

FILED

05/11/2023

Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
March 28, 2023 Session

**WILLIAM FOEHRING, ET AL. v. MONTEAGLE REGIONAL PLANNING
COMMISSION, ET AL.**

**Appeal from the Chancery Court for Marion County
No. 8204 Melissa Thomas Willis, Chancellor**

No. M2022-00916-COA-R3-CV

This appeal concerns the approval of a site plan. William Foehring, Janice Foehring, William Best, Mary Beth Best, Ron Terrill, and Sandra Terrill (“Petitioners”) filed a petition for common law writ of certiorari against the Monteagle Regional Planning Commission (“the Commission”) and RBT Enterprises, LLC (“RBT”)¹ (collectively, “Respondents”) in the Chancery Court for Marion County (“the Trial Court”). Petitioners alleged that the Commission acted illegally, arbitrarily, and capriciously in approving the site plan at issue because the underlying zoning for one of the parcels is invalid. The Trial Court ruled in favor of Respondents. Petitioners appeal. In a parallel declaratory judgment action case arising out of the same facts, we determined that the underlying zoning is valid, which is dispositive of this appeal. We affirm the Trial Court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed;
Case Remanded**

D. MICHAEL SWINEY, C.J., delivered the opinion of the court, in which J. STEVEN STAFFORD, P.J., W.S., and ARNOLD B. GOLDIN, J., joined.

Douglas Berry, Nashville, Tennessee, for the appellants, William Foehring, Janice Foehring, William Best, Mary Beth Best, Ron Terrill, and Sandra Terrill.

Philip Aaron Wells, Chattanooga, Tennessee, for the appellee, the Monteagle Regional Planning Commission.

Russell L. Leonard, Monteagle, Tennessee, for the appellee, RBT Enterprises, LLC.

¹ RBT adopted the Commission’s brief on appeal.

OPINION

Background

In August 2021, Petitioners filed a petition for common law writ of certiorari against Respondents in the Trial Court. The petition arose out of the same factual background as did Petitioners' suit for declaratory judgment against the Town of Monteagle and RBT in the case of *William Foehring, et al. v. Town of Monteagle, Tennessee, et al.*, Marion County Chancery Court No. 8197, No. M2022-00917-COA-R3-CV, in which Petitioners challenged the validity of certain zoning ordinance amendments in an effort to prevent a truck stop from being built near their homes. In this separate case, Petitioners sought review of "the final decision of [the Commission] on July 6, 2021, conditionally approving the site plan for the proposed TA-Petro Truck Plaza located on Dixie Lee Avenue and Sampley Street in Monteagle, Tennessee on property owned by [RBT]." Petitioners alleged that the Commission acted illegally, arbitrarily, and capriciously in approving the site plan.

In April 2022, the Trial Court heard the petition. In June 2022, the Trial Court entered its final order. The Trial Court stated, as relevant:

5. Petitioners argue the Disputed Parcel is not properly zoned for a truck stop because amendments to the zoning ordinance rezoning the Disputed Parcel from R-3 to C-3 are invalid. In the Declaratory Judgment Action, the Court has found that the amendments to the zoning ordinance are valid. Accordingly, the Petitioners' argument fails based on the findings the Court has made in the Declaratory Judgment Action.

Petitioners timely appealed to this Court.

Discussion

Although not stated exactly as such, Petitioners raise the following issue on appeal: whether the Trial Court erred in approving the site plan for a truck stop when one of the included parcels had not been legally zoned from high density residential (R-3) to interstate commercial (C-3), the only zone permitting a truck stop under the Town of Monteagle's zoning ordinance.

In *Leonard Plating Company v. Metropolitan Government of Nashville and Davidson County*, we discussed the limited and deferential standard applied to decisions reviewed under a common law writ of certiorari as follows:

The scope of review afforded by a common-law writ of certiorari is extremely limited. Reviewing courts may grant relief only when the board or agency whose decision is being reviewed has exceeded its jurisdiction or has acted illegally, arbitrarily, or fraudulently.

Review under a common-law writ of certiorari does not extend to a redetermination of the facts found by the board or agency whose decision is being reviewed. The courts may not (1) inquire into the intrinsic correctness of the decision, (2) reweigh the evidence, or (3) substitute their judgment for that of the board or agency. However, they may review the record solely to determine whether it contains any material evidence to support the decision because a decision without evidentiary support is an arbitrary one.

Ascertaining whether the record contains material evidence to support the board's or agency's decision is a question of law. For the purpose of this inquiry, "material evidence" is relevant evidence that a reasonable person would accept as adequate to support a rational conclusion. The amount of material evidence required to support a board's or agency's decision must exceed a scintilla of evidence but may be less than a preponderance of the evidence.

Leonard Plating Co. v. Metro. Gov't of Nashville and Davidson Cnty., 213 S.W.3d 898, 903-04 (Tenn. Ct. App. 2006) (citations and footnotes omitted).

In *William Foehring, et al. v. Town of Monteagle, Tennessee, et al.*, Marion County Chancery Court No. 8197, No. M2022-00917-COA-R3-CV, Petitioners filed suit against the Town of Monteagle and RBT seeking declaratory judgment as to the validity of certain zoning ordinance amendments. Although Petitioners raised various issues below, they state in their brief that they base this appeal "solely on the issue of whether the underlying zoning for one of the parcels was legally valid." In the declaratory judgment action, we held that the underlying zoning is valid, which is dispositive of this appeal. We conclude that the Commission did not act illegally, arbitrarily, fraudulently, or capriciously in approving the site plan. We affirm the judgment of the Trial Court.

Conclusion

The judgment of the Trial Court is affirmed, and this cause is remanded to the Trial Court for collection of the costs below. The costs on appeal are assessed against the Appellants, William Foehring, Janice Foehring, William Best, Mary Beth Best, Ron Terrill, and Sandra Terrill, and their surety, if any.

D. MICHAEL SWINEY, CHIEF JUDGE