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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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BORDEN, J., concurring. I fully agree with and join both the reasoning of, and the result reached by, the majority. I write separately only to explain further why I, as the author of *Loulis* v. *Parrott*, 241 Conn. 180, 695 A.2d 1040 (1997), which we now overrule, join in that action. ''Wisdom too often never comes, and so one ought not to reject it merely because it comes late.'' (Internal quotation marks omitted.) *Wolf* v. *Colorado*, 338 U.S. 25, 47, 69 S. Ct. 1359, 93 L. Ed. 1782 (1949) (Rutledge, J., dissenting).

The policy question posed by both the present case and *Loulis* is: When a landowner wishes to challenge the legality of a building or other permit that has been granted to a neighboring landowner, and the law does not provide the aggrieved landowner with formal notice of the issuance of the permit, what is the best manner in which to effectuate his right to notice for purposes of enabling such a challenge? In *Loulis*, we implicitly answered that question by permitting the aggrieved landowners to bring a plenary judicial action. *Loulis* v. *Parrott*, supra, 241 Conn. 190. In the present case, we implicitly answer that question by requiring the aggrieved landowners to avail themselves of local administrative procedures, but we extend the time within which they can initiate those procedures to thirty days from the time of actual notice of the action complained of, pursuant to General Statutes § 8-7.[1]

I agree with the majority that *Loulis* is inconsistent with our result in the present case. The only way that the two could coexist would be to hold that, in the type of situation described previously, the aggrieved landowner has two options upon discovering the purported illegal use of the property at issue: (1) to avail himself of the local administrative procedures within the time limited by statute for such action, under the present case; or (2) to bypass those procedures and go directly to court in a plenary action, under *Loulis*. Leaving both those options open, however, does not commend itself to me as wise because, if given the choice, future litigants most likely would opt for the remedy afforded by *Loulis* in order to avoid the delay and expense attendant to administrative appeals. I, therefore, agree with the majority that the course of action that we decide upon today is more prudent because it advances certain policy concerns that *Loulis*, albeit inadvertently, frustrates.

Permitting the *Loulis* bypass eliminates, as the majority indicates, the twin purposes of the exhaustion doctrine, namely, to permit local matters to be handled in the first instance by local officials, and to relieve the courts of prematurely deciding questions that may be satisfactorily resolved by those officials. Furthermore,

it affords an incentive to the aggrieved landowner to delay his plenary judicial challenge inordinately, subject only to the possible application of the doctrine of laches. Requiring the aggrieved landowner, under the present case, however, to go through local administrative procedures, but within the statutory time limit from his receipt of notice, provides an appropriate incentive, once he has discovered that the neighboring property is being used in an allegedly illegal manner, to investigate the local records promptly and to mount his administrative challenge accordingly. That satisfies both the purposes of the exhaustion doctrine and the requirements of affording notice to aggrieved landowners.

[1] General Statutes § 8-7 provides: "The concurring vote of four members of the zoning board of appeals shall be necessary to reverse any order, requirement or decision of the official charged with the enforcement of the zoning regulations or to decide in favor of the applicant any matter upon which it is required to pass under any bylaw, ordinance, rule or regulation or to vary the application of the zoning bylaw, ordinance, rule or regulation. An appeal may be taken to the zoning board of appeals by any person aggrieved or by any officer, department, board or bureau of any municipality aggrieved and shall be taken within such time as is prescribed by a rule adopted by said board, or, if no such rule is adopted by the board, within thirty days, by filing with the zoning commission or the officer from whom the appeal has been taken and with said board a notice of appeal specifying the grounds thereof. The officer from whom the appeal has been taken shall forthwith transmit to said board all the papers constituting the record upon which the action appealed from was taken. An appeal shall not stay any such order, requirement or decision which prohibits further construction or expansion of a use in violation of such zoning regulations except to such extent that the board grants a stay thereof. An appeal from any other order, requirement or decision shall stay all proceedings in the action appealed from unless the zoning commission or the officer from whom the appeal has been taken certifies to the zoning board of appeals after the notice of appeal has been filed that by reason of facts stated in the certificate a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed, except by a restraining order which may be granted by a court of record on application, on notice to the zoning commission or the officer from whom the appeal has been taken and on due cause shown. Such board shall, within the period of time permitted under section 8-7d, hear such appeal and give due notice thereof to the parties. Notice of the time and place of such hearing shall be published in a newspaper having a substantial circulation in such municipality at least twice at intervals of not less than two days, the first not more than fifteen days, nor less than ten days, and the last not less than two days before such hearing. In addition to such notice, such board may, by regulation, provide for notice by mail to persons who are owners of land which is adjacent to the land which is the subject of the hearing. At such hearing any party may appear in person and may be represented by agent or by attorney. Such board may reverse or affirm wholly or partly or may modify any order, requirement or decision appealed from and shall make such order, requirement or decision as in its opinion should be made in the premises and shall have all the powers of the officer from whom the appeal has been taken but only in accordance with the provisions of this section. Whenever a zoning board of appeals grants or denies any special exception or variance in the zoning regulations applicable to any property or sustains or reverses wholly or partly any order, requirement or decision appealed from, it shall state upon its records the reason for its decision and the zoning bylaw, ordinance or regulation which is varied in its application or to which an exception is granted and, when a variance is granted, describe specifically the exceptional difficulty or unusual hardship on which its decision is based. Notice of the decision of the board shall be published in a newspaper having a substantial circulation in the municipality and addressed by certified mail to any person who appeals to the board, by its secretary or clerk, under his signature in any written, printed, typewritten or stamped form, within fifteen days after such decision has been rendered. In any case in which such notice is not published within such fifteen-day period, the person who requested or applied for

such special exception or variance or took such appeal may provide for the publication of such notice within ten days thereafter. Such exception or variance shall become effective upon the filing of a copy thereof (1) in the office of the town, city or borough clerk, as the case may be, but, in the case of a district, in the offices of both the district clerk and the town clerk of the town in which such district is located and (2) in the land records of the town in which the affected premises are located, in accordance with the provisions of section 8-3d.''