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Buttermilk Farms LLC v. Plymouth PZC

What Road Improvements Can a Planning Comm'n Require of Persons Subdividing Their Land?

In Buttermilk Farms, the State Supreme Court ruled in favor of a land owner who proposed to divide his land into five residential building lots and against the town that tried to condition approval of the subdivision on the construction of sidewalks on off-site property. Those who lost the case and other proponents of a legislative "fix" to this decision may continue to argue facts that were not found by the court. Buttermilk Farms was an uncommon set of facts (i.e., each of the lots would have a driveway onto the existing town street; there was no new street "into" the subdivision; and most importantly there was a strip of land not owned by the subdivider between his proposed subdivision and the town's street).

Sec. 8-25 of CT's statutes controls the subdivision of land into lots. The case law interpreting 8-25 before Buttermilk Farms was that a planning commission cannot require off-site improvements (e.g., sidewalks or anything else). Off-site means on land owned by someone other than the subdivider, e.g., another private property owner or the town itself. The case law after Buttermilk Farms is that a planning commission cannot require off-site improvements. That is, **the law regarding off-site road exactions or requirements from persons subdividing their land has not changed**. Both pre and post Buttermilk Farms, the courts do allow limited off-site exactions where a new street in the subdivision intersects with an existing town street, and this also is not affected by the either the facts in the case or the ruling.

It does not matter what any proponent or opponent of legislation think the facts were in the Buttermilk Farms case, or what they now argue. **All that matters for interpreting the legal ruling of the case are the facts as the Court found them.** And, the Court found that there was no new street intersecting with an existing town street and, more importantly, the area where the town wanted the sidewalks built by the landowner were outside the boundaries of the subdivision and, therefore, off-site. The Supreme Court even noted that the town's PZC concedes the required sidewalks would be off-site. **The Court, therefore, upheld long-standing case law that off-site exactions are not authorized by sec. 8-25.**

The Court also overturned the trial court's decision that upheld the sidewalk requirement on alternative grounds. The trial court had ruled in favor of the town, saying that 8-25 provides authority to municipalities to require off-site improvements on general health and safety grounds. This was an entirely novel ruling under CT's land use law and the Supreme Court rejected it. **The Court confirmed long-held law that the general health and safety provision of sec. 8-25 authorizes "the installation of sidewalks and other reasonable health and safety measures *within* the boundaries of the proposed subdivision**" and that provision "just as clearly precludes the commission from requiring such measures on land *outside* of those boundaries."

Buttermilk Farms provides no justification to amend the statute governing subdivisions.