

Opponents' Exhibit 3: Response to the Land Use Committee Minutes for its February 25th Meeting held on the Redniss Zoning Application (10 page document).

Note: Partial truths, half-truths, omissions are lies.

**Response to the 2/25/2013 Land Use Committee Minutes
for the Meeting held on the Redniss Zoning Application**

Mr. Cole gave a summary of the Zoning Board proceedings, explaining that:

1. The application was represented as a partial solution to the problem of flooding damage to properties in the flood plain
2. There is a significant increase in interest in raising houses because of the increased cost of flood insurance;
3. There were originally 7 properties considered, but the Murphys objected over the course of the proceedings and their property was removed;
4. The key differences between the two zones is that R-20 is zoned for ½ acre, with a 30 ft. height limit, a 2 ½ story limit and a 50 ft. rear yard setback; RA-1 is zoned for 1 acre, with a 35 ft. height limit, a 3 story limit and a 60 ft. rear yard setback;
5. The applicant was interested in having everyone in area be able to raise their houses consistent with zoning and without a variance
6. The application was reviewed by the Planning Board which found it consistent with Master Plan Category 2 (there was an argument about whether or not it should be in Category 1, but it is not inconsistent to have RA-1 in Category 2).
7. The zoning change was granted (as cited in the staff report) primarily because it is sound flood plain management practice and consistent with coastal management policy in the State of Connecticut to rezone properties in flood plains to the lowest practical density to reduce the risk to life and property;
8. The application was made by property owners requesting to be upzoned into a larger lot zone;
9. Historically, lot sizes along the water have been getting rezoned for bigger lots;
10. Recent storms resulted in significant flood losses; if there were more serious flood losses

Murphy's Response to Mr. Cole

1. False - Represented to neighbors as a way to preclude subdivisions – height and bulk changes were not discussed. See PB Deliberations as well.
2. No evidence in record and not according to applications filed in Stamford. See Opponents' Exhibit 9.
3. Property at 102 never agreed. Others do not understand what they are agreeing to.
4. Failed to note the difference for Accessway lots - footprint smaller and a larger circle required.
5. False – wants height and bulk variance for Cullman/Kirby. Listen to PB Deliberations.
6. False – Planning Board did not mention Master Plan in its discussions let alone find it consistent with the Master Plan. Planning Board did not discuss RA-1 in Category 2.
7. False inference – Zoning Board did not refer to Staff Report. The Staff Report reasoning – change in zoning “**would lessen number of people living on this street**” was dismissed by the ZB for the most part. Further larger homes mean more people. There are many other problems with Staff Report.
8. True (but not for property at 102) and only for that reason. The owners were not knowingly requesting height and bulk relief.

and the house were left in in R-20 zone, it could result in subdivision of these lots to three or four ½ acre lots, so the change to the RA-1 designation is beneficial over time;

11. Under R-20, an owner would not be able to put in even a partial 3rd floor if the house is elevated 15-17½ ft. and the house would have no basement;

12. Under RA-1, the benefit is still relatively small; the house could be elevated and a house could have a partial 3rd floor (the height is measured to the midpoint of a gabled roof).

Mr. Cole spoke to some of the objections to this zoning change:

13. The change does not create any possibility that it will increase flooding risk because it does not change the footprint or amount of coverage and increases the setback;

14. Effect on other people's views may not be an issue because the setbacks are more restrictive and footprints could be smaller;

15. Any construction is subject to site plan review, so an objection concerning views is premature and can be adequately addressed;

16. It will not affect how individual owners decide to build;

17. The fact that some lots will be non-conforming has nothing to do with use and will not change anyone's right to develop;

18. Variance would not be the appropriate tool to address this problem because nobody has a unique hardship in the area, so an amendment to the zoning map (or a legislative change to the zoning regulations) is the appropriate tool;

In response to questions from Committee members, Mr. Cole stated:

19. The application was limited to these properties because the applicants did not want to include property owners who did not want to participate and wanted a group of contiguous lots, this does not make it spot zoning or

9. True but not for flooding reasons. Property owners wanted upzoning.

10. False (misleading statement) – almost no chance of any subdivisions in this area.

11. False – See picture at A 108; Also if the grade is 9' and FEMA requires 15' the difference of 6' is really only 3' because 3' of fill is not counted in the height calculation. The basement can be used as the garage.

