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MICHAEL C. DREWNOWSKI ET AL. *v.* PLANNING AND ZONING COMMISSION OF THE TOWN OF SUFFIELD ET AL.
(AC 44982)

Bright, C. J., and Prescott and Elgo, Js.

Syllabus

The plaintiffs appealed to the Superior Court from a decision of the defendant Planning and Zoning Commission of the town of Suffield, approving the defendant developer's special permit and subdivision applications for a proposed flexible residential development. The proposed development, which was to be located on a dead-end access road, to be known as Madigan Circle, would be accessed via an existing dead-end street, Limric Lane. The plaintiffs, who owned a home on Limric Lane, claimed, inter alia, that the commission improperly approved the construction of a dead-end street to access the new development that was in excess of the 1200 foot length limitation of the town's applicable subdivision regulation (§ 905 (c)). The Superior Court sustained in part the plaintiffs' appeal, concluding that the commission's approval of the applications, which included plans for the proposed Madigan Circle, violated the town's subdivision regulations. On the granting of certification, the developer appealed to this court. *Held*:

1. The Superior Court correctly determined that the commission misconstrued the town's zoning and subdivision regulations in approving the developer's special permit and subdivision applications and, accordingly, correctly sustained in part the plaintiffs' appeal:

   a. The flexible residential development provisions of the town's zoning regulations (§ VI) did not supersede the restrictions found in the town's subdivision regulations, including the 1200 foot limitation on the length of dead-end streets and dead-end street systems that access planned subdivisions: the developer was required to obtain both a special permit and subdivision approval to build the proposed flexible residential development and, accordingly, was required to comply with all relevant portions of the zoning regulations and the subdivision regulations; moreover, contrary to the developer's assertion, the language in § VI (B) of the zoning regulations superseded only the dimensional requirements of the underlying zones, which included lot coverage, frontage and setbacks, not the subdivision regulations in their entirety; furthermore, the 1200 foot limit on the length of dead-end streets and dead-end street systems could not reasonably be construed as a dimensional requirement of the underlying zone pursuant to § 905 (c) of the subdivision regulations because such restriction was a general requirement applicable to all zones and to all subdivisions regardless of zone; additionally, permitting a longer access road did not logically further the stated goal of a flexible residential development in clustering lots closer together, as it was inconsistent with a reduction in associated infrastructure, and such an interpretation also would be inconsistent with the commonsense safety concerns underlying the town's limitation on the length of dead-end streets and dead-end street systems, namely, traffic congestion and access for emergency vehicles.

   b. The developer's contention that the length of the proposed access road was within the limit set forth in § 905 (c) of the subdivision regulations was untenable because such an interpretation would render meaningless, and effectively read out of the regulation, the term "dead-end street systems," which would violate well settled cannons of construction: pursuant to the applicable zoning regulation (§ II), Madigan Circle and Limric Lane, as proposed, would constitute a dead-end street system because they were both dead-end streets that were to be connected and were to share a single, common point of entrance and exit; moreover, the combined length of the two streets as measured from the edge of the connecting street, namely, South Main Street, would be in excess of the 1200 foot limitation of § 905 (c) of the subdivision regulations; furthermore, the commission's reliance on the opinion of its land use attorney indicating that Limric Lane, rather than South Main Street,

should be considered the "connecting street" from which the length of Madigan Circle should be measured was misplaced because such opinion relied entirely on *Pappas* v. *Enfield Planning & Zoning Commission* (40 Conn. L. Rptr. 668), which interpreted a provision of another town's subdivision regulations that was readily distinguishable from the construction of the regulation at issue in the present case, as it did not include any reference to a dead-end street system; accordingly, the commission's approval of the developer's applications, which included a plan showing access to the development via Madigan Circle, was in contravention of the applicable regulations and, thus, was unreasonable and an abuse of its discretion.

2. The developer's contention that the commission's approval of its applications was independently authorized pursuant to §§ 902 and 905 (a) of the subdivision regulations was unavailing:

a. Section 902 of the subdivision regulations did not provide an alternative basis for reversing the Superior Court and upholding the commission's approval of the developer's applications because, by its clear and unambiguous terms, § 902 addressed only the issue of ingress and egress to a subdivision and contained no language from which to reasonably conclude that it authorized a waiver of the street length requirements set forth in § 905 (c).

b. The developer's argument that the Superior Court improperly invalidated the commission's approval of its applications on the ground that the planned development was not on property that was "rear land surrounded by subdivided land," as required by § 905 (a) of the subdivision regulations, was unpersuasive because, regardless of whether the property at issue was surrounded by subdivided land, § 905 did not provide independent authority on which the commission could have relied to approve the use of a dead-end street system exceeding 1200 feet and would not alter the fact that the proposed length of Madigan Circle exceeded the regulatory limit; moreover, although § 905 (c) did include express language authorizing the commission to grant a waiver of the 1200 foot limitation, all parties agreed that no such waiver was sought by the developer or granted by the commission.

(*One judge dissenting*)

Argued February 7—officially released July 18, 2023

Procedural History

Administrative appeal from the decision of the named defendant approving the special permit and subdivision applications for a flexible residential development submitted by the defendant Hamlet Homes, LLC, and for other relief, brought to the Superior Court in the judicial district of Hartford, where the court, *M. Taylor*, *J.*, sustained in part the plaintiffs' appeal and rendered judgment thereon, from which the defendant Hamlet Homes, LLC, on the granting of certification, appealed to this court. *Affirmed*.

Timothy S. Hollister, with whom were *Andrea L. Gomes* and, on the brief, *Ryan D. Hoyler*, for the appellant (defendant Hamlet Homes, LLC).

Scott R. Lingenfelter, for the appellees (plaintiffs).

Opinion

PRESCOTT, J. In this certified zoning appeal, the defendant Hamlet Homes, LLC,[1] appeals from the judgment of the Superior Court sustaining the administrative appeal of the plaintiffs, Michael C. Drewnowski and Kelly A. Drewnowski. The plaintiffs brought the underlying appeal from a decision of the Planning and Zoning Commission of the town of Suffield (commission) approving the defendant's special permit and subdivision applications for a proposed, sixteen lot flexible residential development in Suffield (town). The defendant claims on appeal that the court improperly (1) determined that the length of the proposed dead-end access road for the new development exceeded the maximum length prescribed in § 905 (c) of the Suffield Subdivision Regulations (subdivision regulations) regarding dead-end streets or dead-end street systems, thereby rejecting the defendant's contention that the street length limitation was inapplicable because § VI (B) of the Suffield Zoning Regulations (zoning regulations) pertaining to flexible residential developments explicitly provides that generally applicable "dimensional requirements" are "superseded" with respect to flexible residential developments; (2) concluded that the commission had failed to make a finding of hardship needed to approve the defendant's applications pursuant to § 902 of the subdivision regulations; and (3) determined that the proposed development was not " 'surrounded by subdivided land' " so as to justify approval of the applications pursuant to an exception found in § 905 (a) of the subdivision regulations.[2] We are not persuaded and, accordingly, affirm the judgment of the Superior Court.

