

Letters with Questions and Concerns – Batch 6

For the purposes of consolidating digitized materials the following is a summary list of correspondences followed by the actual documents received.

Item #	Name (Title)	Date
6-a	John Moller	November 19, 2024
6-b	May Castleberry	November 23, 2024
6-c	Lori Shepard	November 25, 2024
6-d	Theodore Rudd O'Neill	November 27, 2024
6-e	John Moller	November 29, 2024

Date Created: December 2, 2024

Proposed Wake Robin Expansion - Sewer Engineer's Review

From johntmoller@aol.com <johntmoller@aol.com>

Date Tue 11/19/2024 10:04 AM

To Land Use <landuse@salisburyct.us>

Planning and Zoning Commission,

I am writing to elaborate on the issues that need to be addressed regarding the Town sewer system's capacity to handle the proposed expansion of the Wake Robin Inn.

Aradev has written (in two 10/10/24 documents prepared by SLR and Mackey) that "the project was reviewed and the WPCA Board saw no problems."

However, the WPCA Board Chair wrote something very different in a 9/24/24 email to me: that they "have strong reservations about the size of the proposed expansion and the plant's capacity to handle it," that they "will be dealing with this with the assistance of our engineer consulting firm," and that "the Wake Robin expansion and the need for increased affordable housing units in town present a serious challenge to the sewer system in town."

This apparent range of opinions at the WPCA reinforces the need for a consulting engineer's review.

I'd like to suggest some details that the consulting engineers should consider as they evaluate the Town's projected available sewer system capacity:

- additional sewage that would be produced by the proposed Inn expansion, in order to confirm Aradev's estimates, and
- additional sewage that would be produced by affordable housing and other committed developments.

The consulting engineers should be sent the 2014 assessment of the Town sewer system by Loureiro Engineering Associates, referred to in the 9/3/24 draft Plan of Conservation and Development, which identified excess water getting into the sewer as the cause of major reductions in our sewer system's available capacity. The new assessment should include a review of work done since 2014 to address the excess water issue and the resulting impact on available sewer capacity. According to the 2024 POCD draft, excess water is still a major problem. So, the review should also include a description of the remaining work to be done and an estimate of its future impact on available sewer capacity.

Additional sewage from the proposed Inn expansion should also be reviewed to confirm Aradev's estimates, and to confirm that all sources of sewage from the proposed Inn expansion are addressed. Keep in mind what was discussed at the 7/16/24 WPCA board meeting: that the Inn's business has been in decline since 2014, and is now practically non-existent. So it's important that the calculation of the additional sewage to the Town sewer from the proposed Inn expansion will include that of the entire facility, not just the additional units.

The engineering review should also cover projected sewer use by future affordable housing that is so important, as well as any other developments the Town has committed to. As Abeth Slotnick of the Affordable Housing Commission noted at the 11/21/23 WPCA board meeting, affordable housing will likely have higher sewer usage rates than the Town average because they are likely to be occupied by full-time residents rather than weekenders.

I hope that these details will be considered while making your decision on the proposed Inn expansion.

Respectfully submitted,

John Moller

34 Wells Hill Road

johntmoller@aol.com


Fwd: Wake Robin Inn Development Proposal

From May Castleberry <maycastleberry@gmail.com>

Date Sat 11/23/2024 11:54 AM

To Curtis Rand <crand@salisburyct.us>; Chris Williams <cwilliams@salisburyct.us>; Katherine Kiefer <kkiefer@salisburyct.us>; Land Use <landuse@salisburyct.us>

Cc tmurphy@dmrslaw.com <tmurphy@dmrslaw.com>

 1 attachment (3 MB)

Ltr to PZC Salisbury 11-8-24.pdf;

Dear Mr. Rand, Mr. William, Ms. Kiefer, and members of the Planning and Zoning Commission

I read the letter that counsel for the Crugers sent to the Planning and Zoning commission that describes an unfathomably flawed Planning and Zoning process, along with Thomas Murphy's letter, below.

Like everyone I know who live beyond the immediate Wake Robin neighborhood, I had not been aware of the proposal until I attended the October P&Z meeting. During this meeting, I was *mystified* by the Commission's encouragement of the developers in the face of so many concerns of far reaching implications for the entire town, going well beyond the understandable concerns of the immediate Wake Robin neighborhood. Still, I had assumed that due diligence had been done to notify and protect Salisbury citizens from a potentially damaging plan.

Now, with a chronology and more information at hand, I'm astonished to learn that the P&Z Commission had been working with the Developers before May of 2024 to launch a misbegotten Development proposal by amending the Town's existing regulations, with improper notice and in apparent violation of Connecticut law.

I don't profess to know how to put toothpaste back in a tube, let alone work with Salisbury town regulations, but I very much hope you will enforce the laws and regulations that should have prevented this from happening.

My husband and I bought a house in Lakeville three years ago (after renting a house on the lake, opposite of the Wake Robin Inn, for three years when our son attended Hotchkiss). We, and many we know here, represent a facet of a Town "economy" that some leaders of the town seem to be ignoring as they rush to over develop a quiet residential area and make a busy intersection increasingly impassable. When we bought

here, we made a particular effort to buy into a Town that we knew typically, and impressively, protects its remarkable physical, historical, and environmental assets.

Thank you,

May Castleberry
17 Red Bird Lane
Lakeville, Ct 06039

THOMAS N. MURPHY, JR.
277 Under Mountain Road
Salisbury, CT 06068
tmurphy@dmrslaw.com (561) 391-1900

November 15, 2024

Curtis G. Rand, crand@salisburyct.us
Christian Williams, williams@salisburyct.us
Katherine Kiefer, kkiefer@salisburyct.us

RE: Proposed Expansion of Wake Robin Inn

Dear Mr. Rand, Mr. Williams and Ms. Kiefer:

I am enclosing a copy of a letter that counsel for Mr. and Mrs. William Cruger sent to the chairman

of the Salisbury Planning and Zoning Commission.

Aradev's application for a building permit took me and every one of my Salisbury friends and

acquaintances completely by surprise. Apparently, the developer has been dealing with Salisbury's

planning department for months prior to the meeting that I attended in October. When one reads

the contents of the enclosed letter, it begs the question: how did this process even get off the

ground?

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proper notice and passed an illegal amendment to the RR-1 zoning in May, 2024, to allow the

application to proceed.

The irregularity of this matter is astonishing in its scope and the embrace of this developer's plans

by the regulatory entity charged with the responsibility of protecting our residents from the

expansion of non-conforming uses is utterly inexplicable.

I and many other residents support Mr. and Mrs. Cruger, who live next to the Wake Robin, in

opposing this development.

As misers toy leaders saig sapiestizi rein serious bre ause lastag

of Connecticut. Sincerely,

TNM:hg

cc: Lee DeBoer; Sophia DeBoer; David Jones; Dr. John Isler; Lee Potter; George Mason; Pam Wilson; Nina Goodall; Brian Goodall; Ed Herrington



CRAMER & ANDERSON LLP
Counselors and Advocates

46 West Street
P.O. Box 278
Litchfield, CT 06759-0278

(860) 567-8717
Fax (860) 567-4531

30 Main Street
Danbury, CT 06810
51 Main Street
New Milford, CT 06776

Perley H. Grimes, Jr., Esq.
pgrimes@cramer-anderson.com

Allison M. Noteware, Esq.
anoteware@crameranderson.com

November 8, 2024

Email: landuse@salisburyct.us

Town of Salisbury
Planning & Zoning Commission
c/o Abby Conroy
Attn: Michael Klemens, Chairman
27 Main Street
Salisbury, CT 06068

**RE: #2024-0257 / Wake Robin LLC & Ms. Serena Granbery (ARADEV LLC) / 104 & 106 Sharon Road & 53 Wells Hill Road / Special Permit For Hotel (Section 213.5) / Map 47/ Lot 2 & 2-1 / DOR: 08/05/2024
Proposed Expansion of Wake Robin Inn**

Dear Chairman Klemens:

As you know, this firm has been retained to represent the interests of Mr. and Mrs. William Cruger ("the Crugers") of 86-88 Wells Hill Road, Lakeville, Connecticut and have engaged with other neighboring property owners who join in the pursuit of the outcome described herein. The Crugers are abutting property owners of a prior non-conforming property and use known as the Wake Robin Inn. As you are aware, for over a year now, Aradev, LLC has been working on obtaining approval to expand the Wake Robin Inn. In particular, the Aradev proposed expansion would provide 69-71 hotel rooms up from 26 via an addition to the existing Inn, a 9,600 sq. ft. event barn, 13



freestanding one and two bedroom cottages, a restaurant and bar, and an indoor spa and gym area.

