

Legal cases support that within the State of New York – Colleges are protected from zoning for educational purposes. This protection includes – “social, recreational, athletic, and other accessory uses (that) are reasonably associated with their educational purposes”.

Statutory Uses (Published: 2-02-2011, 15:14) LAWHIGHEREDUCATION.ORG

Over the past 20 years, the legal tool that the courts used most often to determine whether postsecondary institutions enjoyed immunity from local zoning control is interpretation of statutory language about “uses” for which immunity is granted. Supplemental to this legal test is the interpretation of local municipal ordinances created under powers delegated to local governments by state statutes.

In interpreting statutory language, what state law describes as protected uses is critical. For example, while Wisconsin protects all “governmental uses,” from local zoning, New York limits that protection to “educational uses.” Even more narrowly, California restricts protection from local zoning laws to “classroom uses.” An example of interpretation of the very broad language under the Wisconsin statute, “governmental uses,” can be found in Board of Regents of University of Wisconsin System v. Dane County Board of Adjustment (2000). When university officials chose to erect a radio tower for a student-run radio station, the county board of adjustment denied their request to do so. On further review of an order in favor of the university, an appellate court affirmed that the institution could proceed as its officials had planned, because the radio tower was a governmental use under the statute.

As described above, New York protects “educational uses” from local zoning laws. When Dowling College in Islip, New York, chose to provide its students with catering services and to provide driver’s education for non-matriculated students, the town of Islip attempted to intervene. The town unsuccessfully argued that because both activities were outside of the scope of the statutory language, they were not educational uses. In affirming an order in favor of the college, an appellate court expansively included a range of activities for educational institutions, including “social, recreational, athletic, and other accessory uses (that) are reasonably associated with their educational purposes” (Town of Islip v. Dowling College, 2000, p. 161)

http://lawhighereducation.org/143-zoning.html#Exemptions_and_Variances

Educational institutions enjoy special treatment with respect to residential zoning ordinances because these institutions presumptively serve the public’s welfare and morals (see, Cornell Univ. v. Bagnardi, 68 N.Y.2d 583, 510 N.Y.S.2d 861, 503 N.E.2d 509; Matter of Lawrence School Corp. v. Lewis, 174 A.D.2d 42, 578 N.Y.S.2d 627). Educational institutions are generally permitted to engage in activities and locate on their property facilities for such social, recreational, athletic, and other accessory uses as are reasonably associated with their educational purpose (see generally, Matter of Brown v. Board of Trustees, 303 N.Y. 484, 104 N.E.2d 866; Matter of Lawrence School Corp. v. Lewis, 174 A.D.2d 42, 578 N.Y.S.2d 627).

The activities at issue in this case are permitted educational uses of the subject property and the restrictions which the plaintiff seeks to place on these activities would be impermissible (see generally, Matter of Diocese of Rochester v. Planning Bd. of Town of Brighton, 1 N.Y.2d 508, 154 N.Y.S.2d 849, 136 N.E.2d 827; New York Inst. of Technology, Inc. v. LeBoutillier, 33 N.Y.2d 125, 350 N.Y.S.2d 623, 305 N.E.2d 754; Matter of Summit School v. Neugent, 82 A.D.2d 463, 442 N.Y.S.2d 73).

<http://caselaw.findlaw.com/ny-supreme-court/1006570.html>