The following facts and procedural history are relevant to our resolution of this appeal. The commission is a combined planning and zoning commission with both administrative authority and legislative functions. The town's regulatory scheme includes a set of zoning regulations, of which § VI governs flexible residential developments, and separate subdivision regulations. On September 16, 2019, the defendant filed with the commission a special permit application[3] and an application for subdivision approval. The defendant sought approval of the applications by the commission in order to build a sixteen lot flexible residential development on approximately ten acres of a forty-one acre parcel of land located in an R-25 residential development zone off Limric Lane. Limric Lane is an existing dead-end road off South Main Street that services a ten lot flexible residential development that the defendant built in 2013. South Main Street is one of the town's principal roadways and the nearest major "through" street to the proposed development.[4] In accordance with the town's zoning regulations, the construction of a flexible residential development requires the commission to

approve both a special permit application and an application for subdivision. See Suffield Zoning Regs., § VI (A) ("[t]he special permit for [a flexible residential development] would be approved prior to the subdivision approval; however, both would have a common public hearing").

As defined in the town's zoning regulations, a "flexible residential development" is "[a] residential development consisting of at least ten (10) acres with five (5) or more lots that allows smaller lots than those normally required by the underlying zoning district regulations in order to permanently conserve natural, scenic, or historic resources; provide open spaces for active or passive use; and, reduce infrastructure costs and impervious surfaces." Suffield Zoning Regs., § II. The definition of "flexible residential development" in the zoning regulations also contains a cross-reference to the definition for "cluster development," which is defined as follows: "A development design technique that is encouraged under Sec. VI . . . [of the zoning regulations] that permits a *reduction in lot area*, *frontage*, *and setback*, *and a reduction in associated infrastructure needs*, provided there is no increase in the overall density permitted for a conventional development, in return for the preservation of open space to be used for passive and/or active recreation or agricultural purposes, and the preservation of historically or environmentally sensitive features." (Emphasis added.) Id.

On October 21, 2019, the commission, at the defendant's request and in accordance with zoning regulations, held a "pre-application" conference with the defendant. At that time, the commission accepted the applications filed by the defendant and scheduled a public hearing for November 18, 2019.

The initial subdivision plans that the defendant filed with its applications proposed that the lots in the newly proposed flexible residential development would be accessed via a horseshoe shaped road that would begin on Limric Lane and then curve around to end near Limric Lane's existing cul-de-sac. Prior to the public hearing, however, the defendant, in response to informal input that it received from abutting property owners, commission members, and the town's conservation commission, revised its applications. One consequence of these revisions was a conversion of the proposed horseshoe shaped extension of Limric Lane into an irregularly shaped loop road, both ends of which, however, still began and ended on Limric Lane.

In response to inquiries about the defendant's applications made in advance of the public hearing, the town's director of planning and development, William Hawkins, asked the commission's land use attorney, Carl Landolina, to review § 905 of the town's subdivision regulations and to provide the commission with a legal opinion as to how it properly should interpret and apply

§ 905 with respect to the defendant's pending applications. At that time, § 905 of the subdivision regulations provided in relevant part: "Dead-End Streets or Dead-End Street Systems will only be allowed under the following conditions:

"(a) To provide access to undeveloped rear land surrounded by subdivided land, or to solve a topographical problem . . . .

"(c) A dead-end street or dead-end-street system(s) shall be limited to twelve-hundred (1,200) feet as measured from the edge of the connecting street to the center of the proposed cul-de-sac unless waived by the Commission for severe topographic reasons or for the purpose of fulfilling Subdivision Regulation Sec. 801 when said street has public water and has no more than a total of . . . twenty (20) lots in the R-25 zone."

By letter dated November 14, 2019, Landolina opined that § 905 of the subdivision regulations permits subdivisions accessed by dead-end streets or dead-end street systems under certain conditions and that § 905 acts as an exception to the requirement, found in § 902 of the subdivision regulations, that a subdivision ordinarily must have two means of ingress and egress.[5] He explained that § 905 (c) limits the length of a dead-end street or dead-end street system to 1200 feet, which is measured from " 'the edge of the connecting street to the center of the proposed cul-de-sac . . . .' " Landolina provided his interpretation of the term "connecting" street, which is not otherwise defined in the town's regulations. He opined that "a reasonable reading of the word 'connecting street' means an 'existing' street into which the proposed dead-end street connects. . . . In my view this would mean that once a dead-end street is proposed, constructed and accepted by the [t]own *it could become the connecting street for another proposed dead-end street*." (Emphasis added.) In reaching this conclusion, Landolina relied on a Superior Court decision that interpreted a similar provision in Enfield's subdivision regulations. See *Pappas* v. *Enfield Planning & Zoning Commission*, Superior Court, judicial district of Hartford, Docket No. CV-05-4010049-S (January 30, 2006) (40 Conn. L. Rptr. 668, 669–70).

Finally, Landolina advised the commission that, because the proposed loop road connected to Limric Lane at two points it "does not appear to meet the definition of a dead-end street . . . ." The town's zoning regulations define the term "dead-end street *or system*" in relevant part as a "street *or connected series of streets* with its only means of entrance or exit through one common point. . . ." (Emphasis added.) Suffield Zoning Regs., § II. Landolina's opinion letter did not address whether the commission properly should view the loop road and Limric Lane, which would share a single, common point of entrance and exit on South Main Street, as a "connected series of streets"; id.; that

would constitute a dead-end street system.

At the November 18, 2019 public hearing, the commission's chairman, Mark Winne, indicated that Landolina's opinion regarding dead-end streets "pretty much shocked me. Because that certainly has not been our understanding of how our—how we interpret our regulations here forever." When Winne asked Hawkins during the hearing if, under Landolina's interpretation of the regulations, this could result in a chain of dead-end streets, Hawkins responded, "Potentially." Hawkins qualified that, with respect to the defendant's current project, there was "no room" to put in any additional roads at a later date, but that he also found Landolina's opinion regarding § 905 of the subdivision regulations "surprising . . . ." A commission member also suggested that the regulations needed to be "tighten[ed] up . . . ."

Michael Drewnowski, who owns a home at 9 Limric Lane, appeared at the public hearing and voiced opposition to the defendant's applications, indicating that he had bought his home believing that the land the defendant now sought to develop would remain open space.[6] Other homeowners living on Limric Lane and South Main Street also appeared and raised additional concerns with the project. The commission continued the public hearing to December 16, 2019.

On December 2, 2019, the defendant revised its applications for a second time. This time, it converted the proposed loop road into a cul-de-sac or dead-end road. The newly proposed cul-de-sac would be named Madigan Circle and would begin at the same point on Limric Lane as the former loop road. Specifically, Madigan Circle would begin six hundred feet up Limric Lane from its intersection with South Main Street and then would run 760 feet to the center of its cul-de-sac rather than looping around to reconnect with Limric Lane as originally planned. The defendant made this latest change in the plans largely in response to safety concerns voiced by some residents on Limric Lane, who complained that children often played in the existing cul-de-sac at the end of Limric Lane, the very point where the loop road had been designed to reconnect.[7]

On December 15, 2019, Michael Drewnowski sent the commission an email in which he argued that the defendant's revision—changing the access road from a loop road to a dead-end cul-de-sac—violated the town's subdivision regulations, which expressly limited the length of dead-end streets or dead-end street systems to 1200 feet. See Suffield Subdivision Regs., § 905 (c). In addition to the email, Michael Drewnowski appeared at the second public hearing held on December 16, 2019. He told the commission that he was concerned that the new road, which would begin directly across from his driveway, would negatively impact his property value.[8] The commission again continued the public hearing to

January 27, 2020.

