

AGENDA
HISTORIC DISTRICT COMMISSION
JUNE 19, 2018 - 7:00 P.M.
TOWN HALL ANNEX - 134 GROTON LONG POINT ROAD
COMMUNITY ROOM 2

I. PUBLIC HEARINGS

HDC 18-24 - 229 Clift Street; Ann & Peter Filardi, owners; Renewal by Andersen, applicant; Replacement windows. PIN #261914226567 - Continued

HDC 18-26 - 12 Water Street; Factory Square, LLC, owner; Mark Comeau, applicant; Exterior renovations. PIN #261918305500

HDC 18-27 - 171 Candlewood Road; Wellspring Bible Fellowship, owner/applicant; Replace windows. PIN #179020818594 E

HDC 18-28 - 268 High Street; Susanne Furay, owner; Renewal by Andersen, applicant; Replacement windows. PIN #261918323350

HDC 18-29 - 277 Noank Road; Wendy A. Hille, owner/applicant; Fence. PIN #261805284356

HDC 18-30 - 137 Noank Road; Laurence Potter, owner/applicant; Replace door. PIN #261806391664

II. DELIBERATION ON ITEMS OF PUBLIC HEARING

III. PRE-APPLICATION MEETINGS

IV. PUBLIC COMMUNICATIONS

V. APPROVAL OF THE MINUTES

1. February 20, 2018*
2. April 17, 2018*
3. May 1, 2018*
4. May 15, 2018*

VI. OLD BUSINESS

VII. NEW BUSINESS

1. New agenda software

VIII. ADJOURNMENT

Next regular meeting: July 3, 2018

* Enclosed

NOTES: The next application number is HDC 18-31
The next Certificate of Appropriateness number is 2158

MINUTES
TOWN OF GROTON
HISTORIC DISTRICT COMMISSION
FEBRUARY 20, 2018 - 7:00 P.M.
GROTON TOWN HALL ANNEX - COMMUNITY ROOM 2

Members Present: Moriarty, Brewer, Everett
Alternates Present: Levenson
Absent: Somers, Brady
Staff: Quinn, Galetta

Chairperson Moriarty called the meeting to order at 7:03 p.m. and sat Levenson for Somers.

MOTION: To waive the reading of the hearing procedure.

Motion made by Everett, seconded by Levenson, so voted unanimously.

Brewer read the call of the hearing.

I. PUBLIC HEARINGS

HDC 18-06 - 8 Elm Street; Tim & Jill Mead, owners; Greg Ferguson, applicant; Compressors. PIN #261918208567

Greg Ferguson presented to the Commission for Tim & Jill Mead owners of 8 Elm Street. The applicant is seeking approval for the placement of 3 air conditioning condensers on the north side of the house, which faces Library Street. There will be no line sets on the house. The condensers will be placed on a gravel pad.

The following exhibits were presented:

- Photographs
- Plot plan

Moriarty asked for comments in favor or against the application and there were none. The public hearing was closed at 7:08 p.m.

II. DELIBERATION ON ITEMS OF PUBLIC HEARING

HDC 18-06 - 8 Elm Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Everett, seconded by Levenson, so voted unanimously. Issued Certificate of Appropriateness #2139.

III. PRE-APPLICATION HEARINGS

Joseph St. Martin, owner of 50½ New London Road, appeared before the Commission to propose changing an existing casement window to a transom window that will be located higher on the side of his home. The new window will not have grills in keeping with the existing one over one windows on the house. He described the location of the subject property and explained that it is only visible from Ice House Lane.

Architect Julia Leeming and business owner Rebecca Foss appeared before the Commission to propose changes to 37 Water Street which is owned by Burnside LLC. Leeming explained that her client is planning to remake the existing commercial building into a Yoga Center. To do so, she is seeking permission to change a barn door and 2 windows on the second floor to bring more light into the studio. On the first floor the plan is for a reception area and juice bar. Enlarging a first floor window and replacing it with a glider was discussed; however, the Commission was not fully in favor and the applicant decided not to request this change. An awning with lettering will be added to the first floor. The applicant stated that they will probably use Marvin Integrity windows. The Commission requested more details about the awning for the public hearing.