12. Benefits are great – permits for a larger house, larger pool, larger cabana, etc.

13. False – increase in height increases flood height and velocity. See Opponents' Exhibit 8.

14. Increasing rear setbacks affects views per Master Plan. Footprints are not smaller.

15. False. This is legislation and everything is required to be considered. Nothing is premature.

16. What!!! Everyone will be building bigger homes.

17. False – Read the Zoning Regulations; See Murphy's January 8th letter to ZEO at Opponents' Exhibit 5.

18. False. Other municipalities are addressing the issue via variance. See Opponents' Exhibit 9 – City's current Flood policy.

19. False. Owners did not know what the Application was all about. Property at 102 did

<p>inconsistent with the Master Plan;</p> <p>20. Some communities have created zoning regulations which apply to flood plain properties and address elevation regardless of zone; he is not sure how such a uniform change would be received;</p> <p>21. The longer view with recurring floods is that there could be enough damage to have someone subdivide;</p> <p>22. This change has a mild benefit to people who elevate their house;</p> <p>23. The causes of the flooding are unrelated to lot size;</p> <p>24. The RA-1 zoning permits an additional 5' of height and requires a more restrictive setback; either zone permits a very large house; if the house is elevated it would result in a story house with an attic;</p> <p>25. Some properties would be technically non-conforming, but it would only affect the ability to subdivide, it would not impair any future ability to build, so there are no practical consequences of this from a building standpoint;</p> <p>26. He does not know if the Zoning Board of Appeals has rejected any applicants seeking to raise their houses for height; elevating buildings for flood control is unusual but becoming more common;</p> <p>27. This would not be a unique hardship because every other house in the area has the same hardship;</p> <p>28. Some communities are granting a legislative variance within the regulations to elevate houses within the flood plain; this would be a global solution, but might not be welcome in all communities or neighborhoods;</p> <p>29. This seemed like a simple solution because people were voluntarily seeking to upzone their properties;</p> <p>30. The Zoning Board has not prepared a separate memo of its findings;</p> <p>31. The Zoning Board of Appeals gives a "plan-specific" variance;</p>	<p>not agree to anything. See PB Deliberations.</p> <p>20. Incredible – “not sure how such a uniform change would be received.” See Mr. Cole’s comments in paragraph 2 above re: flood insurance costs.</p> <p>21. Illogical/Bizarre – more flooding more subdivisions.</p> <p>22. False - can build bigger homes.</p> <p>23. Wasn’t the purpose of the Application to require larger lot size - R20 to RA-1 - which admittedly has nothing to do with flooding?</p> <p>24. False – permits an additional 10 ft. of height; setback is not more restrictive (100’ per flooding regulations) See photo at A108.</p> <p>25. False - See comment in paragraph 17.</p> <p>26. The Zoning Board has not rejected any application seeking to raise a house.</p> <p>27. False – this is a unique hardship and other communities are treating it as such.</p> <p>28. False - “would not be welcomed” ??? See Me. Cole’s comment in paragraph 2.</p> <p>29. Upzone but not with increases in height and bulk; and only if everyone agreed which was not the case - 102 did not agree.</p> <p>30. True – therefore an improper referral – BOR no jurisdiction.</p>
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<p>32. Although RA-1 is intended primarily for rural areas, it has been applied to coastal areas for 20 to 25 years.</p> <p>Mr. Cole's omitted comment:</p> <p>Zoning Board of Appeals is quirky (i.e., eccentric, odd, unpredictable, peculiar)</p>	<p>31. True. What is the problem with that?</p> <p>32. Why was it applied to non-rural areas is the question. See Opponents' Exhibit 6.</p>
<p>Ms. Karen Murphy spoke about the basis for the petition, stating:</p> <p>33. This is spot zoning, and the proper solution is legislative;</p> <p>34. This was originally raised as a subdivision issue, and nothing was said about height or bulk issues;</p> <p>35. None of the other houses in the application are seeking to raise their houses;</p> <p>36. This application only benefits one party;</p> <p>37. There are no subdivision issues because some houses have covenants not to subdivide and the current owner of the access road is not giving the right to subdivide;</p> <p>38. This application was for a concealed purpose; density is not an issue;</p> <p>39. This zoning change could be a taking;</p> <p>40. The letter that accompanied the application was not sent to the other applicants;</p> <p>41. The staff report was drafted on the basis that all of the applicants were in favor of the of the proposal</p> <p>42. There was no mention of the Master Plan by the Planning Board;</p> <p>43. This zoning change does not comply with the Master Plan;</p> <p>44. This is not an issue for this area.</p> <p>45. Ms. Murphy then stated that there are several legal issues as to why the Board has no authority to consider this matter:</p> <p>46. The Board of Representatives has no jurisdiction to hear this issue;</p>	<p>33. The only thing I agree with Mr. Cole is that the proper solution is a legislative action for all of Stamford's coastal residents.</p> <p>34. Absolutely true.</p> <p>35. No owner of property included in the rezoning is seeking to raise his/her home.</p> <p>36. Absolutely True</p> <p>37. Correct and the Zoning Board members found that density was not a concern of theirs.</p> <p>38. The record reveals that this application was for a concealed purpose – height and bulk relief for Cullman w/o going to ZBA.</p> <p>39. Taking for property at 102 – See Murphys' January 8th letter at Opponents' Exhibit 5.</p> <p>40. True nor was it provided to Planning Board or others.</p> <p>41. Per David Woods the Staff Report was drafted (not on the law) but on the basis that all of the applicants were in favor of the proposal.</p> <p>42. Correct - Listen to PB's Deliberations.</p> <p>43. See Opponents' Exhibit 6.</p> <p>44. Unclear as to what issue this pertains to.</p> <p>45.- 52 Murphy's lack of jurisdiction argument is five-pronged:</p>