On May 6, 2024, the Salisbury Planning and Zoning Commission ("the Commission") purported to amend its Regulations by enacting Section 213.5 of its Regulations to allow Hotels in the RR-1 zone subject to a special exception permit, changing the definition of Hotel (appendix p. 168) by adding Hotel to Appendix Tables 205.1 page 2 to allow Hotels in the RR-1 zone by special permit and adding Hotel to Appendix Table 203.11 Table of Parking requirements. Those Amendments are herein referred to as "the Amendments."

The purpose of this letter is to formally notify the Commission that the Amendments of the Regulations on which the Aradev Application (the "Application") is predicated were adopted substantively and procedurally in violation of existing law. If the Commission continues to rely on the Amendments as a basis to review the Application, the Crugers and neighbors reserve their right to appeal passage of the Amendments pursuant to §C.G.S. §8-8(r) for a full year after their passage and also reserve their right to appeal within 15 days of publication pursuant to C.G.S. §8.8(b) if an approval of the Application is granted by the Commission.



I. THE AMENDMENTS ADOPTED BY THE COMMISSION WERE, BY THEIR TERMS, IN CLEAR VIOLATION OF CONNECTICUT LAW.

A. The Effect of the Amendments is to Impermissibly Expand a Prior Non-Conforming Use. Even if the procedural violations in adopting the Amendments were not present, the Amendments by their express terms clearly violate established Connecticut law.

The Wake Robin Inn (the “Inn”) was built and utilized as a hotel before the Town of Salisbury enacted zoning regulations. Therefore, it is a prior non-conforming structure and use. That said, the sections of the zoning regulations applicable to prior non-conforming structures and uses apply to the Wake Robin Inn and expressly prohibit the proposed additions.

Section 503.1 of the Town of Salisbury Zoning Regulations states:

No non-conforming use of land or non-conforming use of a building or a structure shall be extended to occupy a greater area, space or portion of such land, building, or structure than was occupied or manifestly arranged for the use on the date that its non-conforming status was established.

Similarly, Regulation Section 503.2 provides:

Except as provided below, no non-conforming building or structure shall be altered, enlarged, or extended in any way that increases the area or space, including vertical enlargement of that portion of the building or structure that is non-conforming. For purposes of this regulation, vertical is defined as enlargement or expansion either upward or downward.

Exceptions provided in Regulation Section 503.2 are not applicable here.

The Amendments have the effect of permitting a dramatic increase of a non-conforming use. Specifically the cumulative expansions of the Inn, the addition of



cottages, an event barn, restaurant, bar, gym and spa, and increased parking, all of which will “occupy a greater area, or portion of such land” are in violation of Regulation Section 503.1. Similarly, the non-conforming structure (Inn) would be altered, enlarged, or extended in a way that increases the area or space that the building occupies in violation of Regulation Section 503.2. An expansion of the non-conformities is contrary to Regulation Section 500.2 which states in part, “[I]t is the intent of these Regulations to reduce or eliminate non-conforming situations as quickly as possible.”

The Connecticut Supreme Court has held that amendments to zoning regulations that by their terms purport to increase the scope of non-conforming uses are invalid. See Kleinsmith v. Planning & Zoning Comm’n of Town of Greenwich, 157 Conn. 303 (1968), attached hereto as Exhibit A.

In Kleinsmith, a prior non-conforming hotel filed a petition to amend Section 15(a) of the Greenwich zoning regulations by adding an additional subsection (subsection 6) to provide as follows:

The sale of alcoholic liquor served from but not consumed at a service bar in a hotel which is non-conforming by reason of its location in a residential zone shall not be deemed to be an additional use, provided that (a) such hotel contains dining facilities adequate for all the occupants of its rooms and (b) the sale of such alcoholic liquor is made to overnight guests of the hotel, or guests using the hotel dining facilities.

Id. at 307. The Greenwich zoning regulations further provided at Section 15(a)(1), “A non-conforming use of land or structure shall not be changed to any other non-conforming use which is more detrimental to the neighborhood.” Id. at 306. The



plaintiffs, who comprised neighboring property owners, appealed the Commission's decision adopting the amendment to the Connecticut Supreme Court on the basis that, inter alia, the amendment violated the provision of the Greenwich zoning regulations that a non-conforming use should not be changed or enlarged to the detriment of the neighborhood in which the non-conforming use is situated.

The Supreme Court agreed with the plaintiffs, stating:

The plaintiffs claim that the amendment adopted, which purports to permit the sale of liquor by nonconforming hotels, necessarily involves a change in use. They also claim that such a change in use permitting the sale of alcoholic liquor would be more detrimental to the neighborhood. The use of property for the sale of liquor may well be deemed to have a far more harmful effect upon the health and welfare of the community than ordinary business. A business involving the sale of liquor is one which admittedly may be dangerous to public health, safety and morals. A purpose and intention of the Greenwich building zone regulations is to abolish nonconforming uses, or to reduce them to conformity, as speedily as justice will permit. This is in accordance with the spirit of the law and the spirit of zoning. The advantages which the owners of nonconforming property acquire by the enactment of a zoning ordinance are not to be subsequently augmented except as permitted by the ordinance. We conclude that it was the obvious intention of the commission that [Section] 15(a)(1) of the regulations remain unchanged. The provision of the amendment that the sale of liquor by the nonconforming hotels shall not be deemed to be an additional use is ineffective in view of the continued existence of the requirement of the regulation that no nonconforming use be changed to one more detrimental to the neighborhood. The sale of liquor constitutes a change of use to one more detrimental to the neighborhood and is in direct violation of [Section] 15(a)(1).

(Internal citations omitted) Id. at 313-14.

Section 15(a)(1) of the Town of Greenwich's zoning regulations is remarkably similar to Section 501.1 of Salisbury's zoning regulations. Therefore, for the reasons set



forth in Kleinsmith, the Commission's approval of the Amendments would be an illegal expansion of the non-conforming use of the Wake Robin Inn proposed by the Application.

The proposed Inn expansion would adversely affect neighboring property values due to the noise, traffic, and light emitted from the enlargement of the hotel, added event barn, restaurant, bar, cottages, gym, spa, parking and additional hotel rooms. Such expansion would have an adverse effect on the zone, neighborhood or surrounding properties in violation of Regulation Section 501.1.¹ As in Kleinsmith, the increased sale of liquor in the event barn and restaurant bar would be more detrimental to the neighborhood. In addition, the expansion would violate both Regulation Sections 803.2 and 803.3 of the standards for special permits.

The inescapable conclusion is that the Amendments have the effect of permitting a significant expansion and change of what has always been a non-conforming, quiet country Inn in a residential zone in clear violation of the on-point Kleinsmith decision of the Connecticut Supreme Court. The Application seeks to dramatically increase the existing Inn non-conforming use in blatant violation of the Connecticut Supreme Court decision in Kleinsmith, state statutes, and the pertinent regulations of the Commission. For these reasons alone the Application must be denied.

¹ Total existing building space on the property is 10,714 sq. ft. Proposed building space is 75,306 sq. ft; over a 600% increase.



B. Reliance on the Amendments is also Legally Invalid as their Effect is to Permit a Clear Case of Spot Zoning in Violation of Established Law.

Spot zoning is prohibited in Connecticut. Gaida v. Planning & Zoning Comm'n of City of Shelton, 108 Conn.App. 19, 32 (2008). "Simply defined, spot zoning is the reclassification of a small area of land in such a manner as to disturb the tenor of the surrounding neighborhood." Morningside Ass'n v. Planning & Zoning Bd. of City of Milford, 162 Conn. 154, 161 (1972). "Spot zoning is often considered impermissible because it benefits an individual property owner at the expense of the community's interest in a harmonious, comprehensive zoning plan." 131 Beach Road, LLC v. Town Planning & Zoning Comm'n of Town of Fairfield, 349 Conn. 647, 676 (2024).