IV. PUBLIC COMMUNICATIONS – None

V. APPROVAL OF THE MINUTES

1. February 6, 2018

MOTION: To approve the minutes of February 6, 2018, as written

Motion made by Moriarty, seconded by Levenson, 3, 0, 1 (Moriarty) Motion passed.

VI. OLD BUSINESS – None

VII. NEW BUSINESS

Chairperson Moriarty noted that she has received an email from the Groton Town Clerk about a request from Patrick Crotty to form a centralized cemetery oversight committee. The Town Clerk is looking for some direction to give to Crotty regarding who might have the proper authority to form such a committee. Moriarty noted that the Historic District Commission was formed by State Statute and they may not have jurisdiction to form such a group.

VIII. ADJOURNMENT

Meeting adjourned at 7:26 p.m. motion made by Moriarty, seconded by Brewer.

Todd Brady, Secretary
Historic District Commission

Prepared by Lynda Galetta
Office Assistant II

MINUTES
TOWN OF GROTON
HISTORIC DISTRICT COMMISSION
APRIL 17, 2018 - 7:00 P.M.
GROTON TOWN HALL ANNEX - COMMUNITY ROOM 2

Members Present: Moriarty, Brewer, Everett
Alternates Present:
Absent: Somers, Brady, Levenson
Staff: Quinn, Galetta

Chairperson Moriarty called the meeting to order at 7:00 p.m.

MOTION: To waive the reading of the hearing procedure.

Motion made by Brewer, seconded by Everett, so voted unanimously.

Brewer read the call of the hearing.

I. PUBLIC HEARINGS

HDC 18-13 – 15 Water Street; John Walker, owner; Joe Collelo, applicant; Balcony & French door. PIN #261918307079 0015

Joe Collelo presented to the Commission for John Walker owner of 15 Water Street, Unit 15. He is proposing the installation of a balcony and French door on the exterior of the unit. It is a fabricated steel balcony with railings that is similar to a previously installed top floor balcony on the opposite side of the building. The decking will be made from Azek and will be invisible from the public way. An Andersen, vinyl clad, French door will be installed for access to the balcony from the unit.

The following exhibits were presented:

- Photographs
- Balcony and rail elevation plan
- Balcony location plan
- Plot plan

Moriarty asked for comments in favor or against the application and there were none. The public hearing was closed at 7:12 p.m.

HDC 18-14 – 42 West Main Street; Jerome Properties I LLC, owner; Lorenzo Gallo, applicant; Signage. PIN #261918319084

Lorenzo Gallo presented to the Commission to propose signage at 42 West Main Street which is owned by Jerome Properties I LLC. This will be a new location for Rochelle's On Main. The plan is to use a hanging sign mounted on an existing bracket above the door and a banner-type, wall mounted sign over the door. The signs will be made from sign foam.

The following exhibits were presented:

- Photographs
- Sign detail
- Property card

Moriarty asked for comments in favor or against the application and there were none. The public hearing was closed at 7:15 p.m.

HDC 18-15 - 77 High Street; Ronald Arbuckle, owner; James Joseph, applicant; Repair cupola. PIN #261918302339

A representative did not attend the public hearing to present the application.

HDC 18-16 - 22 Bank Street; Lisa Squires, owner/applicant; Fence. PIN #261918316527

Commissioner Brewer disclosed that she is an abutting neighbor of this property. Lisa Squires, owner of 22 Bank Street, presented to the Commission to propose replacing a wooden picket fence with an iron picket fence. The fence will be replaced in the same location and an additional area around new construction up to a retaining wall. The existing fence is approximately 3½' high and the new fence will be 4' in height.

The following exhibits were presented:

- Fence detail
- Plot plan
- Site detail
- Photographs

Moriarty asked for comments in favor or against the application and there were none. The public hearing was closed at 7:20 p.m.

HDC 18-17 - 20 Bank Street; Monica Marandola, owner/applicant; Exterior renovations. PIN #261918316521

Monica Marandola, owner of 20 Bank Street, presented to the Commission to propose multiple exterior changes to her house. She plans to replace nearly all the existing windows with 400 Series Andersen windows. The new windows will be configured similarly with the exception of 6 casements which will be reduced to 5 to help mitigate water damage that is occurring. The vinyl siding will be replaced with a HardiePlank siding. Where necessary the trim will be repaired using Azek; however, the ornamental trim design will not change. An existing rear deck, which is still visible from the public way, will have new stone piers at the corners and Azek insert panels. A new trash enclosure will replace the existing one in the same location. The design of the enclosure will be slightly different and Azek is the building material proposed.

