

## Exhibit A

# The Connecticut General Assembly

## Legislative Commissioners' Office

Edwin J. Maley, Jr.  
*Commissioner*  
William A. Hamzy  
*Commissioner*

Larry G. J. Shapiro  
*Director*



Legislative Office Building  
Suite 5500  
Hartford, Connecticut  
06106-1591  
(860) 240-8410  
fax (860) 240-8414  
e-mail: [lco@cga.ct.gov](mailto:lco@cga.ct.gov)  
<http://www.cga.ct.gov/lco>

## BASIC CONSIDERATIONS IN DRAFTING LEGISLATION

Prepared by the  
Legislative Commissioners' Office

*Revised October 2015*

## Table of Contents

<u>Page</u>	
1	Considerations in Drafting
3	Usage and Style
3	Order of Sections
4	Prefatory Language
5	Effective Dates
5	Changing an Existing Statute: Deleting Old Language and Adding New
6	Basic Drafting Conventions
6	Designation of Divisions of a Section
7	Definitions
8	Shall and May
8	Use Active Verbs, Present Tense, Singular, Gender Neutral Language
8	Use the Present Tense
9	Punctuation and Quotation Marks
9	Numbers
10	And/Or
10	Exceptions, Provisos, "Notwithstanding" Clauses
11	Miscellaneous
12	Clarity and Accuracy

## CONSIDERATIONS IN DRAFTING

All official legislation at the Connecticut General Assembly is drafted by or processed through the Legislative Commissioners' Office (more commonly known as LCO), the General Assembly's legislative drafting office, which employs nonpartisan attorneys and support staff.

This guide is intended for people who do not draft legislation on a regular basis but want to either submit legislative requests or legislation to legislators in a more formally drafted manner or to understand some of the reasons that their submitted proposal was drafted the way it was by LCO.

Every statute, and therefore every bill, should state who has to do what, who may do what or who is prohibited from doing what. It should state this clearly and precisely. There are four main errors people make when drafting legislation: 1) They try to make it sound "legal"; 2) they don't use terms consistently throughout the bill; 3) they know the subject matter so well that what's clear to them is not necessarily clear to others; and 4) the bill was drafted by a group that was more concerned about coming to a consensus and finding language everyone in the group could agree on than they were with finding clear language and a well-organized structure.

The most important aspect of good drafting is thinking the bill through. Will it be clear to a reader who isn't an expert in the field? What are the ramifications? For example, if a law reads, "All citizens shall have access to free medical care in times of national or state emergencies", who is supposed to provide the free medical care? Will private medical personnel be reimbursed for providing the care, and if so, by whom? May a medical provider decline and is there a penalty for doing so? Who would impose the penalty and enforce the law? What constitutes a national or state emergency? What types of medical care would be covered? These are but a few of the questions the drafter should ask.

There are many resources for information about bills, the General Assembly and the political process.

These resources include:

- "How a Bill Becomes a Law" flowchart under the "Citizen Guide" section of the General Assembly web site  
([www.cga.ct.gov/html/bill.pdf](http://www.cga.ct.gov/html/bill.pdf))
- "Abbreviations and Acronyms" list under the "Legislative References" section of the General Assembly web site  
(<http://cga.ct.gov/asp/menu/Acronyms.asp>)
- "Terms and Definitions" list under the "Legislative References" section of the General Assembly web site  
(<http://cga.ct.gov/asp/content/Terms.asp>)
- The Office of Legislative Management web site  
(<http://cga.ct.gov/olm/>)
- The Legislative Commissioners' Office web site  
(<http://cga.ct.gov/lco/>)
- The Office of Legislative Research web site  
(<http://cga.ct.gov/olr/>)
- The Office of Fiscal Analysis web site  
(<http://cga.ct.gov/ofa/>).

Specific bills can be tracked during the legislative session through the General Assembly web site at [www.cga.ct.gov](http://www.cga.ct.gov).

## USAGE AND STYLE

Although the goal in drafting is clarity and accuracy, the drafter is restricted by certain considerations. One is that some statutes, although being amended today, have been around for fifty or one hundred years or more. If the drafter suddenly uses modern language with different style conventions in the middle of an older statute, the reader (and often a court) is left to guess whether the change was merely an attempt to "clean up" the language or whether the legislature intended some substantive change. Thus, a drafter may have to write the bill to conform to the style and language used in an existing statute.

Another consideration is that some bills may become new statutes that will be around fifty or a hundred years in the future and what is plain language today may not be so in the future. Because of this, drafters should not abandon style and usage conventions too readily.

Yet another consideration in usage and style arises when a model act or model language is used as the basis of a bill. Frequently, changes must be made to the model language in order to match the statutory style and usage conventions of the General Statutes or to merge such act or language into existing statutes. Similarly, when a federal statute or a statute from other states is used as the basis of a bill, changes must also be made to the language of such statute to match the statutory style and usage conventions of the General Statutes.

## ORDER OF SECTIONS

The order of sections, like deciding where to break things into sections, is mostly a matter of common sense. For example, a section establishing an agency should come before a section spelling out the agency's duties and a section making something illegal should come before the penalty section.

The general order of sections is as follows:

- 1) Definitions
- 2) Most significant rules and provisions
- 3) Secondary rules and provisions and important exceptions
- 4) Housekeeping provisions (*e.g.*, updating references to statutes within the bill - this is usually something that can be left to the LCO)
- 5) Penalties
- 6) Appropriations

- 7) Repealer section, *i.e.*, the outright repeal (as opposed to modification) of a statute

This order may be varied to fit the needs of a particular situation (*e.g.*, #2 and #3 above may be combined in many instances), and few bills will have all the types of sections in this list.

## PREFATORY LANGUAGE

The prefatory language of a bill tells the reader whether the bill is creating new law or amending existing law (see section following for Effective Dates).

If new, the prefatory language will be simply the word "new" in capital letters and in parentheses, followed by the effective date of the section.

***Example:***

Section 1. (NEW) (*Effective October 1, 2015*) The dinosaur footprint of Eubrontes is the state fossil.

Sec. 2. (NEW) (*Effective October 1, 2015*) Each person who excavates a site designated a prehistoric site shall....

If the bill is not creating an entirely new law but is instead changing (amending) an existing statute, the drafter uses standard prefatory language to inform the reader what statute is being changed (but note that the existing law is not really "repealed", merely amended).

***Example:***

Sec. 8. Subsection (a) of section 51-165 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

In even-year sessions, the drafter might be amending a statute that was newly enacted or amended in the preceding year. In such a case, the drafter cites in the prefatory language the section of the even-year supplement to the General Statutes.

***Example:***

Sec. 5. Section 54-86l of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

*Note: The entire General Statutes are republished biennially, near the start of each odd-year session. Near the start of each even-year session, a supplement to the General Statutes is*

*published. The supplement only includes new statutes enacted during the preceding odd-year session or previously existing statutes that were amended during the preceding odd-year session.*

To find out if a statute has been amended in the preceding odd-year session, look in the reference table of *General Statutes Amended or Repealed* or in the even-year supplement to the General Statutes for that year.

Occasionally, there are statutes with double sections, *i.e.*, existing statutes with amendments that will go into effect in the future. Such occurrences are rare and beyond the scope of this document; if the drafter is faced with such a circumstance, the LCO may be contacted for guidance.

## EFFECTIVE DATES

The effective date of each section is enclosed in brackets at the end of the prefatory language of the section and italicized.

*Example:*

Sec. 8. Subsection (a) of section 51-165 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

The default effective date is **October 1**, although budget-related bills and bills containing appropriations are usually given effective dates of **July 1**, the start of the state's fiscal year.

Public acts may be **effective from passage** in compelling circumstances, with consideration given to fairness in providing people with adequate advanced notice of the new law. There are potential due process problems with acts that are effective upon passage; also, care should be taken that a section that is effective from passage does not "jump the gun" (*e.g.*, a section authorizing a commissioner to adopt regulations pertaining to a new law is effective upon passage but the actual new law section has an effective date of October 1).

Bills that are effective from passage take effect on the date the Governor signs the bill, *not* on the date the bill passes both houses.

## CHANGING AN EXISTING STATUTE: DELETING OLD LANGUAGE AND ADDING NEW

When drafting legislation to amend an existing statute, proposed deletions are indicated by bold brackets and new language by underscoring. Remember to delete, then add (*i.e.*, the bracketed language that will be deleted should come

before the new underlined language). However, punctuation doesn't stand alone, so it must be deleted along with deleted wording and, if still needed, added back in as "new" punctuation.

*Example:*

Violators [shall] may be fined not more than [three] thirty dollars. [and fifty cents.]

*Note: If an entire section is new (see section on Prefatory Language earlier in this document), the language in the section should not be underscored.*

## BASIC DRAFTING CONVENTIONS

### Designation of Divisions of a Section

The usual division of a section and the name of each division is as follows:

- Section
- (a) Subsection
- (1) Subdivision
- (A) Subparagraph
- (i) Clause
- (I) Subclause

A subsection is usually the smallest independent unit used in drafting bills, although subsections, subdivisions and subparagraphs may be separate paragraphs. There are no rules on when to further divide a subsection other than clarity and ease of reading, but if there is only one subsection, no designation is needed (*i.e.*, if there is no "(b)", there is no need to label the lone subsection as "(a)").

Subsections are like paragraphs in formal English: each paragraph should contain a central thought, with all the sentences contributing to that thought. The creation of each subsection informs the reader that the bill has reached a new step in the subject's development.

When citing a subunit of a section, the current convention is to reference each unit from the smallest to the largest, keeping in mind that the **subparagraph ((A), (B), etc.) is the smallest unit that is cited.**

*Example:*

Subdivision (2) of subsection (d) of section 38a-760b of the general statutes (NOT: section 38a-760b(d)(2)).

**Example:**

Subparagraph (B)(v) of subdivision (2) of subsection (a) of section 38a-92m of the general statutes (NOT: subclause (v) of subparagraph (B) of subdivision...).

**Example:**

Subparagraph (A)(i)(I) of subdivision (3) of this subsection.

Subdivisions ((1), (2), (3), etc.) should be used in a definitions section, and may be used even if there is no previous subsection division (*i.e.*, even if there is no "(a)").

**Example:**

Section 1. (NEW) (*Effective October 1, 2015*) As used in sections 1 to 4, inclusive, of this act:

- (1) "Commissioner" means the Commissioner of Public Health;
- (2) "License" means any license, certification or permit issued pursuant to section 20-13a of the general statutes; and
- (3) "Practitioner" has the same meaning as provided in subsection (a) of section 14-92 of the general statutes.

Parts of a section may also be numbered when subsection designators ((a), (b), (c), etc.) have not been used, if the numbered provisions are part of a single sentence.

**Example:**

Sec. 2. (NEW) (*Effective October 1, 2015*) In order to qualify as a practitioner, a person shall (1) notify the commissioner, in writing, not later than thirty days before commencing practice, (2) obtain a license, and (3) pay a fee of five dollars.

## **Definitions**

When drafting a definition, the phrase to use is "'\_\_\_\_' means \_\_\_\_". Or, if referencing a definition elsewhere in the statutes, the phrase used is "'\_\_\_\_' has the same meaning as provided in sub\_\_\_\_ of section \_\_\_\_ of the general statutes".

Use definitions sparingly. They should be included when a word is used in a specific way or if a term has a technical meaning peculiar to the bill, *e.g.*, "alcohol" may need to be defined depending on whether the context is drinking, storage of flammable liquids or fuel additives. Do not provide the commonly understood meaning of a common word.

Do not include a definition if the term is not used in the rest of the bill.

Definitions may be used to simplify and avoid repetition. If a bill needs to make frequent reference to the Department of Mental Health and Addiction Services, defining the term once (" "Department" means the Department of Mental Health and Addiction Services") allows the use of "department" thereafter (assuming the bill applies to only one department).

Do *not* include substantive law in a definition, *e.g.*, a provision that imposes a condition (bolded in example below).

*Example:*

"Alcohol" means any series of hydroxyl compounds used as a motor vehicle fuel additive **and no motor vehicle fuel containing alcohol shall be sold unless clearly labeled as containing alcohol.**

### **Shall and May**

A requirement is indicated by the use of "shall" -- do not use "must".  
Permission or authority is indicated by the use of "may".

Sometimes "shall" is used to authorize an action; the drafter should consider whether "shall" in this case really means "may".

*Example:*

The phrase, "The commissioner shall be authorized to issue..." is not a requirement; it confers discretion to the commissioner to take some action. In the interest of clarity and simplicity, this is better worded as "The commissioner may issue...".

### **Use Active Verbs, Present Tense, Singular, Gender Neutral Language**

When drafting, use active verbs, not passive.

*Example:*

The Governor shall appoint a committee (NOT: A committee shall be appointed by the Governor).

### **Use the Present Tense.**

*Example:*

Any person who fails to... (NOT: Any person who shall have failed to...).

Use the singular unless the plural is required. Subsection (f) of section 1-1 of the general statutes allows the singular to be construed as the plural and the plural as singular when appropriate. When the words may be singular or plural, do not use "(s)".

Avoid personal pronouns and never use "he/she". "A nurse may administer a controlled substance if the nurse is registered with the department..." or "A nurse, if registered with the department, may administer a controlled substance..." is preferable to "A nurse may administer a controlled substance if she is registered with the department..."

### **Punctuation and Quotation Marks**

Punctuation marks that follow quotation marks are placed outside the quotation marks, not inside, unless part of the quoted material itself.

*Example:*

For the purposes of this section, "insurance-support organization" does not include "consumer reporting agency".

*Example:*

Such acknowledgment may be transmitted by facsimile or by e-mail and shall read as follows: "I am aware of my right to choose the licensed repair shop where the damage to the motor vehicle will be repaired."

The statutes do not use a final comma in a series; however, if the series is enumerated, use a final comma.

*Example:*

Apples, pears and oranges (NOT: Apples, pears, and oranges).

*Example:*

(1) apples, (2) pears, and (3) oranges.

### **Numbers**

Use words, not figures, to express numbers.

Do not follow a number with a numerical figure in parentheses.

Do not write "two hundred and fifty dollars"; write "two hundred fifty dollars".

*Example:*

Each organization shall pay a late fee of one hundred dollars per day (NOT: ...one hundred dollars (\$100) per day).

Write out all numbers except section numbers, citations and *full* dates.

*Example:*

"July first" and "July 1, 2015" are both proper.

### **And/Or**

Never use "and/or". Sometimes adding "or both" will convey the meaning of "and/or" but usually just "or" will do.

*Example:*

To qualify for the exemption, a person shall be over sixty-five years of age, have an annual income of less than thirty thousand dollars, or both (NOT: ...shall be over sixty-five years of age and/or have an annual income...).

Note: simply inserting "or" between the age and income requirements is sufficient (the "or both" becomes unnecessary).

### **Exceptions, Provisos, "Notwithstanding" Clauses**

An exception is used when the general application of a law does not apply. An exception should be limited in application and narrowly and precisely stated. Do not use an exception if it would be clearer to use "but" or "if".

*Example:*

Sec. 5. (a) Except as provided in subsections (b) and (c) of this section, a person is justified...

*Example:*

The members shall receive no compensation for their services, ~~except that~~ *but* the towns applying for withdrawal or dissolution shall pay members' expenses.

A proviso is introduced by "provided". It should be used sparingly and *only* to mean "on the condition that".

*Example:*

(a) A drawer negotiating a check who knows that payment of such check will be refused by the drawee bank is liable to the payee for damages, *provided* the payee has presented such check for payment, the check is dishonored and the drawer fails to pay the face amount of such check within thirty days.

Sometimes, what appears to be a proviso would be better as a separate sentence or even a separate subsection.

*Example:*

Section 1. (NEW) (*Effective October 1, 2015*) Wherever the term "health officer" is used in any special act, the legislative body of the municipality affected may, by ordinance, substitute the term "director of health", provided the clerk of such municipality shall notify the Secretary of the State of the effect of such ordinance not later than ten days after its adoption.

*Can be reworded as follows:*

Section 1. (NEW) (*Effective October 1, 2015*) (a) Wherever the term "health officer" is used in any special act, the legislative body of the municipality affected may, by ordinance, substitute the term "director of health".

(b) The clerk of a municipality making any change authorized by subsection (a) of this section shall notify the Secretary of the State of the effect of such ordinance not later than ten days after its adoption.

"Notwithstanding" means "despite" or "in spite of". Sometimes it is necessary to "notwithstanding" contrary or conflicting provisions of existing law wherever they may appear. Since the reader of the contrary or conflicting law may not know of the new, superseding provision, such sweeping "notwithstanding" clauses should be used as seldom as possible.

*Example:*

Notwithstanding sections 16-19 and 16-19a of the general statutes, for the period from July 1, 2015, until December 31, 2016, the base rates paid to an electric company by any customer in the state for electric services shall not exceed the base rates that have been approved by the Public Utilities Regulatory Authority....

## Miscellaneous

Do not use "etc." or any abbreviations.

Do not use words such as aforesaid, hereunder, beforementioned, hereby, herein, hereinafter.

Do not use pairs of words having the same effect, *e.g.*, each and every, order and direct, unless and until, sole and exclusive, over and above.

Do not use an obscure word when a simple and familiar one will suffice.

## CLARITY AND ACCURACY

The drafter should review the language of the bill to check that it is clear and conveys what the drafter intends. If a bill states, "Each operator licensed on or after October 1, 2015, shall inform the department of such operator's telephone number", does that include operators who hold current licenses issued prior to that date or does it apply only to operators who are granted a license on or after that date?

Be careful not to create ambiguity. For example, "A nurse may administer a controlled substance if registered with the department..." raises the question as to whether it is the nurse or the controlled substance that must be registered.

The drafter should use terminology consistently throughout the bill. If the term "organization" is used in the beginning, the drafter should avoid using synonymous terms such as "company", "group", "association", etc. While used comparably in the real world, the use of different terms in a bill to mean the same thing can confuse the reader and a court. Use the same term consistently throughout a bill, especially if the term is defined.

## Exhibit B

---

## **SECTION 5.7. EDUCATIONAL PARK ZONE (EP)**

---

### **A. Purpose**

The purpose of the EP Zone is to provide for municipal facilities in a campus-like atmosphere with appropriate standards.

### **B. Uses Permitted by Special Permit**

An application for site plan review shall be submitted to the Commission for each permitted or accessory use. The site plan shall depict the entire parcel on which the use is proposed.

1. Public schools, including elementary, middle and senior high schools.
2. Educational administrative offices.
3. Educational and recreational maintenance facilities.
4. Public emergency services facilities.
5. Uses customarily accessory and incidental to a permitted principal use.
6. The following accessory uses are expressly permitted:
  - a. Facilities related to the function and operation of public schools.
  - b. Athletic fields, fences, playing courts, running tracks, playgrounds, aquatic pools, bleachers, dug-outs, and concession stands.
  - c. Lighting for athletic fields, by special permit only.

