



The South Carolina Court of Appeals

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November 25, 2014

The Honorable Julie J. Armstrong
100 Broad St Ste 106
Charleston SC 29401-2210

REMITTITUR

Re: Joseph Bettelli v. Town of Awendaw
Lower Court Case No. 2011CP1002028
Appellate Case No. 2013-001286

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Christopher M. Holmes, Esquire
John B. Williams, Esquire
Dwayne Marvin Green, Esquire

J. Jay Hulst, Esquire
The Honorable J. C. Nicholson, Jr.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Joseph M. Bettelli, Jr., and Susan B. Bettelli, Appellants,

v.

Town of Awendaw Board of Zoning Appeals and
Berkeley Electric Cooperative, Respondents.

Appellate Case No. 2013-001286

Appeal From Charleston County
J. C. Nicholson, Jr., Circuit Court Judge

Unpublished Opinion No. 2014-UP-384
Submitted September 1, 2014 – Filed November 5, 2014

AFFIRMED

Christopher M. Holmes, of the Law Offices of
Christopher M. Holmes, of Mount Pleasant, for
Appellants.

John B. Williams and J. Jay Hulst, both of Williams &
Hulst, LLC, of Moncks Corner, for Respondent Berkeley
Electric Cooperative; and Dwayne Marvin Green, of
Hampton Green, LLC, of Charleston, for Respondent
Town of Awendaw Board of Zoning Appeals.

PER CURIAM: Joseph and Susan Bettelli appeal the circuit court's order affirming the Town of Awendaw Board of Zoning Appeals' grant of a variance, arguing the circuit court erred in affirming the variance when (1) the record contained no evidence Berkeley Electric Cooperative would have suffered an unnecessary hardship without the variance and (2) the grant of the variance constituted an arbitrary action and an abuse of discretion because of a conflict of interest. We affirm pursuant to Rule 220(b), SCACR, and the following authorities: *Austin v. Bd. of Zoning Appeals*, 362 S.C. 29, 33, 606 S.E.2d 209, 211 (Ct. App. 2004) ("On appeal, we apply the same standard of review as the circuit court below: the findings of fact by the Board shall be treated in the same manner as findings of fact by a jury, and the court may not take additional evidence."); *id.* ("In reviewing the questions presented by the appeal, the court shall determine only whether the decision of the Board is correct as a matter of law."); *id.* ("Furthermore, '[a] court will refrain from substituting its judgment for that of the reviewing body, even if it disagrees with the decision.'" (quoting *Rest. Row Assocs. v. Horry Cnty.*, 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999))).

AFFIRMED.¹

HUFF, SHORT, and KONDUROS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.