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KATZ, J., with whom, ZARELLA, J., joins, dissenting. The majority concludes that the town council for the town of Stratford (town), acting on behalf of the town, is permitted to intervene as of right under General Statutes § 22a-19[1] in the appeals of the plaintiff, AvalonBay Communities, Inc., from the decisions of the defendant town agencies, the inland wetlands and watercourses agency of the town of Stratford (wetlands agency) and the zoning commission of the town of Stratford (zoning commission).[2] I recognize that a "town . . . is a political subdivision of the state"; *Bridgeport* v. *Agostinelli*, 163 Conn. 537, 550, 316 A.2d 371 (1972); and, accordingly, as a general matter, a town council would fall within those persons or entities authorized to intervene in an appeal from an administrative proceeding to raise a claim that conduct is implicated, "which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state." General Statutes § 22a-19 (a). Under the posture of the present case, however, the town council seeks to intervene to prevent the defendant agencies, which have been vested with exclusive authority under General Statutes §§ 8-1 and 22a-42 to render decisions on permit applications, from entering into a settlement on the plaintiff's permit applications. Therefore, I would conclude that the legislature did not intend to authorize a town's legislative body to intervene in a proceeding when the town already is participating as a party to the appeal through the agencies to which the town has delegated its authority to render decisions as to the matters at issue. Accordingly, I respectfully dissent.

In the present case, the plaintiff filed applications with the zoning commission for an amendment to the zoning regulations, a zoning change and site plan approval to develop affordable housing, within the meaning of General Statutes § 8-30g. Because a portion of the property to be developed is classified as wetlands, the plaintiff also applied to the wetlands agency for a wetlands permit. After public hearings, at which the town council participated by presenting evidence to the defendant agencies in opposition to the plaintiff's proposed development, the defendant agencies rendered decisions denying the plaintiff's applications. The plaintiff appealed from the decisions, and settlement discussions ensued.

In rendering their decisions, it is clear and undisputed that the defendant agencies were acting pursuant to authority exclusively vested in them by the town under § 8-1 and § 22a-42. See General Statutes § 8-1 (a) (authorizing municipality to "exercise through a zoning commission the powers granted [under chapter 124 of

the General Statutes]"); General Statutes § 22a-42 (c) (providing that wetlands agency "shall serve as the sole agent for the licensing of regulated activities"). Similarly, the defendant agencies were acting pursuant to authority exclusively vested in them to negotiate a settlement agreement that ultimately could result in the issuance of the permits after the appeals had been filed. See General Statutes §§ 8-8 (n) and 22a-43 (d). Significantly, in the exercise of the authority granted by the town to them, the defendant agencies were charged with rendering decisions on these applications in accordance with the public interest, including any environmental concerns within the respective agency's jurisdiction. See *Nizzardo* v. *State Traffic Commission*, 259 Conn. 131, 148, 788 A.2d 1158 (2002). Specifically, in rendering its decision, the zoning commission was required to consider, inter alia, the effect of its decision on public safety, health and general welfare, as well as the town's conservation and development plan. See General Statutes §§ 8-2 (a) and 8-30g (g) (1). The wetlands agency's sole focus essentially was to consider the environmental impact of the proposed action before it. See General Statutes § 22a-42a (d) (requiring that, when agency renders decision on permit, it must consider factors under General Statutes § 22a-41, which include "[1] [t]he environmental impact of the proposed regulated activity on wetlands or watercourses . . . [and] [2] [t]he applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses").

In the present case, the town council sought to intervene, according to an undisputed finding of fact by the trial court, for the purpose of preventing a settlement, presumably under which the defendant agencies would have agreed to grant permit applications. Thus, as the Appellate Court properly recognized, the question is whether the town's legislative body may intervene when "it amounts to the town's taking a position before the court that is in opposition to the positions advocated by *the town's proxies*, the zoning commission and [the] wetlands agency"; (emphasis added) *AvalonBay Communities, Inc.* v. *Zoning Commission*, 87 Conn. App. 537, 546, 867 A.2d 37 (2005); and "a possible effect of that invocation is to interfere with the town's delegation of powers to its zoning commission and [wetlands agency] under . . . § 8-1 et seq. and the Inland Wetlands and Watercourses Act, General Statutes §§ 22a-28 through 22a-45, respectively." *AvalonBay Communities, Inc.* v. *Zoning Commission*, supra, 539. In my view, the answer is no.