- 47. The applicant is Rick Redniss who is not a property owner in Stamford so it is not a valid application;
- 48. The referral does not contain any written findings;
- 49. The master plan was not properly amended – this is a Residential Area 2, which requires less than an acre;
- 50. This does not require a de novo review;
- 51. CAM needs to rule on changes in regulations and the Zoning Board did not wait for a ruling from CAM;
- 52. The Zoning Board lacks the authority to grant variances and this is a variance;
- 53. Ms. Murphy read into the record items 59-69 of her January 6th letter into the record regarding Constitutional violations;
- 54. Her abutter property rights are being violated;
- 55. The neighbors are concerned about process and no charter provisions were not complied with;
- 56. She was denied the right to meet with the Planning Board;
- 57. Corporation Counsel should be present;
- 58. The Zoning Board did not consider the factors contained in Charter §C6-40-1;
- 59. The Charter and Coastal Management Act were not complied with;

In response to questions from the Committee, Ms. Murphy stated:

- 60. One of the applicants lost acreage due to flooding (Rep. Kooris responded that this would not be a loss of property, just a loss of exclusive access rights);
- 61. As of now there is a 99% chance that there will be subdivisions – a comprehensive plan for all of Stamford would address future owners;
- 62. There is no pressing need to do this at this time;
- 63. Mr. Redniss did not represent that he was representing the applicant and should have

- (1) It is difficult to conceive of more unequivocal language than that contained in the Charter that shows that Redniss is not an Eligible Applicant;
- (2) The referral did not contain written findings, recommendations and reasons, a prerequisite before a matter can be referred;
- (3) The Master Plan was not properly amended;
- (4) Zoning Board closed the record on January 6, 2014, without complying with CAM; and
- (5) The Zoning Board lacks the authority to grant variances and this is a variance.
- 53. Murphy explained the many constitutional issues the Zoning Application raises.
- 54. Murphy has protected property abutters' rights under the U.S. Constitution.
- 55. No charter provision was complied with in this matter.
- 56. The Opponents have a protected property right to meet with the Planning Board.
- 57-59 Correct – See record.
- 60. See Opposition Exhibit 4 – It is a loss of property which may result in another nonconforming lot if Application is approved.
- 61. There is no chance of a subdivision; according to Redniss the probability of a subdivision is less than 99.99%.
- 62. Correct
- 63. Correct – and Redniss improperly