To prevail on an impermissible spot zoning argument, two elements must be satisfied: "First, the zone change must concern a small area of land... Second, the change must be out of harmony with the comprehensive plan for zoning adopted to serve the needs of the community as a whole." (Internal citations and quotation marks omitted) Morningside, *supra*, at 161. "The ultimate test is whether, upon the facts and circumstances before the zoning authority, the extension is, primarily, an orderly development of an existing district which serves a public need in a reasonable way or whether it is an attempt to accommodate an individual property owner." (Internal quotation marks omitted) Konigsberg v. Bd of Aldermen, 283 Conn. 553, 592-93 (2007).

The Inn constitutes a "small property." In Damick v. Planning & Zoning Comm'n of Southington, 158 Conn. 78, 85 (1969), a change of a zone for 18.5 acres from



residential to industrial use was held to be spot zoning. The Wake Robin LLC and Serena Granbery properties comprise a total of 13.8 acres.² As the Wake Robin Inn property is 11.52 acres (smaller than the property in Damick), the property is small enough either alone or with Granbery such that approval of the Application would be considered spot zoning.

The other element of spot zoning is met; namely, that the proposed change is “not an orderly development” which serves a public need in a reasonable way.”

Konigsberg, *supra*, at 592-593. The Inn is a non-conforming use in the RR-1 residential zone. The existing Inn has 10,714 sq. ft. of building space. Aradev proposes to add 64,592 sq. ft. of building space, an increase of over 600%. There is no evidence that such an increase serves a public need in a reasonable way. In fact, no such public need has been shown. Rather an approval of the Aradev Application would simply be an attempt “to accommodate an individual property owner” in this case, Aradev in its business plan. Konigsberg, *supra*.

Moreover, the proposed use does not meet the comprehensive plan of zoning adopted to serve the community as a whole. The RR-1 is a larger lot rural zone (Regulation Section 206.2) “... designed to maintain open space entry-ways to the village centers.” The Aradev proposed use does not meet the purpose of the RR-1 zone.

² The Granbery property is a conforming residential use in the RR-1 zone. Wake Robin LLC owns 11.52 acres and Ms. Granbery owns 2.28 acres.



Aradev had been discussing with the Commission or its representatives its plans for the property prior to the Commission's drafting and passage of the Amendments. The Amendments incorporated substantially all of the pertinent elements of the Aradev proposed changes to the Inn property. The effect of these changes are to benefit Aradev and to permit it to greatly expand the non-conforming use and footprint of the Inn without regard to the adverse affects on the neighboring properties in the RR-1 zone.

Any approval by the Commission of the Application which relies on adoption of the Amendments referenced herein would be a classic case of spot zoning, which is unequivocally prohibited by Connecticut law. Therefore, approval of the Application must be denied.

II. THE AMENDMENTS OF REGULATION SECTIONS 205.1 & 213.5, HOTELS IN RESIDENTIAL ZONES, DEFINITION AND PARKING REGULATIONS OF THE SALISBURY ZONING REGULATIONS WERE PROCEDURALLY DEFICIENT.

On or about May 6, 2024, the Commission purported to amend its Regulations relating to hotels to allow hotels in the RR-1 zone by special permit. It also modified the definition of "Hotel" to include "additional facilities and services." The foregoing was done despite the fact that hotels had previously been non-conforming uses in the RR-1 zone.

C.G.S. §8-8(r) provides an additional remedy for procedural errors of the Commission; it states:



In any case in which a board fails to comply with a requirement of a general or special law, ordinance or regulation governing the content, giving, mailing, publishing, filing or recording of any notice either of a hearing or of an action taken by the board, any appeal or action by an aggrieved person to set aside the decision or action taken by the board on the grounds of such noncompliance shall be taken not more than one year after the date of that decision or action.

The Commission's amendment process was procedurally deficient for multiple reasons. Those reasons are individually enumerated hereinafter.

1. The Commission Failed to State on the Record the Reasons for the Amendment.

The first procedural deficiency is the Commission's failure to state the reasons for the Amendments on the record. C.G.S. §8-3(c) states in pertinent part, "Whenever such commission makes any change in a regulation or boundary it shall state upon its record the reasons why such change is made." The zoning regulations of the Town of Salisbury contain a similar requirement. See Regulation Section 912.5 ("Whenever the Commission adopts any...text change to these Regulations, it shall state upon the records the reason why such change was made.").

At the public hearing on May 6, 2024, discussion was had regarding the proposed Amendments, and Land Use Director Abby Conroy answered Commission questions and the question of one member of the public. A vote was then held wherein four Commission members voted to approve the Amendments. The meeting minutes and Notice of Decision are devoid of any reason stated on the record why the Commission made the Amendments in violation of applicable law.



2. The Commission Failed to State a Finding of Consistency With the POCD.

C.G.S. §8-3a(a) states as follows:

In any municipality which has a combined planning and zoning commission operating under the general statutes or any special act, the commission shall state on the record its findings on consistency of a proposed zoning regulation or boundaries or changes thereof with the plan of development of the municipality.

The Salisbury zoning regulations also similarly provide at Section 912.5,

In making its decision [to amend the regulations], the Commission shall take into consideration the Town Plan of Conservation and Development (“POCD”) (prepared pursuant to Section 8-23, Connecticut general Statutes), and shall state on the record its findings on consistency of the...change...of such regulations and boundaries with such Town Plan.³

“[Z]oning regulations refer to the plan of development in order to provide some guidance for applicants in interpreting the standards enumerated in the regulations.”

Irwin v. Planning & Zoning Comm’n of Town of Litchfield, 244 Conn. 619, 631 (1998).

The record is devoid of any findings on the Amendments’ consistency with either the POCD, effective June 30, 2012 or proposed to be adopted December 16, 2024.

Therefore, the amendment process also violated Salisbury’s own Zoning Regulations which contain its procedural requirements.

For the foregoing reasons, the adoption of the Amendments relating to hotels is violative of C.G.S. §8-3(b), §8-3a(a) and the Salisbury zoning regulations.

³ Salisbury has an existing Plan of Conservation and Development (POCD) effective June 30, 2012. The Commission has been working on a new POCD for several years which is scheduled to be adopted on December 16, 2024.



3. *The Prehearing Notice of the Proposed Amendment was Procedurally Deficient.*

Another procedural deficiency in the Commission's amendment of the zoning regulations pertaining to hotels was a defective pre-hearing notice of the proposed Amendments.

C.G.S. §8-3(a) states in pertinent part:

Such zoning commission shall provide for the manner in which regulations...shall be... established or changed. No such regulation...shall become effective or be established or changed until after a public hearing in relation thereto, held by a majority of the members of the zoning commission or a committee thereof appointed for that purpose consisting of at least five members....A copy of such proposed regulation or boundary shall be filed in the office of the town, city or borough clerk, as the case may be, in such municipality...for public inspection at least ten days before such hearing, and may be published in full in such paper...

(emphasis added).

"We repeatedly have held that the fundamental reason for the requirement of notice in §8-3(a) is to advise all affected parties of the opportunity to be heard and to be apprised of the relief sought. Adequate notice will enable parties having an interest to know what is projected and, thus, to have an opportunity to protest." (Internal citations and quotation marks omitted) Roncari Indus., Inc. v. Planning & Zoning Comm'n of Town of Windsor Locks, 281 Conn. 66, 73-74 (2007). "[I]t is well recognized that the purpose of the procedural requirements of §8-3(a) is to fairly and sufficiently apprise those who may be affected by the proposed action of the nature and character of the proposed action so as to enable them to prepare intelligently for the hearing." (emphasis added) Id. at 74.



The prehearing notice of the proposed Amendments took the form of a Memo from Abby Conroy, Land Use Director, dated March 18, 2024 to the Northwest Hills Council of Governments (“NHCOG”). It is marked “Received” by the Salisbury Town Clerk’s office on March 25, 2024.

The Commission’s use of the NHCOG notice was not sufficient notice and at best was confusing to Salisbury residents as to its intent. A separate notice directly advising residents of the proposed Amendments should have been drafted and filed.

The effect of the NHCOG notice was that the affected parties (namely residents of Salisbury) were not fairly and sufficiently apprised of the proposed Amendments because the notice was directed to the NHCOG and not to the residents of Salisbury. Furthermore, the notice to NHCOG was received over a month and a half in advance of the May 6, 2024 public hearing on the Amendments. The pre-hearing notice was misleading and did not “fairly and sufficiently” apprise residents and was so early that Salisbury residents were likely to disregard it, if they found the language relating to the Amendments in the NHCOG format.