### **C. Dimensional Standards**

1.	Minimum Lot Area	13 acres
2.	Minimum Frontage	250 feet
3.	Minimum Lot Width	250 feet
4.	Minimum Square Dimension	500 feet
5.	Minimum Building Separation	
6.	Maximum Building Coverage (building)	15%
7.	Minimum Setback <sup>(1)</sup> <sup>(2)</sup>	50 feet
8.	Maximum Building Height	three stories
9.	Maximum Building Height	35 feet

- Notes
1. Nonresidential uses adjoining an R-40 or R-80 Residence Zones shall observe a minimum setback of 100 feet from the nearest lot line of any residential lot and the resultant area shall be landscaped, planted as a buffer, or preserved in its natural state as needed for protection of adjacent properties.
  2. The setback requirement may be waived between adjacent properties owned by the Town of Bethel.

## **D. Design Standards**



1. **Multiple Uses** - Each lot may contain multiple principal and accessory uses, so long as all criteria of these regulations are otherwise met.
2. **Utilities** - Each lot shall be served by public sewers capable of handling the needs of the development.
3. **Utilities** - Each lot shall be served by a public water supply capable of handling the demand required by the development for both potable water and fire-fighting service.
4. **Access Roads** - Notwithstanding any other provision of these regulations, each lot shall be served by roads suitable in design and capacity for the traffic to be generated by the educational park. Any such roads shall be constructed to the standards of the road construction specifications set forth in Section 82-5 through 82-14 of the road regulations of the Town of Bethel, as amended. If any such roads are not accepted as public roads, they shall be accepted as open to the public under CGS Section 13a-71. At least two independent means of access shall be provided to one or more public roads.
5. **Parking** - Notwithstanding any other provision of these regulations, parking required for uses permitted in the EP Zone shall be determined as follows (for purposes of this section only, the term "classroom" shall refer to a room within an educational facility that is designed or intended to be used for teaching purposes more than half of the scheduled periods in a day):
  - a. Each elementary school or middle school shall provide 25 off-street parking spaces plus a minimum of 1.5 spaces for each classroom.
  - b. Each senior high school shall provide 50 off-street parking spaces, plus a minimum of seven off-street spaces per classroom.
  - c. Each educational administrative office shall provide a minimum of one off-street parking space per 200 square feet of floor area.
  - d. Educational and recreational maintenance facilities shall provide one off-street parking space per 1,000 square feet of floor area.
  - e. Public emergency service facilities shall provide a minimum of one off-street parking space per 200 square feet of floor area.
6. **Landscape Requirements** - If deemed necessary by the Commission, all permitted uses shall be separated from adjacent residential uses on all sides and front by a screen, a landscaped buffer or a screen in accordance with Section 6.1 of these regulations.
7. **Site Lighting** - Adequate lighting shall be provided at appropriate intervals for all roadways and site parking areas. Measures shall be taken to minimize light from projecting beyond the property boundaries.
8. **Utilities** - All utilities shall be placed underground.
  - a. Each lot shall be suitable for the construction of interior roads, buildings, and other uses customary to educational facilities.
  - b. The provisions of Section 6.4 of these regulations regarding excavation and fill activities shall apply to the EP Zone.

## Chapter 500. Zoning Regulations

### Article IV. General Prohibitions

#### § 500-12. Lots.

Except as provided in Subsection A, no lot shall have an area or width or setback which is less in size than that required by these regulations. The area of every lot shall be such that no building or buildings thereon shall occupy, in the aggregate, a greater percentage of the lot area than that prescribed by these regulations. No lot shall be of such a size or shape that the minimum lot rectangle prescribed therefor in these regulations may not be measured wholly within the lot lines of said lot.

- A. Preexisting substandard parcels. A parcel of land which has an area (determined in conformity with the rules prescribed in § 500-18 for determining lot area) of not less than  $\frac{1}{3}$  of the lot area otherwise prescribed therefor in these regulations and a width of not less than  $\frac{1}{3}$  of the lot width otherwise prescribed therefor in these regulations or 50 feet, whichever is greater, shall not be required to conform to the minimum lot rectangle, lot area or lot width requirements of these regulations if such parcel of land, at the effective date of these regulations, abutted, and has continuously thereafter abutted, no other land simultaneously under the same ownership as such parcel of land.
- B. Multiple buildings. No building intended or used for a single principal use shall be built, placed or used on any land unless the required lot area is provided therefor, except that, in determining lot area required, all buildings, when under common ownership on contiguous premises, which are used exclusively for a single institutional or commercial use shall be considered as a single building.
- C. Multiple uses. No building intended or used for two or more principal uses shall be built, placed or used on any land unless the required lot area is provided for each such principal use, except that, in determining required lot area, two or more principal commercial uses within a single building used solely for such commercial uses shall be considered a single use.



## Old Lyme Zoning Regulations

Zoning Regulations

Title

Table of Contents

Adobe Reader for PDF

SECTION	TITLE	SUB-SECTIONS	PAGE
<u>1</u>	<u>PREAMBLE</u>		<u>1-1</u>
<u>2</u>	<u>AREA/USE CLASSIFICATIONS</u>		<u>2-1</u>
	2.1	Codification	2-1
	2.2	Jurisdiction	2-1
	2.3	Non Conformity	2-1
	2.4	Zoning Districts and Zones	2-1
	2.5	District Boundries	2-3
<u>3</u>	<u>DEFINITIONS</u>		<u>3-1</u>
<u>4</u>	<u>GENERAL REGULATIONS</u>		<u>4-1</u>
	4.1	Permitted and Prohibited Uses	4-1
	4.2	Coastal Boundary	4-1
	4.3	Tidal Waters Protection	4-7
	4.4	Flood Hazard Regulations	4-7
	4.5	Performance Standards for Business and Industrial Uses	4-25
	4.6	Buffer Requirements for Non-Residential Uses	4-27
	4.7	Corner Visibility	4-27
	4.8	Street Numbers	4-27
	4.9	Keeping of Animals	4-28
	4.10	Conservation Zone Requirements-Gateway	4-28
	4.11	Residence in Underground, Incomplete or Temporary Building Structure	4-37
	4.12	Temporary Uses	4-37
	4.13	Stormwater Runoff Control	4-37
	4.14	Driveway Standards	4-38
	4.15	No more Than One Principal Use On a Lot	4-39
<u>5</u>	<u>SECTION 5 USE REGULATIONS</u>		
	5.0	Use Regulations	5-1
	5.1	Rural Residence RU-80 District (RU80)	5-1
	5.2	Rural Residence RU-40 District (RU40)	5-3
	5.3	Residence R-20 District (R-20)	5-5
	5.4	Residence R-15 District (R-15)	5-6
	5.5	Residence R-10 District (R-10)	5-8
	5.6	Multi-Family Residence MFR-80 District (MFR-80)	5-10
	5.7	Multi-Family Residence MFR-40 District (MFR-40)	5-11
	5.8	Multi-Family Residence MFR-20 District (MFR-20)	5-13

Engineering & Highway Operations Division of Design Services  
Hydraulics and Drainage Section Connecticut Department of  
Transportation.

b. “2004 Connecticut Stormwater Quality Manual” 2004 or as amended by the Connecticut Department of Environmental Protection.

c. “2002 Connecticut Guidelines For Soil Erosion and Sediment Control, DEP Bulletin 34” Effective May 2002 or as amended by The Connecticut Council on Soil and Water Conservation in Cooperation with the Connecticut Department of Environmental Protection.

d. “Design and Construction Standards of the Town of Old Lyme, Connecticut, Incorporating Polices, Rules and Procedures for the Administration of ‘An Ordinance Concerning the Construction and Acceptance of Roads in the Town of Old Lyme’” Adopted December 14, 1998, Effective January 12, 1999 or as amended by the Old Lyme Board of Selectmen.

4.13.2 Design by Engineer. The SMS shall be prepared by a professional engineer licensed in the State of Connecticut. As appropriate and/or deemed necessary, the SMS submission shall be in form of plans/maps, written description, calculations, supporting reports and legal documents.

4.13.3. Exemption. The construction/development of a single-family dwelling including accessory structures on a residentially zoned property is exempt from this Section unless deemed necessary by the Zoning Enforcement Officer.

[Section 4.13 Added effective 3-7-08]

4.14 Driveway Standards. All driveways shall be constructed in accordance with the specifications and permit procedures set forth in an ordinance of the Town of Old Lyme entitled, “Driveways”, as the same may be amended from time to time.

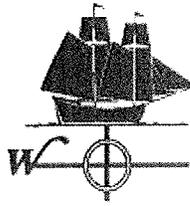
[Added effective 3-7-08]



4.15 No More Than One Principal Use on a Lot. Except in a Planned Residential Conservation Development (PRCD) per Section 12 of these Regulations and in the Commercial C-30, Commercial C-30S, Commercial C-10 and Light Industrial Districts, there shall be no more than one (1) principal use on a single lot. In the Light Industrial Districts, upon approval of the Commission as a Special Permit pursuant to Section 13B of these Regulations, there may be more than one (1) principal use on a lot, provided one such use shall not be a dwelling, and, provided, further, that any Alteration, Enlargement, or Extension of any such uses shall require an amendment to such Special Permit. In the Commercial C-30, Commercial C-30S and Commercial C-10 Districts, upon approval of the Commission as a Special Permit pursuant to Section 13B of these Regulations, there

may be more than one (1) principal use on a lot, including a Dwelling Unit containing no more than 25% of the Floor Area of the commercial uses on the Lot and not to exceed one (1) Dwelling Unit per Lot, and, provided, that any Alteration, Enlargement, or Extension of any such uses shall require an amendment to such Special Permit. In Planned Residential Conservation Developments, there may be more than one principal use on one (1) lot, including one or more dwellings, upon approval of the Planning Commission pursuant to Sections 12 and 13 of these Regulations. In granting any Special Permit under this Section, the Commission may require that each additional Principal Use shall provide the parking required by Section 18 of these Regulations, increased by up to 20%, depending on the mix of uses and expected combined occupancy. See Section 6.8 (Prohibited Uses).

[First and third Sentences Added effective 3-7-08; [Second Sentence From former Section 6.3.8, Amended Effective 3-7-08, added C-30S District Effective 6-1-11]



# ZONING REGULATIONS

Originally Adopted -- August 28, 1956

Amendments:

June 1958	December 1998	November 14, 2013
December 1, 1961	May 25, 1999	February 21, 2014
June 1, 1965	December 22, 1999	June 19, 2014
June 2, 1970	April 17, 2000	July 30, 2014
July 1, 1970	June 2000	August 26, 2014
May 5, 1972	June 20, 2001	February 26, 2015
August 1, 1974	August 1, 2001	December 17, 2015
February 11, 1980	December 12, 2001	
December 11, 1982	December 26, 2001	
September 27, 1983	July 10, 2002	
November 1, 1983	August 7, 2002	
November 1, 1984	February 23, 2003	
March 1, 1985	March 12, 2003	
August 1, 1986	April 11, 2003	
September 22, 1987	August 15, 2003	
August 5, 1988	November 20, 2004	
February 11, 1990	March 1, 2005	
April 26, 1990	June 1, 2005	
June 25, 1990	August 15, 2005	
May 1991	October 1, 2005	
June 21, 1991	July 11, 2006	
May 19, 1992	September 19, 2007	
June 15, 1992	August 28, 2008	
January 1993	September 8, 2009	
July 15, 1993	March 3, 2010	
July 27, 1993	April 11, 2011	
September 28, 1993	April 18, 2011	
January 25, 1994	June 16, 2011	
February 14, 1994	September 1, 2011	
November 25, 1994	November 15, 2011	
February 18, 1995	March 22, 2012	
March 30, 1995	June 14, 2012	
December 1, 1995	August 16, 2012	
February 19, 1996	January 11, 2013	
May 23, 1996	February 06, 2013	
August 23, 1996	February 14, 2013	
June 11, 1997	April 19, 2013	
August 5, 1998	August 15, 2013	

---

**SECTION 4.50.00 CTC DISTRICT - COMMERCIAL TOWN CENTER**

Section 4.50.00 Purpose

This District is composed of and limited to the Commercial Town Center District. The District provides for the central retail, office, cultural and governmental activities of the community as well as encouraging limited residential use.

The Regulations encourage harmony and compatibility of design in an area of buildings built at different times and under no or various zoning regulations. The object is to permit the rehabilitation or rebuilding of existing buildings on or close to the street and property lines, thus preserving the historic look of the Town Center.

**SECTION 4.51.00 DESIGN OBJECTIVES**

Section 4.51.01 Design of Buildings

The Commission encourages architectural and site designs which promote the aesthetic qualities associated with a small New England village and enhance the Commercial Town Center District. Buildings in this District shall be designed or redesigned to harmonize and be compatible within the District and shall be of such scale and mass that they relate well to each other and the street.

Section 4.51.02 Design Elements of Buildings and Lots

The following design elements shall be incorporated into the proposed site plan whenever possible:

Stone Walls	Split Rail Fences	Picket Fences
Clapboards	Cedar Shake Shingles	Peaked Roofs
Shutters	Multi Pane Windows	Flower Beds
Flowering Shrubs	Trees- mixed hardwood & evergreen	Decorative lighting

**SECTION 4.52.00 USE REGULATIONS**

Section 4.52.01 Special Permit

All permitted uses except an existing single-family dwelling are subject to Special Permit and Site Plan Review Requirements under Section VI and VII of these Regulations. [Effective 6/11/97]

Section 4.52.02 Permitted Uses

In the CTC District, buildings and land may be used and buildings may be erected or altered for any of the following uses and no other. Upon business interruption, tenant change, ownership transfer as subletting of a building or land having a previously approved permitted use, any person seeking to establish or re-establish the same or similar use (e.g. retail to retail) shall submit an application to the Land Use Department for administrative approval. Any proposed change to a different use shall require special permit and site plan review. [Effective 8-15-05]

Section 4.52.03 Inn, retail, personal and business services, restaurant of under five thousand (5000) sq. ft. of gross floor area, professional office.

- 
- Section 4.52.04 Bank, financial institution or office.
- Section 4.52.05 Uses of the Town of Westbrook, including but not limited to offices.
- Section 4.52.06 Residential dwellings as follows:
- a) New single-family dwelling. An existing single family dwelling is exempt from Site Plan Review but must conform to the intent and requirements of these Regulations.
  - b) Two-family dwelling.
  - c) Residential apartments over commercial uses. [Effective 3-22-12]

**SECTION 4.53.00 ACCESSORY USE / ACCESSORY BUILDING**

- Section 4.53.01 Accessory use customary with or incidental to a permitted use.
- Section 4.53.02 Accessory building.



**SECTION 4.54.00 MULTIPLE USES ON A LOT OR IN A SINGLE BUILDING**

- Section 4.54.01 Uses may be combined on a single lot or within a single structure, provided that all standards for each individual use are met. Where the standards of the combined uses are not identical, the most stringent standards shall apply to the entire complex.

**SECTION 4.55.00 PROHIBITED USES**

- Section 4.55.01 The following are prohibited uses in the CTC District.
- a) Repair garage, auto dealership, truck terminal, fuel storage facility, car wash.
  - b) The following shall be prohibited uses in the CTC District unless connected to a municipal sewer treatment facility: Laundromat, dry cleaner, and beauty salon.

**SECTION 4.56.00 AREA REGULATIONS**

- Section 4.56.01 Minimum Lot Area  
Fifteen thousand (15,000) square feet.
- Section 4.56.02 Minimum Frontage Requirement  
Each lot shall have a minimum frontage of fifty (50) feet at the street.
- Section 4.56.03 Maximum Floor Area Ratio: 0.25
- Section 4.56.04 Minimum Yard Requirements:
- a) Front Yard: Minimum: Five (5) feet. Maximum: Twenty (20) feet.
  - b) Side Yard: One side, Six (6) feet. Second side, Twenty (20) feet.
  - c) Rear Yard: Thirty-five (35) feet.
- Section 4.56.05 Buffer from Tidal Wetlands  
No building, structure, paved parking areas or septic systems shall be erected or placed within fifty (50) feet of any tidal wetlands, except as may be reduced or waived. (see Section 11.00.05).

---

## **SECTION 4.110.00 NCD - NEIGHBORHOOD COMMERCIAL DISTRICT**

Section 4.110.01 Purpose: It is the intent of this district to promote a flexible mix of compatible residential and commercial uses that are innovative and compatible with the New England village-scale streetscape; do not generate large volumes of traffic; and are constructed of materials that preserve the residential character of the area.

The following design objectives were created to work in conjunction with the Westbrook Zoning Regulations as a whole.

### **SECTION 4.111.00 DESIGN OBJECTIVES**

#### Section 4.111.01 Design of Buildings

Architectural and site designs that promote the aesthetic qualities associated with a small New England village and enhance the neighborhood commercial district are encouraged. Structural rehabilitation, wherever feasible, will be encouraged in order to preserve and enhance the diverse qualities of the area. Buildings in this district shall be designed or redesigned to harmonize with each other and be compatible within the district and shall be of such scale and mass that they relate to each other and the street.

#### Section 4.111.02 Design Elements of Buildings and Lots

The following design elements shall be incorporated into the proposed site plan whenever possible.

#### Section 4.111.03 Site Development

- a) Stone walls, split rail, board, picket, and wrought iron fences are encouraged. New site structures, including accessory buildings and street furniture shall be of appropriate materials and scale, and be appropriately located in relationship to the site and streetscape.
- b) Underground utilities shall be utilized whenever possible.

#### Section 4.111.04 Building Form & Materials

- a) Commercial and office structures shall be designed to be compatible with the character of single family residential structures. Scale, materials and building forms are necessary elements of continuity.
- b) Lengthy, unbroken facades shall be avoided. As a general guide, the maximum horizontal length of an unbroken facade plane should be seventy-five (75) feet. Facade offsets shall be sufficient to create a strong shadow line.
- c) To harmonize with the residential character of the area, roof structures shall be gabled or hipped and visible from the street with a pitch not less than four and one half (4.5) inch rise in a twelve (12) inch run. Roofs shall project enough beyond the facade to create an overhang and cast a shadow. Roof materials shall be slate, standing seam metal, wood, asphalt, or slate shingles.
- d) Mechanical equipment shall be concealed within the volume of the roof or enclosed within a structure. Where this is not possible, mechanical elements shall be located so that they are not visible from public streets or adjacent residential uses or districts and shall be landscaped. [Effective 12-22-99]

- 
- b) Two (2) family dwelling
  - c) Residential apartments over commercial uses
  - d) Accessory buildings two hundred (200) square feet or less

Section 4.113.02 Uses Subject To Site Plan Review

- a) Retail
- b) Business and professional office
- c) Bank, financial institution or office
- d) Restaurant and tavern
- e) Museum
- f) Accessory use customary with or incidental to a permitted use.
- g) Accessory building greater than two hundred (200) square feet

Section 4.113.03 Uses Subject to Special Permit

- a) Church, synagogue, public and private school, library, public utility, substation, Town, State or Federal facility.
- b) Mortuary / Funeral Parlors.
- c) Drive-up window - Banks, see Section 8.04.00.
- d) Liquor store.
- e) Boat sales agency.
- f) Automobile sales agency.
- g) Hotels / Motels with fewer than 50 rooms.
- h) Video arcades (with less than three (3) machines)
- i) Accessory use customary with or incidental to a special permit use.
- j) Accessory building greater than two hundred (200) square feet.
- k) Bed and Breakfast.
- l) Boarding Houses, Lodging and Rooming Houses.
- m) Inn.
- n) Family Entertainment Centers [Effective 4-18-11]
- o) Miniature Golf Course (see Section 8.25.00) [Effective 8-16-12]

Section 4.113.04 Multiple Uses on A Lot or in a Single Building



Uses may be combined on a single lot or within a single structure, provided that all standards for each individual use are met. Where the standards for the combined uses are not identical, the most stringent standards shall apply to the entire complex.