The following exhibits were presented:

- Plot plan
- Photographs
- Site plan
- Elevations
- Window and siding details

Moriarty asked for comments in favor or against the application and there were none. The public hearing was closed at 7:29 p.m.

HDC 18-18 – 4 Pearl Street; Leo Roche, owner/applicant; Replace siding & windows. PIN #261918319034

Leo Roche who is the owner of 4 Pearl Street, which is the location of Harp & Hound, presented to the Commission to propose replacing the existing windows and siding on the building. He is proposing to use Andersen Silverline six over six true divided lights that will match the look of the existing windows. The siding will be replaced with HardiePlank and the trim will be Azek.

The following exhibits were presented:

- Photograph
- Window detail
- Plot plan

Moriarty asked for comments in favor or against the application and there were none. The public hearing was closed at 7:31 p.m.

HDC 18-19 – 11 Pearl Street; St Marks Parish of the Protestant Episcopal, owner/applicant; Entry stairs. PIN #261918318460 E

Commissioner Everett disclosed that he attends St. Marks Church. Bruce Vandal presented to the Commission regarding 11 Pearl Street, which is owned by St. Marks Church. They are proposing to replace deteriorated stone stairs with concrete stairs. At this time, only the tops will be changed to concrete. If the exterior stones need to be replaced Vandal will revisit this with the Commission.

The following exhibits were presented:

- Photographs
- Aerial plot plan

Moriarty asked for comments in favor or against the application and there were none. The public hearing was closed at 7:34 p.m.

HDC 18-20 – 15 Water Street; Ozziev LLC, owner/applicant; Balcony & French doors. PIN #261918307079 0009

Judi Caracausa and Joe Collelo presented to the Commission to propose a balcony addition to Unit #9, which is owned by Ozziev LLC. The balcony will be 39' in length and identical in style to the balconies already existing on the building. A double French door will be installed to provide access to the balcony.

The following exhibits were presented:

- Photographs
- Balcony and rail elevation plan
- Balcony location plan
- Plot plan

Moriarty asked for comments in favor or against the application and there were none. The public hearing was closed at 7:37 p.m.

II. DELIBERATION ON ITEMS OF PUBLIC HEARING

HDC 18-13 – 15 Water Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Brewer, seconded by Everett, so voted unanimously. Issued Certificate of Appropriateness #2146.

HDC 18-14 – 42 West Main Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Moriarty, seconded by Brewer, so voted unanimously. Issued Certificate of Appropriateness #2147.

HDC 18-15 – 77 High Street

MOTION: To continue the application to the next public hearing.

Motion made by Brewer, seconded by Moriarty, so voted unanimously.

HDC 18-16 – 22 Bank Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Everett, seconded by Moriarty, so voted unanimously. Issued Certificate of Appropriateness #2148.

HDC 18-17 – 20 Bank Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Brewer, seconded by Everett, so voted unanimously. Issued Certificate of Appropriateness #2149.

HDC 18-18 – 4 Pearl Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Brewer, seconded by Everett, so voted unanimously. Issued Certificate of Appropriateness #2150.

HDC 18-19 – 11 Pearl Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Brewer, seconded by Everett, so voted unanimously. Issued Certificate of Appropriateness #2151.

HDC 18-20 – 15 Water Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Brewer, seconded by Everett, so voted unanimously. Issued Certificate of Appropriateness #2152.

III. PRE-APPLICATION HEARINGS

Mary Grace Spohn appeared before the Commission to propose a fencing plan for her property at 7B West Mystic Avenue. Her plan is to fence the rear yard with a Locust split rail fence that will have 4 gates. Her house is a 1950-style home and she discussed fencing options for the front with the Commission. The existing wrought iron fence on the porch will remain.

IV. PUBLIC COMMUNICATIONS – None

V. APPROVAL OF THE MINUTES

1. February 20, 2018
2. March 20, 2018
3. April 3, 2018

Approval of the minutes was postponed to the next meeting.

VI. OLD BUSINESS – None

VII. NEW BUSINESS – None

VIII. ADJOURNMENT

Meeting adjourned at 7:59 p.m. motion made by Brewer, seconded by Moriarty.