For the foregoing reasons the pre-hearing notice of the proposed changes to the zoning regulations pertaining to hotels was defective.

4. The Notice of Decision is Deficient.

Another procedural deficiency of the Commission’s zoning amendments is the Notice of Decision is unduly vague. The Notice of Decision stated in its entirety:



To Amend the Town of Salisbury Zoning Regulations Section 205.1 'Table of Uses – Residential Zones' and Section 205.2 'Table of Uses – Rural Enterprise, Commercial & Industrial Zones,' add Section 213.5 'Hotels in Residential Zones,' amend Section 703.11 'Table of Parking Requirements,' and revise definitions of 'Hotel' and 'Motel,' effective May 20, 2024.

(emphasis added).

A notice of decision must be adequate to allow a reader to form an opinion as to whether the decision presents an appealable issue. Bridgeport Bowl-O-Rama, Inc. v. Zoning Bd. of Appeals of City of Bridgeport, 195 Conn. 276 (1985). This is determined from the notice of decision as a whole. Id. It is not clear from the Notice of Decision that the Commission voted to approve the proposed amendment. A copy of the Notice of Decision published on May 16, 2024 is attached as Exhibit B. The Notice refers to four different items – three of these, items (1, 3 and 4) start with "Approved." The notice given with regard to the hotel zoning amendments, (the second item on the list) is preceded with the phrase, "To Amend."

The Notice of Decision does not say "approved." It only says "To Amend" which implies that a further action on amendments will be taken. Thus, a reasonable reading of the Notice of Decision does not alert the reader that the Amendments were actually approved. A reader reviewing the Notice of Decision would not even consider the possibility of appeal. Accordingly, the Notice of Decision was defective.



5. The Notice of Decision Was Not Timely Filed.

The Amendments of the zoning regulations pertaining to hotels were procedurally defective because the Notice of Decision was not timely filed. C.G.S. §8-3(d) states:

Zoning regulations...or changes therein shall become effective at such time as is fixed by the zoning commission, provided a copy of such...change shall be filed in the office of the town, city or borough clerk, as the case may be,...and notice of the decision of such commission shall have been published in a newspaper having a substantial circulation in the municipality before such effective date...

(emphasis added).

The Salisbury zoning regulations require that “Zoning Regulations... and any amendments or changes thereto shall become effective at such time fixed by the Commission provided that prior to the effective date: a. A copy of such regulation text change...shall be filed with the Town Clerk...” (Emphasis added) Salisbury Zoning Regulations Section 912.6.

The Amendments to the zoning regulations were to be effective May 20, 2024. The Notice of Decision, however, was not filed with the town clerk until May 20, 2024, i.e., not prior to the effective date. Accordingly, C.G.S. §8-3(d) was clearly violated by this defective Notice of Decision.

6. The Amendments are Defective because Notice Was Not Given in Accordance with Section 911.1 of the Zoning Regulations.

Regulation Section 911.1, Commission Initiated, provides as follows:

The Planning and Zoning Commission may, on its own motion from time to time, adopt, amend or repeal the provisions and boundaries established by these Regulations. However, no such Commission initiated change in the



regulations, restrictions, or Zoning Map boundaries shall become effective until after notice and public hearing is held by the Commission, at which time the public shall have an opportunity to be heard. For Commission initiated amendments the Commission shall provide notice in accordance with Connecticut General Statutes §8-3b and shall also provide notice to the Public Notice Registry established by the Town in accordance with Connecticut General Statutes §8-7d.

(emphasis added).

C.G.S. §8-7d(g)(2) provides as follows:

A zoning commission, planning commission or planning and zoning commission shall establish a public notice registry of landowners, electors and nonprofit organizations qualified as tax-exempt organizations under the provisions of Section 501(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, requesting notice under this subsection. Each municipality shall notify residents of such registry and the process for registering for notice under this subsection.

C.G.S. §8-7d(g)(2) mandates that planning and zoning commissions establish a public notice registry. C.G.S. §8-7d(g)(3) provides for additional notice to “all land owners, electors and organizations in the public notice registry.” A review of the record does not show any evidence a Public Notice Registry was established by the Town or that notice was given to the Public Notice Registry established by the Town or to the listed individuals or entities. Upon information and belief, the Town of Salisbury does not maintain a Public Notice Registry. Accordingly, for that reason alone §8-8(r) applies and the procedural requirements of the Regulations were not met thereby rendering the Amendments defective.



7. The Provisions of PZC Regulation Section 805.8 Were Not Met

Regulation Section 805.8 provides as follows:

When an application is filed to conduct or cause to be conducted any action requiring approval of the Commission on a property, any portion of which is within a public water supply aquifer as identified in accordance with CGS §22a-354c or the watershed area of a water company, the applicant shall notify the Commission of Public Health as required by CGS Section 8-3i and shall certify such notice to the Commission prior to any action by the Commission on the application.

Approximately thirty (30%) percent of the property located on the easterly portion of the land sought to be used for the expanded Inn is located within an aquifer protection zone as has been identified by the Salisbury Aquifer Protection Ordinance. Where the property involves a public water supply aquifer, “ ... the application shall notify the Commission of Public Health as required by C.G.S. § 8-3i and shall certify such notice to the Commission prior to any action by the Commission on the application.” The record does not reflect that the Applicant has notified the Commissioner of Public Health as is required by C.G.S. § 8-3i or that such notice has been certified to the Commission. C.G.S. § 8-3i provides “Such notice shall be given by certified mail, return receipt requested, and shall be mailed not later than seven days after the date of the application.” There is no proof in the record of the hearing of the Application that notice was given by the Applicant to the Commissioner of Public Health in the form required by statute. Therefore, pursuant to Regulation Section 805.8 and C.G.S. §8-3i, the Application was procedurally defective.



8. *The Application for Text Amendment Lacked an Explanatory Statement or POCD Analysis.*

PZC Regulation Section 911.7, Explanatory Statement, provides as follows:

All applications for a Zoning Map or text amendment shall be accompanied by three (3) copies of a statement explaining the need for the proposed amendment, identifying any benefits to the Town and an analysis of the consistency of the proposed zoning regulation or boundary with the current Town Plan of Conservation and Development.

(emphasis added).

The record reflects that there is no statement explaining the need for the proposed amendment, identifying any benefits to the Town nor is there an analysis of the consistency of the proposed text amendment with the POCD in violation of PZC Regulation Section 911.7 rendering the Application incomplete.

9. *The Application for Text Amendment Lacked a Zoning Text Change.*

PZC Regulation Section 911.5, Zoning Text Changes, provides as follows:

The application shall precisely set forth the existing provisions and the specific provisions to be changed with Article and Section numbers. It shall clearly show the provisions to be substituted, deleted or added to these Regulations. Three (3) copies of the proposed text shall be submitted to the Planning and Zoning Office.

The record reflects that the Commission did not precisely set forth the existing provisions nor the specific provisions to be changed with article and section numbers nor clearly show the provisions to be deleted from the Regulations both in violation of Regulation Section 911.5 rendering the Application incomplete.



10. The Application Did Not Meet the Requirements of Section 805.3 of the Zoning Regulations.

Regulation Section 805.3 provides as follows:

The application with all required maps, documents and reports shall be submitted to the Planning and Zoning Office at least fourteen (14) calendar days prior to the next Commission meeting. Where additional information or reports are required prior to the date of a scheduled public hearing these also shall be submitted at least fourteen (14) days prior to the hearing date.

There is no record evidence that the Application with all required maps, documents and reports was submitted to the PZC at least fourteen (14) calendar days prior to the next Commission meeting. Accordingly, Regulation Section 805.3 was not met and the Application was incomplete.

11. Regulation Section 805.4, Date of Submission and Receipt, Was Not Met.

Regulation Section 805.4 provides as follows:

The date of application submission shall be the date the signed application and fee has been filed with the Planning and Zoning Commission Office. The date of receipt of an application, which is the date that starts the time clock for decision on an application, shall be the date of the next regularly scheduled meeting of the Commission immediately following the date of submission to the Commission, or thirty-five (35) days after the date of submission, whichever is sooner. An application which does not include all required application material shall serve as a basis for denial.

