the same decision as the trial court based on the evidence before it. Id.

It is the plaintiffs' burden on appeal to demonstrate reversible error. Gallo v. Traina, 166 N.H. 737, 740 (2014). Based upon our review of the trial court's well-reasoned order, the plaintiffs' arguments, the relevant law, and the record submitted on appeal, we conclude that the plaintiffs have not

established that the trial court's decision is unsupported by the evidence or legally erroneous. See id.; Trustees of Dartmouth Coll., 171 N.H. at 504.

Affirmed.

MacDonald, C.J., and Donovan and Countway, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

Clerk, Hillsborough County Superior Court North, 212-2024-CV-00017

Honorable Michael A. Klass

Richard H. Fahy

Christopher L. Boldt, Esquire

Christopher B. Drescher, Esquire

William K. Warren, Esquire

Richard P. Driscoll, Esquire

Matthew R. Johnson, Esquire

Francis C. Fredericks, Supreme Court

Sherri L. Miscio, Supreme Court

File