A final public hearing was conducted on January 27, 2020. The plaintiffs appeared and renewed their opposition to the defendant's applications. In particular, the plaintiffs indicated their disagreement with the legal opinion given by Landolina regarding § 905 (c) of the subdivision regulations because, in the plaintiffs' opinion, Landolina had disregarded the town's intent in enacting the regulation and its long-standing interpretation. The plaintiffs also maintained that the placement of Madigan Circle directly across from their home would negatively affect its value. Moreover, they challenged Hawkins' viewpoint that the regulations regarding driveway openings near roadway intersections did not apply to existing driveways such as the plaintiffs', which was only forty feet from Madigan Circle as proposed. See footnote 8 of this opinion. The commission then closed the public hearing.

On February 24, 2020, at the commission's next regular hearing, the commission unanimously voted to approve the defendant's applications with specific conditions.[9] The commission did not issue a formal statement of its reasons for granting the applications.[10]

On March 13, 2020, the plaintiffs commenced the underlying appeal in the Superior Court challenging the commission's approval of the defendant's applications. The plaintiffs claimed that the commission improperly (1) approved the use of a dead-end street or dead-end street system as an access road in excess of the 1200 foot limitation in § 905 of the subdivision regulations; (2) disregarded § III (H) (1) (h) of the zoning regulations by approving a roadway intersection closer than seventy-five feet from the plaintiffs' driveway; (3) acted on incomplete applications because (a) results by an engineer regarding soil drainage tests were missing and (b) the defendant failed to stake the centerline of all proposed streets; and (4) made no effort to protect the value of adjoining properties.

Shortly after the appeal was filed, the commission, acting in its legislative capacity; see *Arnold Bernhard & Co.* v. *Planning & Zoning Commission*, 194 Conn. 152, 164, 479 A.2d 801 (1984); voted to amend § 905 (c) of the subdivision regulations and the definitions in § II of the zoning regulations in an effort to clarify that connecting streets that ended in a cul-de-sac could not exceed 1200 feet in total measured from the nearest connecting "through" street.[11] Certainly, under the regulations as amended, there is no dispute that the commission would have been obligated to reject the defendant's applications as submitted because the center of the cul-de-sac at the end of Madigan Circle was more than 1200 feet from South Main Street.

The court, *M. Taylor*, *J.*, heard oral argument on the plaintiffs' appeal on March 26, 2021. Two days later,

the court issued an order requesting "comments and references to the following: What was argued at the hearing, but seems absent from the briefing, is the fact that in fulfilling open space requirements of [§ 801 of the subdivision regulations], the commission appears to be able to waive the 1200 foot dead-end street requirement [if] there is a public water system and no more than twenty lots in an R-25 zone. [Suffield Subdivision Regs.] § 905 (c). Was this a part of the commission's decision to approve the [flexible residential development]? This discretionary waiver is eliminated in the recently amended regulation on dead-end streets. As amended, subsection (c), along with an added subsection (d) provides: 'A dead-end street or dead-end-street system shall be limited to a total length of [1200] feet as measured from the edge of the connecting through street as defined in the Suffield Zoning Regulations (see Dead End Street or System definition) (05/08/20). (d). No new dead-end street or streets may be connected to an existing dead-end street or street system, nor may any existing dead-end road be extended, if the resulting total length of new and existing dead-end streets exceeds 1200 feet in length. (05/08/20).' Is § 905, as amended, a part of the record?"

The parties each filed a memorandum in response to the court's order on April 14, 2021. The defendant stated in its memorandum that it "did not formally request a waiver under § 905 (c) [of the subdivision regulations], nor did the commission grant one." According to the defendant, it was unnecessary for it to request a waiver because the zoning regulation governing flexible residential developments provided that such regulation superseded any " 'dimensional' " requirements of the underlying zone, which the defendant construes to mean that the commission is authorized to approve "the street layout that best serves the open space layout," even if it exceeded limits set forth in the town's subdivision regulations. The defendant also took the position in its response to the court that any amendments that the commission made to the town's regulations after approving the defendant's applications were properly part of the record before the Superior Court but that the amendments had no bearing on the appeal because any retroactive application is barred by General Statutes § 8-28b.[12]

In their memorandum, the plaintiffs agreed that no waiver was requested or granted and argued in the alternative that, even if the commission considered and implicitly granted a waiver, such action would have been improper because the power to grant a waiver lies with the zoning board of appeals, not the commission. The plaintiffs further agreed that the amendments to the regulations were part of the record to be considered by the court on appeal but argued that § 8-28b was inapplicable because the amendments made by the commission were not a " 'change' " but a "clarification

so that the subdivision regulation read as intended."

On May 3, 2021, the court issued a memorandum of decision sustaining in part the plaintiffs' appeal. The court first concluded that the commission's approval of the applications with the proposed Madigan Circle cul-de-sac violated the town's subdivision regulations. In addressing the commission's decision to approve a new subdivision without two means of ingress and egress, the court concluded that the commission had discretion pursuant to § 902 of the subdivision regulations to permit a subdivision with a single means of ingress and egress in the " 'case of physical or other hardship . . . .' " The court concluded, however, that the record did not reflect that the commission ever made any finding of hardship, in the absence of which "the exception [in § 902] appears to be inapplicable." The court also determined that, independent of the exception in § 902, § 905 (a) of the subdivision regulations also authorized approval of a dead-end street to solve a topographical problem or to "provid[e] 'access to undeveloped rear land surrounded by subdivided land . . . .' " The court observed, however, that the record did not contain substantial evidence showing that either of these exceptions in § 905 applied to the defendant's applications or that the commission had relied on either exception as a basis for approving the applications.

The court then turned to what it described as the "crux" of the parties' dispute, namely, how the length of a dead-end street is to be measured. Prior to its amendment, § 905 (c) of the subdivision regulations provided in relevant part that "[a] dead-end street or dead-end-street system(s) shall be limited to twelve hundred (1,200) feet as measured from the edge of the connecting street to the center of the proposed cul-de-sac . . . ." The court rejected the commission's reliance on Landolina's opinion that the " 'connecting street' " in this matter was Limric Lane and, therefore, because the distance from Limric Lane to the center of the Madigan Circle cul-de-sac was only 760 feet, it fell within the regulatory framework.

The court then distinguished the *Pappas* case that Landolina had relied on; see *Pappas* v. *Enfield Planning & Zoning Commission*, supra, 40 Conn. L. Rptr. 668; and concluded that Landolina's analysis of the regulation—which the commission seemed to have adopted—ignored or rendered superfluous the regulation's inclusion of the term "dead-end street 'system.' " See Suffield Subdivision Regs., § 905 (c). The court determined that a dead-end street system "denotes an interdependent network of combined dead-end roads" and that Madigan Circle and Limric Lane met this definition. Measured from the start of Limric Lane at South Main Street to the center of the Madigan Circle cul-de-sac, the length of this dead-end street system was 1360

feet, which was in excess of the 1200 foot limit. The court noted that, although § 905 (c) of the subdivision regulations contained a waiver provision that might have allowed the commission to approve an access road exceeding 1200 feet for a subdivision with a public water system and less than twenty lots in a R-25 zone, the parties were in agreement that such a waiver neither was sought by the defendant nor raised by the commission as a basis for its approval of the defendant's applications. The court rejected the plaintiffs' remaining contentions raised in their appeal.[13] In sum, the court sustained in part the plaintiffs' appeal and reversed the commission's approval of the defendant's applications.

The defendant filed a timely motion to reargue. The defendant argued, inter alia, that the court had failed to address its argument that the zoning regulations governing flexible residential developments contained explicit language superseding any "dimensional" requirements in the subdivision regulations, which, the defendant contends, includes the 1200 foot street length limitation at issue. The court denied the motion to reargue without comment. The defendant timely petitioned for certification to appeal, which this court granted. This appeal followed.

