



Senate

General Assembly

File No. 419

January Session, 2003

Substitute Senate Bill No. 691

Senate, April 16, 2003

The Committee on Planning and Development reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING NOTICE OF ZONING DECISIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 8-3 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2003*):

4 (f) No building permit or certificate of occupancy shall be issued for
5 a building, use or structure subject to the zoning regulations of a
6 municipality without certification in writing by the official charged
7 with the enforcement of such regulations that such building, use or
8 structure is in conformity with such regulations or is a valid
9 nonconforming use under such regulations. Such official charged with
10 the enforcement of the zoning regulations shall inform the applicant
11 for any such certification that such applicant shall provide notice of
12 such certification by either (1) publication in a newspaper having
13 substantial circulation in such municipality stating that the certification

14 has been issued, or (2) any other method provided for by local
15 ordinance. Any such notice shall contain (A) a description of the
16 building, use or structure, (B) the location of the building, (C) the
17 identity of the applicant, and (D) a statement that an aggrieved person
18 may appeal to the zoning board of appeals in accordance with the
19 provisions of section 8-7, as amended by this act.

20 Sec. 2. Section 8-7 of the general statutes is repealed and the
21 following is substituted in lieu thereof (*Effective October 1, 2003*):

22 The concurring vote of four members of the zoning board of appeals
23 shall be necessary to reverse any order, requirement or decision of the
24 official charged with the enforcement of the zoning regulations or to
25 decide in favor of the applicant any matter upon which it is required to
26 pass under any bylaw, ordinance, rule or regulation or to vary the
27 application of the zoning bylaw, ordinance, rule or regulation. An
28 appeal may be taken to the zoning board of appeals by any person
29 aggrieved or by any officer, department, board or bureau of any
30 municipality aggrieved and shall be taken within such time as is
31 prescribed by a rule adopted by said board, or, if no such rule is
32 adopted by the board, within thirty days, by filing with the zoning
33 commission or the officer from whom the appeal has been taken and
34 with said board a notice of appeal specifying the grounds thereof. Such
35 appeal period shall commence for an aggrieved person (1) upon
36 receipt of the order, requirement, or decision from which such person
37 may appeal, (2) upon the publication of a notice in accordance with
38 subsection (f) of section 8-3, as amended by this act, or (3) upon actual
39 or constructive notice of such order, requirement or decision. The
40 officer from whom the appeal has been taken shall forthwith transmit
41 to said board all the papers constituting the record upon which the
42 action appealed from was taken. An appeal shall not stay any such
43 order, requirement or decision which prohibits further construction or
44 expansion of a use in violation of such zoning regulations except to
45 such extent that the board grants a stay thereof. An appeal from any
46 other order, requirement or decision shall stay all proceedings in the
47 action appealed from unless the zoning commission or the officer from

48 whom the appeal has been taken certifies to the zoning board of
49 appeals after the notice of appeal has been filed that by reason of facts
50 stated in the certificate a stay would cause imminent peril to life or
51 property, in which case proceedings shall not be stayed, except by a
52 restraining order which may be granted by a court of record on
53 application, on notice to the zoning commission or the officer from
54 whom the appeal has been taken and on due cause shown. Such board
55 shall, within the period of time permitted under section 8-7d, hear
56 such appeal and give due notice thereof to the parties. Notice of the
57 time and place of such hearing shall be published in a newspaper
58 having a substantial circulation in such municipality at least twice at
59 intervals of not less than two days, the first not more than fifteen days,
60 nor less than ten days, and the last not less than two days before such
61 hearing. In addition to such notice, such board may, by regulation,
62 provide for notice by mail to persons who are owners of land which is
63 adjacent to the land which is the subject of the hearing. At such
64 hearing any party may appear in person and may be represented by
65 agent or by attorney. Such board may reverse or affirm wholly or
66 partly or may modify any order, requirement or decision appealed
67 from and shall make such order, requirement or decision as in its
68 opinion should be made in the premises and shall have all the powers
69 of the officer from whom the appeal has been taken but only in
70 accordance with the provisions of this section. Whenever a zoning
71 board of appeals grants or denies any special exception or variance in
72 the zoning regulations applicable to any property or sustains or
73 reverses wholly or partly any order, requirement or decision appealed
74 from, it shall state upon its records the reason for its decision and the
75 zoning bylaw, ordinance or regulation which is varied in its
76 application or to which an exception is granted and, when a variance is
77 granted, describe specifically the exceptional difficulty or unusual
78 hardship on which its decision is based. Notice of the decision of the
79 board shall be published in a newspaper having a substantial
80 circulation in the municipality and addressed by certified mail to any
81 person who appeals to the board, by its secretary or clerk, under his
82 signature in any written, printed, typewritten or stamped form, within

