

ALLEN BAUER et al.

v.

TOWN OF GRAY

Submitted on Briefs June 25, 2001
Decided June 29, 2001

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

MEMORANDUM OF DECISION

Allen Bauer and Rodney Lloyd appeal from the judgment by the Superior Court (Cumberland County, *Mills, J.*) affirming the decision of the Town of Gray Zoning Board of Appeals (ZBA) which affirmed the decision of the code enforcement officer that Bauer and Lloyd were in violation of 30-A M.R.S.A. §§ 4403-4407 (1996 & Supp. 2000) and the municipal subdivision ordinance. In spite of the argument by the Town that the ZBA did not have jurisdiction to determine a violation of the subdivision law, Bauer and Lloyd failed to present an adequate record for appeal.¹ They have not submitted any portion of the municipal ordinance,² including any portion that would establish that the ZBA did or did not have jurisdiction. *See Cutler Assocs.,*

1. Although Bauer and Lloyd responded to the jurisdictional argument in the Superior Court, they have failed to address it in their brief to this Court.

2. When an appeal relates to a decision of a municipal board, M.R. App. P. 8(h)(2) requires the appellant to include in the appendix a copy of the relevant portion of any ordinance upon which the board's decision is based.

Inc. v. Merrill Trust Co., 395 A.2d 453, 455 (Me. 1978) (holding that an appeal must fail when the appellant does not present an adequate record).

The entry is:

Judgment affirmed.

Attorneys for plaintiffs:

Harry B. Center II, Esq.
William S. Kany, Esq.
Smith Elliott Smith & Garmey, P.A.
P O Box 1179
Saco, ME 04072

Attorneys for defendant:

Natalie L. Burns, Esq.
William H. Dale, Esq.
Jensen Baird Gardner & Henry
P O Box 4510
Portland, ME 04112