

WILLIAM H. BLAINE et al.

v.

TOWN OF NORTHFIELD

Submitted on Briefs October 2, 2008
Decided November 4, 2008

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

William and Janine Blaine appeal from a judgment of the Superior Court (Washington County, *Cuddy, J.*) affirming a decision of the Town of Northfield Board of Appeals that affirmed the Planning Board's denial of an application for a permit to "modify existing walkways, stairs and ramp" on their recently constructed home. Although the Town's land use ordinance provides that the Planning Board "need not" consider new stairways for the purpose of determining whether the structure is closer to the water than necessary, this language is permissive, not mandatory. Northfield Land Use Ordinances, § C(1)(e). Therefore, considering the new stairs in calculating setbacks and coverage restrictions was an appropriate exercise of the Board's discretion.

In addition, the Planning Board's findings regarding the suitability of the east side bulkhead door as a fire exit are supported by substantial evidence; the statement in the record that use of the stairs as a fire exit would be "awkward" does not compel a finding that the stairs could not be used for that purpose. *See Forbes v. Town of Southwest Harbor*, 2001 ME 9, ¶ 6, 763 A.2d 1183, 1186. The Planning Board thus did not err in denying the Blaineses' permit application. *See*

Lane Constr. Corp. v. Town of Washington, 2008 ME 45, ¶ 11, 942 A.2d 1202, 1207. We are not persuaded by the Blaineses' remaining arguments.

The entry is:

Judgment affirmed.

**Attorney for William H. Blaine and
Janine Blaine:**

Edward C. Spaight, Esq.
Vafiades, Brontas & Kominsky, LLP
PO Box 919
Bangor, Maine 04402-0919

Attorney for the Town of Northfield:

Rebecca A. Irving, Esq.
38 Broadway
Machias, Maine 04654