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BORDEN, J., with whom PALMER, J., joins, concurring. I agree with and join the majority opinion. I write separately only to emphasize that, in my view, the issue of statutory interpretation in the present case cannot properly be resolved by looking only at the text of the statutory scheme. I disagree with the conclusion of the majority that General Statutes § 7-148 (c) (6) (A) (iii) is plain and unambiguous and that, therefore, our interpretive task is constrained by General Statutes § 1-2z. I therefore add these brief comments.

In my view, the question of whether § 7-148 (c) (6) (A) (iii) requires a town to vote first, at least preliminarily, to adopt a public improvement before entering onto a citizen's property is not answered by the plain and unambiguous meaning of the statute, whether taken alone or in conjunction with other statutes. Put simply, the proffered interpretation of the defendant property owners, Walter Werbiski and Joyce Werbiski, namely, that no such entry is authorized unless and until the plaintiff, the town of Wallingford (town), votes in some fashion to adopt such an improvement, is reasonable; therefore, the statute cannot be considered plain and unambiguous in its meaning.¹

First, I note that it was the defendants, not the town, that argued that the plain meaning of the statute favored their interpretation. They plausibly argued that the language of the statute does not include the planning process for potential public improvements. Similarly, the town conceded at oral argument before this court that its interpretation requires this court to read in the word "potential" before "public improvement." Thus, in effect, the town conceded that the meaning of the statute was not plainly in its favor.

Second, the defendants' interpretation of the statute is certainly reasonable. That interpretation is that, in order for the town to be able to exercise the drastic remedy of entering a citizen's land without the owner's permission—in effect, to engage in conduct that would be a trespass but for the court's permission—the statute should be read to require the town at least to take a preliminary vote to undertake a "public improvement," and not merely to contemplate or envision such a public improvement. Of course, the town's vote could be conditioned upon a subsequent feasibility determination, which would be determined by the engineer's study.

Therefore, in order to resolve this case we have to go beyond the text of the statute to an appropriate extratextual source of its meaning, namely, its purpose. I would infer a broad public purpose of the statute, as the town argues, namely, to permit a rational planning process by the town, under appropriate supervision of

the court, in imposing stringent limitations on the town's entry onto the land, without the town having to go through a formal vote to undertake a public improvement that might ultimately prove not to be feasible. Interpreted in light of this purpose, and for the other reasons stated by the majority, I would affirm the judgment of the trial court.

¹“The test to determine ambiguity is whether the statute, when read in context, is susceptible to more than one reasonable interpretation.” (Internal quotation marks omitted.) *Tarnowsky v. Socci*, 271 Conn. 284, 287 n.3, 856 A.2d 408 (2004).