Section 4.113.05 Prohibited Uses

The following are prohibited uses in the NC District:

## Exhibit C

**Exhibit C**  
**Zoning Approval Summary**

None of the examples cited by Grace Farms Foundation, Inc. (“Foundation”) support its position that New Canaan’s Regulations allow multiple, contemporaneous principal uses on a single property.

1. **Group Home/Elderly Housing -- 162 South Avenue**

**Zoning Location:** Property located in the multi-family residential zone

**Key Facts:**

- Property includes multi-family elderly housing and a group home comprised of six developmentally disabled adults, both of which are multi-family residential uses
- Daycare use is pre-existing non-conforming use that predates adoption of special permit regime in current Regulations

**Conclusion:** As the Foundation itself notes, both residential uses are multi-family residential developments allowed in the zone, and thus as the identical type of use, do not support Foundation’s position of multiple, contemporaneous principal uses.

2. **Irwin Park -- 848 Weed Street**

**Zoning Location:** Property located in 1 & 2 acre residential zones

**Key Facts:**

- Predicate of town's purchase was the property’s use for passive and active recreation users and Commission stated it is a unique park because of location within residence zone; intent to preserve large portion of park for passive recreation and natural enjoyment plus provide needed athletic fields
- December 2007 Special Permit application was under Regulation § 3.2.C.10 for a municipal facility and secondarily under 3.2.C.11 for a government facility for temporary office space in Irwin House for town hall employees due to renovation of New Canaan Town Hall.
- March 2009 special permit was for Historical Society’s use of the Gores Pavilion as an accessory use under Regulation § 3.3.C.7 (which is for unspecified “other uses”) as an arts center instead of as a pool house (original purpose) and not for an additional principal use. Gores Pavilion is open during specific hours.
- May 2009 special permit was for use of property for baseball fields again under Regulation § 3.2.C.10 with conditional controls added for use and noise.
- December 2009 special permit was for use of property to construct an overflow gravel parking lot again per Regulation § 3.2.C.10
- August 2010 special permit for a municipal facility was again sought and approved again per Regulation § 3.2.C.10
- April 2012 special permit for additional municipal office space was also per Regulation § 3.2.C.10

**Conclusion:** Principal use of 848 Weed Street is as a municipal facility with passive and active recreation, including athletic fields. Gores Pavilion was approved as an accessory use. The secondary approval of the property as a government facility was only on a temporary basis and due to the extraordinary circumstances of the pending gut renovation of the Town Hall.

3. ***K.E. Manuel / Congregational Church -- 23 Park Street***

**Zoning Location:** Property located in the 1-acre residence zone at God's Acre

**Key Facts:**

- Application in August 1980 predates special permit regime in Regulations and was approved by Zoning Permit
- Nursery school has minimal impact on abutting neighbors -- 1 day a week for 2 hours for a maximum of 8 children

**Conclusion:** The principal use of 23 Park Street is the Congregational Church as a Religious Institution. Nursery school/daycare activities, including the 1980 Zoning Permit, represent a well-recognized ancillary activity of any church, no different than anticipated at Grace Community Church as part of Commission's 2013 approval of a Religious Institution at Grace Farms.

4. ***671 South Avenue***

**Zoning Location:** Property located at Waveny Park in Waveny Zone

**Key Facts:**

- July 2010 approval relates only to a permit for telecommunication (i.e. cellular) facilities on existing town-owned structure per Regulation § 7.8

**Conclusion:** Completely distinguishable from Foundation's application as it is not a principal use of the property.

5. ***St. Michael's Lutheran Church -- 5 Oenoke Ridge Road***

**Zoning Location:** Property located in the 1/2-acre residential zone

**Key Facts:**

- Foxglove School's January 1977 application for a nursery school predates special permit regime in Regulations and was approved by Zoning Permit in August 1977.
- Church's Sunday school facilities to be used for a not-for-profit nursery school
- Minimal impact on abutting neighbors – maximum enrollment in nursery school 15 children
- May 2014 application for Toddlertime Nursery School to locate their "5's" class in Church's Sunday school facilities; appears to have been a temporary request

because program now located at Congregational Church

**Conclusion:** The principal use of 5 Oenoke Ridge is St. Michael's Lutheran Church as a Religious Institution. Nursery school/daycare activities represent ancillary activities of any church, similar to that anticipated at Grace Community Church as part of Commission's 2013 Approval of a Religious Institution at Grace Farms.

6. *St. Mark's Church -- 111 Oenoke Ridge*

**Zoning Location:** Property located in the 1-acre and ½-acre residential zones

**Key Facts:**

- January 2002 administrative action to allow for temporary doubling of existing daycare given YMCA construction -- YMCA daycare effectively merged with St. Mark's daycare for duration of YMCA's construction activities
- STAR Inc. day care center predates special permit regime in Regulations and was approved by Zoning Permit in 1985
- **Conclusion:** The principal use of 111 Oenoke Ridge is St. Mark's Church as a Religious Institution. Daycare activities represent a well-recognized ancillary activity of any church, and the 2002 administrative approval related to the YMCA temporary use was an identical use, both of which are similar to those anticipated at Grace Community Church as part of Commission's 2013 Approval of a Religious Institution at Grace Farms.

7. *New Canaan Nature Center -- 144 Oenoke Ridge*

**Zoning Location:** Property located at the Susan Dwight Bliss Park in a Park zone

**Key Facts:**

- New Canaan Nature Center established in 1960 and pre-dates existing Regulation's special permit regime; only cited approval was an advisory referral per Conn. Gen. Stat. § 8-24
- 1982 agreement with town relates to building of a horticultural education building that became town property upon completion
- Nature Center offers preschool for 2, 3, 4 and 5 year olds in the mornings
- Child day care approved administratively by town planner in November 2003 and again in December 2011

**Conclusion:** Principal use of this property is a public park. The environmental education center and nursery school/daycare are accessory activities related to the Nature Center's environmental education mission and were approved administratively, not by special permit. These uses are similar to the ancillary nursery/daycare uses approved for Grace Community Church as part of Commission's 2013 Approval of a Religious Institution at Grace Farms.

162 South Avenue

PLANNING & ZONING COMMISSION

ORGANIZATIONAL MEETING

TUESDAY, JANUARY 27, 1998

REGULAR MEMBERS PRESENT:

MR. JEX  
MR. MCKAY  
MR. FLAHERTY  
MR. SCANNELL  
MR. WENDELL  
MRS. GRZELECKI  
MR. KOLFF

REGULAR MEMBERS ABSENT:

MR. HUNZIKER  
VACANCY

ALTERNATE MEMBERS PRESENT:

MR. COBURN  
MR. ROTHBALLER  
MRS MASON

ALTERNATE MEMBERS ABSENT:

The Organizational Meeting was called to order at 7:15 P.M., by the First Selectman. The first order of business was the election of officers for 1998.

On motion of Mr. Wendell, seconded by Mrs. Grzelecki, Mr. Jex was nominated for another term as Chairman. There were no further nominations, and Mr. Jex was unanimously elected.

On motion of Mr. Jex, seconded by Mrs. Grzelecki, Mr. McKay was nominated for another term as Secretary. There were no further nominations, and Mr. McKay was unanimously elected.

Mr. Bond thanked the members for their service as volunteers and their commitment to making appropriate and difficult decisions. A brief discussion followed on budget requests for the update of the Development Plan.

Mr. Bond then turned the meeting over to the Chairman, and on motion of Mrs. Grzelecki, seconded by Mr. McKay, it was voted to adjourn the Organizational Meeting at 7:25 P.M.

PLANNING & ZONING COMMISSION

REGULAR MEETING

TUESDAY, JANUARY 27, 1998

REGULAR MEMBERS PRESENT:

MR. JEX, CHAIRMAN  
MR. MCKAY, SECRETARY  
MR. FLAHERTY  
MR. SCANNELL  
MR. WENDELL  
MRS. GRZELECKI  
MR. KOLFF

REGULAR MEMBERS ABSENT:

MR. HUNZIKER  
VACANCY

ALTERNATE MEMBERS PRESENT:

MR. COBURN  
MR. ROTHBALLER  
MRS MASON

ALTERNATE MEMBERS ABSENT:

The Regular Meeting was called to order at 8:09 P.M., following the Hearing on the N.C. Bar proposal. Mr. Coburn was seated for the vacancy, Mr. Rothballer for Mr. Hunziker.

On n  
of I  
seve

On n  
of c  
type

The  
give  
Elm  
of t  
leng  
1998

The  
act  
for  
to c  
caus  
stri  
had  
Pete  
of t  
draj  
engi  
abut  
Grze  
Subc

1.

2.

3.

4.

5.

6.

7.

8.

On n  
Comm  
at \$



## Legal Notices

### TOWN PLANNING & ZONING COMMISSION NOTICE OF ACTION TAKEN

Notice is hereby given that the Town Planning and Zoning Commission at its meeting of May 19, 1998 took the following actions:

#### I. Application withdrawn:

1. Petition of the N.C. Bar As-

sociation that the Zoning Regulations as amended be further amended as advertised in the April 16 and 23, 1998 issues of The New Canaan Advertiser.

#### II. Applications approved:

2. Application is made by the Town of New Canaan as Owner/Applicant together with

New Canaan Group Home, Inc. as co-applicant, pursuant to Section 60-3.17(F) of the Zoning Regulations of the Town of New Canaan to amend the Commission's approval of a Group Home for 6 developmentally disabled adults. The Commission approved the application on January 27, 1998 with a condition regarding density. The Applicant now asks the Commission to amend the approval by deleting the condition regarding the

density issue.

3. Application of J. Chachkes, 110 South Ave., for site plan approval to add one apartment to an existing building in the Apartment Zone.

Map "E" Block 64 Lot 911

4. Application of S.N.E.T. and C.D.O.T., Rte. #123 and No. Wilton Rd., for a Zoning Permit to place an additional telephone equipment cabinet on an existing site.

Map 40 Block 39 Lot N/A  
(State R.O.W.)

5. Application of New Canaan Country School, 545 Ponus Ridge, for a Special Permit to allow site work. (Structural changes approved February 24, 1998.)

Map 25 Block 12 Lot 76.

ROBERT McKAY  
Secretary  
5-21

848 Weed Street



**SPECIAL PERMIT APPLICATION/PUBLIC HEARING REQUEST FORM**

The undersigned owner(s) of record hereby apply for a SPECIAL PERMIT as to certain Real Estate located at # 848 Weed Street.

Within 500 feet of another municipality? Yes ( ) No (X) Town of \_\_\_\_\_

Applicant's Name: Town of New Canaan, Park & Recreation Commission

Address: 677 South Avenue, New Canaan, CT 06840

Applicant's Telephone Number: 203-594-3605 Email Address: Stephen.Benko@newcanaanct.gov

In the 1&2 Ac Res. Zone, as shown in the New Canaan Land Records: VOLUME 713, PAGE 113

And more particularly described by bounding owners as follows:

Northerly by: Elizabeth Vigano, et al.  
Easterly by: Sara Rehnberg, et al.

Southerly by: Thomas J. Letarte, et al.  
Westerly by: Kevin C. Clark, et al.

MAP # 32      BLOCK # 201      LOT # 1

I am requesting a SPECIAL PERMIT of Section(s) 3.2.C.10 (or requesting a PUBLIC HEARING) described as  
1) municipal park and 2) recreation facilities at the Irwin Park property

You must attach a detailed statement describing: 1) the existing and proposed use or uses; and 2) how the Special Permit criteria are addressed.

Were Special Permits or Variances previously granted for this property? Yes (X) No ( )  
If yes, a copy of the Certificates or Decision must be attached.

I hereby acknowledge that unless I comply with provisions of Article 8, Section 8.1.G. of the Zoning Regulations, which require specific notification of certain neighbors, my application will not be complete and cannot be heard.

PRINT: Town of New Canaan  
Owner of record

SIGNED: JEB  
Owner of record

Official date of receipt: 08/30/10      Hearing scheduled: 09/28/10

I, X Jean Grzelecki, Secretary of the Planning & Zoning Commission of the Town of New Canaan, hereby certify that at a meeting of said Commission duly held on 12/14/10, said Commission by resolution voted:

- 1. That said Special Permit be DENIED.
- P   2. That said Special Permit be GRANTED.
- P   3. That said Special Permit be effective upon its recording on the Land Records in the Town Clerk's Office.
- P   4. That notice of such Action be published as required.
- P   5. Conditions, modifications, or restrictions:

Doc ID: 001834330003 Type: LAN  
Book 840 Page 566 - 568  
File# 2503



Jean Grzelecki  
Jean Grzelecki, Secretary

12/23/10 NC Advt.  
Published NC News

12/14/10 Granted Special Permit  
Irwin Park  
848 Weed Street  
Town of New Canaan

Page 2

Conditions, modifications or restrictions are as follows:

The Planning and Zoning Commission recognizes the Parks and Recreation Commission's desire to expedite and simplify the permitting process for the various user groups that utilize Irwin Park. Both the Parks and Recreation Commission and the Planning and Zoning Commission have publicly stated that Irwin Park is a unique park because of its location within a residential area and its diverse user groups. In addition, many of our elected officials have testified that when the town decided to purchase the park one of the major benefits, recognized by many of the neighbors and the community at large, was the ability of this park to satisfy both passive and active recreation users. This Commission acknowledges that fact and believes that this Special Permit application will not only preserve a large portion of the park for passive recreational and natural enjoyment, but will also provide needed athletic fields for New Canaan's youth.

This Commission also recognizes the concerns of the park's neighbors and believes additional safeguards can be added to the application to protect their rights and preserve the integrity of the surrounding neighborhood. Therefore, the Planning and Zoning Commission approves this Special Permit application as proposed, with the modifications outlined below. In addition, it is the opinion of this Commission that the proposed Special Permit Application, as modified, the accompanying Irwin Park Master Plan titled Use Demarcation Plan and the Topographical Survey, prepared by RKW Land Surveying, dated November 9, 2010 are the Master Plan for Irwin Park and should be viewed as such by the Town of New Canaan.

1. The Parks and Recreation Commission shall prepare an annual report to the Planning and Zoning Commission each December summarizing the programs and user groups from the previous year, anticipated changes to the programs and user groups for the coming year, any anticipated changes to the park's facilities for the coming year and any complaints received by the Parks and Recreation Department regarding activities related to the Special Permit as well as the actions taken on each complaint.
2. Any new structure or facility, or modification to an existing or approved structure or facility, that is not contained within the Special Permit text, indicated on the Irwin Park Master Plan, Use Demarcation Plan, or the Topographical Survey, prepared by RKW Land Surveying, dated November 9, 2010, requires an additional Special Permit from the Planning and Zoning Commission.
3. Permission to use the fields for organized sporting activities and special events must be obtained from the Park and Recreation Commission in accordance with the Special Permit text.

12/14/10 Granted Special Permit  
Irwin Park  
848 Weed Street  
Town of New Canaan

Page 3

4. As indicated in the application, loud speakers and noise-amplifying devices are prohibited. In addition, noise associated with special events approved by the Parks and Recreation Commission shall comply with the Noise Ordinance, as indicated in the Town Code.
5. On such dates where there is a large special event or when the athletic fields are being utilized at a high capacity, the designated overflow parking shall be opened and attendees shall be directed to park in that area.
6. On such dates where there is a large special event or when the athletic fields are being utilized at a high capacity, the Parks and Recreation Commission shall require that the authorized group(s) or organization(s) shall appoint or hire an individual(s) to ensure that vehicles entering the park, park in the designated spaces and direct them to the overflow parking area once the other spaces are full.
7. Large events, aside from regularly scheduled sporting events, proposed for 50 or more people shall obtain a Temporary Permit from the Planning and Zoning Commission.
8. There shall be no parking associated with sporting or special events along Weed Street, Wahackme Road or Bayberry Road.
9. The use of the sports fields shall not start prior to 9:00 AM on weekends and conclude at sunset when the park closes. This restriction includes practices prior to the regularly scheduled games.
10. The dates and hours of operation for the fields shall be posted. The associated signage shall be in accordance with "Proposed Signage Limitations for Irwin Park", as indicated on page five of the Special Permit application.
11. The Irwin House shall not be used for night meetings.
12. Additional evergreen screening, excluding White Pine, shall be installed along the park's northern boundary, the full length of Wahackme Road. Any diseased or deceased trees shall be replaced as soon as planting conditions become favorable.
13. Any play structures, including swing sets, proposed within the Children's Garden shall be approved by the Planning and Zoning Commission and shall be constructed of neutral colors as to blend with the natural environment.

Received for record on 12-20-10 at 11:14 am

And recorded by Claudia A. Weber  
TOWN CLERK



**SPECIAL PERMIT APPLICATION/PUBLIC HEARING REQUEST FORM**

The undersigned owner(s) of record hereby apply for a SPECIAL PERMIT as to certain Real Estate located at: # 848 Weed Street Street/Road.

Within 500 feet of another municipality? Yes ( ) No (x) Town of \_\_\_\_\_

Applicant's Name: Town of New Canaan (Frank DeNicola) Address: 77 Main St, New Canaan, CT 06840

Applicant's Telephone Number: 203-854-3057 Email Address: frank.denicola@ci.new-canaan.ct.us

In the 1 & 2 Acre Zones, as shown in the New Canaan Land Records: VOLUME 713, PAGE 113

And more particularly described by bounding owners as follows:

Northerly by: Elizabeth Vigano  
Easterly by: Sara Rehnberg

Southerly by: Thomas J. Letarte  
Westerly by: Kevin C. Clark

MAP # 32 BLOCK # 201 LOT # 1

I am requesting a SPECIAL PERMIT of Sections 3.2.C.10 & 3.2.C.11 (or requesting a PUBLIC HEARING) described as follows: to use a portion of the Main House at the Irwin property as temporary office space to accommodate Town Hall employees during renovations to Town Hall.

You must attach a detailed statement describing: 1) the existing and proposed use or uses; and 2) how the Special Permit criteria are addressed.

Were Special Permits or Variances previously granted for this property? Yes (x) No ( )  
If yes, a copy of the Certificates or Decision must be attached.