83 fifteen days after such decision has been rendered. In any case in
 84 which such notice is not published within such fifteen-day period, the
 85 person who requested or applied for such special exception or variance
 86 or took such appeal may provide for the publication of such notice
 87 within ten days thereafter. Such exception or variance shall become
 88 effective upon the filing of a copy thereof [(1)] (A) in the office of the
 89 town, city or borough clerk, as the case may be, but, in the case of a
 90 district, in the offices of both the district clerk and the town clerk of the
 91 town in which such district is located, and [(2)] (B) in the land records
 92 of the town in which the affected premises are located, in accordance
 93 with the provisions of section 8-3d.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>

Statement of Legislative Commissioners:

Sections 1 and 2 were rewritten for clarity.

PD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect
All Municipalities	None

Explanation

There is no fiscal impact to municipalities as a result of the bill providing the option to the applicant to publish the notice of decision made by the local zoning enforcement officer. The applicant pays for the cost associate with publishing the notice.

The bill also clarifies that the starting period to appeal to the zoning board of appeals is when the aggrieved receives an appeal-able order, requirement or decision, and has no fiscal impact.

OLR Bill Analysis

sSB 691

AN ACT CONCERNING NOTICE OF ZONING DECISIONS**SUMMARY:**

This bill establishes a procedure by which a person seeking a building permit, certificate of occupancy, or other decision from a local building official must provide notice to the public that the building complies with zoning laws, required by law. By providing such notice, the person limits the period of time that the zoning decision may be appealed.

EFFECTIVE DATE: October 1, 2003

NOTICE PROVISIONS

By law, building officials cannot issue building permits or certificates of occupancy for buildings or uses subject to zoning regulations unless the zoning enforcement officer certifies that the building or use either conforms to the regulations or is a valid nonconforming use. (By law, a use that is legal at a given point in time is not subject to subsequent changes in zoning regulations and is considered a valid nonconforming use.)

Under the bill, the zoning enforcement officer must inform the person seeking the certification or a party seeking any other decision by the zoning enforcement officer that he must provide notice of the certification. The notice may be by publication in a newspaper having substantial circulation in the municipality, stating that the certification has been granted, or (2) by any other means specified in local ordinances. The notice must (1) describe the building or use and its location, (2) identify the applicant, and (3) state that an aggrieved party can appeal the zoning decision to the zoning board of appeals as provided for under existing law.

By law, a person or municipality aggrieved by zoning decision can appeal to the zoning board of appeals. The appeals period runs for 30 days unless the board specifies another period. However, current law

does not specify when this period begins. The bill specifies that it begins, for a party, when he receives an appealable order, requirement, or decision. For any other aggrieved party, for example, a person who owns property abutting the land in question, the period starts when the legal notice described above is published, or upon actual notice of the order, requirement, or decision.

BACKGROUND

Related Court Case

In *Munroe v. Zoning Board of Appeals of Branford*, 261 Conn. 263 (2002), the Supreme Court held that the period for appealing a decision of a zoning enforcement officer runs from the aggrieved party's notice of the official's decision, rather than from the date of the decision. The decision overruled, in part, an earlier case *Loulis v. Parrot*, 241 Conn. 180 (1997).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 16 Nay 0