This court has held that it violates the legislative intent expressed in § 8-1 to allow a town's legislative body to override a zoning commission's duly enacted regulation when such authority expressly and exclu-

sively has been delegated to the zoning commission. See *State ex rel. Bezzini* v. *Hines*, 133 Conn. 592, 596, 53 A.2d 299 (1947) (addressing predecessor statute to § 8-1). Indeed, as long as such authority has been vested in the zoning commission, neither the town's legislative body nor the zoning commission can authorize the town's legislative body to exercise that power that has been vested exclusively with the zoning commission. See *Olson* v. *Avon*, 143 Conn. 448, 452–56, 123 A.2d 279 (1956) (holding invalid regulation providing that zoning regulations could not be amended, repealed or changed unless approved by majority at town council meeting). This court previously has explained: "The [enabling act] gave to the zoning commission the power to make zoning regulations and to amend, change or repeal them from time to time, and prescribed certain limitations and procedures to be followed in taking such action; and such provisions have been ever since and still are contained in the zoning statutes. A reading of them leaves no doubt that it was the intent of the General Assembly to vest in a zoning commission the sole authority to make, amend or repeal regulations; and for that purpose the zoning commission became the legislative agency of the municipality. To admit that a town meeting could amend or repeal regulations duly made by the [zoning] commission would be to recognize in it a power directly at variance with the legislative intent." *State ex rel. Bezzini* v. *Hines*, supra, 596; accord *Olson* v. *Avon*, supra, 456 (A town zoning regulation requiring approval of changes in zoning regulations and zone boundaries by town meeting "is contrary to the [G]eneral [S]tatutes relating to zoning, which give the power to decide such matters to the zoning commission exclusively. . . . It follows that the town meeting had no power to override the change of zone for the plaintiffs' properties enacted by the zoning commission.").

Although this court has not had the occasion to consider whether a town's legislative body may override decisions by a zoning or wetlands agency on specific permit applications, the rationale in *Olson* and *State ex rel. Bezzini* would apply with equal force to such decisions. Had, for example, the town council instead voted to reverse the defendant agencies' decisions to deny the plaintiff's applications, such action clearly would be violative of the same principles precluding the town council from vetoing a zoning commission regulation. This authority was delegated to the defendant agencies, and it would violate that delegation of authority to allow the town council to interfere with the agencies' exercise of that authority. Given that prohibition, the issue is whether it similarly would contravene legislative intent to allow the town council to intervene for the purpose of preventing a settlement under which the defendant agencies would have agreed to grant the plaintiff's applications. In other words, because the effect of the town council's action essen-

tially is the same as if it legislatively had overridden the defendant agencies' decision to grant the applications, the question is whether the legislature intended to allow the town council to accomplish indirectly, pursuant to § 22a-19, what it would not be permitted to accomplish directly. In my view, the legislature could not have intended such an anomalous result.

I disagree with the majority that, because *Olson* and *State ex rel. Bezzini* predate the passage of the Environmental Protection Act of 1971 (act), of which § 22a-19 is one part, those cases do not bear on legislative intent when construing § 22a-19 in light of the delegation of authority under §§ 8-1 and 22a-42. Given the unprecedented posture of this case and the countless other hypothetical circumstances wherein any one of numerous political subdivisions of the state could intervene in an administrative appeal without implicating the delegation issue discussed in *Olson* and *State ex rel. Bezzini*, I surmise that the legislature did not envision the problem presently before us when drafting the act. Indeed, these countless other circumstances under which such intervention would be proper indicate that the plaintiff's construction would not render portions of the statute superfluous, as the majority suggests. To the contrary, such a construction may be precisely what the legislature intended, despite its authorization for intervention by "any political subdivision of the state . . . ." General Statutes § 22a-19 (a); see *Commission on Human Rights & Opportunities* v. *Board of Education*, 270 Conn. 665, 707, 855 A.2d 212 (2004) ("[a]lthough the word 'any' sometimes may, because of its context, mean 'some' or 'one' rather than 'all,' '[i]ts meaning in a given statute depends on the context and subject matter of the law' "); *Duguay* v. *Hopkins*, 191 Conn. 222, 229, 464 A.2d 45 (1983) ("[t]he word 'any,' as used in statutes, has a diversity of meanings"). Indeed, by reading a limitation into § 22a-19 as to preclude a town council from intervening in proceedings when the town's agencies are charged with exclusive jurisdiction of the matters at issue, we harmonize the zoning and wetlands statutes, as construed under *Olson* and *State ex rel. Bezzini*, with § 22a-19. See *Nizzardo* v. *State Traffic Commission*, supra, 259 Conn. 157 ("[i]f a court can by any fair interpretation find a reasonable field of operation for two allegedly inconsistent statutes, without destroying or preventing their evident meaning and intent, it is the duty of the court to do so" [internal quotation marks omitted]).

I also disagree with the majority that these delegation principles are not violated because, in its view, the trial court retains the decision-making authority in the appeal. First and foremost, this conclusion overlooks the crucial fact that the town council's interference with the delegation of authority to the defendant agencies occurs at the point that it blocks the agencies' effort to reach settlement. As a result, any possible settlement

agreement never reaches the trial court for approval. Second, this characterization of the trial court as decision maker overstates the court's role in approving a settlement or a joint stipulated judgment. We have explained that, "[a] stipulated judgment is not a judicial determination of any litigated right. . . . It may be defined as a contract of the parties acknowledged in open court and ordered to be recorded by a court of competent jurisdiction. . . . The essence of the judgment is that the parties to the litigation have voluntarily entered into an agreement setting their dispute or disputes at rest and that, upon this agreement, the court has entered judgment conforming to the terms of the agreement." (Internal quotation marks omitted.) *Rocque* v. *Northeast Utilities Service Co.*, 254 Conn. 78, 83, 755 A.2d 196 (2000). Although we have stated that, "[i]n approving a settlement affecting the public interest . . . a trial court must be satisfied of the fairness of the settlement"; (internal quotation marks omitted) id.; the court's limited role under such circumstances would allow it to reject an unfair settlement, but the parties would retain authority to renegotiate a settlement that addresses the court's concerns. It is immaterial that another intervenor could block a settlement, because that intervenor's status does not implicate the legislature's intent to delegate the *town's* zoning and wetlands authority to the respective agencies under §§ 8-1 and 22a-42.

