

LESTER T. JOLOVITZ

v.

CITY OF WATERVILLE et al.

Argued February 17, 2005

Decided March 11, 2005

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

MEMORANDUM OF DECISION

Lester T. Jolovitz appeals, pursuant to M.R. Civ. P. 80B, from a judgment of the Superior Court (Kennebec County, *Studstrup, J.*), that affirmed a decision of the City of Waterville Zoning Board of Appeals, determining that the City and the Waterville School Department were not required to obtain a special exception permit to reconfigure the high school athletic field to move high jump and pole vault activities to an area adjacent to Jolovitz's property. Jolovitz also appeals from a summary judgment entered in favor of the City and the school department

on his independent claim asserting that the City and the school department were barred from expanding the field by the doctrine of promissory estoppel.

On the promissory estoppel claim, the facts, taken most favorably to Jolovitz, indicate that while a City employee may have stated that a 1967 construction of the field would leave a fifty-foot buffer zone from Jolovitz's property line, that employee made no promise that there would be no future construction closer to Jolovitz's property line. Because the 1967 statement by a City employee did not preclude construction work closer to Jolovitz's property thirty-four years later, summary judgment was properly granted on the promissory estoppel claim. *See Daigle Commercial Group, Inc. v. St. Laurent*, 1999 ME 107, ¶ 14, 734 A.2d 667, 672.

The court also did not err in concluding, based on the facts found by the Zoning Board of Appeals, that the reconfiguration, which did not change the use of the field and moved the high jump and pole vault activities to a different area of the City-owned fields, did not require a special exception permit. *See Jordan v. City of Ellsworth*, 2003 ME 82, ¶ 9, 828 A.2d 768, 771 (holding that while local interpretations of zoning ordinances are reviewed de novo, local board findings as to what meets ordinance standards are accorded "substantial deference").

The entry is:

Judgment affirmed.

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