I hereby acknowledge that unless I comply with provisions of Article 8, Section 8.1.G. of the Zoning Regulations, which require specific notification of certain neighbors, my application will not be complete and cannot be heard.

PRINT: Frank DeNicola  
Town of New Canaan  
Owner of record

SIGNED: [Signature]  
Owner of record

Official date of receipt: 10/29/07 Hearing scheduled: 11/27/07

I, XX Jean Grzelecki, Secretary of the Planning & Zoning Commission of the Town of New Canaan, hereby certify that at a meeting of said Commission duly held on 11/27/07, said Commission by resolution voted:

- 1. That said Special Permit be DENIED.
- X   2. That said Special Permit be GRANTED.
- X   3. That said Special Permit be effective upon its recording on the Land Records in the Town Clerk's Office.
- X   4. That notice of such Action be published as required.
- 5. Conditions, modifications, or restrictions:

[Signature]  
Jean Grzelecki, Secretary

12/6/07 New Canaan Advertiser  
Published

Rev 11/01/07

S:\BLANK FORMS\SPECIAL PERMITS\Special Permit 848 Weed St Irwin Certification Application P&Z PH 11.27.07.doc

Received for record on 12-3-07 at 11:16am  
And recorded by Claudia A. Weber  
TOWN CLERK



**SPECIAL PERMIT APPLICATION/PUBLIC HEARING REQUEST FORM**

The undersigned owner(s) of record hereby apply for a SPECIAL PERMIT as to certain Real Estate located at:  
# Iron Park 848 Weed Street Street/Road.

Within 500 feet of another municipality? Yes ( ) No (X) Town of \_\_\_\_\_

Applicant's Name: The New Canaan Historical Society Address: \_\_\_\_\_

Applicant's Telephone Number: 966 1926 Email Address: newcanaanhistoricalsociety.net

In the 1&2 ACR Zone, as shown in the New Canaan Land Records: VOLUME 713, PAGE 113

And more particularly described by bounding owners as follows:

Northerly by: Elizabeth Vignano Southerly by: Thomas J. Letarte  
Easterly by: Sara Rehnberg Westerly by: Kevin C. Clark

MAP # 32 BLOCK # 201 LOT # 1

I am requesting a SPECIAL PERMIT of Section(s) 3,3,C,7 (or requesting a PUBLIC HEARING)  
described as follows: To change the use of the Green Pavilion  
from a poolhouse to a center for the arts.

You must attach a detailed statement describing: 1) the existing and proposed use or uses; and 2) how the Special Permit criteria are addressed.

Were Special Permits or Variances previously granted for this property? Yes ( ) No (X)  
If yes, a copy of the Certificates or Decision must be attached.

I hereby acknowledge that unless I comply with provisions of Article 8, Section 8.1.G. of the Zoning Regulations, which require specific notification of certain neighbors, my application will not be complete and cannot be heard.

PRINT: The New Canaan Historical Society SIGNED: Jean Grzelecki  
Owner of record Society Owner of record Authorized Agent  
Official date of receipt: 1/26/09 Hearing scheduled: 2/24/09

I, XX Jean Grzelecki, Secretary of the Planning & Zoning Commission of the Town of New Canaan, hereby certify that at a meeting of said Commission duly held on 2/24/09, said Commission by resolution voted:

- \_\_\_\_\_ 1. That said Special Permit be DENIED.
- XX 2. That said Special Permit be GRANTED.
- XX 3. That said Special Permit be effective upon its recording on the Land Records in the Town Clerk's Office.
- XX 4. That notice of such Action be published as required.
- \_\_\_\_\_ 5. Conditions, modifications, or restrictions:

Jean M. Grzelecki  
Jean Grzelecki, Secretary

3/5/09 New Canaan Advertise:  
Published

SABLANK FORMS/SPECIAL PERMITS/Special Permit App\_Info\_11.01.07.doc



Doc ID: 000577890001 Type: LAN  
Book 801 Page 990  
File# 2354

Received for record on 3/5/09 at 2:54 pm  
And recorded by Claudia A. Weber  
TOWN CLERK



**SPECIAL PERMIT APPLICATION/PUBLIC HEARING REQUEST FORM**

The undersigned owner(s) of record hereby apply for a SPECIAL PERMIT as to certain Real Estate located at: # 848 Weed Street Street/Road.

Within 500 feet of another municipality? Yes ( ) No (x) Town of \_\_\_\_\_

Applicant's Name: Town of New Canaan (Tiger Mann) Address: 77 Main St, New Canaan, CT 06840

Applicant's Telephone Number: 203-594-3056 Email Address: tiger.mann@ci.new-canaan.ct.us

In the 1 & 2 Acre Zones, as shown in the New Canaan Land Records: VOLUME 713, PAGE 113

And more particularly described by bounding owners as follows:

Northerly by: Elizabeth Vigano  
Easterly by: Sara Rehnberg

Southerly by: Thomas J. Letarte  
Westerly by: Kevin C. Clark

MAP # 32 BLOCK # 201 LOT # 1

I am requesting a SPECIAL PERMIT of Sections 3.2.C.10, described as follows: to use a portion of the northeast corner of the property for baseball fields.

You must attach a detailed statement describing: 1) the existing and proposed use or uses; and 2) how the Special Permit criteria are addressed.

Were Special Permits or Variances previously granted for this property? Yes (x) No ( )  
If yes, a copy of the Certificates or Decision must be attached.

I hereby acknowledge that unless I comply with provisions of Article 8, Section 8.1.G. of the Zoning Regulations, which require specific notification of certain neighbors, my application will not be complete and cannot be heard.

PRINT: TIGER Mann  
Owner of record

SIGNED: [Signature]  
Owner of record TIGER Mann

Official date of receipt: April 20, 2009 Hearing scheduled: May 19, 2009

I, XX Jean Grzelecki, Secretary of the Planning & Zoning Commission of the Town of New Canaan, hereby certify that at a meeting of said Commission duly held on 5/19/09, said Commission by resolution voted:

- 1. That said Special Permit be DENIED.
- XX 2. That said Special Permit be GRANTED.
- XX 3. That said Special Permit be effective upon its recording on the Land Records in the Town Clerk's Office.
- XX 4. That notice of such Action be published as required.
- XX 5. Conditions, modifications, or restrictions: Please see page 2 attached.

Jean Grzelecki  
Jean Grzelecki, Secretary

New Canaan News Review  
New Canaan Advertiser  
Published May 28, 2009

Rev 11/01/07

Doc ID: 000965140002 Type: LAN  
Book 806 Page 606 - 607  
File# 3414

VOL 806 PG 0607

05/19/09 Granted Special Permit  
848 Weed, Irwin Park  
Page 2

1. The backstop and fencing may be seasonal only and can be erected for the requested period of time: April 15<sup>th</sup> to July 1<sup>st</sup>.
2. There shall be no scoreboards or lights.
3. Screening shall be installed, as soon as practical, along Wahackme Road to preclude the neighbors view of the backstops.
4. There shall be no parking associated with the sports activities along Weed Street, Wahackme Road or Bayberry Road.

Received for record on 6/1/09 at 2:30 pm  
And recorded by Claudia A. Weber  
TOWN CLERK



**SPECIAL PERMIT APPLICATION/PUBLIC HEARING REQUEST FORM**

The undersigned owner(s) of record hereby apply for a SPECIAL PERMIT as to certain Real Estate located at: # 848 Weed Street Street/Road.

Within 500 feet of another municipality? Yes ( ) No (x) Town of \_\_\_\_\_

Applicant's Name: Town of New Canaan (Tiger Mann) Address: 77 Main St, New Canaan, CT 06840

Applicant's Telephone Number: 203-594-3056 Email Address: tiger.mann@ci.new-canaan.ct.us

In the 1 & 2 Acre Zones, as shown in the New Canaan Land Records: VOLUME 713, PAGE 113

And more particularly described by bounding owners as follows:

Northerly by: Elizabeth Vigano

Southerly by: Thomas J. Letarte

Easterly by: Sara Rehnberg

Westerly by: Kevin C. Clark

MAP # 32 BLOCK # 201 LOT # 1

I am requesting a SPECIAL PERMIT of Sections 3.2.C.10, described as follows: to construct a parking lot in the northeast corner of the property.

You must attach a detailed statement describing: 1) the existing and proposed use or uses; and 2) how the Special Permit criteria are addressed.

Were Special Permits or Variances previously granted for this property? Yes (x) No ( )  
If yes, a copy of the Certificates or Decision must be attached.

I hereby acknowledge that unless I comply with provisions of Article 8. Section 8.1.G. of the Zoning Regulations, which require specific notification of certain neighbors, my application will not be complete and cannot be heard.

PRINT: Michael Pastore  
Owner of record

SIGNED: Michael Pastore  
Owner of record

Official date of receipt: 11/16/09 Hearing scheduled: 12/15/09

I, X Jean Grzelecki, Secretary of the Planning & Zoning Commission of the Town of New Canaan, hereby certify that at a meeting of said Commission duly held on 12/15/09, said Commission by resolution voted:

- 1. That said Special Permit be DENIED.
- X   2. That said Special Permit be GRANTED.
- X   3. That said Special Permit be effective upon its recording on the Land Records in the Town Clerk's Office.
- X   4. That notice of such Action be published as required.

  X   5. Conditions, modifications, or restrictions: 1. The Parking Lot construction must comply with the Town's Drainage Certification Policy

Jean M. Grzelecki  
Jean Grzelecki, Secretary

12/23/09 N.C. News  
Published N.C. News

Received for record on 12-21-09 at 2:32 pm

And recorded by Chloe A. Weber TOWN CLERK  
BOOK 818 Page 1062 File Number: 2303 Seq: 1



SPECIAL PERMIT APPLICATION/PUBLIC HEARING REQUEST FORM

The undersigned owner(s) of record hereby apply for a SPECIAL PERMIT as to certain Real Estate located at: #848 Weed Street/Road.

Within 500 feet of another municipality? Yes ( ) No (X) Town of \_\_\_\_\_

Applicant's Name: Town of New Canaan Address: 77 Main St, New Canaan
Applicant's Telephone Number: 943-594-3715 Email Address: william.Oestmann@nccanaanct.gov
In the 2 acre zone, as shown in the New Canaan Land Records: VOLUME 713, PAGE 113
And more particularly described by bounding owners as follows:

Northerly by: Elizabeth Vigano, et al. Southerly by: Thomas J. Letarte, et al.
Easterly by: Sara Rehnberg, et al. Westerly by: Kevin C. Clark, et al.

MAP # 32 BLOCK # 201 LOT # 1

I am requesting a SPECIAL PERMIT of Section(s) 3, 2, C, 10 & 8.2 (or requesting a PUBLIC HEARING)
described as follows: to allow for municipal office space within
the first floor of the Guest Apartment

You must attach a detailed statement describing: 1) the existing and proposed use or uses; and 2) how the Special Permit criteria are addressed.

Were Special Permits or Variances previously granted for this property? Yes (X) No ( )
If yes, a copy of the Certificates or Decision must be attached.

I hereby acknowledge that unless I comply with provisions of Article 8, Section 8.1.G. of the Zoning Regulations, which require specific notification of certain neighbors, my application will not be complete and cannot be heard.

PRINT: Town of New Canaan SIGNED: R. E. Malloy, III
Owner of record Owner of Record

Official date of receipt: 01/30/12 Hearing scheduled: 02/28/12

I, Jean Grzelecki, Secretary of the Planning & Zoning Commission of the Town of New Canaan, hereby certify that at a meeting of said Commission duly held on 03/27/12, said Commission by resolution voted:

- 1. That said Special Permit be DENIED.
2. That said Special Permit be GRANTED.
3. That said Special Permit be effective upon its recording on the Land Records in the Town Clerk's Office.
4. That notice of such Action be published as required.
5. Conditions, modifications, or restrictions:

Jean M. Grzelecki
Jean Grzelecki, Secretary

04/05/12 New Canaan
Published advertiser

C:\Users\delucs\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\0P3111FGES\Special Permit App\_Info 10 01 09.doc

Received for record on 4-3-12 at 2:31 pm
And recorded by Claudia A. Weber
TOWN CLERK

Doc ID: 001906210001 Type: LAN
Book 869 Page 1129
File# 3703

23 Park Street

*S. M. Barnes*

S. M. Barnes  
Secretary

---

TOWN PLANNING AND ZONING COMMISSION  
SPECIAL MEETING  
Tuesday, August 12, 1980

Members Polled:

Mr. William D. Hart, Jr., Chairman  
Mr. John M. Jex  
Mr. John M. Reid  
Mr. David A. Teaze  
Mr. S. M. Barnes

The Town Planner polled each listed member regarding the request of the Board of Selectmen for a Report and Recommendation on its proposal to lease the former Lloyd house on Lapham Road to a private party for residential purposes.

Each member, after due consideration, voted unanimously to recommend that it had no objection to the leasing of the house until such time as the Town decides upon the appropriate use for the property as a part of the Waveny Park complex.

*S. M. Barnes*

S. M. Barnes  
Secretary

---

TOWN PLANNING AND ZONING COMMISSION  
PUBLIC HEARING  
Tuesday, August 26, 1980  
8:15 P.M.

Present: Mr. William D. Hart, Jr., Chairman  
Mr. John M. Jex  
Mr. Gouverneur M. Nichols  
Mr. Laszlo Papp  
Mr. John M. Reid  
Mr. Crosby R. Smith  
Mr. David A. Teaze  
Mr. S. M. Barnes, Secretary  
Mr. Daniel A. Foley, Town Planner

e-

t-

r-

ng

The Chairman opened the Public Hearing at 8:20 P.M. and read the first Call as follows:

NOTICE IS HEREBY GIVEN that the Town Planning and Zoning Commission will hold a Public Hearing in the Board Room of the Town Hall on Tuesday, August 26, 1980 at 8:15 P.M. to consider the following:

1) Application of H. T. White, Jr. for a Resubdivision of six lots on the Westerly side of Weed Street and the South-erly ends of Parish Road and Parish Lane.

Maps 2-7, Block 11, Lots 261, 262, 263 (H-7)

2) Application of the New Canaan Water Company for a Zoning Permit under Sections 60-4.1.0 and 60-4.2(a) to allow expansion of an existing storage building on the Westerly side of Weed Street.

Map 1, Block 11, Lot 166

3) Application of K. L. Manuel, Congregational Church. property owner, for a Zoning Permit under Sections 60-4.1F and 60-4.2 to allow an additional nursery school on the premises on the Westerly side of Park Street, maximum of eight (8) children, one (1) day per week, two (2) hours per day.

Map B, Block 19, Lot 812

Mr. Ackerly presented the H. T. White, Jr. Application and discuss-ed it with members of the Commission.

Mr. Negria, the Manager of the New Canaan Water Company, discussed the New Canaan Water Company Application with members of the Com-mission.



Although the Town Planner reported that she had been notified of the Public Hearing Mrs. Manuel was not present and, as there was no one present opposed to the Application, it was assumed that no one would be prejudiced if the Application was discussed with Mrs. Manuel at a later meeting.

The Chairman read the second Call as follows:

NOTICE IS HEREBY GIVEN that the Town Planning and Zoning Com-mission will hold a Public Hearing in the Board Room of the Town Hall on Tuesday, August 26, 1980 at 8:15 P.M. to consider the proposal of the Commission to amend the ZONING REGULATIONS as follows:

60-10.5. Rooftop Appurtenances.

In a Business Zone, no rooftop appurtenances, including but not limited to stairwell housings, air-conditioning units, cooling towers, solar panels, heat pumps, elevator shafts or similar mechanical equipment shall extend above the roof level of any building unless the following re-quirements are met:

Mr.  
con  
to  
sic

(Th  
Tow

The

Pre

The  
and  
of  
una:

Upo:  
Spe

The  
dur:  
a le  
the  
the  
Mr.

ion  
ider-  
was  
t  
per-  
had  
e  
ro-  
of  
a  
ate  
at  
id  
ion  
l

CERTIFICATION

I, S. M. BARNES, Secretary of the Town Planning and Zoning Commission, hereby certify that I caused the Notice of Public Hearing to be filed in the Office of the Town Clerk and published in the NEW CANAAN ADVERTISER issues of September 11, 1980 and September 18, 1980.



S. M. Barnes  
Secretary

LEGAL NOTICE      LEGAL NOTICE

**PUBLIC HEARING  
TOWN PLANNING AND  
ZONING COMMISSION**

NOTICE IS HEREBY GIVEN that the Town Planning and Zoning Commission will hold a Public Hearing in the Board Room of the Town Hall on Tuesday, September 23, 1980 at 8:15 P.M. to consider the following:

Application of J.E. Crego for a subdivision of three lots on the Easterly side of White Oak Shade Road, Map 11, Block 88, Lot 54.

9-11-9-18

TOWN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
Tuesday, September 9, 1980  
8:15 P.M.

ear-  
3  
ed  
Jex,  
cation  
-  
5th,  
ent-

- Present: Mr. William D. Hart, Jr., Chairman  
Mrs. David B. Findlay, Jr.  
Mr. John M. Jex  
Mr. Gouverneur M. Nichols  
Mr. Laszlo Papp  
Mr. John M. Reid  
Mr. Crosby R. Smith  
Mr. S. M. Barnes, Secretary  
Mr. Daniel A. Foley, Town Planner

ur-  
ber

The recessed meeting of August 26, 1980 was reconvened at 8:22 P.M. and, upon motion of Mr. Papp, seconded by Mr. Jex, the MINUTES of said meeting were unanimously approved as corrected and the meeting was unanimously adjourned.

The Chairman then called the meeting of September 9, 1980 to order at 8:30 P.M. and meetings were scheduled for October 14th and October 28th, the Public Hearing to be held on the 28th.

The Chairman recalled that no one had been present at the Public Hear-

100  
→ ing of August 26th to discuss the K. E. Manuel and Congregational Church Application and reported that Mrs. Manuel had asked to attend tonight's meeting to discuss the Application. Following a discussion with Mrs. Manuel, upon motion of Mr. Jex, seconded by Mr. Smith, it was voted unanimously to approve the Application of K. L. Manuel and the Congregational Church for a Zoning Permit to allow an additional nursery school to be conducted on the Church premises at 1 Park Street, the Permit to be limited to no more than eight (8) children, one (1) day per week, two (2) hours per day.

After consideration of the New Canaan Water Company Application, upon motion of Mr. Reid, seconded by Mr. Smith, it was voted unanimously that the Application of the New Canaan Water Company for a Zoning Permit under Sections 60-4.1.0 and 60-4.2(a) to permit expansion of an existing storage building located on the Westerly side of Weed Street be approved.

Following discussion of the Kiwanis Club request to be permitted to hold its annual Antique Show at the New Canaan High School, the Chairman agreed to talk with Mr. Jeremiah Miller and tell him the Commission prefers to hear representatives of the Club at the Public Hearing the Commission hoped to hold in October on an amendment to the Regulations, however, if they wish to attend the September 23rd Hearing as Mr. Miller indicated in his letter, he would suggest they be represented by one or two people who could address themselves to the merits of the request.

