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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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BISHOP, J., concurring in part and dissenting in part. I agree with my colleagues that the judgment of the trial court must be reversed because the defendant zoning board of appeals of the town of Branford (board) failed to exercise its independent judgment in determining whether the zoning enforcement officer had properly issued a certificate of compliance.

Having reached that conclusion, however, I would remand the matter to the trial court with direction that the appeal be sustained and the matter remanded, in turn, to the board for it to determine, de novo, the proper application of its zoning regulations to the proposed building addition. Instead, the majority has reached and decided the ultimate question of whether the proposed building addition complies with the zoning regulations or would require a variance.[1]

In reaching this question I believe, respectfully, that the majority has usurped the role of the board in the name of judicial economy. I believe that it is inconsistent to say, on one hand, that the board should have exercised its responsibility to interpret its regulations independently, but, on the other hand, to take from that body the right to do so merely on the ground that this case may return to this court again.

Additionally, in its quest for efficiency, the majority has neglected our own jurisprudence concerning the authority of a zoning board of appeals to interpret its own regulations and abandoned the deference normally accorded to decisions of such boards. In *Fedorich* v. *Zoning Board of Appeals*, 178 Conn. 610, 424 A.2d 289 (1979), for example, the court affirmed the right of the zoning board of appeals to make a determination based, in part, on its past practices. In affirming the judgment of the trial court, the Supreme Court opined that "[t]he court . . . was entitled to accord considerable deference to the policy adopted by the defendant board in 1971, interpretive of [§] 105 of the [Torrington] zoning regulations . . . ." Id., 616. See also *Spero* v. *Zoning Board of Appeals*, 217 Conn. 435, 440, 586 A.2d 590 (1991), in which the court concluded that to prevail on an appeal from a decision of a zoning board of appeals, the plaintiff must demonstrate that the board acted unreasonably, arbitrarily or illegally.

By preempting the board, the majority has prevented it from analyzing whether its past practices reflect an established policy concerning additions to nonconforming structures and determining under what circumstances the additions have been treated as increasing the nonconformity of the existing structure. The problem is exacerbated in this instance because, as the majority notes, there is no Connecticut appellate gloss

of the regulatory language in question. While the majority has now determined for the first time that the proposed addition would constitute an increase in the nonconformity requiring a variance, I do not believe that this outcome would inevitably be the same if we had yielded to the board the opportunity to interpret its own regulations in light of its past practices regarding proposed additions to nonconforming structures.

It is not unreasonable to forecast that if the board conducts such an analysis and determines that no variance is required, a trial court could find that the board's determination was, in fact, reasonable. Because, on review, the decision of a board will be reversed only if it is found to be unreasonable, arbitrary or illegal, the majority has, by force of this decision, preordained that no other interpretation of the regulation in question could be reasonable, and it reached that conclusion without the benefit of the board's assessment of its past practices and policies regarding this precise issue.

In this circumstance, I would be inclined to give the board the first opportunity to interpret its own regulation. Even if the majority's concern is well founded and a remand of this case may result in its eventual reappearance before this court, I do not believe that its goal of judicial economy warrants denying the board the opportunity to fulfill its responsibilities as we have determined them to be.

Accordingly, I concur in the reversal of the trial court's judgment dismissing the appeal from the decision of the defendant zoning board of appeals, but I respectfully dissent from this court's decision to determine itself whether the proposed building addition complied with the applicable zoning regulation and this court's direction to the trial court on remand.

[1] In doing so, the majority appears to have deviated from our long-standing policy of not deciding issues that have not been briefed on appeal. See *State* v. *Torres*, 242 Conn. 485, 486–87 n.4, 698 A.2d 898 (1997); *National Associated Properties* v. *Planning & Zoning Commission*, 37 Conn. App. 788, 796–97 n.6, 658 A.2d 114, cert. denied, 234 Conn. 915, 660 A.2d 356 (1995). The primary issue on appeal was whether the trial court correctly determined that the board had exercised its independent judgment when considering the plaintiffs' appeal from the decision of the zoning enforcement officer to issue the certificate of zoning compliance to the defendant Thomas Simjian. None of the parties briefed the question the majority now answers.