Todd Brady, Secretary
Historic District Commission

Prepared by Lynda Galetta
Office Assistant II

MINUTES
TOWN OF GROTON
HISTORIC DISTRICT COMMISSION
MAY 1, 2018 - 7:00 P.M.
GROTON TOWN HALL ANNEX - COMMUNITY ROOM 2

Members Present: Somers, Brady, Everett
Alternates Present: Levenson
Absent: Moriarty, Brewer
Staff: Quinn, Galetta

Vice Chairperson Somers called the meeting to order at 7:02 p.m. and sat Levenson for Moriarty.

MOTION: To waive the reading of the hearing procedure.

Motion made by Levenson, seconded by Everett, so voted unanimously.

Brady read the call of the hearing.

I. PUBLIC HEARINGS

HDC 18-15 – 77 High Street; Ronald Arbuckle, owner; James Joseph, applicant; Repair cupola. PIN #261918302339 – Continued

James Joseph presented to the Commission for Ronald Arbuckle owner of 77 High Street. He is proposing the restoration of the existing cupola. The plan is to repair all the rotted wood using Azek or pine where appropriate. He is also seeking approval to use Marvin windows to replace the current windows. The window dimensions will remain the same with mutton bars to match the existing ones. At this time, the access door will remain as is. The contractor also explained that the overhang is not symmetrical as it currently exists. In repairing the wood Joseph would prefer to not replicate it and is proposing to restore the overhang to its original configuration.

The following exhibits were presented:

- Photographs
- Plot plan
- Window detail

Somers asked for comments in favor or against the application and there were none. The public hearing was closed at 7:14 p.m.

HDC 18-21 – 7B West Mystic Avenue; William & Mary Grace Sponn, owners/applicants; Fencing. PIN #261805292734

Mary Grace Sponn, owner of 7B West Mystic Avenue, presented to the Commission to propose a picket fence in the front yard and a split rail fence in the rear yard. The front picket fence will be made from cedar, which she plans to paint, and have 2 small gates. It will stand 36” high. The back yard fence is a locust split rail. It will have 2 rails with black wire fencing attached and 3 small, hinged gates. The back fence is only visible from Rowland Street.

The following exhibits were presented:

- Photographs
- Fence brochure
- Plot plan

Somers asked for comments in favor or against the application and there were none. The public hearing was closed at 7:24 p.m.

II. DELIBERATION ON ITEMS OF PUBLIC HEARING

HDC 18-15 – 77 High Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Everett, seconded by Levenson, so voted unanimously. Certificate of Appropriateness #2153.

HDC 18-21 – 7B West Main Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Everett, seconded by Levenson, so voted unanimously. Issued Certificate of Appropriateness #2154.

III. PRE-APPLICATION HEARINGS

Phyllis Cappuccio and Lisa Cappuccio, owners of 292 High Street, appeared before the Commission to discuss installing a split system, air conditioning system in their home. They will have two condensers on the outside of the house with line sets. The compressors will sit on a fiberglass pad and have fences around them.

Bruce Vandal appeared before the Commission to discuss a modification to a previously approved application. St Marks Church, located at 11 Pearl Street, was granted a Certificate of Appropriateness for new granite entry stairs. Vandal explained that the rather than using stone fascia blocks mortared on the sides they are proposing to use a solid block granite face that will have a smooth surface. The existing railings will be reused.

IV. PUBLIC COMMUNICATIONS – None

V. APPROVAL OF THE MINUTES

1. February 20, 2018

Approval of the February 20, 2018 minutes was postponed to the next meeting

2. March 20, 2018 – Everett, Levenson 3, 0, 1 (Somers)

MOTION: To approve the minutes of March 20, 2018, as written

Motion made by Everett, seconded by Levenson, 3, 0, 1 (Somers). Motion passed.

3. April 3, 2018

Approval of the April 3, 2018 minutes was postponed to the next meeting.

VI. OLD BUSINESS

The Commission inquired about any feedback that has been received relative to the new form in use to guide homeowners and/or their agents through the application process. Staff noted the feedback has been positive.

VII. NEW BUSINESS – None

VIII. ADJOURNMENT

Meeting adjourned at 7:42 p.m. motion made by Somers, seconded by Everett.