There is no evidence of a signed application in the Commission's file or in the record. Accordingly, for that reason alone, the Application should be deemed incomplete and found to be null and void under §8-8(r). Furthermore, Regulation Section 805.4 provides that "... the date of the receipt of an Application " . . . which is the date that starts the time clock for decision on the application, shall be the date of the



next regularly scheduled meeting of the Commission immediately following the date of submission . . . or 35 days after the date of submission whichever is sooner. . . .” As there was no record evidence of the date the Application was signed, then the date of the next regularly scheduled meeting cannot be determined. The Application was defective as it failed to meet the procedural requirements required by §8-8(r).

III. SUMMARY


The Crugers, other neighboring property owners and concerned residents of Salisbury will take whatever appeals are necessary to assert and prevail on the claims set forth herein as well as any other claims found in the record of the Aaradev Application.


I am glad to answer Commission questions on this letter.

Respectfully Submitted,

Angela Cruger and William Cruger

By: Cramer & Anderson LLP,
Their Attorneys

BY: 
Perley H. Grimes, Jr.

BY: 
Allison M. Noteware
Cramer & Anderson, LLP
46 West Street
Litchfield, CT 06759
860-567-8718

**CARLOS O. KLEINSMITH ET AL. v. PLANNING
AND ZONING COMMISSION OF THE TOWN
OF GREENWICH ET AL.**

KING, C. J., HOUSE, COTTER, THIM and RYAN, Js.

The language of the special act (26 Spec. Acts 325) governing zoning in Greenwich indicates a legislative intent that, so far as zoning is concerned, the planning and zoning commission is to operate under the General Statutes as supplemented by any additional powers and duties conferred by the special act. Since nowhere in the special act are the words "public notice" used in relation to the adoption or amendment of the building zone regulations, § 8-3 of the General Statutes is applicable to such a matter.

Compliance by a zoning authority with statutory requirements as to notice of hearing is a prerequisite to valid action by it. The purpose of the notice required by § 8-3 is fairly and sufficiently to apprise those who may be affected by the proposed action of its nature and character so as to enable them to prepare intelligently for the hearing. The notice, however, is not required

Kleinsmith v. Planning & Zoning Commission

to contain an accurate forecast of the precise action which will be taken on the subject matter it referred to. It is implicit that changes in the original proposal may ensue as a result of the views expressed at the hearing.

The notice of the defendant commission clearly indicated that a public hearing was called to consider a proposed amendment, set out verbatim, to the building zone regulations concerning nonconforming uses and that the amendment would add another subsection thereto permitting a hotel which was nonconforming by reason of its location in a residential zone to sell liquor subject to certain restrictions. A purpose of the proposal was to prevent the decline and deterioration of such a nonconforming hotel. One of the restrictions in the proposed amendment was that the hotel be located within 2500 feet of a business zone. This restriction was deleted in the amendment adopted. The plaintiffs, owners of property near two nonconforming hotels which were in a residential zone but were more than 2500 feet from a business zone, contended that the notice was insufficient, under § 8-3, because it was so precise that it failed to apprise them of the scope of the action proposed. The changes made in the original proposal, however, were a result of the hearing and did not affect the fundamental characteristics of the amendment as proposed. *Held* that the statutory requirements relating to notice were fully satisfied.

A purpose and intention of the regulations is to abolish nonconforming uses, or to reduce them to conformity, as speedily as justice will permit.

The use of property for the sale of liquor may well be deemed to have a far more harmful effect on the health and welfare of the community than ordinary business.

The commission declined to modify the regulation which prohibited a change of a nonconforming use to one "which is more detrimental to the neighborhood." In view of that regulation, the provision in the amendment that the sale of liquor in nonconforming hotels "shall not be deemed to be an additional use" was ineffective. *Held* that such a sale of liquor would constitute a change of use to one more detrimental to the neighborhood, in direct violation of the regulations, and therefore the amendment was invalid.

The question whether the proposed amendment would, in view of the fact that the state has enacted statutes of general application in the regulation of liquor sales, impose on the holder of a hotel permit restrictions beyond the authority of a zoning commission to impose was not raised by the parties and an answer to it was not necessary to the court's decision on this appeal.

Argued October 2—decided December 23, 1968

Kleinsmith v. Planning & Zoning Commission

Appeal from the action of the named defendant in amending the zoning regulations, brought to the Court of Common Pleas in Fairfield County at Stamford and tried to the court, *Williams, J.*; judgment dismissing the appeal, from which the plaintiffs appealed to this court. *Error; further proceedings.*

The appellees filed a motion for reargument which was denied.

S. Floyd Nagle, with whom, on the brief, was *William B. Lewis*, for the appellants (plaintiffs).

Robert F. Grele, with whom, on the brief, was *William R. Lynch*, for the appellee (defendant Homestead Inn, Inc.).

Joseph A. Iseillo, for the appellee (named defendant).

RYAN, J. On April 14, 1966, Walter J. Stephen, on behalf of the defendant Homestead Inn, Inc., hereinafter referred to as Homestead, filed a petition with the planning and zoning commission of the town of Greenwich, seeking an amendment to § 15 of the Greenwich building zone regulations. The commission published the following notice of the application in the Greenwich Time: "A public Hearing will be held by the Planning and Zoning Commission on Thursday, May 12, 1966 at 8 P.M. in the Police Court Room, Greenwich, Connecticut, to consider and take action upon the following proposed amendments to the 'Building Zone Regulation Map, Greenwich, Connecticut' and the 'Building Zone Regulations, Greenwich, Connecticut': . . . BUILD-

Kleinsmith v. Planning & Zoning Commission

ING ZONE REGULATIONS V. Upon application of Walter J. Stephen, on behalf of the Homestead Inn, Inc., to amend the 'Building Zone Regulations, Greenwich, Connecticut', as follows: Amend Section 15. Non-Conforming Uses, by inserting a new subsection a. (6) immediately before subsection b. as follows: '(6) The sale of alcoholic liquor at a service bar only in a hotel which is non-conforming by reason of its location in a residential zone shall not be deemed to be a change in use more detrimental to the neighborhood; provided that (a) such hotel is located within 2,500 feet of the nearest business zone and contains dining facilities adequate for all the occupants of its rooms and (b) the sale of such alcoholic liquor is made predominantly to the overnight guests of the hotel, incident to their use of the hotel dining facilities.'

The purpose of Homestead's petition was to permit the sale of alcoholic beverages in hotels which were nonconforming by reason of their location in a residential zone. Homestead is such a hotel located in a residential zone, but it is legally nonconforming. Section 15 (a) (1) of the Greenwich building zone regulations provides as follows: "A non-conforming use of land or structure shall not be changed to any other non-conforming use which is more detrimental to the neighborhood . . ." A stated purpose of the proposed amendment was to prevent the decline and deterioration of such nonconforming hotels. The plaintiffs are the owners of property within the immediate vicinity of the Old Greenwich Inn and The Lodge, which are legally nonconforming hotels in a residential zone but are more than 2500 feet from the nearest business zone.

On May 23, 1966, the defendant commission voted to amend § 15 of the building zone regulations in the

Kleinsmith v. Planning & Zoning Commission

following manner: "Amend Section 15. Non-conforming Uses, by inserting a new subsection a. (6) immediately before subsection b. as follows: '(6) The sale of alcoholic liquor served from but not consumed at a service bar in a hotel which is nonconforming by reason of its location in a residential zone shall not be deemed to be an additional use, provided that (a) such hotel contains dining facilities adequate for all the occupants of its rooms and (b) the sale of such alcoholic liquor is made to overnight guests of the hotel, or guests using the hotel dining facilities.'

Among the reasons given by the commission for its action are the following: (1) The sale of alcoholic liquor is essential to modern concepts of hotel operation and to the dining facilities of such a hotel and should not be considered an additional use. (2) The amendment, plus the inclusion of the service bar provision, provides reasonable control and protection to the residents of the surrounding area. (3) The proposal represents a practical way for Greenwich to permit a better type of dining-out restaurant and hotel operation where they exist consistent with local custom without increasing the business zone. (4) The 2500-foot provision as proposed by the applicants was deleted because questioning at the hearing failed to disclose a reason therefor and it was considered by the commission as an arbitrary and unreasonable limitation not to be considered in connection with the use of the premises.

From the action of the commission the plaintiffs appealed to the Court of Common Pleas. Upon the dismissal of the appeal, the plaintiffs appealed to this court.

