

SUPREME COURT OF CONNECTICUT

Pond View, LLC v. Planning & Zoning Commission of the Town of Monroe, 288 Conn. 143

953 A.2d 1 (2008) · No. No. 17878 · Decided July 29, 2008

SUMMARY

The Connecticut Supreme Court held that environmental intervenors lacked standing to appeal a trial court judgment concerning a zoning commission's denial of a zone-change application. Their claims involved the scope of environmental intervention under General Statutes § 22a-19(a), the effect of a protest petition under § 8-3(b), and related procedural issues, rather than environmental issues properly raised in the appeal. The court dismissed the appeal for lack of subject matter jurisdiction.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Katz, J.; Norcott, J.; Palmer, J.; Vertefeuille, J.; Zarella, J.
JURISDICTION	Connecticut
DECIDED	July 29, 2008
DOCKET	No. 17878
DISPOSITION	dismissed
PROCEDURAL POSTURE	Environmental intervenors appealed, after certification by the Appellate Court, from the Superior Court's judgment sustaining Pond View's administrative appeal and invalidating the planning and zoning commission's denial of a zone-change application. The Supreme Court considered whether the intervenors had standing to raise their claims.
STANDARD OF REVIEW	Subject-matter jurisdiction and standing are questions of law reviewed de novo or plenary. The court did not reach the merits of the zoning claims because the intervenors lacked standing.
PRECEDENTIAL VALUE	Published Connecticut Supreme Court opinion; precedential
PARTIES	Elizabeth Murphy, Sally Lundy v. Pond View, LLC, Planning and Zoning Commission of the Town of Monroe

TOPICS

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QUESTIONS PRESENTED

1. Whether environmental intervenors who raised only procedural and zoning issues had standing under General Statutes § 22a-19(a) to appeal the trial court's judgment concerning a zone-change application.
2. Whether filing a protest petition under General Statutes § 8-3(b) gave the intervenors a personal and legal interest sufficient to establish aggrievement and appellate standing.
3. Whether the Supreme Court had jurisdiction to reach the intervenors' challenges to the trial court's standard of review, treatment of the protest petition, and construction of the zoning-notice statute.

HOLDINGS

1. An intervenor proceeding solely under § 22a-19(a) has standing to raise only substantive environmental issues within the jurisdiction of the relevant administrative agency, not unrelated procedural or zoning issues.
2. Filing a valid § 8-3(b) protest petition gives petitioners the right to require a supermajority vote on the proposed zone change, but does not by itself give them standing to appeal when the commission complied with that supermajority requirement.
3. Because the intervenors established no basis for standing other than § 22a-19(a), the Supreme Court lacked subject-matter jurisdiction to consider their appeal.

KEY QUOTATIONS

“If a party is found to lack standing, the court is without subject matter jurisdiction to determine the cause.”
(288 Conn. 148)

“As the text clearly indicates, the filing of a valid protest petition permits a planning and zoning commission to approve an application for a zone change only by a supermajority.” (288 Conn. 151)

FACTUAL BACKGROUND

Pond View owned approximately eighteen acres in Monroe and sought a zone change to permit development of a shopping center, together with a special exception permit and site plan approval. Elizabeth Murphy and Sally Lundy intervened under General Statutes § 22a-19(a), alleging that the proposed development would harm forested hillsides, air, water, wetlands, and other natural resources. They also filed a protest petition under § 8-3(b), and the commission treated the resulting three-to-two vote in favor of the zone change as insufficient because the statute required a two-thirds vote. The intervenors' appeal challenged the trial court's treatment of the protest petition, the applicable standard of review, and notice requirements rather than directly presenting environmental claims.

PROCEDURAL HISTORY

Pond View applied for a zone change and a special exception permit for a shopping center. The commission treated a protest petition under General Statutes § 8-3(b) as requiring a two-thirds vote and denied the zone change when the application received only three of five votes; it denied the special exception application as moot. The Superior Court sustained Pond View's appeal, concluded that the zone-change denial was unsupported by the record, and remanded the special-exception issue to the commission. The intervenors obtained certification to appeal, but the Supreme Court dismissed their appeal for lack of standing because their claims were procedural and did not fall within the scope of their environmental-intervenor standing.

DISPOSITION

dismissed

CASES CITED

- Windels v. Environmental Protection Commission, 284 Conn. 268, 287-289, 933 A.2d 256 (2007)
- Andross v. West Hartford, 285 Conn. 309, 321-322, 939 A.2d 1146 (2008)
- AvalonBay Communities, Inc. v. Zoning Commission, 280 Conn. 405, 413-414, 908 A.2d 1033 (2006)
- Red Hill Coalition, Inc. v. Town Plan & Zoning Commission, 212 Conn. 727, 733-734, 563 A.2d 1347 (1989)
- Nizzardo v. State Traffic Commission, 259 Conn. 131, 148, 788 A.2d 1158 (2002)
- Rocque v. Northeast Utilities Service Co., 254 Conn. 78, 85, 755 A.2d 196 (2000)
- Mystic Marinelife Aquarium, Inc. v. Gill, 175 Conn. 483, 490, 499-500, 400 A.2d 726 (1978)
- Belford v. New Haven, 170 Conn. 46, 54, 364 A.2d 194 (1975)
- Gardiner v. Conservation Commission, 222 Conn. 98, 106-107, 608 A.2d 672 (1992)
- Fort Trumbull Conservancy, LLC v. New London, 282 Conn. 791, 805-808, 925 A.2d 292 (2007)
- Blaker v. Planning & Zoning Commission, 212 Conn. 471, 475-476, 562 A.2d 1093 (1989)
- AvalonBay Communities, Inc. v. Orange, 256 Conn. 557, 568, 775 A.2d 284 (2001)
- State v. Salmon, 250 Conn. 147, 162-163, 735 A.2d 333 (1999)
- Kaufman v. Zoning Commission, 232 Conn. 122, 129-130 & n.7, 653 A.2d 798 (1995)
- Connecticut Coalition Against Millstone v. Connecticut Siting Council, 286 Conn. 57, 83-85, 942 A.2d 345 (2008)
- Fort Trumbull Conservancy, LLC v. Planning & Zoning Commission, 266 Conn. 338, 360-361, 832 A.2d 611 (2003)
- Branhaven Plaza, LLC v. Inland Wetlands Commission, 251 Conn. 269, 273-276 & n.9, 740 A.2d 847 (1999)
- Fox v. Zoning Board of Appeals, 84 Conn. App. 628, 637, 854 A.2d 806 (2004)
- Harris v. Zoning Commission, 259 Conn. 402, 417, 788 A.2d 1239 (2002)

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