Todd Brady, Secretary
Historic District Commission

Prepared by Lynda Galetta
Office Assistant II

NOT APPROVED

MINUTES
TOWN OF GROTON
HISTORIC DISTRICT COMMISSION
MAY 15, 2018 - 7:00 P.M.
GROTON TOWN HALL ANNEX - COMMUNITY ROOM 2

Members Present: Brady, Moriarty
Alternates Present: Levenson
Absent: Somers, Brewer, Everett
Staff: Quinn, Galetta

Chairperson Somers called the meeting to order at 7:01 p.m. and sat Levenson for Somers.

MOTION: To waive the reading of the hearing procedure.

Motion made by Brady, seconded by Levenson, so voted unanimously.

Brady read the call of the hearing.

I. PUBLIC HEARINGS

HDC 18-22 - 292 High Street; Lisa & Phyllis Cappuccio, owners/applicants; Condensers and line sets. PIN #261914323620

Lisa & Phyllis Cappuccio, owners of 292 High Street, presented to the Commission to propose installation of condensers and line sets needed for a mini-split air conditioning system in their home. The system will have two compressors, one placed on each side of the house, with line sets installed on the house.

The following exhibits were presented:

- Photographs
- Plot plan
- Property card
- A/C system brochure

Moriarty asked for comments in favor or against the application and there were none. The public hearing was closed at 7:07 p.m.

HDC 18-23 - 11 Pearl Street; St Marks Parish of the Protestant Episcopal, owner/applicant; Modify COA #2151. PIN #261918318460 E

Bruce Vandal, presented to the Commission on behalf of St. Marks Church, which is the owner of 11 Pearl Street. The subject location is also known as 15 Pearl Street. This proposal is to modify the original Certificate of Appropriateness (COA #2151) to incorporate the use of granite for rebuilding the sides of the stairs as well as the steps. The sides will be coarse granite and the steps will be unpolished, rough granite to prevent slippage.

The following exhibits were presented:

- Photographs

Moriarty asked for comments in favor or against the application and there were none. The public hearing was closed at 7:15 p.m.

HDC 18-24 – 229 Clift Street; Ann & Peter Filardi, owners; Renewal by Andersen, applicant; Replacement windows. PIN #261914226567

Steven Martin, a representative of Renewal by Anderson, presented to the Commission for the owners of 229 Clift Street who are Ann and Peter Filardi. The plan is to replace 6 windows that will look exactly the same when finished. The windows are currently double hung, wooden windows with storms attached. The replacements will be double hung as well with full divided light grids. The windows are clad with Fibrex which is a composite material. Martin presented using digital media exclusively. The Commission noted that printed exhibits and photographs of the windows being replaced are required for file documentation and retention. The Commission determined that it was unable to render a decision until those items are submitted.

HDC 18-25 – 2 Clift Street; Adam Wronowski, owner; William Bertsche, applicant; Addition to garage. PIN #261928422080

Architect William Bertsche and Adam Wronowski, owner of 2 Clift Street, presented to the Commission to propose an addition to an existing garage. Bertsche noted that a preliminary meeting with the Commission regarding this project occurred in September. The garage is located at the far western end of the lot. It is a T-shaped, one story building now. The foot will be unchanged and the goal is to make it more like a carriage house. Boral will be used for the siding and trim materials. The existing garage door and side door will be retained and reused. The roof shingles will be asphalt, architectural style and the windows will be Andersen Series A, full divided light, with muntins.

The following exhibits were presented:

- Photographs
- Plot plan
- Site plan
- Window details

Moriarty asked for comments in favor or against the application and there were none. The public hearing was closed at 7:25 p.m.

II. DELIBERATION ON ITEMS OF PUBLIC HEARING

HDC 18-22 – 292 High Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Levenson, seconded by Moriarty, so voted unanimously. Certificate of Appropriateness #2155.

HDC 18-23 – 11 Pearl Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Levenson, seconded by Brady, so voted unanimously. Issued Certificate of Appropriateness #2156.

HDC 18-24 – 229 Clift Street

MOTION: To continue to the next regularly scheduled public hearing.

Motion made by Brady, seconded by Moriarty, so voted unanimously.

HDC 18-25 – 2 Clift Street

MOTION: To grant a Certificate of Appropriateness as submitted.