After filing its appeal, the defendant filed a motion for articulation pursuant to Practice Book § 66-5 in which it asked the Superior Court to address its argument regarding the "supersed[ing]" language found in the zoning regulations governing flexible residential developments; namely, that all applicable "dimensional requirements" are "superseded" with respect to flexible residential developments pursuant to § VI (B) of the zoning regulations. The court granted the defendant's motion and issued an articulation. The court concluded that it was "unclear" whether the term "dimensional requirements" included the 1200 foot street length limitation. The court nevertheless reasoned that the express and specific limitation in the subdivision regulations regarding the maximum length of dead-end streets should control over the more general "supersed[ing]" provision found in the zoning regulation.[14] The court noted that, although the commission had the express authority to waive the subdivision regulation under certain circumstances, it had not followed the requirements for doing so in the present case.

Before turning to our discussion of the defendant's claims raised in the present appeal, we first set forth the governing principles of law, including our standard of review. "In traditional zoning appeals, the scope of judicial review depends on whether the zoning commission has acted in its legislative or administrative capacity." (Internal quotation marks omitted.) *Kaufman* v. *Zoning Commission*, 232 Conn. 122, 150, 653 A.2d 798 (1995). In considering either an application for a special permit or an application for subdivision approval, a

commission acts in an administrative capacity. See *Reed* v. *Planning & Zoning Commission*, 208 Conn. 431, 433, 544 A.2d 1213 (1988) (subdivision); *A.P. & W. Holding Corp.* v. *Planning & Zoning Board*, 167 Conn. 182, 184–85, 355 A.2d 91 (1974) (special permits). "Generally, it is the function of a zoning board or commission to decide within prescribed limits and consistent with the exercise of [its] legal discretion, whether a particular section of the zoning regulations applies to a given situation and the manner in which it does apply. The [Appellate Court and] trial court . . . decide whether the board correctly interpreted the section [of the regulations] and applied it with reasonable discretion to the facts. . . . In applying the law to the facts of a particular case, the board is endowed with a liberal discretion, and its action is subject to review by the courts only to determine whether it was unreasonable, arbitrary or illegal." (Citations omitted; internal quotation marks omitted.) *Irwin* v. *Planning & Zoning Commission*, 244 Conn. 619, 627–28, 711 A.2d 675 (1998).

"A special permit allows a property owner to use his property in a manner expressly permitted by the local zoning regulations. . . . An applicant may apply for a special permit from a zoning commission . . . and [i]t is well settled that [for a commission to grant] a special permit, an applicant must satisf[y] all conditions imposed by the regulations. . . . [A]lthough it is true that the zoning commission does not have discretion to deny a special permit when the proposal meets the standards, it does have discretion to determine whether the proposal meets the standards set forth in the regulations. If, during the exercise of its discretion, the zoning commission decides that all of the standards enumerated in the special permit regulations are met, then it can no longer deny the application. The converse is, however, equally true. Thus, the zoning commission can exercise its discretion during the review of the proposed special [permit], as it applies the regulations to the specific application before it. . . . In making such determinations, moreover, a zoning commission may rely heavily upon general considerations such as public health, safety and welfare." (Citations omitted; internal quotation marks omitted.) *Boyajian* v. *Planning & Zoning Commission*, 206 Conn. App. 118, 124–25, 259 A.3d 699 (2021).

To the extent that the defendant's claim requires us to review the Superior Court's interpretation of the town zoning regulations, "our review is plenary. . . . Additionally, zoning regulations are local legislative enactments . . . and, therefore, their interpretation is governed by the same principles that apply to the construction of statutes. . . .

"When construing a statute, [o]ur fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . In other words, we seek to

determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of [the] case, including the question of whether the language actually does apply. . . . In seeking to determine that meaning . . . [General Statutes] § 1-2z directs us first to consider the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered." (Citation omitted; internal quotation marks omitted.) *Moon* v. *Zoning Board of Appeals*, 291 Conn. 16, 20–21, 966 A.2d 722 (2009). "Whenever possible, the language of zoning regulations will be construed so that no clause is deemed superfluous, void or insignificant. . . . The regulations must be interpreted so as to reconcile their provisions and make them operative so far as possible. . . . [If] more than one construction is possible, we adopt the one that renders the enactment effective and workable and reject any that might lead to unreasonable or bizarre results." (Internal quotation marks omitted.) *Kraiza* v. *Planning & Zoning Commission*, 304 Conn. 447, 454, 41 A.3d 258 (2012).[15] With these principles in mind, we turn to the defendant's claims.

I

The defendant first claims that the court improperly overturned the commission's approval of its applications on the ground that the length of the proposed access road for the new development unlawfully exceeded the 1200 foot maximum length prescribed in § 905 (c) of the town's subdivision regulations regarding dead-end streets or dead-end street systems. The defendant argues that language found in § VI (B) of the town's zoning regulations pertaining to flexible residential developments explicitly supersedes the street length limitation in § 905 of the town's subdivision regulations and, alternatively, that the length of the approved new access road was, in fact, less than the 1200 foot length permitted under the subdivision regulations. We are not persuaded by either contention and, instead, agree with the Superior Court that the commission misconstrued both the subdivision and zoning regulations.[16]

A

The defendant first contends that the flexible residential development provisions of the town's zoning regulations contain language that effectively supersedes restrictions found in the town's subdivision regulations, including a 1200 foot limit on the length of a dead-end street or dead-end street system used to access a planned subdivision. Our plenary review of the relevant regulatory provisions, however, leads us to a contrary conclusion.

The town's zoning regulations governing flexible resi-

dential developments provide that the town's purpose in authorizing this type of development is to provide an opportunity for "cluster or smaller lots than those normally required by these regulations" in order to, inter alia, preserve and provide open spaces for the present and future benefit of the town and its residents. Suffield Zoning Regs., § VI (A). A developer seeking to build a flexible residential development must obtain both a special permit *and* subdivision approval. Id. In other words, a flexible residential development must comply with all relevant portions of both the zoning regulations and the subdivision regulations.[17]

In order to facilitate the smaller clustered lots needed to fulfil the stated purpose of a flexible residential development, the zoning regulations provide in relevant part that, if "the Commission approves a special permit for a [flexible residential development], the *dimensional requirements of the underlying zones* are hereby superseded in their entirety, except [as to the maximum number of units permitted] . . . ."[18] (Emphasis added.) Id., § VI (B). This language in the flexible residential development zoning regulations cannot, as suggested by the defendant, reasonably be read to mean that, with the one stated exception, the town's subdivision regulations are superseded "in their entirety . . . ." Id. If that were the case, there would be no need to obtain subdivision approval as required. Rather, the zoning regulation's "supersed[ing]" language is far more limited, providing only that the "dimensional requirements *of the underlying zones*" are superseded. (Emphasis added.) Id. The defendant insists that the term "dimensional requirements" must be construed to include the 1200 foot limit on the length of dead-end streets or dead-end street systems. We disagree.