The plaintiffs claim in their brief that the notice

of the hearing of the planning and zoning commission was legally inadequate to meet the requirements of § 8-3 of the General Statutes. In view of the representation and apparent agreement of counsel in argument that zoning in the town of Greenwich is governed by No. 469 of the 1951 Special Acts (26 Spec. Acts 325), it is required that we determine whether the provisions of § 8-3 are applicable in the instant case. Chapter 124 of the General Statutes (§§ 8-1—8-13) is a general zoning enabling act. "Any municipality may by vote of its legislative body, adopt the provisions of this chapter and exercise through a zoning commission the powers granted hereunder." § 8-1. We have construed this statute as requiring of the municipality's legislative body an affirmative act in which the intent to utilize the zoning provisions of the general enabling act is expressed. *Puskars v. Zoning Board of Appeals*, 155 Conn. 360, 364, 232 A.2d 109; *Jensen's, Inc. v. Killingworth*, 152 Conn. 237, 242, 206 A.2d 114. The zoning enabling act of the General Statutes was adopted by the representative town meeting of Greenwich on August 17, 1948. Greenwich Spec. Acts, Ord., Regs., p. 74 § 2 n.1. In 1951, "An Act concerning Town Planning and Zoning for the Town of Greenwich" was adopted by the General Assembly to take effect upon its approval by a town meeting. 26 Spec. Acts 332, No. 469 § 29. It was so approved on December 10, 1951, and the effective date thereof was designated as February 1, 1952. Greenwich Spec. Acts, Ord., Regs., p. 75.7 n. Section 2 of No. 469 of the 1951 Special Acts, herein after referred to as the Act, created the planning and zoning commission of the town of Greenwich and provided: "Said commission shall, in addition to the powers and duties conferred by this act, have

all the powers and duties conferred upon zoning commissions under the general statutes of this state." In view of the fact that, up to the effective date of the Act, zoning in the town of Greenwich was governed by the provisions of the General Statutes, the language of § 2 of the Act clearly indicates a legislative intent that, so far as zoning is concerned, the planning and zoning commission would continue to operate under the General Statutes as supplemented by any additional powers and duties conferred by the Act. Since the scope of our inquiry is limited to a determination of the legal sufficiency of the notice of hearing, we confine ourselves to that question.

Section 1 of the Act provides, in part, as follows: "For the purposes of this act, the following terms shall have the meanings provided in this section. . . . 'public notice' means, unless otherwise specified in this act, the publication in a newspaper of general circulation in the town of Greenwich once a week for two consecutive weeks of a notice of the time and place of a public hearing set for not less than fifteen days after the date of the first of such publications" So far as the town planning and zoning commission is concerned, an examination of the Act reveals that "public notice" as defined therein is limited to such matters, for example, as public hearings prior to the adoption of the plan of development by the commission (26 Spec. Acts 328, No. 469 § 13) and the adoption or amendment of subdivision regulations. 26 Spec. Acts 330, No. 469 § 20. Nowhere in the Act are the words "public notice" used in relation to the adoption or amendment of building zone regulations. We conclude therefore that § 8-3 of the General Statutes is applicable in the instant case.

No claim is made by the plaintiffs that notice was not timely given, but rather it is claimed that the notice was legally insufficient to apprise the plaintiffs of the nature of the proposed action because the notice limited the neighborhoods to which it applied and exempted the plaintiffs' neighborhood. Section 29 of the Greenwich building zone regulations in effect at the time of the hearing provided that the "Planning and Zoning Commission . . . may amend the zoning text or the zoning map in accordance with the provisions of Chapter 43, General Statutes of 1949 and amendments thereto [now Chapter 124 of the General Statutes]." The purpose of the notice required by General Statutes § 8-3 is "fairly and sufficiently to apprise those who may be affected by the proposed action of the nature and character of the proposed action so as to enable them to prepare intelligently for the hearing." *Passero v. Zoning Commission*, 155 Conn. 511, 514, 235 A.2d 660, cert. denied, 390 U.S. 1004, 88 S. Ct. 1248, 20 L. Ed. 2d 104. The statute permits, but does not require, that the proposed amendment to the building zone regulations be set forth in the notice. *Passero v. Zoning Commission*, supra, 515; note, 96 A.L.R.2d 449, 502. "Compliance with the requirements as to notice is a prerequisite to valid action by the board. *Smith v. F. W. Wolworth Co.*, 142 Conn. 88, 94, 111 A.2d 552. To be adequate, the notice is required to fairly and sufficiently apprise those who may be affected of the nature and character of the action proposed, to make possible intelligent preparation for participation in the hearing. 2 Merrill, Notice, p. 285; *Winslow v. Zoning Board*, 143 Conn. 381, 388, 122 A.2d 789." *Neuger v. Zoning Board*, 145 Conn. 625, 630, 145 A.2d 738. Here, the notice of the public hearing set forth the proposed

amendment verbatim. It clearly indicated that the hearing was called to consider an amendment to the building zone regulations concerning nonconforming uses which would add another subsection thereto permitting a hotel which is nonconforming by reason of its location in a residential zone to sell liquor subject to certain restrictions.

The plaintiffs claim that since the proposed amendment, by virtue of the 2500-foot limitation, appeared to exclude the two other nonconforming hotels located in the immediate vicinity of properties owned by the plaintiffs, the notice was so precise that it failed to apprise them of the scope of the action contemplated. There is nothing in the record to indicate that at the time of the notice and prior to the hearing the defendant commission contemplated any action other than to provide adequate notice to permit interested persons to express their views at a public hearing. "The very purpose of the hearing was to afford an opportunity to interested parties to make known their views and to enable the board to be guided by them. It is implicit in such a procedure that changes in the original proposal may ensue as a result of the views expressed at the hearing. *Couch v. Zoning Commission*, 141 Conn. 349, 358, 106 A.2d 173; *Pecora v. Zoning Commission*, 145 Conn. 435, 444, 144 A.2d 48; *Klaw v. Pan-Mar Construction Co.*, 50 Del. (11 Terry) 487, 135 A.2d 123. Notice of a hearing is not required to contain an accurate forecast of the precise action which will be taken upon the subject matter referred to in the notice. *Ciaffone v. Community Shopping Corporation*, 195 Va. 41, 50, 77 S.E.2d 817." *Neuger v. Zoning Board*, supra. The changes made in the amendment as proposed arose as a result of the public hearing. The 2500-

Kleinsmith v. Planning & Zoning Commission

foot provision was deleted because the testimony at the hearing disclosed no valid reason therefor and the commission considered it an arbitrary and unreasonable limitation which should not be considered in connection with the use of the premises. The changes did not affect the fundamental character of the proposal for the consideration of which the hearing had been called and advertised. The requirements of General Statutes § 8-3 relating to public notice of the hearing were fully satisfied.

The plaintiffs make the further claim that the commission's action in adopting the amendment to the building zone regulations was invalid. Under the building zone regulations in effect at the time of the hearing in the instant case, a nonconforming use in the three hotels could be "continued, changed or altered" subject to the condition that it "shall not be changed to any other non-conforming use which is more detrimental to the neighborhood." Greenwich Bldg. Zone Regs. §§ 15 (a), 15 (a) (1). These regulations expressly authorize a change in such use subject to the conditions therein stated. See *State ex rel. Chatlos v. Rowland*, 131 Conn. 261, 265, 38 A.2d 785. The amendment as passed by the commission provides that the sale of alcoholic liquor under the conditions contained in the amendment "shall not be deemed to be an additional use." The commission declined to amend the regulations, in the manner proposed by Homestead, to state that the sale of alcoholic liquor "shall not be deemed to be a change in use more detrimental to the neighborhood." The amendment, thus, does not modify the language of § 15 (a) (1) of the regulations. This section, requiring that no nonconforming use be changed to one "more detrimental to the neighborhood," remains in effect and must be considered

Kleinsmith v. Planning & Zoning Commission

together with the amendment adopted in order to determine the validity of the amendment. The regulations must be construed as a whole and in such a way as to reconcile all their provisions as far as possible. *Connecticut Sand & Stone Corporation v. Zoning Board of Appeals*, 150 Conn. 439, 441, 190 A.2d 594; *Hutchison v. Zoning Board of Appeals*, 140 Conn. 381, 385, 100 A.2d 839.