Motion made by Brady, seconded by Levenson, so voted unanimously. Issued Certificate of Appropriateness #2157.

III. PRE-APPLICATION HEARINGS

Architect Mark Comeau appeared before the Commission to discuss the renovation of the former Voodoo Grille at 12 Water Street. The subject location is in Building E where a new restaurant is being fit-out by Proprietor Gary Hobert. The work being proposed for review by the Commission consists of a walk-in cooler enclosure on the west side of the building and a “Nano-door” on the west façade. The cooler enclosure will result in a 13’ x 15’ appendage on the outside of the building with shiplap, Azek siding and cornice trim. The cooler will be placed on existing decking material and the intention is to have storage doors underneath. Additionally, the intention is to open a single door up to make it 8’ wide and install a triple Nano-door, which is one that opens like an accordion. Staff noted that this is the accessible entrance into the restaurant and the single door must be 36”. Commissioner Brady noted that he recused himself from this application.

John Clifford appeared before the Commission on behalf of Wellspring Bible Fellowship owners of 171 Candlewood Road. He is proposing the replacement of the church windows with All-Time, aluminum-clad windows. They will be six over six to match the existing windows. An Andersen or Marvin vinyl-clad window is not available in the size required for the church window openings therefore they have chosen to go with All-Time.

IV. PUBLIC COMMUNICATIONS – None

V. APPROVAL OF THE MINUTES

1. February 20, 2018

Approval of the February 20, 2018 minutes was postponed to the next meeting.

2. April 3, 2018

MOTION: To approve the minutes of April 3, 2018, as written

Motion made by Brady, seconded by Moriarty, so voted unanimously.

3. April 17, 2018

Approval of the April 17, 2018 minutes was postponed to the next meeting.

4. May 1, 2018

Approval of the May 1, 2018 minutes was postponed to the next meeting.

- VI. OLD BUSINESS – None
- VII. NEW BUSINESS – None
- VIII. ADJOURNMENT

Meeting adjourned at 7:44 p.m. motion made by Moriarty, seconded by Levenson.

Todd Brady, Secretary
Historic District Commission

Prepared by Lynda Galetta
Office Assistant II

NOT APPROVED

**Eleven Ways to Loose an Appeal: Legal Issues All
P&Z Commissions and Legal Staff should be Aware of**

CHARLES R. ANDRES
LECLAIRRYAN, PLLC
CCPPA HOT TOPICS – JUNE 8, 2018

11. Messing Up Procedural Details

1. Check to be sure notice to abutters has been mailed within the correct window, and that the notice is correct. (One Town recently almost acted on a P&Z matter where the notice said the hearing was for the ZBA, on a different date). Nobody ever checks these things.
2. Make sure notice published.
3. Picky stuff: Zoning amendments must be filed with Town clerk 10 days before the hearing; Gen. Stat. Sec. 8-3(a); AND filed with Town clerk after the public hearing (even if it is the same regulation). Gen. Stat. Sec. 8-3(d); Farmington-Girard, LLC v. Planning & Zoning Commission, 2014 WL 4815345 (2014).
4. Failure to set an effective date on a text or map amendment: Statute says that Commission must set an effective date of text or map amendment that is after the notice. Gen. Stat. Sec. 8-3 (d). One Commission put the effective date on the date the notice was published and court voided the decision. Wilson v. Planning & Zoning Commission, 260 Conn. 399 (2002).
5. Property descriptions must be adequate. See Peters v. Environmental Protection Board, 25 Conn. App. 164 (1991)(finding inadequate notice providing "The Stamford Environmental Protection Board ... will hold a public hearing to consider information relevant to Application # 8843. Transcon Builders, Inc., for activities on Stillwater Road." "By omitting the specific location of the proposed nursing home, the board issued a defective notice. Referring to the subject property by street name only in a legal notice does not suffice to apprise as much of the populace as possible of the proposed construction.... In addition, we are unpersuaded by the defendant's argument that the general public should have cross-referenced the application number with city hall records, or that earlier newspaper articles had connected the property to Transcon. The statute does not call for cumulative notice, nor does it ask that the general public employ the skills of a research librarian to determine where the subject property is located...")
6. Not deciding applications within time limits or wrongly managing time extensions. Gen. Stat. Sec. 8-7d.