Although the term "dimensional requirements" is not expressly defined in the zoning regulations pertaining to flexible residential developments or elsewhere in the town's zoning or subdivision regulations, that term is found in § IV (D) (4) of the zoning regulations, which is titled "General Dimensional Requirements." This is significant because, in construing the meaning of a regulatory provision, our rules of statutory construction direct us to consider not only the text of the particular regulation under review but also its relationship to other regulations. Subdivision (4) of § IV (D) consists of a chart listing the applicable dimensional requirements for each of the town's residential zones, including R-25. It must be noted that the term "dimensional requirements" as used in § VI (B) of the zoning regulations is immediately and directly qualified by the phrase "of the underlying zones." This creates a clear relationship between "dimensional requirements" and § IV (D) (4), which contains the dimensional requirements of the zone. The dimensions or dimensional requirements listed involve the minimum allowed size of the lot, the developmental area of the lot, lot coverage, frontage,

the height of the residence, and the length of front, side, and rear setbacks. Suffield Zoning Regs., § IV (D) (4). Allowing adjustments to these particular dimensional requirements understandably would further the goal of allowing developers to cluster smaller lots together in a manner not normally allowed in a particular zone. These dimensional requirements of the various zones do not include any regulatory provisions regarding the length of roadways or any other aspects regarding ingress to and egress from the development. See id.

The limit on access road length cannot reasonably be construed as a dimensional requirement of the *underlying* zone, which, in this case, was R-25, because it is a general subdivision requirement applicable in *all* zones and to all subdivisions regardless of zone. See Suffield Subdivision Regs., § 905 (c). Moreover, permitting a *longer* access road, unlike allowing smaller lot dimensions, does not logically further the stated goal of clustering lots closer together. We are aware that the zoning regulation's definition of "cluster development" refers to "associated infrastructure needs," which term arguably could be construed to include any access road servicing a cluster development; the definition nonetheless provides that flexible residential developments permit "a reduction" in such associated infrastructure. Suffield Zoning Regs., § II. Construing the town's regulations to permit the use of a dead-end road in a flexible residential development that *exceeds* mandated length limitations is inconsistent with a *reduction* in associated infrastructure. Additional road length increases both infrastructure costs and impervious surfaces, results that, as the dissenting opinion points out, flexible residential developments are intended to avoid. Although the dissent is correct to note that developers are required to submit plans showing all proposed roads and that road layout is part of the design process for a flexible residential development, these facts do not support a conclusion that the inclusion of design guidelines in the zoning regulations is in any way intended to supersede road length limitations. In other words, preferences for curvilinear street layouts and preservation of scenic views do not authorize noncompliance with road length limitations. Indeed, a development could have these features while still complying with the required road length limitations by avoiding the use of dead-end street systems. Nor is it common sense or obvious that the only means of following the guidelines is to increase road length beyond the maximum length allowed under the zoning and subdivision regulations. In sum, we reject the defendant's argument that the flexible residential development zoning regulations superseded the subdivision regulation limiting the length of a dead-end street or dead-end street system to 1200 feet.[19]

Our construction is further buttressed by the fact that it is consistent with the commonsense safety concerns

underlying the town's limitation on the length of a dead-end street or dead-end street system. Because such a street or street system provides only a single means of ingress and egress to the properties it serves, zoning authorities generally disfavor and seek to limit the length of such roads in order to reduce the number of residences or other structures, thereby reducing possible traffic congestion and safety concerns such as adequate and redundant access for emergency vehicles. See *Federline* v. *Planning Board*, 33 Mass. App. 65, 68–69 n.5, 596 N.E.2d 1028 (explaining that land use regulatory authorities often limit length of dead-end streets " 'because of a concern that the blocking of a dead-end street, as by a fallen tree or an automobile accident, will prevent access to the homes beyond the blockage particularly by fire engines, ambulances, and other emergency equipment' "), review denied, 413 Mass. 1105, 600 N.E.2d 171 (1992). The defendant, on the other hand, would have us conclude that the commission, by enacting its flexible residential development scheme, intended to permit the commission to authorize the construction of a series of such developments, each accessed by a dead-end street branching from the previously approved development's existing dead-end street, thus resulting in a chain of dead-end streets, each street unlimited by regulation in total length. This would be an unreasonable and absurd result given the obvious traffic and safety concerns and, therefore, is an improper interpretation of the regulatory scheme before us.

B

The defendant argues in the alternative that the 1200 foot limitation is not implicated in the present case because, as the town's attorney, Landolina, opined before the commission, § 905 (c) of the subdivision regulation provides that the length of a dead-end street must be measured "from the edge of the connecting street," which the defendant argues in the present case is Limric Lane, the street onto which Madigan Circle connects. Measured from its starting point on Limric Lane, it is undisputed that Madigan Circle is only 760 feet in length. The access road for the new development exceeds the regulatory limit only if it is measured from the nearest through street, which, here, is South Main Street. Measured from South Main Street to the center of the cul-de-sac at the end of Madigan Circle, the road is 1370 feet in length. For the reasons that follow, we agree with the Superior Court that the defendant and Landolina's interpretation of § 905 (c) is untenable because it would render meaningless and effectively read out of the regulation the term "dead-end-street system(s)," which would violate well settled cannons of construction.

As previously noted, at the time of the commission's approval of the defendant's applications, § 905 (c) of

the subdivision regulations provided in relevant part: "A dead-end street *or dead-end-street system(s)* shall be limited to twelve-hundred (1,200) feet as measured from the edge of the connecting street to the center of the proposed cul-de-sac unless waived by the Commission . . . ." (Emphasis added.) The dispute between the parties is the proper meaning of the term "connecting street."

"It is a basic tenet of statutory construction that the legislature [does] not intend to enact meaningless provisions. . . . [I]n construing [regulations], we presume that there is a purpose behind every sentence, clause, or phrase used in an act and that no part of a [regulation] is superfluous. . . . Because [e]very word and phrase [of a regulation] is presumed to have meaning . . . [a regulation] must be construed, if possible, such that no clause, sentence or word shall be superfluous, void or insignificant." (Internal quotation marks omitted.) *PJM & Associates, LC* v. *Bridgeport*, 292 Conn. 125, 138, 971 A.2d 24 (2009).

The regulation at issue instructs that measurements should begin "from the edge of the connecting street . . . ." Suffield Subdivision Regs., § 905 (c). It does not expressly state that the "connecting street" must be a *through* street. See id. Nevertheless, the regulation must be read as a whole; see *Borrelli* v. *Zoning Board of Appeals*, 106 Conn. App. 266, 270, 941 A.2d 966 (2008); and, thus, the term "connecting street" must be construed in conjunction with the additional language indicating that the 1200 foot limitation applies not only to a solitary dead-end street or cul-de-sac but to "dead-end-street system(s) . . . ." Suffield Subdivision Regs., § 905 (c). The town's zoning regulations define a "dead-end-street system" in relevant part as a "connected series of streets with its only means of entrance or exit through one common point. . . ." Suffield Zoning Regs., § II. Limric Lane and Madigan Circle are both dead-end streets that are connected and that share a single, common point of entrance and exit off South Main Street. As such, we agree with the court's conclusions that "[a] dead-end street system denotes an interdependent network of combined dead-end roads" and, "therefore, that Madigan Circle and Limric Lane are a dead-end street system. . . . [T]he combination of these two dead-end streets [is] in excess of the 1200 foot limitation of § 905 (c) [of the subdivision regulations], as measured from the edge of the connecting street, which is South Main Street." (Footnote omitted; internal quotation marks omitted.) Accordingly, we reject the defendant's argument that the 1200 foot limitation in the regulations is not implicated in this case. To do so would be to read the term "dead-end street system" out of the regulations.

