SCHALLER, J., dissenting. The majority reverses the judgment on the basis of its determination that the trial court incorrectly upheld the decision by the defendant planning board of the city of Stamford (board) that the subdivision application by the plaintiff, Patricia Garrison, contained an inherent violation of ''applicable zoning regulations.'' I conclude that the board's determination was correct and that the trial court properly upheld the board's denial of the application. I further conclude that the trial court's disposition of the plaintiff's remaining claims is correct and would affirm the judgment of the trial court.

As a threshold matter, I reiterate our standard of review on appeals from the decisions of zoning boards on subdivision applications. ''Conclusions reached by the [board] must be upheld by the trial court if they are reasonably supported by the record. The credibility of the witnesses and the determination of issues of fact are matters solely within the province of the [board]. The question is not whether the trial court would have reached the same conclusion, but whether the record before the [board] supports the decision reached. . . . The action of the [board] should be sustained if even one of the stated reasons is sufficient to support it.

. . . The evidence, however, to support any such reason must be substantial . . . .'' (Citations omitted; internal quotation marks omitted.) *Property Group, Inc.* v. *Planning & Zoning Commission*, 226 Conn. 684, 697, 628 A.2d 1277 (1993).

The issue decided by the majority turns on the meaning of an ''inherent'' violation. The majority relies on our decision in *Federico* v. *Planning & Zoning Commission*, 5 Conn. App. 509, 500 A.2d 576 (1985), to support its position that the zoning violations in this case do not constitute ''inherent'' violations in the subdivision for which the plaintiff applies. The majority claims, in fact, that, to provide a basis for rejecting a subdivision application, the violations must appear on the face of the subdivision application. Neither the applicable statute nor *Federico* supports that interpretation. A planning board is authorized to deny a subdivision on that ground as long as such application violates any applicable zoning regulation. Such a violation involves virtually any applicable zoning regulation because the zoning regulations are incorporated in the subdivision regulations. See *Krawski* v. *Planning & Zoning Commission*, 21 Conn. App. 667, 670–71, 575 A.2d 1036 (upholding denial of subdivision application on ground of applicable existing zoning violation incorporated by reference in subdivision regulations), cert. denied, 215 Conn. 814, 576 A.2d 543 (1990). Our Supreme Court has stated that ''[w]e also must look to the overall intent of the applicable regulations in considering subdivision applications. . . . Regulations, like statutes, do not exist in a vacuum.'' (Citation omitted; internal quotation marks omitted.) *Smith* v. *Zoning Board of Appeals*, 227 Conn. 71, 92, 629 A.2d 1089 (1993) (reversing judgment of this court, which held that planning and zoning board of appeals did not have authority to consider historical factors in granting or denying subdivision application), cert. denied, 510 U.S. 1164, 114 S. Ct. 1190, 127 L. Ed. 2d 540 (1994).

Although in *Federico* we upheld a planning and zoning commission's granting of approval for a subdivision, and rejected the trial court's determination that the subdivision at issue in that appeal violated zoning regulations, the reasoning of *Federico* supports my conclusion. The *Federico* court stated that ''[a]t the time of the trial, any claimed violations of zoning regulations were entirely speculative. Zoning concerns use . . . and until residential use of the lot is attempted it cannot ordinarily be known what yard or frontage requirements might be violated.'' (Citation omitted.) *Federico* v. *Planning & Zoning Commission*, 5 Conn. App. 514–15.

In *Federico*, the potential use in question would have been the residential use of the lot. If existing, the residential use would have triggered and, presumably, violated the applicable yard and frontage regulations. The court stated that ''[u]ntil a building permit application

is filed in the future, there are no 'applicable' yard and frontage requirements.'' Id., 515. The court indicated that if a use implicates zoning issues properly considered for a subdivision application, and if that use is an existing and not merely a potential use, that would be a proper ground for denial of the application. The court stated ''[e]xamples of such conflicts include . . . approval of a plan for a residential subdivision in an industrial area which prohibited such use.'' Id. The court rejected only ''[i]nchoate violations involving the use of the lot in question, which may never occur . . . .'' Id.

In the present case, an actual, existing use (a commercial real estate office that had expanded beyond the use authorized by a variance) caused the board to find that the proposed subdivision violated an applicable regulation. Section 3.6.3 of the Stamford subdivision regulations provides: ''The Board shall consider the layout of the proposed subdivisions with due regard to . . . traffic . . . and shall take into consideration the general health, safety and welfare of both the existing residents of the neighborhood, and future residents of the proposed subdivision.''

