

WEST SIDE NEIGHBORS

v.

CITY OF AUGUSTA et al.

Submitted on Briefs December 11, 2007  
Decided January 8, 2008

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

MEMORANDUM OF DECISION

West Side Neighbors appeals from a judgment of the Superior Court (Kennebec County, *Studstrup, J.*) dismissing its M.R. Civ. P. 80B complaint as an untimely challenge to the grant of a variance by the Board of Zoning Appeals that supported the issuance of a subdivision permit to Roncalli Apartments, Inc.<sup>1</sup> Contrary to West Side Neighbors' contentions, the certificate of variance was timely recorded within the ninety days after execution of the written order reflecting the grant of the variance, *see* 30-A M.R.S. § 4353(5) (2006), and the

---

<sup>1</sup> After the court dismissed Count I of the complaint, the parties voluntarily dismissed Count II of the complaint, making the trial court's action a final judgment.

technical defect of the proper Acting Secretary of the Board of Zoning Appeals signing a certificate in which a different Acting Secretary's name appeared in the body of the certificate does not render the variance void and subject to collateral attack. Accordingly, the Superior Court properly dismissed the complaint as untimely.

The entry is:

Judgment affirmed.

---

**Attorney for the appellants:**

Clifford H. Goodall, Esq.  
Dyer, Goodall & Denison  
61 Winthrop St.  
Augusta, Maine 04330

**Attorneys for the appellees:**

Stephen E. F. Langsdorf, Esq.  
Preti Flaherty  
45 Memorial Circle  
Augusta, Maine 04330

William L. Plouffe, Esq.  
Drummond, Woodsum & MacMahon  
245 Commercial St.  
P.O. Box 9781  
Portland, Maine 04104