

NICHOLAS E. HURLIN

v.

TOWN OF KITTERY

Submitted on Briefs October 20, 2006
Decided October 27, 2006

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

MEMORANDUM OF DECISION

Nicholas E. Hurlin appeals from a judgment of the Superior Court (York County, *Fritzsche, J.*) in favor of the Town of Kittery on Hurlin's administrative appeal from the denial of a variance by the Town's Zoning Board of Appeals and his other independent claims. *See* M.R. Civ. P. 80B. Because Hurlin failed to include in his appendix the required copy of the Town's Land Use and Development Code, *see* M.R. App. P. 8(h)(2), he has failed to provide a basis to vacate the Board's denial of his variance. We do not review Hurlin's unpreserved claim that the Board relied on extrinsic evidence in reaching its decision. *See New*

Eng. Whitewater Ctr., Inc. v. Dep't of Inland Fisheries & Wildlife, 550 A.2d 56, 58 (Me. 1988). Based on a record that was limited due to Hurlin's failure to seek a schedule of proceedings, *see* M.R. Civ. P. 80B(i), we affirm the Superior Court's finding that Hurlin failed to meet his burden of proving his independent claims. *See Estate of Sylvester v. Benjamin*, 2001 ME 48, ¶ 9, 767 A.2d 297, 300.

The entry is:

Judgment affirmed.

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