In adopting an amendment to § 15, the commission was acting in its legislative capacity. *Lebanon v. Woods*, 153 Conn. 182, 190, 215 A.2d 112; *McCormick v. Planning & Zoning Commission*, 146 Conn. 380, 382, 151 A.2d 347. In exercising this power of amendment, the planning and zoning commission has broad discretion. *Lebanon v. Woods*, supra; *DeMeo v. Zoning Commission*, 148 Conn. 68, 75, 167 A.2d 454. This court will not substitute its judgment "for the wide and liberal discretion vested in the local zoning authority when it is acting within its prescribed legislative powers." *Samp Mortar Lake Co. v. Town Plan & Zoning Commission*, 155 Conn. 310, 313, 231 A.2d 649; *Lupinacci v. Planning & Zoning Commission*, 153 Conn. 694, 699, 220 A.2d 274.

The plaintiffs claim that the amendment adopted, which purports to permit the sale of liquor by nonconforming hotels, necessarily involves a change in use. *Salerni v. Schewy*, 140 Conn. 566, 570, 102 A.2d 528; see *Connecticut Sand & Stone Corporation v. Zoning Board of Appeals*, supra, 443; *Gulford v. Landon*, 146 Conn. 178, 182, 148 A.2d 551; *DeFelice v. Zoning Board of Appeals*, 130 Conn. 156, 162, 32 A.2d 635. They also claim that such a change in use permitting the sale of alcoholic liquor would be more detrimental to the neighborhood. The use of property for the sale of liquor may well be

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deemed to have a far more harmful effect upon the health and welfare of the community than ordinary business. *Miller v. Zoning Commission*, 135 Conn. 405, 408, 65 A.2d 577. A business involving the sale of liquor is one which admittedly may be dangerous to public health, safety and morals. *Bania v. New Hartford*, 138 Conn. 172, 177, 83 A.2d 165; *Francis v. Fitzpatrick*, 129 Conn. 619, 622, 30 A.2d 552.

A purpose and intention of the Greenwich building zone regulations is to abolish nonconforming uses, or to reduce them to conformity, as speedily as justice will permit. This is in accordance with the spirit of the law and the spirit of zoning. *State v. Perry*, 149 Conn. 232, 234, 178 A.2d 279; *Guilford v. Landon*, supra; *Salerni v. Scheu*, supra. The advantages which the owners of nonconforming property acquire by the enactment of a zoning ordinance are not to be subsequently augmented except as permitted by the ordinance. *Everpure Ice Mfg. Co. v. Board of Appeals of Lawrence*, 324 Mass. 433, 435, 86 N.E.2d 906; 101 C.J.S., Zoning, § 189. We conclude that it was the obvious intention of the commission that § 15 (a) (1) of the regulations remain unchanged. The provision of the amendment that the sale of liquor by the nonconforming hotels "shall not be deemed to be an additional use" is ineffective in view of the continued existence of the requirement of the regulation that no nonconforming use be changed to one "more detrimental to the neighborhood." The sale of liquor constitutes a change of use to one more detrimental to the neighborhood and is in direct violation of § 15 (a) (1) of the regulations. *Salerni v. Scheu*, supra, 571; *Miller v. Zoning Commission*, 135 Conn. 405, 407, 65 A.2d 577; see *Town Council v. State Board of Equalization*, 141 Cal. App. 2d 344, 349, 296 P.2d 909; *Fulford*

Connecticut Bank & Trust Co. v. Hurlbutt

v. Board of Zoning Adjustment, 256 Ala. 336, 339, 54 So. 2d 580; *Heagan v. Allendale*, 42 N. J. Super. 472, 127 A.2d 181.

We are not unmindful that there exists a question as to whether the proposed amendment would impose restrictions upon the holder of a hotel permit which are beyond the authority of a zoning commission to impose when the state has enacted statutes of general application in the regulation of the sale of liquor. See General Statutes, c. 545 and especially § 30-21; see also such cases as *Sheehan v. Altschuler*, 148 Conn. 517, 521, 172 A.2d 897; *State v. Gordon*, 143 Conn. 698, 706, 125 A.2d 477. None of the parties has, however, raised or discussed this question, and an answer to it is not necessary to our decision of this appeal.

There is error, the judgment is set aside and the case is remanded with direction to sustain the appeal.

In this opinion the other judges concurred.

LEGAL NOTICES

BAUER FUND AND FOUNDATION COLLEGE SCHOLARSHIPS
 Through grants to colleges, The Bauer Foundation provides indirect scholarship assistance for undergraduate college education to students residing in The Connecticut Regional School District One based on merit and need.

The Bauer Fund operates in the same manner. However, grants from the Fund are limited to students attending either Cornell or Wellesley. Students attending Cornell or Wellesley should apply to the Fund. All others should apply to the Foundation.

New and returning application forms for the 2024-2025 school year are available at: www.bauerfundfoundation.org.

Completed and fully documented applications must be returned to The Bauer Foundation at PO Box 1784 Lakeville CT 06039-postmarked no later than June 20, 2024. Scholarship awards will be announced by August 20, 2024.

05-09-24
 05-16-24
 05-23-24
 05-30-24

Legal Notice
 Celco Partnership and its controlled affiliates doing business as Verizon Wireless (Verizon Wireless) is proposing to collocate antennas at a centerline height not to exceed 68ft within the existing 106-foot-tall church steeple (overall height) located at 25 Main Street, Sharon, Litchfield County, CT

06069. Public comments regarding potential effects from this site on historic properties may be submitted within 30 days from the date of this publication to: Project 012849-PR-CR, EBI Consulting, 21 B Street, Burlington, MA 01803, crobinson@ebiconsulting.com at 978.877.3493.

05-16-24

Legal Notice
Liquor Permit Notice of Application
 This is to give notice that I, Maria Munoz, 39 Great Hollow Road, West Cornwall, CT 06796 have filed an application placard 05/13/2024 with the Department of Consumer Protection for a RESTAURANT LIQUOR PERMIT for the sale of alcoholic liquor on the premises at Pink House Kitchen, LLC, 34 Lower River Road, West Cornwall, CT 06796.

The business will be owned by: Pink House Kitchen LLC. Entertainment will consist of: Acoustics (not amplified), Live Bands. Objections must be filed by: 06-24-2024. Visit: <https://portal.ct.gov/remonstrance> for more information.

Pink House Kitchen LLC
 05-16-24
 05-23-24
 05-30-24

Legal Notice
 Pursuant to CT State Library, Office of the Public Records, Form RC-075, regarding the disposition of public records, Housatonic Valley Regional High School, Falls Village, CT, announces plans to dispose of remaining archived cumulative records for all years prior to 1974. Please contact the Registrar at

860-824-5123 ext. 1170 to arrange a time if you wish to pick up records prior to the disposition. A government issued photo I.D. will be required for verification. All forementioned records will be disposed of no earlier than Friday, May 24, 2024.

05-16-24
 05-23-24

Legal Notice
 The Cornwall Democratic Town Committee will hold a caucus on Tuesday, May 21, 2024 at 7:30pm at the Cornwall Library, 30 Pine Street, Cornwall to nominate candidates for the offices of Registrar of Voters and Justices of the Peace. All Democrats registered in Cornwall are eligible to vote.

05-16-24

Legal Notice
 The Planning & Zoning Commission of the Town of Salisbury will hold a Public Hearing on Special Permit Application #2024-0244 by the Salisbury Housing Trust for new multi-family housing construction in the Multifamily Housing Overlay District at 26 & 28 Undermountain Road, Salisbury, Map 56, Lots 05 and 06 per Section 405.3 of the Salisbury Zoning Regulations. The hearing will be held on Monday, May 20, 2024 at 6:45 PM. There is no physical location for this meeting. This meeting will be held virtually via Zoom where interested persons can listen to & speak on the matter. The application, agenda and meeting instructions will be listed at www.salisburyct.us. Written comments may be submitted to the Land Use Office, Salisbury Town Hall, 27 Main Street, P.O. Box 548,

Salisbury, CT or via email to landuse@salisburyct.us. Paper copies may be reviewed Monday through Thursday between the hours of 8:00 AM and 3:30 PM.

05-09-24
 05-16-24

Notice of Decision
Town of Salisbury Planning & Zoning Commission
 Notice is hereby given that the following actions were taken by the Planning & Zoning Commission of the Town of Salisbury, Connecticut on May 6, 2024:

Approved - Special Permit Application #2024-0243 by Allied Engineering, for a Detached Apartment on a Single-Family Residential Lot in accordance with Section 208 of the Regulations. The property is shown on Salisbury Assessor's Map 19 as Lot 04 and is located at 249 Undermountain Road, Salisbury. The owner of the property is Sallie Ketcham

To Amend the Town of Salisbury Zoning Regulations Section 205.1 "Table of Uses - Residential Zones" and Section 205.2 "Table of Uses - Rural Enterprise; Commercial & Industrial Zones," add Section 213.5 "Hotels in Residential Zones," amend Section 703.11 "Table of Parking Requirements," and revise definitions of "Hotel" and "Motel," effective May 20, 2024.