The proposed amendment was discussed at length as prepared by the Chairman, suggestions were made and the Town Planner instructed to request the Corporation Counsel to check the language and it was hoped that he would be able to do so as early as possible in order that the Public Hearing could be held at the October Hearing.

Following discussion of the suggestion that the Commission require a bond to insure swimming pools would be properly fenced, it was the consensus that such a regulation was not within the scope of the planning function.

The Town Planner explained the request of Mr. John Kennedy, the lawyer for the owner of the McCrum property on Oenoke, and the Commission agreed to listen to the request at the meeting of September 23rd, however, it was to be understood that the Commission's willingness to listen was in no way to be considered an indication that the proposed realignment of the accessway would be approved.

The request of the Burning Tree for approval of a sign was turned over to the Sign Committee for a report.

At 10:26 P.M., Mr. Smith moved that the Commission recess this meeting until the meeting of September 23, 1980, Mr. Jex seconded the motion and it was voted unanimously.



S. M. Barnes  
Secretary

671 South Avenue



**SPECIAL PERMIT APPLICATION/PUBLIC HEARING REQUEST FORM**

The undersigned owner(s) of record hereby apply for a SPECIAL PERMIT as to certain Real Estate located at: 671 South Avenue.

Within 500 feet of another municipality? Yes ( ) No (X) Town of \_\_\_\_\_

Applicant's Name: Clear Wireless LLC ("Clearwire") Address: Agent - Brown Rudnick, 185 Asylum Street

Applicant's Telephone Number: 860-509-6527 Email Address: jherz@brownrudnick.com

In the Waveny Zone, as shown in the New Canaan Land Records: VOLUME 188, PAGE 575

And more particularly described by bounding owners as follows: 465 382

Northerly by: Town of New Canaan  
Easterly by: "

Southerly by: Town of New Canaan  
Westerly by: "

MAP # 30 BLOCK # 51 LOT # 122

I am requesting a SPECIAL PERMIT of Section(s) 7.8 (Telecommunications) (or requesting a PUBLIC HEARING) described as follows: Clearwire proposes to install 3 dishes behind the existing screening located on top of the existing water tank located at 671 South Avenue in Waveny Park. Clearwire proposes to locate 1 GPS antenna on the existing equipment building and locate its equipment inside the existing equipment building located adjacent to the water tank.

You must attach a detailed statement describing: 1) the existing and proposed use or uses; and 2) how the Special Permit criteria are addressed.

Were Special Permits or Variances previously granted for this property? Yes ( ) No (X)  
If yes, a copy of the Certificates or Decision must be attached.

I hereby acknowledge that unless I comply with provisions of Article 8, Section 8.1.G. of the Zoning Regulations, which require specific notification of certain neighbors, my application will not be complete and cannot be heard.

PRINT: Jennifer Herz  
Owner of record  
\*Agent for Applicant

SIGNED: Jennifer Herz  
Owner of record  
\*Agent for Applicant

Official date of receipt: 06/28/10 Hearing scheduled: 07/27/10

I, Jean Grzelecki, Secretary of the Planning & Zoning Commission of the Town of New Canaan, hereby certify that at a meeting of said Commission duly held on 07/27/10, said Commission by resolution voted:

- 1. That said Special Permit be DENIED
- ✓   2. That said Special Permit be GRANTED
- ✓   3. That said Special Permit be effective upon its recording on the Land Records in the Town Clerk's Office.
- ✓   4. That notice of such Action be published as required.
- 5. Conditions, modifications, or restrictions:

Jean Grzelecki 08/05/10 Advertiser + News  
Jean Grzelecki, Secretary Published



Doc ID: 001682730001 Type: LAN  
Book 831 Page 568  
File# 579

Received for record on 8-10-10 at 10:26am

App recorded by Christina L. Lohr 579 Seq: 1  
BOOK: 831 Page: 568 File Number: 579  
**TOWN CLERK**

PLANNING & ZONING COMMISSION MINUTES

TUESDAY, 07/27/10

REGULAR MEMBERS PRESENT:

- Mr. Papp, Chairman
- Mrs. Grzelecki, Secretary
- Mr. Goodwin
- Mr. Hunziker
- Mr. Rothballer
- Mr. Scannell
- Mr. Ward
- Mr. Wendell

REGULAR MEMBERS ABSENT:

- Mr. Turner

ALTERNATE MEMBERS PRESENT:

- Ms. DeLuca
- VACANCY

ALTERNATE MEMBERS ABSENT:

- Ms. Boyd

Also in Attendance:

- Steve Kleppin, Town Planner/Senior Enforcement Officer
- Christopher Jarboe, Town Attorney

PUBLIC HEARING

Chairman Papp opened the Public Hearing at 7:32 p.m. Ms. DeLuca was seated for Mr. Turner.

LEGAL ADVERTISEMENT

A Legal Notice was also published in the New Canaan News NEW CANAAN ADVERTISER, NEW CANAAN, CONN., THURSDAY, JULY 15, 2010 21A

TOWN OF NEW CANAAN PLANNING & ZONING COMMISSION

Notice is hereby given that the Planning and Zoning Commission will hold a Public Hearing on Tuesday, July 27, 2010 at 7:00 p.m. in the Auditorium of the Town Hall to hear and decide applications as follows:

1. Upon application of Edward Mellick, Mellick & Sexton, P.C., Authorized Agent, for St. Lukes Foundation Inc., owner, for a Special Permit of Section 3.2.C.7 to allow two additions to the main school building, for property at 377 North Wilton Road, in the Four Acre Residence Zone (Map 40 Block 105 Lot 90).
2. Upon application of Edward Mellick, Mellick & Sexton, P.C., Authorized Agent, for Cherry Street Associates LTD Partnership, owner, for a Special Permit of Section 6.2.E.2.b to allow

- the use of 1700 square feet on the lower level for medical offices rather than general business offices without providing an additional five (5) parking spaces, for property at 65 Locust Avenue, in the Business Zone C (Map T Block 71 Lot 722).
- 3. Upon application of Edward Mellick, Mellick & Sexton, P.C., Authorized Agent, for Melissa A. Vaske, owner, for a 2-lot resubdivision for 5.177 acres of property in the Two Acre Residence Zone at 219 Canoe Hill Road (Map 38 Block 108 Lot 52).
- 4. Upon application of Jennifer A. Herz, Brown Rudnick, Authorized Agent, for Clear Wireless LLC, (Clearwire), Applicant, (Aquarion Water Company of Connecticut, owner), for a Special Permit of Section 7.8 to install three dishes behind the existing screening located on top of the existing water

- tank and locate one GPS antenna on existing equipment building, for property at 671 South Avenue (water tower in Waveny Park), in the Waveny Zone (Map 30 Block 11 Lot 221).
  - 5. Upon application of Steve Ilisley, Oldford Studios, L.L.C., Authorized Agent, for Mark E. and Kirsten H. Grzynski, owners, 53 Farity Drive, for a Special Permit of Section 3.5.F.5 to allow a second story addition to exceed the Maximum Side Yard Building Height of 20 feet and the Maximum Side Yard Total Building Height of 25 feet, for property in the A Residence Zone (Map M Block 138 Lot H81C).
- Dated: July 13, 2010  
New Canaan, Connecticut  
Jean N. Grzelecki,  
Secretary  
7-15  
7-22

on the issue of the dam, as a matter of safety maybe it can make one of the requirements for the approval that the applicant not start any work on the site until they produce a certification from the DEP showing that they have complied with the DEP requirements. He put into the record the binder discussed here, as well as a letter from an engineer that could not be present at the meeting. The thrust of his report has to do with how the proposed activity meshes with the flood plain requirements in the regulations and also the drainage runoff issues. He also has some traffic information that he doesn't have tonight, and he will submit that, as well as the picture that Mr. Wray mentioned. In addition, he has a copy of the record on appeal of the decision of the Inland Wetlands Commission, which he would like to submit to be considered as well. Also, a few other residents signed onto their petition during the meeting, and he will add that.

Mr. Papp thanked everyone who spoke, and assured them that, in its consideration of the application, the Commission will consider the applicant's property rights, the impact on the neighbors, and whether the application is going to benefit positively or negatively the entire town. Taking all of this information into consideration, along with the Town's regulations and State laws, the Commission will come to a conclusion.

Mr. Stan Mrus, 25 Hillcrest Road, said he has owned the property since 1952 and is concerned that the Commission has already accepted that this is a very intensive use when in reality it is a low keyed, innocuous operation and has been from the beginning. Putting in a commercial building is simply a more intensive use. He pointed out that a good portion of the property is on the river, and he questioned how the size of a septic system required for a multi tenant office building, the setback requirements taking into account the river and a well and the building itself, and the 24 parking spaces all fit on this half acre of land. It also concerns him that the Commission does not know what impact the dam issue is going to have on the building, and also how obtrusive the outside lighting and signage will impact the neighborhood, not to mention the additional traffic that will be generated.

The public hearing on this matter was continued until August 24, 2010.

#### 6. Clear Wireless LLC, Applicant, 671 South Avenue

Upon application of Jennifer A. Herz, Brown Rudnick, Authorized Agent, for Clear Wireless LLC, (Clearwire), Applicant, (Aquarion Water Company of Connecticut, owner), for a Special Permit of Section 7.8 to install three dishes behind the existing screening located on top of the existing water tank and locate one GPS antenna on existing equipment building, for property at 671 South Avenue (water tower in Waveny Park), in the Waveny Zone (Map 30 Block 11 Lot 221).

Ms. Jennifer Herz, Brown Rudnick, presented the application. She said Clearwater is currently upgrading its system to provide faster and larger data transfers. The site is FCC compliant. The applicant selected the site as it complies with its plan of conservation and development by using an existing structure which is fully screened. Mr. Kleppin pointed out that the map attached to the application was for the wrong town. Ms. Herz said she was not aware of that and will provide the Commission with an update.

Jane Muschamp, 585 Old Stamford Road, asked if this will increase the electromagnetic radiation coming from that site. Ms. Herz said all environment and health effects are governed by the FCC, and they have submitted a letter stating they will comply with all FCC requirements.

The public hearing on this matter was closed.

**REGULAR MEETING**

**7. Deliberation and any possible action on a closed public hearing item.**

***Discussion on Item #4 Cherry Street Associates LTD Partnership, 65 Locust Avenue***

Upon motion of Ms. Grzelecki and second of Mr. Hunziker, the Commission voted unanimously to approve the application.

***Discussion on Item #5 Melissa A. Vaske, owner, 219 Canoe Hill Road***

Upon motion of Mr. Goodwin and second of Ms. Grzelecki, the Commission voted unanimously to approve the application with conditions.

Conditions, modifications, or restrictions are as follows:

1. Final approval shall be obtained from the Health Department.
2. The applicant shall submit a Mylar and at least two paper copies of the record map for signing by the Commission and filing on the New Canaan Land Records within 90 days of the expiration of the appeal period. This shall be done prior to any earth disturbing activity on any of the property.
3. Prior to submitting the Mylar map, the applicant shall obtain lot numbers from the Tax Assessor.
4. All utilities shall be buried underground.
5. Per Resubdivision Map Prepared for Melissa A. Vaske, prepared by RKW Land Surveying, dated May 26, 2010, on-file with the Planning and Zoning Department.

***Discussion Item #6 Clear Wireless LLC, Applicant, 671 South Avenue***

Upon motion of Mr. Hunziker and second of Mr. Rothballer, the Commission voted unanimously to approve the application.

**8. Modification of the Plan Approval for 32 Forest Street.**

(Withdrawn by the applicant.)

**9. Sign Task Force Report.**

None.

**10. Appointment of two members for oversight of IHOZ study.**

Mr. Kleppin explained that the Town applied for a grant through the State of Connecticut Office of Policy and Management. The State enacted some regulations to make housing more affordable, and it set up a program for an overlay zone which basically allows increased density for affordable housing than current regulations allow. Mr. Hunziker and Mr. Rothballer agreed to become members of this Committee to work with the consultant on the final scope of work and implementation of the plan.

M  
pa  
Co  
  
13  
  
U  
ur  
  
14  
  
M  
  
U  
re

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

5 Oenoke Ridge Road

TOWN PLANNING AND ZONING COMMISSION  
REGULAR MEETING

Tuesday, January 11, 1977

8:15 P.M.

town

by

near

vicinity

rent,

cover-

f the

the

Present: Mr. William D. Hart, Jr., Chairman  
Mr. Laszlo Papp, Vice Chairman  
Mr. John M. Jex  
Mr. John M. Reid  
Mr. Crosby R. Smith  
Mr. Walter A. Stewart  
Mr. David A. Teaza  
Mr. Marshall Walker  
Mr. Henry S. Noble, First Selectman and Member ex officio  
Mrs. Patterson Morgan, Secretary  
Mr. Daniel A. Foley, Town Planner

The First Selectman swore in Mr. Smith as a member of the Commission and told him that he was confident the Commission would go on smoothly with the addition of him as a member.

sed

arate

: Lane

event

d to

ition

in one

id have

ed to

duly

The Chairman then called the meeting to order at 8:19 P.M. and welcomed Mr. Smith to the Commission.

The Chairman read a request from the Board of Selectmen for a report and recommendation on the proposed exchange of land of West School property with land presently owned by Mr. Archie Stewart and, upon motion duly made and seconded, after consideration of the request, the following resolution was adopted:

WHEREAS a proposal has been made to the Board of Selectmen to exchange 0.41 acres of Town land abutting the West School site for a total of .45 acres of land now owned by Archie Stewart, including a permanent right-of-way over lands of Archie Stewart, and

WHEREAS the Board of Selectmen has requested a Report and Recommendation from this Commission on the exchange, in accordance with State Statute, and

WHEREAS the Board of Education has approved the proposal and released the 0.41 acres to the Town

NOW THEREFORE BE IT RESOLVED that the Commission hereby reports its recommendation to the Board of Selectmen that the exchange of property with Mr. Archie Stewart be consummated, said property being described as follows:

*2/20/77*

Beginning at a point on the Westerly side of Frogtown Road at a stonewall intersection being a Southeasterly corner of New Canaan Country School, Inc., thence running in a generally Northerly direction along the center of a stonewall the following courses and distances:

Com-

Zone

f

e NEW

and

Southerly

direction

along a

stonewall

the following

courses and

distances:

and

thence turning

and running

in a general

Northerly

direction

through lands

of the grantor

the following

course and

distance:

N 35-22-50W	46.71 feet
N 42-15-10E	3.20 feet
N 29-35-50W	38.10 feet
N 32-56-50W	196.69 feet
N-31-56-50W	31.16 feet
N 31-20-50W	131.35 feet to a stonewall intersection on a

Southerly boundary of the Town of New Canaan; thence turning in a generally Easterly direction along a Southerly boundary of the Town of New Canaan being the centerline of a stonewall the following courses and distances:

N 85-39-10E

N 81-04-10E

N 83-01-10E

N 84-35-10E

and

thence turning

and running

in a general

Northerly

direction

through lands

of the grantor

the following

course and

distance:

N 85-39-10E	62.08 feet
N 81-04-10E	35.13 feet
N 83-01-10E	117.00 feet
N 84-35-10E	61.00 feet to the point or place of beginning;

thence turning and running in a general Northerly direction through lands of the grantor the following course and distance:

N 25-17-15W

Northerly

boundary of the

Town of New

Canaan; and a

Southerly

boundary of land

of the

grantee thence

turning and

running in a

generally Easterly direction along a Southerly boundary of the land of the grantee and the centerline of a stonewall the following course

MORGAN

Secretary

1275

and distance:

S 84-34-10W 104.02 feet to a point being a stonewall intersection; thence turning and running in a generally Southerly direction along a Westerly boundary of land of the grantee and the centerline of a stonewall; the following courses and distances:

S 24-15-50E 7.74 feet
S 35-41-50E 153.16 feet to a stonewall intersection;

thence turning and running in a generally Westerly direction along a Northerly boundary of land of the grantee and the centerline of a stonewall the following courses and distances:

S 43-53-10W 14.07 feet
N 88-41-50W 10.31 feet
S 80-27-10W 64.00 feet
and S 84-36-10W 44.02 feet to the point of place of

beginning. Said parcel contains 9.409 ac.

BE IT FURTHER RESOLVED that the foregoing recommendation is made for the following reasons:

- 1. The right-of-way will permit immediate and reasonable access to the West School septic system for necessary maintenance
2. The strips along Frogtown Road will permit the eventual widening of a very dangerous portion of Frogtown Road.

Those voting "Yes":

- Mr. Hart
Mr. Pagg
Mr. Jex
Mr. Reid
Mr. Smith
Mr. Stewart
Mr. Teaze
Mr. Walker
Mrs. Morgan

Those voting "No":

None

Those Absent:

None

The Secretary was instructed to notify the Board of Selectmen of the foregoing action and that the Commission recommended that the following conditions be made a part of the legal instrument conveying the right-of-way easement to the Town:

- 1. The Town shall have no liability whatever for construction, maintenance or snow plowing in the accessway.
2. The Town shall have no liability whatever for damage or injury claims within the right-of-way.
3. The Town shall have a right-of-way over the entire length of the accessway.

The Application of a Nursery School was considered and, upon motion duly made and seconded, it was voted unanimously to approve the issuance of a Zoning Permit to Foxglove School, lessee, St. Michael's Lutheran Church, owner, to allow the use of the Sunday School facilities for a non-profit Nursery School, subject to the following conditions:

- 1. The Permit shall be issued to Foxglove School and shall not be transferable.
2. All requirements of the Fire Marshal shall be met prior to occupancy.

4.
5.
6.
At 8:5
revis:
the C
enoug
expla
11,00
been
round
The C
them
the m
Mr. J
Bergr
the d:
as he
Chur
The T
quirec
Coun:
sensu
neces
was a
study
Durin:
memb:
was v
"Subd
Reside
Henric
1.
2.
3.
4.
5.
Sign A
was ve
Lady b
out of
Upon r
of Col:
submit
No act
as the
Upon n
Selectr
Course:

and any conditions thereof met.

4. Enrollment shall not exceed fifteen (15) children at any one time.
5. All parking shall be limited to the "Lower Lot".
6. The Zoning Permit shall be obtained from the Zoning Inspector.

At 8:54 P.M. Bishop Hawes and Mr. Bergmann arrived to discuss with the Commission revisions they wished made to the action on the Mormon Church Application in order that the Commission might reach a decision as to whether the revisions were significant enough to require another Public Hearing. Mr. Bergmann, the architect for the Church, explained that the original plan had a coverage of 11,500 square feet, the revision had 11,000 and the building would be turned about 40° as some of the ground floor area had been put underneath and the building turned in order to have less impact upon the surrounding properties.

The Chairman thanked the Bishop and Mr. Bergmann for their explanations and told them that he did not think the question could be resolved tonight and they retired from the meeting at 9:20 P.M.

Mr. Jex requested that the record note that the discussion with the Bishop and Mr. Bergmann was not on the Agenda, he had remained during it but had taken no part in the discussion nor would be participating in any further discussion or in the decision as he was a member of the Mormon Church although not a participating member of the Church.