<p>represented that he was representing all the owners</p> <p>64. The property owners would be able to build much larger houses, although the houses could also be able to be built larger under the previous zoning, but they could be 10' higher and block everyone's views</p> <p>65. She will lose abutter's rights by the zoning change because they have granted a variance without a hearing and she did not get a hearing in front of the Planning Board;</p> <p>66. She has a right not to have a house as high as hers next to her;</p> <p>67. They would not get a 3rd story if they went to the Zoning Board of Appeals because the Zoning Board of Appeals would not find a hardship;</p> <p>68. She was not provided with the letter for the rezoning application so she was deprived of her due process rights;</p> <p>69. She is not claiming that was not deprived of the statutorily required notice of public hearing;</p> <p>70. This is a taking of property for the benefit of rich, connected people; zoning changes can reduce property interests without it being a taking;</p> <p>71. She might oppose a 3 story house before the ZBA</p>	<p>represented the other property owners.</p> <p>64. Under RA-1 the property owners get bulk and height relief.</p> <p>65. Lost abutters' right because the Zoning Board by approving this Application unlawfully granted a variance via a Map Change.</p> <p>66. The definition of height changed and increased heights increase flood heights and velocities. See Opponents' Exhibit 8.</p> <p>67. Correct and for other reasons as well.</p> <p>68. Material information was concealed from the neighbors thus depriving them of due process and other rights.</p> <p>69. Correct</p> <p>70. The Zoning Application could result in a taking of 102 Saddle Rock Road. See Opponents' Exhibit 5.</p> <p>71. After receiving Roberge Associates, Coastal Engineers, LLC 's Memorandum I will oppose, as any reasonable person would, a 3 story house before the ZBA. See Opponents' Exhibit 8.</p>
<p>Ms. Kathleen Murphy stated that:</p> <p>72. When they were first approached it was to create a flood plan for the area, but all that was done was a rezoning;</p> <p>73. They misrepresented the current footprint of the house as 6,000 ft.;</p> <p>74. At the Zoning Board, the density issue was not discussed;</p> <p>75. An attorney for a different owner was still evaluating the proposal at the first hearing; he was asked by Mr. Mills to provide something</p>	<p>72. The opposition underlying this petition was due in part to the way C/K handled the process. They sought and received financial commitments to finance a flood plan for the Saddle Rock neighbors. Consultants were engaged. The Plan was never completed. The only result was a Map Change to help C/K build a new house.</p> <p>73. At the ZB meeting Redniss stated that Cullman/Kirby were buying the most valuable property in Stamford . Why should they have</p>

from them in writing, but none was provided;
76. They don't know what the applicants are planning to build.

to go to the ZBA for variances? The ZBA sets onerous conditions.

74. At the Zoning Board, there was consensus that density was not an issue – there would be no sub-divisions. The general feeling was that a more comprehensive plan should be developed to deal with buildings in a flood zone . This was objected to on the basis that it would take time and the ZB should let the applicant get on with their construction.

75. With respect to property- 102 Saddle Rock, at the ZB meeting this property did not agree to the proposed Map Change. They were evaluating the impact on their property and their options as represented by their attorney. This is a young couple with two children and two careers – they are busy! Tom Mills, Chair of the ZB , told Redniss that he needed to have something in writing from 102 whether they were in or out. This property was important to have in to have contiguous properties in the new zone per Norm Cole. Redniss was unable to get anything in writing by the next meeting. Tom Mills backed off from his request and said since they didn't appear at a subsequent meeting – they were in! The tone and the process in the handling of this application are alarming.

76. You need to take control of the process here. What are residents expected to do; whose interests are being protected? In building our house we went through the ZBA and it was difficult. Why shouldn't Cullman/Kirby go through the ZBA like many of the property owners on Saddle rock Road? Redniss says because they are wealthy and are buying the most valuable property in Stamford! Although they present schematics of a proposed building, with the Map Change increasing the height and the bulk of the house they don't have to present the actual building they are planning.

Neighbors may never get to comment on flooding, the impact on light and views and property values - for some reason such issues have not been part of Map Change

	<p>deliberations. The biggest concern is flooding which has not been addressed.</p>
<p>Mr. Redniss stated that:</p> <p>77. The application specifically states that it will permit an additional 5 ft and a ½ story.</p> <p>78. On October 12th, Ms. Cullman sent an e-mail to all neighbors that he had filed an application for a zoning change and that they would be receiving a copy by mail, and that she had extra copies which she would provide if they wanted; Redniss & Mead failed to send the copy of the application;</p> <p>79. The Cullmans were asked if they wanted to buy the property by the Frank Rich estate after it was destroyed;</p> <p>80. Since this is a self-created hardship, it is unlikely the ZBA would grant a variance;</p> <p>81. A resident in an R-20 zone can by the Regulations build a 3 story house with a full basement. In a flood plain, the house would have no basement and be built above the flood plain. To get additional height the owner would have to go to the ZBA;</p> <p>82. He has a letter from Corporation Counsel that although his wife owns his house in Stamford, since he owns his office, he can file applications; he has filed hundreds of applications in his name on behalf of clients;</p> <p>83. Westport allows an additional height of 5 feet because losing 1 ½ stories;</p> <p>84. Jim Lunney consulted with the law department and confirmed that the rezoning will have no impact on improvements for existing lots, regardless of whether the properties are occupied or vacant;</p> <p>85. They held up the application so the lawyer of the owners of the boarded up house could have time to review the application. The lawyer did not come to the second hearing to object, although the lawyer</p>	<p>77. False – the cover letter does, not the Application. No one but Mr. Cole and his staff received the “Cover Letter.”</p> <p>78. As noted in Paragraph 33, the receipt of the Application would not reveal the height and bulk changes included in the Application. Record shows neighbors did not know about height and bulk changes.</p> <p>79. Based on information and belief, prior to Sandy Cullman/Kirby made an offer but another offer was higher.</p> <p>80. False – other municipalities are addressing the issue via variances. And if that is the case a comprehensive plan is definitely needed.</p> <p>81. Everyone knows the rules when they purchased land in the flood plain.</p> <p>82. The Charter expressly and unambiguously provides Applicant must be a property owner. Corp. Counsel’s opinion to the contrary is meaningless. Not surprisingly, nobody can even produce the letter.</p> <p>83. False – Up to a maximum of 5 feet. Applies to existing homes not new homes. A65</p> <p>84. See Murphy’s January 8th response to Redniss/Lunney letter. Opponents’ Exhibit 5.</p> <p>85. Failed to disclose that 102 never agreed to Zone Map Change.</p>

