## **Supreme Court**

No. 2010-69-Appeal. (PC 02-7003)

Bellini Construction Co., Inc.

v. :

Zoning Board of Review of the Town of Smithfield, et al. :

## ORDER

This case came before this court in conference pursuant to Article I, Rule 12A(3)(b) of the Supreme Court Rules of Appellate Procedure. After reviewing the record and the parties' prebriefing statements, we proceed to decide the case at this time without further briefing or argument.

The plaintiff, Bellini Construction Co., Inc., has appealed from a Superior Court judgment affirming a decision of the Smithfield Zoning Board of Review. However, we do not reach the merits of this appeal because the plaintiff has not properly invoked the jurisdiction of this court. The proper procedure to review a judgment of the Superior Court on appeal from a decision of a zoning board is by petition for writ of certiorari. There is no right of appeal to this court. See AV Realty, LLC v. Smithfield Zoning Board of Review, 762 A.2d 803 (R.I. 2000) (mem.); Blackstone Park Improvement Association v. State Board of Standards and Appeals, 448 A.2d 1233, 1241 n.6 (R.I. 1982); Hardy v. Zoning Board of Review of Coventry, 119 R.I. 533, 382 A.2d 520

(1977); see also Bassi v. Zoning Board of Review of Providence, 107 R.I. 702, 271 A.2d 210 (1970). "Neither the current statute, [G.L. 1956] § 45-24-69, nor its predecessor, § 45-24-20, provides for any appeal to the Supreme Court from a Superior Court judgment on an appeal from a decision of a zoning board of review." Gabriele v. Rocchio, 665 A.2d 566, 566 (R.I. 1995). Because the plaintiff has filed a notice of appeal, rather than a petition for writ of certiorari, this matter is not properly before this court.

Accordingly, the plaintiff's appeal is dismissed. The papers of the case may be remanded to the Superior Court.

Entered as an Order of this Court this 17<sup>th</sup> day of March, 2011.

By Order,



## RHODE ISLAND SUPREME COURT CLERK'S OFFICE

## Clerk's Office Order/Opinion Cover Sheet

**TITLE OF CASE:** Bellini Construction Co., Inc. v. Zoning Board of Review of the

Town of Smithfield, et al.

CASE NO: No. 2010-69-Appeal.

(PC 02-7003)

**COURT:** Supreme Court

**DATE ORDER FILED:** March 17, 2011

**JUSTICES:** Suttell, C.J., Goldberg, Flaherty, Robinson, and Indeglia, JJ.

**WRITTEN BY:** N/A – Court Order

**SOURCE OF APPEAL:** Providence County Superior Court

JUDGE FROM LOWER COURT:

Associate Justice Patricia A. Hurst

**ATTORNEYS ON APPEAL:** 

For Plaintiff: John J. Kupa, Jr., Esq.

For Defendant: Edmund L. Alves, Jr., Esq.