Moreover, § 22a-19 authorizes intervention only for persons or entities that are not already a party to the proceedings. See General Statutes § 22a-19 (a) (listing persons and entities who "may intervene *as a party*" [emphasis added]); see also Black's Law Dictionary (6th Ed. 1990) (defining intervention as "[t]he procedure by which a third party, not originally a party to the suit, but claiming an interest in the subject matter, comes into the case, in order to protect his right or interpose his claim"). The fact that the town already is participating in the appeal through its zoning commission and wetlands agency raises a question as to whether the statute actually would permit another proxy for the town to represent it in the same proceeding.[3] Indeed, because the town council intervened for the purpose of taking a position in opposition to the defendant agencies, it is akin to a situation involving a principal and an agent, or two agents of the same principal, participating in a settlement and taking diametrically opposed positions. I question whether such a result was intended by the legislature.

Nonetheless, even if we were to assume that § 22a-19 would, on its face, permit intervention, we have eschewed a mechanical construction of § 22a-19 when doing so would conflict with other statutes or legal principles. See *Nizzardo* v. *State Traffic Commission*, supra, 259 Conn. 149–50 (rejecting plaintiff's "plain language" construction of § 22a-19 [a] as allowing any party

to intervene in administrative proceeding to raise environmental issues, regardless of whether that agency has jurisdictional authority over those environmental issues, and instead agreeing with defendants' claim that it is necessary to read § 22a-19 [a] in conjunction with legislation that defines authority of administrative agency conducting proceedings into which party seeks to intervene); see also *Fort Trumbull Conservancy, LLC* v. *Planning & Zoning Commission*, 266 Conn. 338, 360–61, 832 A.2d 611 (2003) (noting that, "[a]lthough § 22a-19 [a] on its face is extremely broad regarding the parties who may intervene, the types of matters into which they can intervene, and the scope of the environmental issues that they may raise," it must be construed strictly because statute is in derogation of common-law intervention). In my view, the town council's intervention would conflict with the legislature's intent that zoning commissions and wetlands agencies have exclusive authority to act on the town's behalf with respect to matters committed to their exclusive jurisdiction.

Indeed, the improper conflict created by allowing such intervention is brought into especially sharp relief when considering the plaintiff's appeal from the wetlands agency's decision. The legislature has designated the wetlands agency to be the town's sole decision maker on whether to issue a permit to conduct activities in a protected area, and has required such a decision to be based entirely on environmental concerns, including both the short-term and long-term environmental impact of the activity, as well as whether measures can be taken that will prevent or minimize pollution or other environmental damage. See General Statutes §§ 22a-41 and 22a-42a (d). In other words, the wetlands agency is mandated to consider the precise issue that a particular environmental intervenor raises. To allow the town council then to intervene on behalf of the town to prevent a settlement under which the town's own agency has determined that the environment adequately will be protected if it issues a permit must be deemed inconsistent with the legislature's intent that the wetlands agency be the sole agent for the town to make such a decision. Moreover, nothing is lost in terms of environmental protection by construing § 22a-19 to preclude a town's legislative body from intervening in an appeal from a decision of that town's administrative agency. Town citizens who have voiced concerns to the town legislators could intervene themselves, or the legislators could intervene in their individual capacities, rather than in their official capacity for the town.

Therefore, I would conclude that the Appellate Court improperly determined that the trial court improperly denied the town council's petition to intervene under § 22a-19. Accordingly, I respectfully dissent.

[1] General Statutes § 22a-19 provides: "(a) In any administrative, licensing or other proceeding, and in any judicial review thereof made available

by law, the Attorney General, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity may intervene as a party on the filing of a verified pleading asserting that the proceeding or action for judicial review involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state.

"(b) In any administrative, licensing or other proceeding, the agency shall consider the alleged unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state and no conduct shall be authorized or approved which does, or is reasonably likely to, have such effect so long as, considering all relevant surrounding circumstances and factors, there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare."

[2] Joint references to the zoning commission and the wetlands agency, where convenient, are to the "defendant agencies."

[3] Indeed, given the town's participation in the proceedings through the defendant agencies, I do not view § 22a-19 as having a plain meaning on the issue of whether the town council may intervene on the town's behalf. The language of § 22a-19 (a) prescribing who "may intervene as a party" creates an ambiguity as to whether it authorizes the intervention of a person or entity that already is a party to the proceeding.