The Town Planner presented Applications upon which a Public Hearing would be required and, before calling the Public Hearing, the Commission considered the Town Counsel's opinion as to disqualification of Commission members and it was the consensus that, as no member was on the Board of the Country Club, it would not be necessary for anyone to disqualify himself for the purposes of this Application. It was agreed, however, that the question of disqualification would be given further study.

During consideration of the Carson Application, the Chairman reviewed for the new members the background, following which, upon motion duly made and seconded, it was voted unanimously that the Application for a Subdivision as shown on map entitled "Subdivision Map Prepared for Cady Daniels Carson New Canaan, Connecticut Two Acre Residence Zone Total Area = 10.725 Acres", certified "Substantially Correct" Robert M. Henrici under date of October 18, 1976 be approved, subject to the following:

1. All requirements of the Department of Health and Sanitation shall be met.
2. No surface water shall be directed onto either Brookside Road or Charter Oak Drive.
3. Access to Parcel No. 59 shall be by way of the accessway and no direct access to Brookside Road is hereby approved.
4. Parcel No. 57 may use the accessway for Parcels Nos. 58 and 59 in lieu of direct access to Brookside Road.
5. A note calling attention to the conditions of this approval shall be affixed to the map to be filed on the Town Land Records.

Sign Applications were then considered and, upon motion duly made and seconded, it was voted unanimously that the Application for a sign for a store to be known as Crafty Lady be approved as submitted as it was the opinion of the Commission that it was not out of line for the location.

Upon motion duly made and seconded, it was voted unanimously that the Application of Colonial Spirit Shop for a sign to replace the Morehead Liquor sign be approved as submitted as it was in scale with signs of other tenants of the building.

No action was taken on the third Application, that of Mr. McKenzie on South Avenue, as the members wished to inspect the site before taking action.

Upon motion duly made and seconded, it was voted to recommend to the Board of Selectmen the appointment of Mr. Jex as a member of the Inland Wetlands and Water Courses Commission.

TOWN OF NEW CANAAN

ZONING PERMIT

NO. 2100

Zone 1/2 Acre Zone

New Canaan, Conn. August 30, 1977

Upon application duly filed, pursuant to and in conformity with the Zoning Reulations enacted by the Town Planning and Zoning Commission of the Town,

This permit is hereby granted for the following building construction, or use of building or buildings or land, viz:

To allow the use of the Sunday School facilities for a non-profit

nursery school, subject to conditions of P-1 Commission dated

1-11-77. on land of the permittee

No. 5 on the North side of Oenoke Ridge Street or Road in the Town, in compliance with said application and accompanying plans and drawings on file in the office of the undersigned.

This permit authorizes only the use of said building or buildings and of said land herein provided.

By acceptance of the Permit, the permittee agrees that all acts performed thereunder shall be in compliance with the Laws of the State of Connecticut and the By-Laws and Ordinances and Zoning Regulations of the Town of New Canaan.

By Authority of  
The Town Planning and Zoning Commission  
of New Canaan

\_\_\_\_\_  
Zoning Inspector

Permit issued to:

Foxglove School

Assessor's Map D

5 Oenoke Ridge

Block 42

New Canaan, Ct. 06840

Lot XX Map 81

Fee Paid \$ 5.00

ACTION  
of the  
TOWN PLANNING AND ZONING COMMISSION

Approved the issuance of a Zoning Permit to Foxglove School, lessee, St. Michael's Lutheran Church, owner, to allow the use of the Sunday school facilities for a non-profit nursery school, subject to the following conditions:

1. The Permit shall be issued to Foxglove School and shall not be transferable.
2. All requirements of the Fire Marshall shall be met prior to occupancy.
3. All necessary State and Local Health Departments licenses shall be obtained and any conditions thereof met.
4. Enrollment shall not exceed fifteen (15) children at any one time.
5. All parking shall be limited to the "Lower Lot".
6. The Zoning Permit shall be obtained from the Zoning Inspector.

Dated at New Canaan, Connecticut this 11th day of January 1977

---

Elizabeth P. Morgan  
Secretary

## PLANNING &amp; ZONING COMMISSION MINUTES

TUESDAY, MAY 27, 2014

## REGULAR MEMBERS PRESENT:

Mrs. Grzelecki, Sec & Chairman Pro Tem  
 Ms. DeLuca  
 Mr. Radman (arrived at 7:04 pm)  
 Mr. Scannell  
 Mr. Shizari  
 Mr. Turner

## REGULAR MEMBERS ABSENT:

Mr. Papp  
 Mr. Goodwin  
 Mr. Ward

## ALTERNATE MEMBERS PRESENT:

Mr. Crofton (arrived at 7:07 pm)  
 Mr. Flinn  
 VACANCY

## ALTERNATE MEMBERS ABSENT:

Also in Attendance:

Steve Kleppin, Town Planner/Senior Enforcement Officer

## PUBLIC HEARING

Chairman Pro Tem Grzelecki opened the Public Hearing at 7:00 p.m. Mr. Flinn and Mr. Crofton were seated.

## LEGAL ADVERTISEMENT

NEW CANAAN ADVERTISER, NEW CANAAN, CONN., THURSDAY, MAY 15, 2014 9A

TOWN OF NEW CANAAN	in the Waveny Zone at 677	modification of the previously
PLANNING & ZONING	South Avenue (Map 30 Block	approved Special Permit of
COMMISSION	51 Lot 121).	Section 3.2.C.1, 3.5.F.5 and
Notice is hereby given	Upon application of Diane	7.1.B.3.b to allow construction
that the Planning and Zoning	Starr, DB Designs, Authorized	of a two-family dwelling
Commission will hold a Public	Agent, for Arlene Dyrvik,	with reduced side yard on the
Hearing on Tuesday, May	owner, for a Special Permit	south side and reduced side
27, 2014 at 7:00 p.m. in the	of Section 3.4.C.6 to locate a	yard height setback, for property
Sturgess Room, N. C. Nature	pool and pavilion in a front	in the B Residence Zone
Center, 144 Oenoke Ridge to	yard, for property in the Two	at 474 Main Street (Map Q
hear and decide applications	Acre Residence Zone at 86	Block 82 Lot M50).
as follows:	Hoyt Farm Road (Map 43	Dated: May 9, 2014
Upon application of Steve	Block 591 Lot 35).	New Canaan, Connecticut
Benko, Town of New Canaan,	Upon application of Kaeser	Jean N. Grzelecki
for a Special Permit of Section	Development, LLC, Contract	Secretary
5.1.E.1 to construct an additional	Purchaser, (Richardson	5-15 5-22
tennis court, for property	Properties Inc., owner), for a	

**1. Arlene Dyrvik, owner, 86 Hoyt Farm Road - Special Permit.**

Upon application of Diane Starr, DB Designs, Authorized Agent, for Arlene Dyrvik, owner, for a Special Permit of Section 3.4.C.6 to locate a pool and pavilion in a front yard, for property in the Two Acre Residence Zone at 86 Hoyt Farm Road (Map 43 Block 591 Lot 35).

This property is a through lot between New Norwalk Road and Hoyt Farm Road with vehicular access from Hoyt Farm Road. Pool installer Ernie Cavatkay explained that the owner would like to install an in-ground pool and pavilion behind the house in what is technically a front yard. Diane Starr, landscape designer, stated that the existing shed and fence will remain. The height of the pavilion will be 12 feet, 11 inches. The current plan shows the pavilion set back 10 feet from the pool and Ms. Starr asked permission to move the pavilion forward 10 feet so that it is even with the pool.

The public hearing on this matter was closed.

**2. Kaeser Development, LLC, 474 Main Street – Modification of Special Permit**

Upon application of Kaeser Development, LLC, Contract Purchaser, (Richardson Properties Inc., owner), for a modification of the previously approved Special Permit of

Sections 3.2.C.1, 3.5.F.5 and 7.1.B.3.b to allow construction of a two-family dwelling with reduced side yard on the south side and reduced side yard height setback, for property in the B Residence Zone at 474 Main Street (Map Q Block 82 Lot M50).

John Kaeser explained that he would like to modify the previously approved Special Permit by making changes in grading and retaining wall locations. There are no changes to the height, setbacks or footprint that were previously approved.

Steve Johnson of 482 Main Street stated that he wanted to ensure Mr. Kaeser's property was graded in such a way that runoff from it would not be directed onto his property. He said that he thinks the proposed modification to grading will keep runoff off his property.

Mrs. Grzelecki reiterated that there was no change in the location from what was approved by the Commission in March and that the purpose of the hearing was to correct a deficiency regarding the Legal Notice which did not correctly note the reduced side yard setback on the Johnson's side and also for the modification to the grading and retaining walls.

The public hearing on this matter was closed.

### REGULAR MEETING

#### 3. Deliberation and any possible action on a closed public hearing item.

##### *Discussion on Item #1 - Arlene Dyrvik, owner, 86 Hoyt Farm Road - Special Permit.*

Upon motion of Ms. DeLuca and second of Mr. Turner, the Commission voted unanimously to approve the application.

##### *Discussion on Item #2 - Kaeser Development, LLC, 474 Main Street - Modification of Special Permit*

Upon motion of Mr. Flinn and second of Ms. DeLuca, the Commission voted unanimously to approve the modification of the Special Permit.

#### 4. Discussion and consideration to slightly modify the Special Permit of Lot 713 and 21 Forest Street pursuant to §8.2.B.6.d of the regulations.

Architect Jeff Wyszynski reviewed the modifications to the building plans that his client would like to make to the approved Special Permit: 1) construct the lower level of the building in a different location but at the same elevation, 2) modify the west elevation to accommodate an egress stairwell and to raise parapets to accommodate continuous insulation, 3) modify the south elevation by raising the underground parking clearance by one foot and raise parapets to accommodate continuous insulation, and 4) modify the east elevation by replacing the shed dormer with a gable and raising the ridge line. He stated that all modifications comply with height regulations, that there is no change to the site plan or approved materials, and rooftop mechanicals will be concealed. In response to questions by Mr. Radman, Mr. Wyszynski stated that the building would be fully sprinklered and that the ceiling of the covered parking area will be finished so piping will not be visible. The construction schedule will be 12 - 14 months. Mr. Radman expressed concern about needing to shut down Forest Street for major deliveries and suggested that neighbors be notified of the times of major deliveries. Owner Chris Gatto says that he has spoken to all Forest Street merchants and that they support the project and understands what the logistics of the project will involve.

Upon motion of Mr. Scannell and second of Mr. Turner, the Commission voted unanimously to approve the modification of the Special Permit.

#### 5. Request to modify the conditions of approval for ToddlerTime Nursery School, St. Michael's Church, 5 Oenoke Ridge.

Barbara Davis explained that the enrollment in ToddlerTime Nursery School exceeds the space that the school has at the Congregational Church and that the school would like to locate their 5's class at St. Michael's Church in a space previously occupied by the

Foxglove School. In response to Mr. Radman's question about pedestrian traffic between the two locations, Ms. Davis said there are currently no elements of the program which require the children to regularly move between the two locations. Mr. Radman asked that the Commission strongly recommend to the traffic commission that additional signage be placed near St. Michael's to encourage traffic to slow down.

Upon motion of Ms. DeLuca and second of Mr. Shizari, the Commission voted unanimously to approve the modification of the conditions.

**6. Discussion and consideration to modify the existing Site Plan Application of David Ball, The Monroe Partnership, LLC, Authorized Agent, for ESP Wexford II LLC, owners, (Mrs. Greens tenant), in the Business A Zone at 2 Pine Street (Map L Block 139 Lot 918).**

Mr. Ball agreed that all signage in the windows and near the cart storage area, including the help wanted sign, would be removed.

Although outdoor cart storage was not included in the site plan approval, Mr. Ball stated that carts are being stored outside the main entrance and Mrs. Green's would like to continue to store them there but would be willing to permanent hedge to screen the carts from view from Park Street. Commissioner's expressed concern about loose carts. Matt Taylor, Director of Construction for Mrs. Green's, acknowledged that store employees could do a better job of policing loose carts. Mr. Radman suggested lengthening the existing cart storage aisles and wrapping the green hedge/screening around the entrance to the storage area so that the carts would not be visible from Park Street.

The Commissioners discussed the best way to minimize the appearance of the rooftop units. The consensus was that the small rooftop units, the screening for the large rooftop units and the building trim should all be painted the same 'Stormy Monday' dark grey in a flat finish.

Matt Taylor agreed to immediately remove construction materials currently stored in the underground parking area. Mr. Ball stated that the store is experiencing a lack of storage for dry goods and would like to build storage in the parking garage. Various options were discussed but no decision was made as Mr. Kleppin wants input from other municipal officials. In response to Mr. Scannell's question about the adequacy of the lighting in the parking garage, Mr. Ball acknowledged a need to replace some of the light fixtures. The applicant will work with Mr. Kleppin to clarify the signage regarding the shared parking with Oxygen Fitness.

Mr. Ball said that the applicant would like to place six (6) umbrellaed tables along the Pine Street side of the building. Mr. Kleppin asked that these tables be kept off the town portion of the sidewalk.

Upon motion of Ms. DeLuca and second of Mr. Shizari, the Commission voted unanimously 1) to allow outdoor cart storage in an area designed as proposed by Mr. Radman, and 2) to allow six (6) outdoor tables with umbrellas on the private portion of the sidewalk along the Pine Street side of the building.

**7. Nick Martschenko, Southend Restaurant, Tenant (Eton Centers Inc., owner), 36 Pine Street - Site Plan Modification.**

Upon motion of Mr. Shizari and second of Mr. Turner, the Commission voted unanimously to amend the agenda to add a modification to the approved Site Plan for Southend Restaurant. Nick Martschenko explained that in accordance with condition 6 of the previous approval, he will have 1500 pound and 2000 pound cement planters custom made. He has spoken to the police and the police felt that given the size and weight of the concrete planters, removable, vehicle-proof balusters would be redundant.

By consensus, the Commission agreed not to require the balusters.

**8. Discussion to clarify the interpretation of Sections 3.7.E.1 and 3.5.F.5 of the Zoning Regulations - Mr. Shizari. (Continued from April 29, 2014).**

After discussion, the Commission agreed by consensus that dormers are not to be included in the reduced side yard setback (§3.5.F.5) calculations and that heights shall be interpreted consistently with §3.5.F.1 and §3.5.F.2.

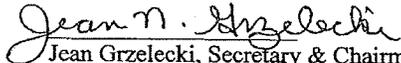
**9. Approve minutes of the April 22, 2014 POCD Special Meeting and the April 29, 2014 Regular Meeting.**

Upon motion of Mr. Shizari and second of Mr. Radman, the Commission voted to approve the minutes of the April 22, 2014 POCD Special Meeting (Mr. Turner and Mr. Scannell recused themselves).

Upon motion of Mr. Turner and second of Mr. Radman, the Commission voted to approve the minutes of the April 29, 2014 Regular Meeting (Mr. Scannell recused himself).

**10. Adjournment.**

Meeting was adjourned at 9:03 p.m.

  
Jean Grzelecki, Secretary & Chairman Pro Tem

**LEGAL ADVERTISEMENT**

NEW CANAAN ADVERTISER, NEW CANAAN, CONN., THURSDAY, JUNE 5, 2014 11A

TOWN OF NEW CANAAN	approved.	of the condition of
PLANNING & ZONING	RESOLVED that the application	approval to remove the name
COMMISSION	of Kaeser Development,	of the Nursery School operator
Notice is hereby given	LLC, Contract Purchaser,	for Toddlertime Nursery
that the Planning and Zoning	(Richardson Properties Inc.,	School, St. Michael's Church,
Commission at a regular meeting	owner), for a modification	5 Oenoke Ridge is approved.
held on May 27, 2014	of the previously approved	RESOLVED that modifications
duly adopted the following	Special Permit of Section	to the existing Site Plan
resolutions. Approved Special	3.2.C.1, 3.5.F.5 and 7.1.B.3.b	approval regarding the shopping
Permit Applications become	to allow construction of a two-family	cart storage area, rooftop
effective upon the filing of a	dwelling with reduced	mechanical units, signage and
copy thereof in the office of	side yard on the south side	outdoor seating, as requested
the Town Clerk.	and reduced side yard height	by David Ball, The Monroe
RESOLVED that the application	setback, for property in the	Partnership, LLC, Authorized
of Diane Starr, DB	B Residence Zone at 474	Agent, for ESP Wexford II
Designs, Authorized Agent,	Main Street (Map Q Block	LLC, owners, (Mrs. Greens
for Arlene Dyrvik, owner, for	82 Lot M50) is unanimously	tenant), in the Business A Zone
a Special Permit of Section	approved.	at 2 Pine Street (Map L Block
3.4.C.6 to locate a pool and	RESOLVED that the modification	139 Lot 918) are approved.
pavilion in a front yard, for	of the Special Permit	Jean N. Grzelecki
property in the Two Acre	of Lot 713 and 21 Forest	Secretary
Residence Zone at 86 Hoyt	Street pursuant to §8.2.B.6.d	Dated May 29, 2014
Farm Road (Map 43 Block	of the regulations is unanimously	6-5
591 Lot 35) is unanimously	approved.	
	RESOLVED that the modification	

111 Oenoke Ridge

TOWN OF NEW CANAAN, CONNECTICUT

Zone 1/2 acre & 1 acre zone

Map # 32

Date 6/28/85

PART I--APPLICATION FOR ZONING PERMIT

Block # 42

(Please type or print)

Lot # 27

Property Owner of Record St. Marks Parish

Telephone 966-4515

Mailing Address 111 Oenoke Ridge, New Canaan, CT 06840

Applicant (if not Owner) \_\_\_\_\_

Telephone \_\_\_\_\_

Mailing Address \_\_\_\_\_

1. Location of land: No.      on the East side of 111 Oenoke Ridge Street or Road
2. Present use of existing building or land church
3. Proposed use of existing building, new building and/or land S.T.A.R. Inc. day care center
4. Is there map of land in Town Clerk's Office? YES  Number 5920 NO
5. Are there any Variances relating to the land or building granted by the Zoning Board of Appeals? YES  NO  If Yes, attach all copies of all Variances. If No, Owner or Applicant initial here \_\_\_\_\_
6. Is an Access or Driveway Permit required? YES  NO  If Yes, attach copy of Permit. If No, have Town Engineer's Office initial here \_\_\_\_\_
7. Is off-street motor vehicle parking required? YES  NO  If Yes, number of motor vehicle spaces     . Number of loading spaces     . If No, Applicant or Owner initial here \_\_\_\_\_
8. Is a License required under the Inland Wetlands & Water Courses Regulation? YES  NO  If Yes, attach copy of License. If No, Owner or Applicant initial here \_\_\_\_\_
9. Is existing building, proposed building or land located in an area requiring conformity to the National Flood Insurance Program? YES  NO
10. Is a public hearing required under the Zoning Regulations? YES  NO  If Yes, have Zoning Inspector insert Zoning Section number \_\_\_\_\_

Application Fee \$5.00 Paid on \_\_\_\_\_

Public Hearing Fee, if required \$25.00 Paid on \_\_\_\_\_

[Signature]  
Owner or Applicant

(If the signature is not that of the owner of the property, a letter from the owner authorizing the agent to act in owner's behalf must be attached to the original application)

PART II - ZONING PERMIT

A Zoning Permit is hereby issued in accordance with the facts and information included in the above application subject to the following conditions:

- A. The Permittee agrees that all actions performed hereunder shall be in compliance with the laws of the State of Connecticut, all By-laws and Ordinances, all Zoning Regulations, Subdivision Regulations and Inland Wetlands & Water Courses Rules and Regulations of the Town of New Canaan.
- B. By acceptance of this Permit, the Permittee agrees to allow inspections at all reasonable hours by the Zoning Inspector.
- C. Upon completion of the foundation of any building or addition to an existing building not requiring a foundation, the Permittee shall file with the Zoning Inspector a certified plot plan prepared by a licensed land surveyor which shall show that there has been compliance with all applicable zoning regulations, driveway requirements, flood plain requirements and requirements of the Inland Wetlands & Water Courses Regulations.
- D. Upon completion of any building or addition to any existing building for which this Zoning Permit was issued, an update of the plot plan shall be filed with the Zoning Inspector showing that all Regulations have been complied with, including location of sanitary facilities and water supply.
- E. Also subject to conditions attached hereto, if any.