We also reject the commission's reliance on Landolina's legal opinion that Limric Lane, rather than South

Main Street, was the "connecting street" and, thus, that the new access road's length properly was measured from Limric Lane. Landolina's opinion was made wholly on the basis of his interpretation of a Superior Court case construing a somewhat similar provision in Enfield's subdivision regulations. See *Pappas* v. *Enfield Planning & Zoning Commission*, supra, 40 Conn. L. Rptr. 669–70. Although the holding in *Pappas* is not binding on this court, we agree with Judge Taylor that *Pappas* is readily distinguishable and, thus, is not persuasive authority as to the proper construction of the regulation at issue.

In *Pappas*, the regulation provided that a cul-de-sac or dead-end street "shall not be longer than [six hundred feet] measured from the center of the turnaround to the nearest street intersection." Id., 669. Enfield's commission interpreted the regulation as requiring that the nearest street intersection must be a "through" street and not a preexisting cul-de-sac. Id. On appeal, the court in *Pappas* concluded that the Enfield commission had unreasonably construed the regulation because it effectively, and impermissibly, added into the regulation the word "through" to the term "street" and, by doing so, improperly rejected the application before it. Id., 669–70.

Landolina suggested that the commission here should avoid the error recognized in *Pappas* and measure the length of the proposed access road in the present case from its intersection with Limric Lane instead of from its intersection with South Main Street, which is a through street. The commission elected to follow Landolina's recommendation despite the fact that the result would be contrary to how the commission had interpreted the same regulation in the past, as evidenced by the comments of both the commission's chairman and the town's chief zoning official. The commission's decision to rely on Landolina's interpretation of the holding in *Pappas* was misplaced because, as aptly explained by the court in the present case, the decision in *Pappas* is readily distinguishable given the differences in the language of the two regulations at issue.

In *Pappas*, by interpreting the term "street" to mean "through street," the Enfield commission added an additional and substantively significant term to its regulatory framework. See id., 669. In the present matter, the same argument might be true but for the additional language in the town's subdivision regulations that was not in the regulations under review in *Pappas*. Specifically, as we have previously indicated, § 905 (c) of the subdivision regulations provides in relevant part that "[a] dead-end street *or dead-end-street system(s)* shall be limited to twelve-hundred (1,200) feet as measured from the edge of the connecting street to the center of the proposed cul-de-sac . . . ." (Emphasis added.) Although the regulation refers to measurements from

a "connecting street," not a "connecting through street," it also contains additional language that the 1200 foot limitation applies not only to "dead-end street[s]" but also to "dead-end-street system(s)"; Suffield Subdivision Regs., § 905 (c); which is language not found in the regulation under consideration in *Pappas*. See *Pappas* v. *Enfield Planning & Zoning Commission*, supra, 40 Conn. L. Rptr. 669. By following Landolina's recommendation, the commission effectively ignored or rendered superfluous the regulation's express applicability not only to dead-end streets but also to "dead-end-street system(s) . . . ." Suffield Subdivision Regs., § 905 (c).

In sum, we are not persuaded by the defendant's overbroad interpretation of "dimensional requirements" or by its contention that the length of the proposed access road properly fell within regulatory limits. Rather, we conclude that the commission's approval of the defendant's applications, which included a plan showing access to the development via a dead-end street system in excess of the 1200 foot limit was in contravention of applicable regulations and, thus, unreasonable and an abuse of its discretion.

II

Our conclusion in part I of this opinion does not end our review, however, because the defendant contends that the commission's approval of its applications was independently authorized under two other provisions of the subdivision regulations, §§ 902 and 905 (a).[20] We are not persuaded.

A

First, the defendant claims that the commission had discretion to approve Madigan Circle, the planned access road, pursuant to § 902 of the subdivision regulations and that the court wrongly determined that the commission improperly exercised that discretion because the commission failed to make a finding of hardship. We are not persuaded.

As previously noted, § 902 of the subdivision regulations provides that "[n]ormally a subdivision shall have two means of ingress and egress. *In the case of physical or other hardship*, the Commission shall determine whether a subdivision will require two entrances and exits or a divided roadway for safety purposes." (Emphasis added.) The Superior Court agreed with the defendant's construction of the regulation to the extent that it grants the commission the discretion to determine, in light of the circumstances presented, if a single means of access, rather than the preferred two, will suffice. The court concluded that the commission's determination to approve access to the planned development via a dead-end street was not per se an abuse of its discretion in the present case because the commission reasonably could have concluded that any alternative plan, such as the abandoned horseshoe and loop

roads, would, comparatively, have been less safe.[21] The court nevertheless concluded that the record does not reflect that the commission ever made any initial finding of hardship and that, without such a finding of hardship, any discretion or exception afforded the commission pursuant to § 902 was simply inapplicable.

The defendant maintains on appeal not only that the discretion afforded to the commission by § 902 of the subdivision regulations includes the discretion to authorize a subdivision with a single means of ingress and egress on the basis of land conditions and design considerations but also that this discretion "necessarily encompasses layout, design, *and dimensions* with safety being the ultimate criterion." (Emphasis added.) Thus, the defendant appears to argue that § 902 authorized the commission to approve a road that exceeds the limitation contained in § 905 (c) of the subdivision regulations by exercising its discretion to allow a single means of ingress and egress. The defendant also contends that it was improper for the Superior Court to invalidate the commission's approval on the ground that the commission never made a finding of physical or other hardship because the regulation does not mandate the making of such an express finding.

It is unnecessary for us to decide in the present case whether the commission in fact implicitly exercised discretion under § 902 of the subdivision regulations, or whether, in so doing, it implicitly made a finding of hardship because we disagree with the defendant's premise that § 902 provided the commission with independent authority to disregard the 1200 foot limit on the length of dead-end street systems. As we determined in part I of this opinion, the subdivision regulations prohibit a dead-end street system from exceeding 1200 feet. Suffield Subdivision Regs., § 905 (c). By its clear and unambiguous terms, § 902 addresses only the issue of ingress and egress to a subdivision and authorizes a commission to approve a subdivision having a single point of entrance and exit "[i]n the case of physical or other hardship . . . ." Despite the defendant's suggestion to the contrary, § 902 contains no language from which to reasonably conclude that it also authorizes a waiver of street length requirements. Accordingly, we reject the defendant's claim that § 902 provides an alternative basis for reversing the Superior Court and upholding the commission's approval of its applications.

B

Second, the defendant claims that the court improperly invalidated the commission's approval of its applications on the ground that the planned development was not on property that is "rear land surrounded by subdivided land" as provided in § 905 (a) of the subdivision regulations. Again, we find the defendant's arguments unpersuasive because we do not agree with the

underlying premise that § 905 provides independent authority on which the commission could have relied to approve the use of a dead-end street system exceeding 1200 feet.

As previously noted, § 905 of the subdivision regulations provides in relevant part that the commission can approve a subdivision accessed via a dead-end street or dead-end street system but only if one of a few express conditions applies. One such condition is "[t]o provide access to undeveloped rear land surrounded by subdivided land . . . ." Id., § 905 (a). Another is "to solve a topographical problem . . . ." Id. The court agreed with the defendant that these provisions in § 905 (a) provided the commission with authority, independent of § 902 of the subdivision regulations, to authorize a subdivision accessed via a dead-end street but found that "there appears to have been no finding in the record of an approval based upon rear land surrounded by subdivided land or to solve a topographical problem." The court noted that the defendant appeared to rely on a map attached as exhibit C to its brief as supporting its assertion that the new development would be built on "rear land surrounded by subdivided land." The court concluded, to the contrary, that the map of the area showed only rear land "that is partially surrounded by subdivided land on three sides. The record, therefore, does not reflect substantial evidence that this exception would be applicable or that it was the specific basis of the commission's decision to approve the [applications]."