7. FOIA issues: No Snow Days for Commissions. Gibbons, et al. v. Zoning Board of Appeals of Fairfield, et al., 2015 WL 7421673, 61 Conn. L.Rptr. 190 (Oct. 23, 2015) (Super. Ct., J.D. Fairfield) (Radcliffe, J.)(overturning ZBA decision because ZBA failed to open meeting on the date in the notice because Commission cancelled meeting due to snow storm, so the legal notice was inaccurate.) See also C.G.S. §§ 1-228 & 1-229 (FOIA measures for opening and continuing meetings when lack of quorum).

10. Allowing alternate members to participate in deliberations of a matter when they are not seated.

- OK for alternates to participate in public hearing (since it is unknown who will be seated at the time of deliberations), but illegal for them to participate in deliberations because statute does not allow and doing so would effectively enlarge the size of the Commission beyond the number established by the municipal ordinance. Komondy v. Zoning Board of Appeals, 127 Conn. App. 669 (2011)

9. Limiting time for comments by members of the public, either individually or overall.

- Three-minute rule for public OK, provided you allow people to speak a second time when everyone is done. Timber Trails Associates v. Planning and Zoning Commission, 99 Conn. App. 768 (2007).
- Don't think you can limit the applicant or intervenors, though you can recommend moving quickly.

8. Voting on an application when member has not missed a public hearing and not become familiar with the record.

- See Lauer v. Zoning Commission of Redding, 220 Conn. 455 (1991)(remanding to trial court on issue of whether commission member adequately familiarized himself with record, and noting that reading newspaper accounts of the minutes would not be adequate.)

7. "I don't care what the regulations say".

- Relying on loud public opposition, anecdotal evidence, generalized concerns or fears, architectural ugliness of the proposal, "we don't need another one of these in town", etc. as the basis for making a decision.
- Especially for important applications – don't try to rush the approval process. Take time to discuss what you heard, and how it relates to the regulations.

- Judges like it when there is discussion or debate – shows you thought about it and wrestled with it.

6. Admitting during deliberations that commission member or staff has done independent research.

- "After the last meeting, I went down to the site and met with the applicant. He showed me around and now all of my questions have all been answered." "I've talked to a few people about this application..."
- In Ruscio v. Planning & Zoning Commission, 2014 WL 3805482 (2014), the court sustained an appeal from a denial of a subdivision application, because the commission relied on a staff memorandum regarding the dedication of open space that presented issues that the applicant had not had the opportunity to address at the public hearing.

5. Interacting with applicants and their representatives or members of the public in a way that is either far too chummy or far too adversarial.

- Sometimes things sound fine in public but look terrible on paper. Judge will only see a transcript, which may miss the tone, nuances, etc.
- Remarks by a zoning commissioner on ethnicity, even intended as humor, was ground for reversal of a decision adverse to the applicant. Pirozzilo v. Berlin Inland Wetlands Commission, 2002 WL 1009705.
- Recommend referring to persons by last name – Mr. Engineer, or Attorney vs. Bob or Joe, in the Walmart application, even if they have appeared before you 100 times and you are on a first name basis.

4. Trying to enforce illegal regulations.

Are your regulations up to date?

- Termination of non-conforming uses by non-use alone. Since 1988, Gen. Stat. § 8-2 has included the following sentence:

Such regulations shall not provide for the termination of any nonconforming use solely as a result of nonuse for a specified period of time without regard to the intent of the property owner to maintain that use.

But some regulations continue to say nonconforming uses can be terminated by non-use after a given period without intent.

- Off-site improvements: Some subdivision regulations may require off-site improvements in direct violation of Buttermilk Farms v Planning & Zoning Commission, 292 Conn. 317 (2009).
- Signs: illegal to regulate signs based on content (e.g., not OK to say American flags are OK but other flags are not – vs. all flags shall be no more than xx square feet)
- Signs: One superior case says that Commission can regulate only "advertising signs" (term in Gen. Stat. Sec. 8-2) which does not include protest signs. Harris [ZEO] v. Arisian, 2016 WL 551200, 61 Conn. L. Rptr. 679 (Jan. 19, 2016) (Stevens, J).
- Zoning Regulations that authorize Commission to Waive regulations. See MacKenzie v. Planning & Zoning Commission, 146 Conn. App. 406 (2013) (zoning regulations allowing waivers of certain provisions are effectively variances, which can only be granted by zoning boards of
- Other areas where regulations may conflict with law: (1) bonds and surety (possible inconsistencies with Public Acts 12-182 and 11-79); (2) time to complete "work" in site plans and subdivisions and duration wetlands permits (changes by P.A. 12-151, 11-5, and 09-181); (3) restrictions on adult use may conflict with First Amendment, especially where use is allowed by special permit only.

