

ANTHONY ARMSTRONG et al.

v.

TOWN OF CAPE ELIZABETH et al.

Submitted on Briefs May 29, 2001
Decided June 14, 2001

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

MEMORANDUM OF DECISION

Anthony and Julie Armstrong appeal from the judgment of the Superior Court (Cumberland County, *Crowley, J.*) affirming the decision of the Cape Elizabeth Zoning Board of Appeals, granting a building permit to Daniel and Diane Caputo. Contrary to the Armstrongs' contentions, the Superior Court did not err when it denied their motion to exclude certain documents from the 80B record. *See* M.R. Civ. P. 80B(e). Also contrary to their contentions, the Board did not (1) deprive them of their due process rights, *see Fichter v. Bd. of Env'tl. Prot.*, 604 A.2d 433, 436-38 (Me. 1992); (2) improperly place the burden of proof on them instead of on the Caputos, *see Lewis v. Town of Rockport*, 1998 ME 144, ¶ 15, 712 A.2d 1047, 1050; or (3) err as a matter of law or make factual findings unsupported by the record when it agreed with the CEO's determination of the "normal high

water line,” *see Mack v. Mun. Officers of Cape Elizabeth*, 463 A.2d 717, 721-22 (Me. 1983).

The entry is:

Judgment affirmed.

For plaintiffs:

Anthony and Julie Armstrong
32 Lawson Road
Cape Elizabeth, ME 04107

Attorneys for defendants:

Michael H. Hill, Esq.
Monaghan Leahy, LLP
P O Box 7046
Portland, Me 04112-7046
(for Town of Cape Elizabeth)

John McVeigh, Esq.
Preti, Flaherty, Beliveau, Pachios & Haley, LLC
P O Box 9546
Portland, ME 04104-9546
(for Daniel & Diane Caputo)