Approved - Site Plan Application #2024-0245 by owner Congregational Church of Christ to for EV Charger Installation in accordance with section

207.20 of the Regulations. The property is shown on Salisbury Assessor's Map 54 as Lot 78 and is located at 30 Main Street, Salisbury.

Approved - Site Plan Application #2024-0247 by owner American School for the Deaf for a 40'x30' Storage Addition to an Existing Pavilion in accordance with section 404 of the regulations. The property is shown on Salisbury Assessor's Map 64 as Lot 08 and is located at 410 Twin Lakes Road, Salisbury.

Any aggrieved person may appeal these decisions to the Connecticut Superior Court in accordance with the provisions of Connecticut General Statutes §8-8.

Town of Salisbury Planning & Zoning Commission
 Martin Whalen, Secretary
 05-16-24

Notice of Decision
Town of Salisbury Planning & Zoning Commission

Notice is hereby given that the following action(s) were taken by the Planning & Zoning Commission of the Town of Salisbury, Connecticut on May 6, 2024:

Application #2024-0246 for a minor site plan modification by the Salisbury Housing Committee. The Planning & Zoning Commission approved the application after first deciding, under Section 805.3 of the Zoning Regulations that increasing the number of units without a change in the number of bedrooms would not materially alter Special Permit Application #2021-0123 to construct a new multifamily dwelling in the Pocketknife Square

Overlay District and Aquifer Protection Overlay District as per Sections 403 and 405 of the Salisbury Zoning Regulations approved May 17, 2021 subject to conditions. The property is shown on Salisbury Assessor's Map 45 as Lot 2 and is located at 11 Holley Street, Lakeville, Connecticut. The owner of the property is the Town of Salisbury.

Any aggrieved person may appeal these decisions to the Connecticut Superior Court in accordance with the provisions of Connecticut General Statutes §8-8.

Town of Salisbury Planning & Zoning Commission
 Martin Whalen, Secretary
 05-16-24 656030

NOTICE TO CREDITORS
ESTATE OF FRANK MEADE
 Late of North Canaan (24-000183)

The Hon. Jordan M. Richards, Judge of the Court of Probate, District of Litchfield Hills Probate Court, by decree dated May 7, 2024, ordered that all claims must be presented to the fiduciary at the address below. Failure to promptly present any such claim may result in the loss of rights to recover on such claim.

The fiduciary is: Jeffrey A. Meade c/o Lawrence Jay Kiel Murphy Laudati Kiel & Rattigan, 4 East Granby Road, PO Box 93, Granby, CT 06035

Megan M. Foley Clerk
 05-16-24

Wake Robin- IWWC & PZC Commissions

From Lori Shepard <lshepart@aol.com>

Date Mon 11/25/2024 4:01 PM

To Land Use <landuse@salisburyct.us>

To: The Land Use Office

Re: Wake Robin Redevelopment project- Questions for you and Commissioners

General question:

Before any PZC approval is considered for this project, please ask how much time construction will require. If this redevelopment and expansion project is approved, when would Aradev expect to open on site for business? Specifics for each phase should be determined as realistically as possible and spelled out in a public document: we have never seen any timetable that I am aware of. I could certainly be wrong.

Re: Engineering Report

Has Mr. Grimaldi been on the site as part of the review for this project? The Nov. 19 letter indicates only that he has reviewed the engineering drawings (Revised Nov. 6) and the drainage report prepared by SLR.,(revised Nov. 6).

Why is it the applicant engineer who is being asked to provide an erosion and sediment control measures **bond estimate** ????

On the original application for this project, Aradev, Wake Robin and Granbery submitted their "Estimated Site Improvement Costs" as \$750,000. This is far from realistic and suggests that any bond estimate they might propose is far too low and unacceptable.

Further, has Aquarion approved the application in writing?

Has the WPCA Commission given unanimous written approval ?

I note that the latter two points are not ones that the applicant has responded to in their November 21 Comment Response Letter.

Surely, you will be following up on these points.

Thank you!

Regards,

LORI


Lori Shepard

Concerns about the Wake Robin Hotel plans

From Theodore O'Neill

Date Wed 11/27/2024 1:42 PM

To Land Use

 1 attachment (15 KB)

Wake Robin.docx;

I have attached a letter with my concerns about the expansion plans for the Wake Robin. Some of these concerns have been stated by others.

Thank you.

--

Theodore R. O'Neill,
79 Belgo Road
Lakeville, CT 06039
(o) 860-435-0150
(c) 831-673-1199

26 November 2024

Dear Salisbury Planning and Zoning:

Where is the leadership in Salisbury when projects that appear to be based on undisclosed economics are allowed to sail through the planning and zoning? For those wondering why there are “save Lakeville” lawn signs sprouting like weeds, imagine the weekly traffic and noise from a Lime Rock track level event held on the grounds of the Wake Robin Inn behind St. Mary’s church. It isn’t a fair comparison because traffic comes and goes during the whole day at Lime Rock but imagine 500 wedding celebrants and 100 servers converging all at once on a 13-acre site in the middle of a residential neighborhood and you get a good idea of what the impact will be. The backers of the plan have proposed building a 10,000 ft sq. event space which is sufficient for 500 guests, a dance area, band and bar. Given the current cost of construction, the only way to convince investors to pay for this is to guarantee you are going to fill the venue and fill it repeatedly. In fact, the cost of this project, not disclosed but I believe it will be substantial, and the 100 employees it projects it will need makes no financial sense unless the backers already have the employees to run it and the celebrants to fill it. Any rational investor would look at this project and ask how it would compete with The Interlaken and The White Hart? They would ask where the 100 employees are going to come from. The only answer to this from an investor’s perspective is that the developer already has a hook into large celebrant groups and captive employees. Someone in leadership in this town needs to investigate what’s really going on with the Wake Robin project. They need to recognize it makes no financial sense, is far too large to fit into our sewer system and avoid huge negative impacts to the residential neighborhood with traffic, noise and light.

Theodore Rudd O’Neill

79 Belgo Rd.

Lakeville, CT 06039

Proposed Wake Robin Expansion - Event Barn Size Concern

From johntmoller@aol.com <johntmoller@aol.com>

Date Fri 11/29/2024 11:13 PM

To Land Use <landuse@salisburyct.us>

November 29, 2024

To: landuse@salisburyct.us

Planning and Zoning Commission,

It has been noted by several members of the Lakeville community that the proposed event space is much larger than needed for the 125-person occupancy “cap” that Aradev has committed to. Aradev has said it’s what they need for the project to be economically viable – but they do not need a 2,815 sq. ft. space for 125 people.

Building occupancy factors are regulated by the National Fire Protection Association and by the Connecticut Fire Safety Code. Both codes require the same maximum occupant factors for assembly spaces: 5 sq. ft. per person for standing space, 7 sq. ft. per person for concentrated (chairs only – not fixed), and 15 sq. ft. per person for unconcentrated (tables and chairs – not fixed).

Following those codes, the proposed 2,815 sq. ft. event space could serve 563 people standing, 402 people seated, or 188 people seated at tables. These are all way more than the proposed “cap” of 125 people. Once a larger than necessary space is built, won’t it be easy for Aradev to claim higher occupancy as of right? Aradev has been quite responsive to many of our concerns: why have they not responded to concerns about the size of the event space and the barn in which it would be located?

Aradev should answer these questions:

1. Why is the proposed 2,815 sq. ft. event space so much larger than needed?
2. Why is the event barn building (about 8,000 sq. ft.) so much larger than the event space? Does Aradev plan to expand the event space in the future?
3. Why is the event barn building needed at all given the 2,800 sq. ft. banquet hall / bar / restaurant space that already exists in the Inn building?

The proposed event space is larger than necessary for the stated use, and the event barn seems larger than necessary for the event space – and certainly not worth the number of trees that would have to be removed as shown in the Bartlett Tree Preservation Report.

Respectfully submitted,

John Moller

34 Wells Hill Road