



Senate

General Assembly

File No. 668

January Session, 2003

Substitute Senate Bill No. 691

Senate, May 13, 2003

The Committee on Judiciary reported through SEN. MCDONALD of the 27th 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2 repealed and the following is substituted in lieu thereof (*Effective*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 shall inform
10 the applicant for any such certification that such applicant may
11 provide notice of such certification by either (1) publication in a
12 newspaper having substantial circulation in such municipality stating
13 that the certification has been issued, or (2) any other method provided
14 for by local ordinance. Any such notice shall contain (A) a description

15 of the building, use or structure, (B) the location of the building, use or
16 structure, (C) the identity of the applicant, and (D) a statement that an
17 aggrieved person may appeal to the zoning board of appeals in
18 accordance with the provisions of section 8-7, as amended by this act.

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 Section 8-7 of the general statutes is repealed and the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

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

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

84 person who requested or applied for such special exception or variance
 85 or took such appeal may provide for the publication of such notice
 86 within ten days thereafter. Such exception or variance shall become
 87 effective upon the filing of a copy thereof [(1)] (A) in the office of the
 88 town, city or borough clerk, as the case may be, but, in the case of a
 89 district, in the offices of both the district clerk and the town clerk of the
 90 town in which such district is located, and [(2)] (B) in the land records
 91 of the town in which the affected premises are located, in accordance
 92 with the provisions of section 8-3d.

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

JUD *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	FY 04 \$	FY 05 \$
All Municipalities	None	None	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 associated with publishing the notice.

The bill also clarifies that the starting period to appeal to the zoning board of appeals is the earliest of three notice dates established by the bill, therefore it 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 may provide the legally required notice to the public that the building complies with zoning laws. By providing such notice, the person limits the time period during which 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 may 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 on the earliest of the following three dates: (1) when a person receives an appealable order, requirement, or decision; (2) when the legal notice described above is published; or (3) upon actual or constructive 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 decision in *Loulis v. Parrot*, 241 Conn. 180 (1997).

Legislative History

On April 23, the Senate referred the original version of the bill (File 419) to the Judiciary Committee. On May 2, the committee favorably reported its version, which (1) allows rather than requires, an applicant for a building permit or certificate of occupancy to publicize the zoning enforcement officer's decision and (2) specifies that the appeals period runs from the earliest of the three notice dates established by the bill.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 16 Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 36 Nay 0