

Supreme Court

No. 2012-150-Appeal
(PC 11-4454)

Mena Lupo :
v. :
Community Works Rhode Island Inc., et al. :

ORDER

This case was heard before the Supreme Court at a session in conference pursuant to Article I, Rule 12A(3)(b) of the Supreme Court Rules of Appellate Procedure. The plaintiff, Mena Lupo, appeals from a Superior Court judgment affirming a decision of the Providence Zoning Board of Review which granted both a use and a dimensional variance to Community Works Rhode Island, Inc. for the proposed renovation of a house on Broadway in Providence.

This appeal is not properly before the Court. “It is well settled in this jurisdiction that there is no right of appeal to the Supreme Court from decisions of the Superior Court with respect to zoning appeals.” Northern Trust Co. v. Zoning Board of Review of Westerly, 899 A.2d 517, 519 (R.I. 2006) (mem.) (citing AV Realty, LLC v. Smithfield Zoning Board of Review, 762 A.2d 803, 803 (R.I. 2000) (mem.); Gabriele v. Rocchio, 665 A.2d 566, 566 (R.I. 1995)). The “proper procedure to review a judgment of the Superior Court on appeal from a decision of a zoning board is by writ of certiorari.” Id. (quoting AV Realty, LLC, 762 A.2d at 803). While the plaintiff’s original complaint included a request for a declaratory judgment, the basis of the action was an appeal from the decision of the zoning board. In Northern Trust, 899 A.2d at 519 n.3, this Court

stated that “plaintiffs should not be permitted, through the addition of a declaratory judgment count to a statutory zoning appeal, to bypass the statutory mechanism according to which decisions of the Superior Court on zoning appeals are reviewed by this Court only on [a] discretionary basis.”

Accordingly, the plaintiff’s appeal is denied and dismissed.

Entered as an Order of this Court on this 14th day of December, 2012.

By Order,

/s/

Clerk