In its statement of facts in its brief, the board cites statements of a resident at the public hearing describing ''traffic problems in the area, and the intensive traffic caused by the real estate broker's office.'' Also at the hearing, the city's land use bureau chief ''noted that if the subdivision was granted, then the zoning violation would be exacerbated, since the addition of two single-family houses would increase traffic . . . .'' The decision by the board to reject the application stated that it was ''based on existing flagrant and specific zoning violations which would be intensified due to the reduced size of the existing parcel and the addition of two new lots.''

In seeking to uphold the board's disapproval of the application, the defendant argues in its brief: ''Instead of having 1.5 acres with a large, flagrant zoning violation, the planning board was being asked to condone or ignore the zoning violation in order to allow two more lots, with the increase in traffic from adding two single family residences, and with the reduction of the size of lot with the zoning violation by 50 percent (from over 1.5 acres to over one acre). Therefore, [General Statutes § 8-26] required that the planning board deny the subdivision application. The trial court properly upheld the decision of the planning board, and properly rejected the claim that the violation didn't exist, or was beyond the control of the plaintiff.''

The defendant's concern with the use issue compounded by the traffic congestion that would result appears to be exactly the type of inherent violation contemplated by the *Federico* court. It is beyond dispute that a problem of excessive traffic will not be cured by reducing the area occupied by the offending

business; the board properly considered that in denying the subdivision application. The relevant question in our review of the decision is not whether we arrive at the same conclusion as the board under the facts as presented, but whether the record before the board supports the decision reached. *Pelliccione* v. *Planning & Zoning Commission*, 64 Conn. App. 320, 333, A.2d (2001). Accordingly, I conclude that the decision of the board in rejecting the plaintiff's subdivision application is " 'reasonably supported by the record' " and " 'supports the decision reached.' " *Property Group, Inc.* v. *Planning & Zoning Commission*, supra, 226 Conn. 697.

The majority also supports its position by describing the role of the zoning board in reviewing a subdivision application as "purely ministerial." This characterization misapprehends the role of the board in the application process and elevates the applicant's expectation of approval to a virtual entitlement. As our Supreme Court has stated, in the context of reviewing such a claim of entitlement, a "subdivision application [is] subject to the [board's] discretion and . . . [town] land use regulations . . . [may] not clearly entitle [one] to approval." *Kelley Property Development, Inc.* v. *Lebanon*, 226 Conn. 314, 323, 627 A.2d 909 (1993). It is true that "[t]he planning [board], acting in its administrative capacity herein, has no discretion or choice but to approve a subdivision if it conforms to the regulations adopted for its guidance. . . . If it does not conform as required, the plan may be disapproved." (Citation omitted.) *Forest Construction Co.* v. *Planning & Zoning Commission*, 155 Conn. 669, 675, 236 A.2d 917 (1967). That merely states the truism that "[i]n passing upon subdivision plans, the [board] is to be controlled by the regulations which it has adopted." *South East Property Owners & Residents Assn.* v. *City Plan Commission*, 156 Conn. 587, 591, 244 A.2d 394 (1968). If the regulations permit consideration of such factors, however, "[t]he members of the [board are] entitled to consider any facts, concerning the area, traffic, intersection and surrounding circumstances, which they had learned by personal observation, and their conclusions as to the effect of the use of the network of roads in the subdivision as shown on the proposed plan on traffic safety and hazard to the public are ones which they could reach without the aid of experts." *Forest Construction Co.* v. *Planning & Zoning Commission*, supra, 675. As with applications for special permits, if the criteria set forth in the regulations are met, the board has no discretion to deny the application. See *Irwin* v. *Planning & Zoning Commission*, 244 Conn. 619, 628, 628, 711 A.2d 675 (1998). That does not foreclose, however, the board's discretion in determining whether the proposed application meets the standards set forth in the regulations. See id. Furthermore, characterizing the board's role as ministerial renders superflu-

ous the substantial hearing process that may accompany the decisions of many boards, as in the present case.

As to the remaining issues the plaintiff raised on appeal, I agree with the trial court's dispositions. The board's denial of the application was expressly provided for in § 3.6.3 of the subdivision regulations. The plaintiff, moreover, may not in the same proceeding contest the denial of her application and the constitutional validity of the same zoning regulations. See *Bierman* v. *Westport Planning & Zoning Commission*, 185 Conn. 135, 139, 440 A.2d 882 (1981).

Accordingly, I would affirm the judgment of the trial court.