Permit Granted 6/28/85  
(Date)

Permit Denied \_\_\_\_\_  
(Date)

Planning & Zoning Commission  
of the Town of New Canaan

By [Signature]  
Its Zoning Inspector

**PLANNING & ZONING COMMISSION MINUTES  
REGULAR MEETING**

**TUESDAY, JANUARY 29, 2002**

<b>REGULAR MEMBERS PRESENT:</b>	<b>ALTERNATE MEMBERS PRESENT:</b>
<b>Mr. Jex, Chairman</b>	<b>Mrs. Johnson</b>
<b>Mr. Coburn</b>	<b>Mr. Zech</b>
<b>Mr. Flaherty</b>	
<b>Mrs. Grzelecki</b>	
<b>Mrs. Mason</b>	
<b>Mr. Rothballer</b>	<b>Also in Attendance:</b>
<b>Mr. Scannell</b>	<b>Hiram Peck, Town Planner</b>
<b>Mr. Wendell</b>	<b>Richard Bond, First Selectman</b>

1. The **Regular Meeting** of January 29, 2002 was called to order at 7:30 p.m. in the Town Hall Auditorium as advertised.

**PUBLIC HEARING**

2. The Chairman called the public hearing to order at 7:31 p.m. and referenced the call.

J. M. TRAYNOR – 728 Carter Street

Application of J. M. Traynor for home business use at 728 Carter Street in the 2 Acre Residence Zone, (Map 43 Block 222 Lot 76). Atty. Sperry DeCew representing J.M. Traynor opposed previous exhibits by neighbor's counsel that suggested that the home office use by Traynor was responsible for any vehicle accident in the area. Citing the inflation of accident numbers, the types and various causes he determined that none involved the common drive in question. The number of employees was clarified. Gail Banigan is the full time employee. There was an objection to the petition submitted by the opposition. The homeowners who signed the petition were no longer living in area or owned properties to distant from the area. The number of client visits was shown in a monthly log presented by Atty. DeCew. Ms. Banigan stated that the maximum number of clients, although rare, would be five in a given day. Atty. Ed Mellick representing the opposition, Mrs. Thorndike, addressed future policing issues to enforce "occasional visit" portion of the Regulation. Mrs. Thorndike raised a possible liability issue and believes the number of vehicle trips exceeds the number of clients in Ms. Traynor's log. Commission members' questions were answered.

The public hearing was closed.

The Chairman Recognized Scout Troop in attendance.

C. and L. COSTIGAN – 54 Marshall Ridge Road

Application of C. and L. Costigan, for a 2 lot subdivision of 2.53 acres in the One Acre Residence Zone at 54 Marshall Ridge Road, (Map 31 Block 10 Lot 995). The chairman opened the new application and all forms received by Town Planner. Engineer Holt McChord representing the petitioners presented the property division of a back lot. The plan includes the use of existing drive to access lot and the destruction of existing second dwelling on property line. The septic system will be changed to town sewer. The existing trees will be maintained with Mr. McChord speculating that as few as three trees will have to be removed. No one was heard in opposition.

The public hearing was closed.

D. GANNALO – 46 Bank Street

Application of D. Gannalo, for a 2 lot subdivision of .63 acres in the B Residence Zone at 46 Bank Street, (Map K Block 49 Lot 91). Atty. Michael Sweeney and Engineer Holt McChord represented the petitioner. The existing house will be removed. The plans are for one single family home and one single family with subordinate unit. A neighbor, Mr. Lato, submitted a letter stating concern for the retention of two large Ash trees on the Brinkerhoff street line. Both trees will be saved by the relocation of the driveway. Mr. McChord stated the water and sewer lines exist and the current curb cut will remain. No public opposition heard.

The public hearing was closed.

K. and S. RICCOBONI – 61 Strawberry Hill

Application of K. and S. Riccoboni, for home business use at 61 Strawberry Hill in the One Half Acre Zone , (Map P Block 97 Lot 784). Atty. Carol Young represented Sheila Riccoboni in her application to use the front office of the main house for the purpose of a licensed massage therapy practice. The average number of clients would be three clients per day, three days a week. No construction or additions will be needed. Parking exists for one additional car between the main house and the separate garage. Supporting letters were received by Town Planner, including those from the Ryan and Koutsakis families. Ms. Riccoboni stated that she would not object to the Commissions limit of the number of clients and hours of operation. A copy of the occupational license will be submitted for file with the Town Planner. No public opposition was heard.

The public hearing was closed.

REGULAR MEETING

Regular Meeting started at 8:32 p.m.

Mr. Zech was seated for Mr. Hunziker.

J. M. TRAYNOR – 728 Carter Street

Chairman Jex proposed that the committees' action on this item be moved to the February meeting, citing the allowable 65-day consideration period. No objections were heard.

C. and L. COSTIGAN – 54 Marshall Ridge Road

There was a brief discussion of the revised plan including the elimination of the septic system and the preservation of trees on the property. The plan included the use of the existing drive and town sewer line. The plan as approved by the Town Engineer was found to acceptable. Commission expressed concern that any additional tree removal be avoided. Moved by Mrs. Grzelecki, Seconded by Mr. Zech. Unanimous approval.

D. GANNALO – 46 Bank Street

There was a brief discussion of the revised plan including questions of lot size and preservation of existing trees by the redirection of the drive on Brinkerhoff Street. The

plan was found acceptable. The Commission expressed concern for the preservation of the existing berm. Moved by Mr. Scannell, Seconded by Mrs. Grzelecki. Unanimous approval.

#### K. and S. RICCOBONI – 61 Strawberry Hill

After a brief discussion concerning the limiting of client numbers to three per day as well as the hours, The Commission recommended approval. Moved by Mr. Flaherty and Seconded by Mr. Zech. Unanimous approval.

#### CGS 8-24 referral for purchase of open space on Weed Street.

After discussion of the property type and small proposed parking lot, the plan was found to be not inconsistent with the Plan of Development. Moved by Mr. Rothballer, Seconded by Mr. Scannell. Unanimous approval.

#### AVALON BAY – Lakeview Avenue

Application of Avalon Bay for revisions include reorientation of building #8, planting plan for tree protection area, discussion of electric easement through replanted area, and relocation of electrical box on Elm Street project site.

Discussions were heard from Atty. Sandak and Mr. Kinol concerning each item. The reorientation of building #8 will facilitate the addition of a tot lot. Mr. Wendell asked that the propane tank be moved from its underground location near the tot lot to the other side of the building. Mr. Kinol agreed. Architecture will remain as original plan but level is lower.

Plan for tree protection area was revised. Number of trees to remain was lower than expected. Additions of evergreens and deciduous trees are on plan which includes \$30,000 to \$40,000 worth of trees and shrubs. The Commission noted that some plant material will attract deer. Mr. Kinol will consider variety changes.

Plan was presented to increase plantings around electrical easement. Chairman Jex asked if easement could be moved. Mr. Kinol stated that site change would conflict with sewer. The Commission asked if CL&P will allow plantings. Mr. Kinol stated that the planting plan will be allowed and maintained but not changeable. Mr. Kinol presented photos of large trees that have been saved by easement placement. the Commission expressed concern about the excavated cliff on site. Mr. Kinol assured the Commission that a protection fence will be added immediately. The Commission asked how plantings would be maintained and was assured that the plantings have a one-year guarantee and irrigation issues would be addressed.

The above ground green transformer on the Elm Street Office site was proposed to be moved to the back of the lot and the lines placed underground. The transformer would be placed near a sidewalk accessible to railroad parking. The placement will ensure a 5' walkway clearance for pedestrians.

All proposed changes were found to be acceptable. Moved by Mr. Flaherty, Seconded by Mr. Wendell. Unanimously approved with modifications noted.

#### Administrative Actions by Town Planner

- A. Approval of request from New Canaan Baseball Inc. for play at New Canaan Country School for 2002 season. No opposition voiced by neighbors.
- B. YMCA temporary construction trailer at 564 South Ave. This is acceptable as long as it is removed promptly after construction is completed. There are to be no unnecessary lights or signs.
- C. Planting plan for Park Slope condominiums. Acceptable as long as limited to slope.
- D. Questions regarding the Domino residence, 83 Long Lots Road. Item removed from agenda by the Town Planner.
- E. Extension of Philip Johnson special permit was accepted with no changes to use.

Actions approved. Moved by Mr. Flaherty, Seconded by Mr. Wendell.

### SIGN COMMITTEE REPORT

- A. Plaza Too, 145 Elm Street for a retractable awning with signage, was approved as submitted.
- B. Waveny Care Center, 3 Farm Road for two signs attached to stonewalls, was approved as submitted.
- C. Fleet Bank  
42 Forest Street, Replace two (2) existing wall signs, was approved as submitted.  
94 Elm Street, Replace two (2) existing wall signs, was approved as submitted.  
278 Elm Street, New wall sign and New wall sign, was approved with modifications, only one sign permitted, applicant must choose.

The sign report was approved as submitted. Motion to approve the report by Mr. Rothballer. Seconded by Mr. Scannell. Unanimous approval of report.

### ADDITIONAL AGENDA ITEMS

- 
- A. YMCA temporary addition of St. Mark's daycare to double in size was recommended for approval for no longer than 12 months. Moved by Mrs. Mason, Seconded by Mr. Wendell.
  - B. ABC on Locust Avenue for construction of room and bath above garage may be approved administratively. Applicant must provide acceptable plans that should not include a kitchen area and neighbors to be notified. Moved by Scannell. Seconded by Mr. Wendell. Unanimous approval.

Discussion on possible Zoning Regulation revisions. Moved to the February 26, 2002 Meeting. Hearing date to be set at that time.

A brief discussion of POCD included density versus FAR and the benefits of each. The Commission discussed a possible telephone survey for the POCD. Discussion on POCD will continue at special February 12, 2002 meeting.

The meeting was adjourned at 10:15 p.m.

---

Jean N. Grzelecki, Secretary

144 Oenoke Ridge

## TOWN PLANNING AND ZONING COMMISSION

## REGULAR MEETING

TUESDAY, MAY 27, 1982

## REGULAR MEMBERS PRESENT:

Mr. William D. Hart, Jr., Chairman  
 Mrs. David B. Findlay, Jr.  
 Mr. Laszlo Papp  
 Mr. Gouverneur M. Nichols  
 Mr. Walter T. Flaherty, Jr.  
 Mr. Victor H. King  
 Mr. Crosby R. Smith  
 Mr. Churchill B. Phyfe, Secretary

## REGULAR MEMBERS ABSENT:

Mr. David M. Burke

## ALTERNATE MEMBERS PRESENT:

Mr. Lawrence W. DeVito  
 Mrs. John Baldwin  
 Mr. Stanley M. Barnes

## ALTERNATE MEMBERS ABSENT:

None

The Chairman convened the Regular Meeting of May 27, 1982 at 8:40 P. M. in the Board Room of the Town Hall and designated Mr. DeVito to act for Mr. Burke. Upon motion of Mr. King, seconded by Mr. Smith, the MINUTES of the Regular Meeting of April 27, 1982 were unanimously approved as submitted. Upon motion of Mr. Nichols, seconded by Mr. Smith, the MINUTES of the Special Meeting of May 11, 1982 were unanimously approved as amended.

Mr. Milton Johnson then presented a plan, elevations and cross-sections of the proposed solar greenhouse building to be erected at the Nature Center on Oenoke Ridge. Pursuant to the provisions of Section 8-24 of the General Statutes of the State of Connecticut, the Board of Selectmen requested a report and recommendation from the Town Planning and Zoning Commission with regard to this proposal. After discussion, upon motion of Mr. Papp, seconded by Mr. Nichols, it was unanimously voted that the Secretary be instructed to inform the First Selectman that the project as presented does not violate any provisions of the Town Plan of Development, and that therefore, the Commission finds no objection to its construction.

The Town Planner presented the request of Intex Corporation for a Zoning Permit to allow an additional use, a used car dealership, at the New Canaan Texaco property at 272 Elm Street. The Zoning Board of Appeals, acting under its authority as representative of the State Commissioner of Motor Vehicles, had approved the location for a used car dealership at its meeting of January 4, 1982 and had noted the necessity for review of the Zoning Permit by the Planning and Zoning Commission. According to the provisions of Section 60-17.3, Subsections O and P, a determination of the off-street motor vehicle parking facilities would need to be made by the Commission. Attorney Marvin Gruss of Hawthorne, Ackerly and Dorrance represented the Intex Corporation and introduced Mr. Keith Simpson, Environmental Design Associates, as an expert witness. Mr. Simpson presented a plan of the available parking spaces at the Texaco Station and described their existing and proposed utilization. Mr. Neville Frve, President of the Intex Corporation, also appeared and

TOWN OF NEW CANAAN  
CONNECTICUT 06840

CHARLES P. MORTON  
FIRST SELECTMAN

TELEPHONE  
(203) 966-1687

May 20, 1982

Mr. William D. Hart, Jr., Chairman  
Planning and Zoning Commission  
Town Hall  
77 Main Street  
New Canaan, Connecticut 06840

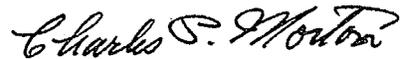
Dear Mr. Hart:

Enclosed, find a copy of the agreement between the Town of New Canaan and the Nature Center, relative to the proposed Horticultural Education Building.

The Town Council approved this agreement at their meeting of May 12, 1982.

Will you please consider this item for commission approval at your earliest convenience.

Sincerely,



Charles P. Morton  
First Selectman

CPM:dh  
cc: Mr. Milton Johnston  
encl. (1)

THIS AGREEMENT, by and between the TOWN OF NEW CANAAN, a municipal corporation located in the County of Fairfield and State of Connecticut (hereinafter called Town), acting herein by the BOARD OF SELECTMEN (hereinafter called Selectmen), hereunto duly authorized by vote of the TOWN COUNCIL of New Canaan, Connecticut (hereinafter called Council), under date of May 12, 1982 and the NEW CANAAN NATURE CENTER ASSOCIATION, INC., a non-profit corporation located in the Town of New Canaan, County of Fairfield and State of Connecticut (hereinafter called Nature Center), acting herein by REBA ROORBACH, its President, hereunto duly authorized.

W I T N E S S E T H :

WHEREAS, the Nature Center is desirous of replacing at its cost and expenses the existing greenhouse complex at the Susan Dwight Bliss Park, which greenhouse complex is being used by and is under the supervision of the Nature Center in accordance with an arrangement between the New Canaan Nature Center Association, Inc. and the Board of Selectmen dated November 17, 1970, because of the fact that this greenhouse complex, through age, the elements and hard use, has reached a condition where heating is inefficient, arrangements are inconvenient for present use and maintenance is increasingly expensive and decreasingly effective; and

WHEREAS, it is proposed that upon completion of such new greenhouse complex by the Nature Center, which complex is to be hereinafter called the Horticultural Education Building, the Town will abandon the presently existing greenhouse complex, including the maintenance thereof, (with the exception of the existing frame and stone "headhouse" or potting shed which shall remain operational) and shall dispose of the same at its own expense as it sees fit.

NOW, THEREFORE, it is mutually agreed as follows:

1. The Nature Center may at its sole cost and expense undertake and complete the construction of the Horticultural Education Building, the same to be located in the area immediately West of the presently existing garage and garage apartment subject to, the following terms and conditions:

(a) The location, architectural plans and specifications thereof together with all other pertinent facilities relating thereto shall be approved in writing by the Board of Selectmen.

(b) The architects shall be hired by the Nature Center, which organization shall pay for the same, and the Town of New Canaan shall be under no obligation to pay the architects for their services or assistance.

(c) The architects shall furnish to the Nature Center, when the plans have been approved by the Nature Center and the Selectmen, a cost estimate on the complete work, including all architectural and engineering fees.

(d) The amount of the architects' estimate as to costs and the amount of architects' and engineering fees shall be raised by the Nature Center in cash or by collateral, bond or other form of security satisfactory to the Selectmen. It is presently estimated that the complete work, including architectural and engineering fees, will cost \$750,000 approximately.

(e) Upon and only upon the raising of the funds as aforesaid shall a contract to construct the Horticultural Education Building be executed, the contract to be approved by the Selectmen prior to signing by the Nature Center. Such contract shall run between the Nature Center and the person, firm or corporation who has been awarded the construction contract and shall not involve the Town in any obligation relative thereto, nor shall the Town be named as a party therein. However, it is agreed and understood that the Nature Center and the construction contractor shall have full permission to and may enter upon the land of the Town known as Susan Dwight Bliss Park for the purpose of constructing the Horticultural Education Building in accordance with the plans and specifications approved by the Board of Selectmen.

(f) If at the time the bid on the contract for the work on the Horticultural Education Building is accepted by the Nature Center it is found that the total costs, including architectural and engineering fees, are greater than the amount of funds previous

ly raised, no contract shall be signed and no work shall be undertaken until the amount of funds raised are equal to or are greater than the amount of the contract plus all costs of architectural and engineering fees.

(g) It is the intent and purpose of the Nature Center to hold the Town fully harmless for any and all claims by third parties in connection with the construction costs or other incidentals relative to the construction of the Horticultural Education Building.

(h) During the course of construction of the Horticultural Education Building the Nature Center shall provide any and all general liability insurance policies necessary in connection with the construction work in a minimum amount of \$500,000, together with all fire insurance and other casualty policies, which policies shall run to the benefit of the Nature Center or the Town as their respective interests may appear. Certificates of insurance to that effect shall be furnished to the Town. Upon completion the Town will provide at its expense all liability insurance, together with fire and other casualty policies, covering the Horticultural Education Building up to its full replacement value.