<p>knew the date of the hearing;</p> <p>86. Under R-20, any property over 40,000 ft. could be subdivided;</p> <p>87. The value of the property goes up with the zoning change;</p> <p>88. The original square footage number was high because it included a portion of the eaves;</p> <p>89. A 3rd level allows more useable space and therefore a smaller footprint;</p> <p>90. Private people can apply for a zoning change, even if it is only 2 or 3 properties;</p> <p>91. Ms. Cullman asked only her waterfront neighbors if they wanted to be included in this application;</p> <p>92. One can still build on non-conforming lots, subject to meeting the zoning regulations; this is not abandoning the use of the property as a house</p> <p>93. It is fine to have 1 acre zoning in Master Plan Category 2. RA-1 is not only in rural areas. It is also exists on Vine Road and along the coast;</p> <p>94. This is a solution for a vulnerable area – owners of one property have raised their house, but not high enough, and still suffered damage in Sandy;</p> <p>95. This is the furthest point out in the Sound in Stamford and the most exposed;</p> <p>96. A comprehensive regulation giving everyone on the coast an additional 5' might have unintended consequences, for example in Waterside or the Cove.</p> <p>In response to questions from the Committee, Mr. Redniss stated:</p> <p>97. Everyone was in support of this initially, but at the November 20th meeting, the Murphys stated they did not want to be included; people who objected did speak at the hearing.;</p> <p>98. The Planning Board considered this on referral of the Zoning Board and does not have an obligation to send out notices of the meeting; it was not a public hearing and</p>	<p>86. Record reveals no chance of subdivisions.</p> <p>87. Cullman's goes up; Murphy's and others go down.</p> <p>88. False – including the eaves would not increase the footprint by 2,000 sq. ft.</p> <p>89. False – allows for a larger pool, cabana, etc. Coverage is not decreased.</p> <p>90. Can apply but such applicants are entitled to a Zone Change only if it benefits the entire community.</p> <p>91. False – neighbors did not know the extent of the application and therefore could not have agreed.</p> <p>92. Note words: "Subject to Zoning Regulations." See Murphy's Jan 8th letter to ZEO at Opponents' Exhibit 5.</p> <p>93. Interpretation renders Master Plan meaningless. No law cited.</p> <p>94. No one in area is looking to raise their home.</p> <p>95. Sea Beach and other areas are just as exposed.</p> <p>96. If problems no need to raise everyone 5 ft. What are these unintended consequences?</p> <p>97. False – the neighbors could not support this Application because as the record reveals they did not know the facts.</p> <p>98. False – Staff knew, or should have known,</p>
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<p>nobody else was present;</p> <p>99. The Planning Board can take 3 actions on a referral – recommend approval, denial or modification, and determines consistency with the Master Plan;</p> <p>100. Properties beyond the area being rezoned don't necessarily need to be included – these are newer houses and don't necessarily need a change;</p> <p>101. The Jim Lunney letter states that individuals on nonconforming lots are losing the right to subdivide, a 10' setback in the rear and a 10' setback on the side yard for the access roads lot.</p>	<p>that neighbors were misled and did not agree with Application and should have informed PB of such facts. Also the Planning Board was misled as admitted by Mr. Woods. But for the fraud, opponents of the Application would have requested a meeting pursuant to C6-40-10. Planning Board should have known that 102 did not agree.</p> <p>99. PB did not determine consistency with Master Plan.</p> <p>100. False – only new home is Considine's.</p> <p>101. False – none of these statements are in the Redniss/Lunney Letter. See Redniss'/Lunney's Letter attached to Murphy's January 8th response.</p>
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