

SIDNEY ST. F. THAXTER et al.

v.

CITY OF PORTLAND, ZONING BOARD OF APPEALS et al.

Submitted on Briefs December 12, 2008
Decided December 18, 2008

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

MEMORANDUM OF DECISION

Sidney St. F. Thaxter and Mary E. McCann Thaxter appeal from a decision of the Superior Court (Cumberland County, *Delahanty, J.*) affirming the decision of the City of Portland Zoning Board of Appeals upholding the issuance of a building permit to Joshua C. Empson. Empson cross-appeals from the Superior Court's determination that the Thaxters have standing to pursue their claim. We discern no error in the Superior Court's determination that the Thaxters demonstrated the requisite "particularized injury" to confer standing. *See Lewis v. Town of Rockport*, 2005 ME 44, ¶¶ 8-10, 870 A.2d 107, 110. Contrary to the Thaxters' contentions, however, the Board did not err in concluding that a lot previously burdened by an easement could be used by Empson to create a conservation easement for the purposes of satisfying minimum lot size requirements imposed by ordinance. *See Camp v. Town of Shapleigh*, 2008 ME 53, ¶¶ 9-10, 943 A.2d 595, 598; *Stickney v. City of Saco*, 2001 ME 69, ¶ 53, 770 A.2d 592, 610; Portland, Me., Code § 14-145.5(a)(7), (8) (Nov. 1, 2007).

The entry is:

Judgment affirmed.

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