2. Completion, for the purposes of this agreement, shall mean (a) the architects and engineers have certified to the Nature Center and the Town that all work on the new Horticultural Education Building has been completed and (b) a Certificate of Occupancy has been issued by the Chief Building Official of the Town of New Canaan.

3. The Town agrees to continue to provide the current level of services for maintenance of the Nature Center, including the new Horticultural Education Building in accordance with the arrangements dated November 17, 1970, as now or hereafter amended.

4. The Nature Center shall comply with all State, Federal and local laws, rules and regulations and ordinances relating to the construction of the said new Horticultural Education Building com-

plex and any and all permits which may be required shall be obtained and paid for at the expense of the Nature Center.

5. Upon completion of the Horticultural Education Building, as aforesaid, the Town shall immediately discontinue the maintenance of the presently existing greenhouse facilities, (with the exception of the existing frame and stone "headhouse" or putting shed which shall remain operational), the Nature Center shall remove all of its present activities therefrom, and the Town shall at its own expense dispose of the same by sale or razing, as it shall deem best.

6. The Horticultural Education Building, upon completion, shall become the property of the Town without payment therefor or any part thereof by the Town, and the Town shall be under no obligation to the Nature Center or any other person or persons relative to the costs of the construction thereof.

7. It is anticipated that the proposed construction work shall begin not later than December 31, 1982 and shall be completed as rapidly and speedily as possible.

8. The Nature Center acknowledges that fulfillment of the provisions of Section 49-41 of the General Statutes of Connecticut is a condition precedent to approval by the Town of New Canaan of any construction contract.

IN WITNESS WHEREOF, the parties hereto have hereunto set their respective hands and seals this 13th day of May, 1982.

Signed, sealed and delivered  
in the presence of:

Barbara P. Kennedy

Edwin F. Gutt

As to the Selectmen

Marion Green  
MARION GREEN

Milton S. Johnston Jr.

As to Nature Center  
MILTON S. JOHNSTON JR.

TOWN OF NEW CANAAN

BY Charles P. Morton  
Charles P. Morton

BY Jennifer W. DeLage  
Jennifer W. DeLage

BY Robert P. Ready  
Robert P. Ready

A Majority of the  
Board of Selectmen

NEW CANAAN NATURE CENTER  
ASSOCIATION, INC.

BY Rebecca Roach 4/17/82  
President



32  
20  
41

BUILDING INSPECTION DEPARTMENT  
New Canaan, Connecticut

No 7796

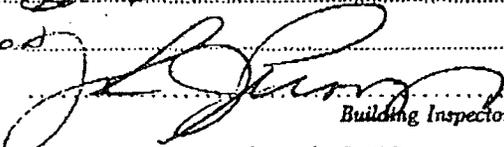
CERTIFICATE OF OCCUPANCY

Dated April 13, 19 98

Zone .....

This is to certify that building at 144 Oenoke Ridge - New Canaan Nature center  
as building renovation under Permit No. A-18753 conforms substantially to the require-  
ments of the Building Ordinances and the Zoning Regulations of the Town of New Canaan and is hereby approved for  
occupancy as indicated below.

Approved for occupancy April 13, 1998 *APR 13-98*

*LOWER LEVEL NEW PRESCHOOL FUNCTION*  
  
Building Inspector

Notice:—If this certificate is lost or destroyed, a duplicate should be immediately obtained from the Building Inspection Department.

Any change or extension of the use herein approved requires a new certificate of occupancy.  
Copies of this certificate may be obtained at the Building Inspection Department at a charge of one dollar.

June, 1998

On October 9, 1997 the Planning and Zoning Commission approved renovations for the existing art workshop building to accommodate an additional preschool classroom for the New Canaan Nature Center - Beginner's Nature Program, Annex on the ground level.

It is understood that the preschool classroom will meet all state licensing requirements.

---

Dan Foley  
Town Planner

# NEW CANAAN NATURE CENTER



144 Oenoke Ridge  
New Canaan, Connecticut 06840  
(203) 966-9577  
Fax (203) 966-6536

## Early Childhood Education Building (presently the Art Workshop) Fact Sheet

June 23, 1997

Zone: 1 acre Residential Assessor's Map: 32 Block: 20 Lot: 41

Present Use: Ground Floor: Maintenance Shop and Storage  
Main Floor: Multipurpose crafts and program room; storage

Proposed Use: Ground Floor: One licensed preschool classroom  
Main Floor: Multipurpose crafts and program room; storage

Proposed Construction: Install water and sewer service; Renovate interior; New porch to be added to shelter ground floor entrance on north side; existing attached storage shed to be replaced with an enclosed code compliant stair connecting the first and second floors

<u>A. Setbacks in Feet</u>	<u>Existing</u>	<u>Proposed</u>
Nearest Side	1 1/2	1 1/2
<u>B. Lot Area in Acres</u>	39.778	39.778
<u>C. Building Coverage in Sq. Ft.</u>	1270	1446 (includes porch)
<u>D. Building Height</u>		
In Feet:	25	25
In Number of Stories:	2	2

### APPROVAL FOR CHILD DAY CARE

Marsh River  
Lake Rooms  
Education Bldg  
New Canaan  
Native Center

- Town Zoning Department
- Town Building Department
- Town Fire Marshal
- Director of Health

- AN**
- Inspection
  - Architectural Review
  - Administrative Review/Inspection Not Required

**HAS BEEN COMPLETED ON:**

- Child Day Care Center
- Group Day Care Home

**LOCATED AT:** 144 Oerke Ridge  
(Street Address)  
New Canaan CT 06840  
(Town) (State) (Zip)

**IS CONSTRUCTED IN ACCORDANCE WITH APROPRIATE USE GROUPS AND:**

- The State Building Codes in effect at the time of construction
- Chapter 9, Article X1 of the Fire Safety Code
- Town Zoning Regulations
- Health Ordinances

- PRELIMINARY APPROVAL IS GRANTED
- FINAL APPROVAL IS GRANTED for use at this location

Signed: [Signature]  
 Title: Town Planner / Zoning Inspector  
 Town: New Canaan CT  
 Date: November 13, 2003

### APPROVAL FOR CHILD DAY CARE

- Town Zoning Department
- Town Building Department
- Town Fire Marshal
- Director of Health

- AN  Inspection
- Architectural Review
- Administrative Review

Reason for Approval Request

\_\_\_\_\_  
\_\_\_\_\_

#### HAS BEEN COMPLETED ON:

- Child Day Care Center -- Program Name: \_\_\_\_\_ Lic.# \_\_\_\_\_
- Group Day Care Home -- Program Name: \_\_\_\_\_ Lic.# \_\_\_\_\_

LOCATED AT: NC Nature Center, 144 Denoke Ridge Rd.  
(Street Address)

New Canaan CT 06840  
(Town) (State) (Zip)

#### IS CONSTRUCTED IN ACCORDANCE WITH APROPRIATE USE GROUPS AND:

- Connecticut State Building Code (CGS sec. 29-252-1c)
- Connecticut State Fire Safety Code (CGS sec. 29-292-8d)
- New Day Care Occupancies
- Existing Day Care Occupancies
- Other \_\_\_\_\_  
(list code title, edition, and section)
- Town Zoning Regulations
- Health Ordinances

- PRELIMINARY APPROVAL IS GRANTED
- FINAL APPROVAL IS GRANTED

Signed: [Signature]

Title: Town Planner / Sr. Enforcement Officer

Town: New Canaan

Date: 12/2/11

## Exhibit D

**Robert A. Fuller  
Attorney at Law  
75 East Meadow Road  
Wilton, CT 06897  
(203) 762-5888**

March 20, 2017

**To: New Canaan Planning and Zoning Commission  
77 Main Street, New Canaan, CT 06840**

**MEMORANDUM**

The main question covered in this letter is whether you can have two principal uses on the same property in the four acre residential zone, including special permits in addition to permitted uses and existing special permits.

**I. Regulatory framework**

The use and proposed use of Grace Farms Foundation does not meet the test and examples of what constitutes a religious use. The uses and proposed uses of the Foundation also do not qualify as a permitted or accessory uses to a religious use of the church operating as a special permit use in a residential zone under any of the three categories. The operations of a philanthropic or eleemosynary institution are more extensive and go far beyond the functions of a church, and the purposes and uses of a church and its directly related activities are different from a philanthropic organization. At most only a small percentage of the Foundation's existing or proposed use of the property has any connection with the church or any religious use. The use of the property as conference center and restaurant are not religious uses, nor is the use of the property

for a “club”, if that is also an intention or proposal by the Foundation.

There are other issues which are covered in other opposition statements to the proposed special permit(s) for the subject property, such as past and existing violations of the zoning regulations, compliance with the plan of conservation and development, parking, traffic, security and operational uses, which will not be covered in this letter even though they may be considerations for the Commission in deciding whether to approve the proposed special permits.

Article 3 of the Zoning Regulations covers residential zones.

Under section 3.2 B the only permitted residential use is a single family dwelling. The subject property is in the 4 acre residential zone.

Under 3.2C various types of uses are permitted by special permit, including

(1) several “residential type uses” and under “institutional type uses”:

(10) municipal facility including public school, park, recreational facility, or other public use on land owned or leased by the Town of New Canaan;

(14) religious institutions; (17) philanthropic or eleemosynary institutions defined as organizations serving a significant community need

Philanthropic is not defined except referencing the definition of

eleemosynary, which is defined as “organized and operated for the

purpose of providing a public service or activity without profit”. The

dictionary definition of philanthropic is having to do with or showing

philanthropy; generous; charitable. A strong wish to help human beings,

showing by giving large sums of money to causes that help other people.

Section 3.3 covers permitted accessory uses in residential zones. Accessory use is defined in section 2.2 as “a use which is customarily incidental and subordinate to the principal use of a lot or a building located on the same lot therewith.” Principal use is defined in section 2.2 as “the primary or predominant use of any lot or building.” Section 3.3A(1) states that customary uses are “accessory uses customarily and reasonably incidental to a permitted principal use.” The stated uses include ones permitted without a permit, ones permitted by zoning or other permit or ones permitted by special permit. This definition is consistent with Connecticut case law on this subject. An accessory use must be both a use which is customarily incidental, related and subordinate to the principal use, and must be on the same lot.. Lawrence v. Zoning Board of Appeals, 158 Conn. 509, 511 (1969); Clifford v. Planning and Zoning Commission, 280 Conn. 434, 453 (2006); Graff v. Zoning Board of Appeals, 277 Conn. 645, 658, 659 (2006)

Permitted accessory structures under section 3.4 state the same three types of uses. Other structures permitted by special permit include other accessory buildings or structures not customarily and reasonably incidental as determined by the Commission, to a permitted principal use. To the extent that this provision may apply, it can only be considered as a use which is both clearly accessory and directly incidental to the main expressly permitted use in the residential zone, because otherwise this provision would be contradictory to the language and purpose of the other

regulations on this subject.

Religious institution is defined in section 2.2 as a place where persons regularly assemble for religious worship, and which is maintained and controlled by a religious body which is organized to sustain public worship. Grace Community Church is a religious institution with ancillary accessory uses. It operates under an amended special permit issued by the Commission in 2013, with conditions of approval tailored to the operations of a local community church. Section 8.2B.6.b states that “a special permit shall only authorize the particular uses or uses specified in the Commission’s approval.”

Grace Community Church has a special permit use in a residential zone. Grace Farms Foundation has filed an application for approval as a philanthropic organization and a club. It also wants a conference center and a restaurant on the subject property. It does not meet the definition of a religious institution.

What is a religious use for zoning purposes is also discussed in section 322 of Am. Jur. 2d, Zoning and Planning, at page 330:

“Whether a use is a religious one is a question of fact. ‘Religious use’ for zoning purposes, is conduct with a religious purpose, the determination of which focuses on the proposed use itself, not the religious nature of the organization. A structure qualifies as a church if it is regularly and predominantly used as a place of public worship. A church cannot enjoy the completely unfettered use of its property merely because the activities conducted on the property bear some relation to a church purpose; to fit within the definition of a ‘church’ or ‘church use’, the activities or the use to which the property is put must be reasonably closely related, in substance and in space, to the church’s purpose.”

For example, in Daughters of St. Paul, Inc. v. Zoning Board of Appeals, 17 Conn. App. 53, 58-62 (1988), a special exception was upheld for an order of Catholic nuns to construct a convent, chapel and a religious book store in a residential zone because the uses were sufficiently related to a “church or other place of worship”.

Under section 1.5A (1) any principal use of land, buildings, or structures not expressly permitted by these Regulations is prohibited. (2) Any activity not expressly permitted in the Regulations is prohibited. Zoning regulations are either “permissive” or “prohibitive.” Under the permissive type of regulations, which is the one which applies in most municipalities, including New Canaan, a use is automatically excluded unless it is expressly permitted in the zoning regulations. Heim v. Zoning Board of Appeals of Town of New Canaan, 289 Conn. 709, 717 (2008); Planning and Zoning Commission of Town of Lebanon v. Gilbert; 208 Conn. 696, 708 (1988); Graff v. Zoning Board of Appeals, 277 Conn. 645, 653, 654 (2003).

## II. Foundation Application

Since a principal use is a primary or dominant use of a lot, there cannot be more than one principal use on a lot. This is reinforced by the fact that the only expressly permitted use in a residential zone is a single family residence. Section 3.2B(1). For example, in the four acre residential zone you cannot build two residences on the same lot. Thus, except as otherwise stated in the zoning regulations, there cannot be multiple primary uses on the same lot or parcel of land, and there is no provision in

the regulations, such as mixed unit developments which exist under the regulations of some municipalities.

While there are not many cases on this subject, that is arguably due to the fact that the answer is obvious. One case that has been referred to by both sides in this case is Sun Oil Co. v. Zoning Board of Adjustment of Borough of Avalon, 669 A.2d 833 (1996), 286 N.J. Super 440. That case held that where various principal uses were allowed by the zoning regulations on one property, that it meant a single primary or main use of the property and that two permitted uses were not allowed on the same lot. Even though that case is not controlling in Connecticut, it recognizes the universal concept in zoning law that the zoning regulations control what uses are allowed or disallowed in the municipality, and that where a use is not expressly provided for it is prohibited, 669 A.2d at 835, and that the dictionary definition of a principal use means the first, chief or most important use, and that the property cannot be used for a mixed use, namely two permitted uses, unless the zoning regulations allow it.

Special permit uses are uses which are not automatically allowed in a zone, unlike an expressly permitted use. A special permit requires the approval of the zoning commission and compliance with multiple standards and tests in the regulations. While certain specified uses are allowed by special permit in a residential zone, it logically follows that if the primary use of a lot is for one special permit use allowed under the regulations that there also cannot be another special permit use granted

for the same lot if the first use is a primary one. In this situation the church is the primary special permit use. Stated another way, if you can't have two permitted uses (i.e. two single family residences) on one parcel, how can you allow one permitted use and one or more uses requiring a special permit use, namely one that is not automatically allowed, on the same lot in addition to an expressly permitted use or another existing primary special permit use? [The Sun Oil case also states at page 837 that where both a single family dwelling and a two-family dwelling are principal uses, both dwellings cannot be put on the same property even if they otherwise met the bulk requirements of the district.] Expressly permitted uses are automatically allowed on a parcel, but special permit uses are not.

The point is obvious, which explains why there are few reported cases on this subject. Whether more than one use is allowed on the same property depends on the terms of the zoning regulations. Unless there is an express regulation allowing it, only one use may be allowed as a principal use or as a special permit use, which is the situation under the New Canaan zoning regulations.

As stated above, there is an insufficient connection between the operations on the site by the church and the Foundation. The Foundation cannot operate under the special permit allowing the church, or obtain a modification of that permit to conduct its own additional activities which are not a religious use. In fact, the Foundation's operations basically amount to a commercial or business use in a residential zone. It has over

60 employees and a large number of persons attending various types of events on the property which are not religious uses.

Since special exceptions (special permits) might undermine the residential character of the neighborhood, “the goal of an application for a special exception is to seek permission to vary the the use of a particular piece of property from that for which it is zoned, without offending the uses permitted as of right in the particular zoning district.” Municipal Funding, LLC v. Zoning Board of Appeals, 270 Conn. 447, 453-54 (2004).

Even where a special permit is allowed under the zoning regulations for a religious use, a zoning commission can deny an application if the facts of the situation and the proposed use may have adverse effects on the area where it is located. In Cambodian Buddhist Society of Connecticut, 285 Conn. 381 (2008), the denial of a special exception to construct a building for religious worship was upheld where the use of the property and the level of activity adversely affected the character of the neighborhood and property values, Id., 439, 442, 443, 446.

The property is located in the four acre zone, the most restricted residential zone in New Canaan. In Senior v. Zoning Commission of the Town of New Canaan, 146 Conn. 531, 534, 535 (1959), the Supreme Court upheld the enactment of the four acre minimum lot size for the zone, noting that New Canaan had the highest per capita income of any municipality in the United States which was a proper fact for the Commission to consider “in deciding whether the establishment of a superior residential district

would be the most appropriate use of this unspoiled area” and stating the amount of acreage in five other residential zones in the Town. Id., 535.

### **III. Response to Foundation Position**

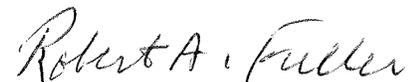
In order to justify the proposed use and several additional special permits on the site, the Foundation claims that (1) some Connecticut Superior Court cases have upheld multiple co-existing special permit uses, and (2) that the Commission has previously allowed multiple special permit uses on a single parcel. As for the first claim the Drouin case merely stands for the concept that if a property owner wants to substantially increase the use allowed under the original special permit that the owner must obtain an additional or amended special permit. The Maher case depended upon the specific regulations involved which allowed two uses on the same property and it is distinguishable on the facts from the situation here. The Antonik case did not address whether an nursing home and an assisted living facility were allowed on the same site under the zoning regulations; nursing homes and homes for the aged were allowed by special permit under the same regulation for the zone, and the case only held that the zoning commission could conclude that the assisted living facility was a home for the aged under the regulation. The result in each situation depends on whether the zoning regulations expressly allow two different uses on the same site.

As for the second claim, other letters or memorandums submitted by opponents of the application discuss properties referred to in the

applicant's memorandum dated January 19, 2017 and why they do not apply to the situation here. Basically the sites identified involve either religious uses or municipal property. Allowing other related religious uses to an existing church or religious institution is allowed by special permit because it does not change the religious nature of the use of the site.

Municipal facilities under section 3.2 (10) allow by special permit a municipal facility, public school, park, recreation facility or other public use on land owned or leased by the Town of New Canaan. Many of the sites stated in the memorandum are within this category which allows a wide range of uses allowed on Town property, indicating intent to allow more than one use in the regulation on the same site with a special permit.

Finally, the fact that there may be situations where more than one special permit was improperly approved by the Commission for the same property does not give the Foundation a free pass to do the same thing.



Robert A. Fuller