3. Failure of Commission member to disqualify when there is a conflict of interest.

- Member cannot act where he/she has personal or financial interest in application. Basic rules are: financial relationship familial or work relationships with applications; proximity – again does it affect you particularly in a way different than the general public. Ask question: does this benefit you, your family, a close friend or your employer, your customers or clients, in a way NOT shared by the public at large in your town?
- How does the right of fundamental fairness intersect with the statutory proscriptions on a commissioner's participation in a board's decision? In particular, is it ever OK for a commission member to disqualify himself and speak in favor or in opposition to an application? Compare Cioffoletti v. Planning & Zoning Commission, 209 Conn. 544, 557 (1989)(where an agency member disqualified himself from all phases of a proceeding and his wife appeared at the public hearing and spoke on his behalf in opposition to the application and read a letter expressing their opposition, the agency member's conduct was not a prohibited form of participation in violation of Gen Stat. Sec. 22a-42(c)); Ziegler v. Thomaston, 43 Conn. Sup 373, aff'd per curiam, 232 Conn. 270 (1995)(no violation of Sec. 8-11 for husband of disqualified member to submit letter in opposition to application); Gagnon v. Town of Stratford, 2002 WL 31015593

(decision not overturned when zba member disqualified herself and spoke in opposition to application for variance); Ashe v. New Fairfield Conservation Commission, 2001 WL 1265867 (2001)(no violation of 22a-42(c) when wife of recused wetlands member speaks in opposition); WITH Barry v. Borough of Litchfield Historic District Commission, 108 Conn. App. 682 cert. denied, 289 Conn. 942 (2008) (Historic District Commission member recused himself and spoke against application; while such action was not an illegal "participation" in the decision, it was a violation of the right to fundamental fairness because it would be difficult for other Commission members not to have been unfairly influenced by his testimony and to continue to work with the Commission member on other applications if they had approved the application); Sunny Wood Convalescent Home, Inc. v. Zoning Board of Appeals, 1991 WL 172845 (1991)(finding 8-11 to be violated when zba member disqualified himself and spoke in opposition).

2. Engaging in Ex Parte Communications.

- Emailing among the members, discussions off the record,
- Two issues: fundamental fairness, and FOIA.
- Issues are highlighted because of ways that data is stored and preserved today that didn't exist 20 years ago. Texts, emails, and social media.
- Commissioners should not communicate in that way and to the extent that they do communicate they need to do it only through the municipality's servers. If Commission members do communicate in this way and the proceedings are still open for public comment, print out the text/e-mails and put it in the record.
- Example of commission member texting at meeting, someone saw it and made a FOIA request. Problem with having too many gadgets.
- Staff cannot be the conduit for ex parte communications by developer.

1. Failure to Call Attorney when application is governed by laws in lieu of or in addition to Zoning Regulations.

1. Affordable housing applications. C.G.S. § 8-30g;
2. Sign regulation; First Amendment (What is content based regulation. Directional sign vs. advertising – distinction based on content?) If you have to read the sign to know if it's allowed, there's a potential for trouble. Still questions following Reed v Town of Gilbert, 135 S. CT. 2218 (2015). Most likely challenges would come from billboard companies or political groups.

3. Adult uses; First Amendment. Must allow as of right somewhere – not special permit. To allow by special permit only may be a “prior restraint” – a government action that prohibits speech before it can take place. Generally disfavored, particularly when discretion is involved.

4. Group home – sober houses; Americans with Disability Act. Recovering substance abusers are protected persons – obligation to make reasonable accommodation.

5. Churches/ Religious Uses: Religious Land Use and Institutionalized Person Act. (federal) and Connecticut Religious Freedom Act. Can't impose regulation that treat religious assembly on less equal terms than non-religious assembly. Also Substantial burden.

6. Medical marijuana; FEMA variances; AirBnB.

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