LESLIE B. LILLY et al.

v.

TOWN OF WESTPORT ISLAND et al.

Argued November 8, 2018
Decided December 4, 2018

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

The Town of Westport Island appeals from a judgment of the Superior Court (Lincoln County, *Billings, J.*) in favor of property owners Leslie Lilly and David Wollins, concluding that the Town did not establish a public easement over a disputed section of Baker Road by layout and acceptance, by prescription, or by deed. We affirm the judgment.

The court did not err in finding that the Town failed to meet its burden of establishing an easement by layout and acceptance through the 1785 warrant article maintaining that it was "voted = to lay out a road from Josiah Parsons' house to the main road on his own cost" because the Town did not establish that the road referenced in the warrant article was the disputed way at issue. Nor did the court err in determining that the Town also failed to meet its burden of establishing an easement by prescription. *See Stickney v. City of Saco*, 2001 ME 69, ¶ 16, 770 A.2d 592. Finally, the court did not err in concluding that neither the 1964 deed nor the 2014 deed, both of which generically referenced "town roads," created a public easement. *See* 23 M.R.S. § 3022 (2017); *Town of Manchester v. Augusta Country Club*, 477 A.2d 1124, 1130-31 (Me. 1984). Contrary to the Town's contentions, the court did not commit any error of law,

and the evidence in the record reasonably supports the court's findings, not compelling a different result. *See Almeder v. Town of Kennebunkport*, 2014 ME 139, ¶ 18, 106 A.3d 1099.

The entry is:

Judgment affirmed.

William H. Dale, Esq. (orally), and Mark A. Bower, Esq., Jensen Baird Gardner & Henry, Portland, for appellants Town of Westport Island et al.

Justin W. Andrus, Esq. (orally), and Alecia R. Tocci, Esq., Andrus Law, LLC, Brunswick, for appellees Leslie B. Lilly and David Wollins

Lincoln County Superior Court docket number AP-2015-09
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