As with § 902 of the subdivision regulations, the defendant argues that § 905 of the subdivision regulations provides an independent basis to uphold the commission's approval of its applications. The defendant's argument falters, however, on the fact that subsection (a) of § 905, grants the commission the authority to approve the use of a dead-end street system only to access a planned subdivision that consists of "undeveloped rear land surrounded by subdivided land . . . ." It does not provide that any such dead-end street system does not have to comply with other regulations, such as the 1200 foot limitation. Accordingly, even if the defendant were correct that the Superior Court improperly determined that the land at issue was not "surrounded by subdivided land"; Suffield Subdivision Regs., § 905 (a); this would not alter the determinative fact that the length of the proposed access road exceeded regulatory limits. Furthermore, although subsection (c) of § 905 does include express language authorizing the commission to grant a waiver of the 1200 foot limitation, all parties agree that a waiver pursuant to this provision neither was sought by the defendant nor granted by the commission.

To summarize, we agree with the Superior Court that the commission improperly misconstrued the subdivi-

sion regulations by approving a dead-end street system in excess of 1200 feet. We also reject the defendant's arguments that §§ 902 and 905 of the subdivision regulations provide alternative legal bases on which to uphold the commission's approval of the defendant's applications. Because the commission's approval of the applications was contrary to the town's regulations regarding the length of a dead-end street system, the court properly sustained the plaintiffs' appeal. Accordingly, we affirm the judgment of the Superior Court.

The judgment is affirmed.

In this opinion BRIGHT, C. J., concurred.

[1] The Planning and Zoning Commission of the town of Suffield was also named as a defendant in the underlying administrative appeal but has not participated in the appeal to this court. Accordingly, all references to the defendant in this opinion are to Hamlet Homes, LLC.

[2] Unless otherwise indicated, all references to the town's zoning regulations and the subdivision regulations are to the revisions of the regulations that were in effect in 2019, at the time the applications at issue were filed. See General Statutes § 8-2h (a); *Michel* v. *Planning & Zoning Commission*, 28 Conn. App. 314, 318, 612 A.2d 778, cert. denied, 223 Conn. 923, 614 A.2d 824 (1992).

[3] "A special permit allows a property owner to put his property to a use which the regulations expressly permit under conditions specified in the zoning regulations themselves." R. Fuller, 9 Connecticut Practice Series: Land Use Law and Practice (4th Ed. 2015) § 1:6, p. 18.

[4] A "through street" is defined as "a street on which the through movement of traffic is given preference"; Merriam Webster's Collegiate Dictionary (11th Ed. 2014), p. 1303; in other words, a street with the right-of-way over vehicles entering it or crossing over it at intersections.

[5] Section 902 of the subdivision regulations provides: "Normally a subdivision shall have two means of ingress and egress. *In the case of physical or other hardship*, the Commission shall determine whether a subdivision will require two entrances and exits or a divided roadway for safety purposes." (Emphasis added.)

[6] Michael Drewnowski told the commission in relevant part: "We were told we were going to be surrounded by conservation lands and protected woodlands, no one could ever build across the street. We were told we own ten feet across the street, which we now know is a lie. . . . So, we all spent a lot of money to live on the street. Sounded like a great opportunity. And now I'm [in a] house that has a road that will have headlights going directly into my living room. It's really difficult to reconcile what . . . I was told, what I paid to live on this street, everything that we've put into our house to make it our dream house, and then to now have, to be like, thirty feet from a road that will have seventeen houses."

[7] The court states in its memorandum of decision that the commission had "reject[ed]" the horseshoe and loop road proposals, "which it deemed less appropriate and less safe than the cul-de-sac proposal . . . ." In support of that statement, the court cites to defendant's exhibits A and B, which are the maps showing the horseshoe and loop road configurations. The court does not cite to anything in the exhibits or return of record that actually supports its statement that the defendant changed the road design at the insistence of the commission. As the defendant states in its appellate brief, the record shows that the change from a horseshoe shaped road to a loop road was done "to remove one awkwardly shaped lot and preserve more trees," not because of safety concerns. The defendant represented to the commission that the change from the loop road to the cul-de-sac primarily was made because of safety concerns voiced by homeowners on Limric Lane. In any event, the record does not support that the changes in the access road were made to accommodate any preference voiced by the commission or that the commission "reject[ed]" the other proposed road designs.

[8] Hawkins addressed the commission about concerns regarding whether any existing driveways on Limric Lane located near the proposed intersection with Madigan Circle would violate § III (H) (1) (h) of the town's zoning regulations, which provides in relevant part that "[d]riveway openings shall

be located no closer than seventy-five (75) feet from any roadway intersection. . . .'' Hawkins told the commission that the regulation applied only to new driveways proposed as part of a subdivision plan and that there were ''several examples of new subdivision roads connecting to streets where existing house's driveways are within seventy-five feet of the new intersection.''

[9] We note that the commission's conditional approval of the defendant's applications does not affect the finality of the judgment for purposes of an appeal. See *Finley* v. *Inland Wetlands Commission*, 289 Conn. 12, 23 n.10, 24, 959 A.2d 569 (2008).

[10] We do not disagree with the dissent that, ''[i]n the absence of a statement of purpose by the zoning commission for its actions, it [is] the obligation . . . of this court upon review . . . to search the entire record to find a basis for the [zoning] commission's decision.'' (Emphasis omitted; internal quotation marks omitted.) Nevertheless, that standard of review does not permit this court to affirm a commission's decision that otherwise violates its land use regulations. Such a decision is illegal and cannot stand, regardless of any unstated, possible reasoning the board may have employed. In other words, we do not ascribe error to the commission because it failed to provide a statement of its reasons nor is the lack of a formal statement the basis for affirming the trial court's judgment overturning the commission's decision. Rather, we simply are unconvinced that the commission's construction of the regulations at issue is entitled to deference under the circumstances of the present case.

[11] Following the 2020 amendment, § II of the zoning regulations provided in relevant part: ''DEAD-END STREET OR SYSTEM: A public or private street or connected series of streets with its only means of entrance or exit through one common point whether constructed at one time or not. The common point shall be an existing town or state road having means of ingress and egress through at least two points. (a 'through street'). A dead-end street or dead-end-street system shall be limited to a total length of twelve hundred (1,200) feet. (5-08-20). . . .''

[12] General Statutes § 8-28b provides: ''Notwithstanding the provisions of any general or special act or municipal ordinance, when an application, petition or request for approval of a subdivision plan for residential property has been filed with or submitted or made to the planning commission of any town, city or borough, or to any other body exercising the powers of such commission, accompanied by a subdivision plan and such other documents as may be required by the regulations of such commission or body, in form and content as to all essential matters as is specified in such regulations, or when any modification of such plan or other documents has been subsequently filed or submitted in connection with the same application, petition or request, which modification is in conformance with such regulations as of the time of filing of the original application, petition or request, neither such original application, petition or request nor such subsequent modification shall be required to comply with, nor shall it be disapproved for the reason that it does not comply with, any change in the subdivision regulations or the boundaries of zoning districts of such town, city or borough taking effect after the filing, submission or making of such original application, petition or request. If such subdivision plan or modification thereof is given final approval, any change in the subdivision regulations made between the time of filing, submitting or making of such application, petition or request and the time of such final approval shall, as to such plan or modification thereof and the land shown thereon, be deemed to take effect following such final approval.''

