

JILL DISQUE-NORTON et al.

v.

TOWN OF KENNEBUNK et al.

On Briefs May 29, 2003

Decided June 18, 2003

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, ALEXANDER,
and CALKINS, JJ.

MEMORANDUM OF DECISION

Jill Disque-Norton and others appeal from the judgment entered in the Superior Court (York County, *Brennan, J.*) affirming the decision of the Kennebunk Zoning Board of Appeals, which affirmed the Site Plan Review Board's grant of the application of Sandra Nadeau to convert a single-family residence into a 40-child nursery school and affirmed the Kennebunk Code Enforcement Officer's approval of a building permit. Contrary to Disque-Norton's contentions, the Zoning Board of Appeals did not err in its interpretation of the Kennebunk Zoning Ordinance when it concluded that the Site Plan Review Board was authorized to grant relief from a fifty-foot setback for construction of a

driveway and walkway, and that a variance from the Zoning Board of Appeals was not required for permit approval. *See* 30-A M.R.S.A. § 4353(2)(B) & (C) (1996); *Your Home, Inc. v. Town of Windham*, 528 A.2d 468, 472 (Me. 1987). Nor did the Board err in its determination that the structure at issue in the case was no longer a “dwelling” within the meaning of Article 2, Section 2 of the Ordinance. *See generally Wright v. Town of Kennebunkport*, 1998 ME 184, ¶ 5, 715 A.2d 162, 164.¹

The entry is:

Judgment affirmed.

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¹ Because claims of error based on the State Mandatory Shoreland Zoning Act and State guidelines for municipal shoreland zoning were not raised before the Board, we decline to address them here. *See Penobscot Area Hous. Dev. Corp. v. City of Brewer*, 434 A.2d 14, 20 n.7 (Me. 1981) (holding that appellate review is generally confined to issues raised before the Board).