[13] In particular, the court concluded that the commission had not misinterpreted its regulations with respect to the placement of Madigan Circle less than seventy-five feet from the plaintiffs' existing driveway, effectively deferring to the commission's determination that the regulation regarding driveway placement applied only to new proposed driveways, not to existing ones. The court also rejected the plaintiffs' claim that the commission should have rejected the defendant's applications as incomplete, agreeing with the defendant that the particular application requirements at issue were directory, not mandatory, and that any noncompliance was nonetheless harmless. Finally, the court rejected the plaintiffs' claim that, in approving the defendant's applications, the commission abused its discretion by failing to consider four issues raised by the plaintiffs: negative impact on the property values of nearby homes, preservation of existing scenic views, elimination of buffer areas, and the destruction of habitat of the Northern Harrier Hawk. The court concluded that the record reflected that the com-

mission had, in fact, properly considered the first three of these issues and, with respect to the fourth, determined that habitat protection was not within its purview but was in that of the town's conservation commission, which already had approved the plan. The plaintiffs do not challenge these other aspects of the court's decision on appeal as adverse rulings that this court should consider in the event it agrees with the defendant's claims. See Practice Book § 63-4 (a) (1) (B). Accordingly, we need not address them.

[14] The court stated in relevant part: "In the present matter, the court finds that [the zoning regulation regarding flexible residential developments] encroaches upon a specific provision within the inherent authority of the . . . subdivision regulations, involving the maximum length of dead-end streets. . . . As such, the combined [commission] acted ultra vires, absent a waiver, as specifically provided by the subdivision regulations and as authorized and required by statute." (Citation omitted.) Although the defendant argues on appeal that the court's analysis improperly failed to recognize that a "zoning regulation generally controls over [a] subdivision regulation," we need not wade into that particular swamp because, as discussed subsequently in this opinion, we conclude that the "supersed[ing]" language of § VI (B) of the zoning regulations is inapplicable and, therefore, not in conflict with § 905 (c) of the subdivision regulations.

[15] The dissent suggests that, in the present case, some degree of deference must be given to the board's interpretation of its land use regulations. We disagree. First, as the dissent acknowledges, we apply plenary review when interpreting the language of a town's legislative enactments, including land use regulations. See part II of the dissenting opinion. Furthermore, as the dissent also concedes, a board's interpretation of a regulation that has never been subject to judicial scrutiny is not entitled to deference. Id. The town's flexible residential development regulation has not been the subject of prior judicial scrutiny, so deference to the board regarding construction of its regulations is not warranted here. Although the dissent, quoting *Wood* v. *Zoning Board of Appeals*, 258 Conn. 691, 699, 784 A.2d 354 (2001), argues that we "should" give deference to the board's interpretation of its regulation to the extent we determine that its construction of the regulation is equally plausible to our own, we do not agree that we are faced in the present case with two equally plausible interpretations of regulatory language. Furthermore, *Wood* does not compel deference to a board's construction, stating only that we "may" give deference. *Wood* v. *Zoning Board of Appeals*, supra, 699. We perceive no reason to do so here. Such deference is particularly ill-advised here given that the record suggests that the board's approval of the present applications was perceived by some members of the board, including the chairman, as departing from how the board has interpreted its regulations in the past. This notion is further bolstered by the fact that, soon after approving the present applications, the board, acting in its legislative capacity, amended its regulations in a manner that would have made the approval of a similarly designed plan in the future unlikely. Finally, it is difficult to defer to a construction purportedly adopted by the agency in the present case in which, as noted by the dissent, we have no statement by the board about how it came to its decision to approve the applications, including whether its approval turned on a particular construction of the provisions at issue in the present case.

[16] We note, at the outset, that we share the dissent's view that there are significant public policies that favor the construction of flexible residential developments and similar types of cluster developments. Nothing in the statutes cited by the dissent, however, authorizes a town's land use agencies to approve plans for a cluster development that would otherwise violate the existing and applicable land use regulations of the town. To the contrary, General Statutes (Rev. to 2019) § 8-2 (b) (3), although encouraging towns to "provide for cluster development," provides that towns should do so only "to the extent consistent with soil types, terrain, infrastructure capacity and the plan of conservation and development for the community . . . ."

[17] The defendant argues that zoning regulations have a hierarchical relationship to subdivision regulations in that a subdivision regulation that conflicts with a zoning provision is effectively unenforceable. See R. Fuller, 9 Connecticut Practice Series: Land Use Law and Practice (4th Ed. 2015) § 10:7, pp. 300–301. Because, in our view, the relevant subdivision regulations and zoning regulations are not in conflict, we need not engage in an extensive discussion of this issue. We nevertheless take this opportunity to note that the 1200 foot limitation on the length of dead-end roads or dead-end road systems is not confined to the town's subdivision regulations but is also found in the town's zoning regulations in the definition for "dead-end street

or system." Suffield Zoning Regs., § II.

[18] The precise parameters of this exception and the manner for calculating the number of permissible lots is detailed in the zoning regulations but is not relevant to the issues on appeal. See Suffield Zoning Regs., § VI (B).

[19] The dissent asserts that the board reasonably concluded that the "generally applicable dimensional requirement set forth in both the [zoning regulations] and the [subdivision regulations]" was completely superseded. We disagree because such a position stretches the language of the zoning regulation beyond jurisprudential limits. If the drafters had intended to completely supersede and render inapplicable any and all dimensional requirements found anywhere within the zoning and subdivision regulations, they presumably would have used more explicit language and/or defined the term "dimensional requirement" to ensure its intent was understood. Instead, the regulation provides only that if the commission approves a permit for a flexible residential development, "the dimensional requirements *of the underlying zones* are . . . superseded in their entirety," with one enumerated exception. (Emphasis added.) Suffield Zoning Regs., § VI (B). This language plainly and unambiguously directs the reader to look for the specific dimensional requirements of the particular zone in which the planned development will be built, not, more broadly, to any dimensional requirements found elsewhere in the town's regulatory scheme.

[20] The plaintiffs do not respond to these additional claims in their appellate brief. In its reply brief, the defendant argues that this failure to respond amounts to a waiver and a concession to the inaccuracy of the trial court rulings. The case the defendant cites in support of this argument, however, addressed the failure of the appellants in that case to adequately brief a claim of error they had raised on appeal. See *Connecticut Coalition Against Millstone* v. *Connecticut Siting Council*, 286 Conn. 57, 86–87, 942 A.2d 345 (2008). It is axiomatic that the appellant has the burden to prove any claim of error raised on appeal; the appellee has no concomitant or corresponding burden to disprove a claim. See *Harris* v. *Commissioner of Correction*, 271 Conn. 808, 842 n.24, 860 A.2d 715 (2004) ("[t]here is no rule . . . that an appellee's failure to reply in its brief to an issue raised by the appellant is an implicit concession that the appellant's claim is meritorious and that the claim should be decided in the appellant's favor"). Accordingly, the failure of an appellee to address or adequately brief a claim will not result in a "default" ruling in favor of the appellant; rather, we ordinarily will consider the claim solely on the basis of the appellant's brief and the record.

[21] As we previously noted in footnote 7 of this opinion, the court's statement in its decision that the commission "rejected two proposed plans with two means of access" is not borne out by the record.