

Rec'd @ PH 1/6/14

MURTHA

KARI L. OLSON
860.240.6085 DIRECT TELEPHONE
860.240.5885 DIRECT FACSIMILE
KOLSON@MURTHALAW.COM

January 6, 2014

VIA REGULAR AND CERTIFIED MAIL

Mr. Thomas R. Mills, Chairman
City of Stamford Zoning Board
888 Washington Boulevard
Stamford, CT 06901

Re: APPLICATION FOR ZONING MAP AMENDMENT NO. 213-33
SADDLE ROCK ROAD PROPERTIES

Dear Mr. Chairman and Members of the city of Stamford Zoning Board:

This firm represents John J. Kirby, Jr. and Susan R. Cullman with respect to their properties located at 74 and 88 Saddle Brook Road. Pending before you is an application to change the zone in which their properties lie. The following is a summary, based upon the information already provided to this Board, of the reasons why this Board can and should grant the zoning map amendment ("Amendment") requested. As is readily apparent from the existing characteristics of the neighborhood on Saddle Rock Road, lowering the density of possible development in this locale while slightly increasing the existing height restriction makes good planning sense.

I. General Overview

The proposed area to be rezoned consists of seven separately owned properties all of which lie in a Coastal High Hazard Area further bounded by the Flood Insurance Rate Map Zone VE designation.¹ Accordingly, these properties are at high risk for coastal flooding and can only be developed in accordance with the City of Stamford Zoning Regulations regarding Flood Prone Areas and a Coastal Management Plan. See Regulations Sections 7 and 7.1. The application before you requests a change to the zone designation for these properties from the existing R-20 designation to RA-1. This change would increase the required lot size from 20,000 s.ft. to one acre. It also would allow an

¹ As noted at the last public hearing, the owners of 68 Saddle Rock Road (the "Murphys") have expressed some opposition to the application. If the Board is inclined to grant the application with a modification excluding the Murphys' property from the zone change, my clients are agreeable to that modification.

Murtha Cullina LLP | Attorneys at Law

BOSTON HARTFORD MADISON NEW HAVEN STAMFORD WOBURN

CityPlace I | 185 Asylum Street | Hartford, CT 06103 | Phone 860.240.6000 | Fax 860.240.6150 | www.murthalaw.com

additional 5 feet in building height, making it more feasible to raise above flood levels occupied portions of new or existing homes as required by the Regulations and commended by FEMA.

Pursuant to the City of Stamford Charter Section C6-40-10, the proposed zoning map amendment was presented to the City's Planning Board which proposal was met with unanimous approval by its members. A copy of this decision is in the record.

II. The Properties

The existing properties that are the subject of the pending application abut that portion of Saddle Rock Road that forms a pronounced peninsula jutting into Long Island Sound. Indeed, aerial photographs depict this area as the most pronounced and possibly most vulnerable portion of the Stamford coastline. With the exception of one lot owned by my clients and located at 88 Saddle Rock Road, the remaining properties already nearly meet or exceed the one-acre lot size of the RA-1 zone. Notably, although not a part of this application, all of the other contiguous lots along Saddle Rock Road and Rogers Road similarly approach or exceed a one-acre size, with the exception of two much smaller lots that either do not meet or barely meet the existing 20,000 s.ft. lot size requirement. This much smaller lots resulted from earlier divisions of existing larger lots.

Each of these properties is improved with a house and some properties also have additional outbuildings and/or a garage located on the lot. Of the seven properties, all but the one smaller lot owned by my clients has land area capable of division based upon current zoning.

III. The Criteria for Review

Pursuant to the City of Stamford Charter Section C6-40-1:

"The Zoning Board is authorized to regulate the height, number of stories and size of buildings and other structures; the percentage of the area of the lot that may be occupied; the size of yards, courts and other open spaces; the density of population and the location and use of buildings, structures and land or trade, industry, residence or other purposes; and the height, size, location and character of advertising signs and billboards. Said Board may divide the City into districts of such number, shape and area as may be best suited to carry out the purposes of this Chapter; and, within such districts, it may regulate the erection, construction, reconstruction, alteration or use of buildings or structures and the use of land. All such regulations shall be uniform for each class or kind of buildings or structures

throughout each district, but the regulations in one district may differ from those in another district, shall be made in accordance with a comprehensive plan and shall be designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population and to facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public requirements. Such regulation shall be made with reasonable consideration as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City."

In addition to the general criteria set forth in the City's Charter, the Regulations also require that this Board consider appropriately regulating flood prone areas. See Section 7.1.A. As set forth more fully below, the proposed Amendment meets all of the criteria for consideration by this Board and should be granted.

A. Consistency with the City's Master Plan

As found by the City Planning Board, the proposed Amendment is wholly consistent with the City's 2002 Master Plan.

B. Decreased Density

The benefits of prohibiting overdevelopment by an increase in lot size are. In flood prone areas, less development is desirable in that it reduces the risk of catastrophic loss of life and property damage to not only those properties directly affected, but also to neighboring properties that lie in the path of flood waters and floating debris.

C. Increased Height

As noted above, allowing for the increase in overall structure height gives property owners in this area the ability to raise the occupied portion of their homes above flood levels without losing the overall functional space of the home. The minor increase in height allowance will not negatively impact the overall character of the neighborhood, especially when measured against the benefits to be gained. Indeed, at least one of the seven properties appears to already exceed the 30-foot height limitation.

The increased height limitation will also permit the construction of homes with smaller footprints – again without losing the overall functional space of the home – by permitting the construction of a fully usable third story, rather than the half story currently permitted.

D. Health, Safety and General Welfare

With respect to other more general considerations of the Board, the Amendment, on balance, will support the health, safety and general welfare of the community as follows:

1. Characteristics of the Neighborhood: The Amendment will not lead to any perceptible change in the characteristics of the neighborhood. The vast majority of the properties in and around the proposed zone change area already sit on lots that nearly meet or exceed one-acre lot requirement. The surrounding properties also lie in a residential (R-20) zone. Pursuant to the Regulations, the same uses are permitted in the RA-1 zone as the R-20 zone. Article III, Sections 4.AA.1 and 4.AA.2. Thus, the proposed zone change will not lead to non-conforming uses.

As the City's Zoning Enforcement Officer has stated, the change in zone also will not materially affect future structural changes to the properties included in it. See ZEO Letter Countersigned on January 2, 2014. Most of the same area and bulk parameters that apply to the R-20 zone also apply in the RA-1 zone.

More fundamentally, as noted throughout this summary, the existing characteristics of the neighborhood will not change as a result of the rezoning. The rezoning will only serve to prevent future development of a more intense nature than what exists there today and will foster, in the event of reconstruction or new construction, structures designed more appropriately to withstand flooding.

2. Effect on Abutters: There will be no negative impact on the use or value of abutting properties which are already zoned for the same residential uses. The decrease in allowable density should be of benefit to abutting properties and, in any event, will not materially change what already exists in this location today. The 5-foot increased height similarly will not have a material negative impact especially when weighed against the benefits to be gained.
3. Traffic: The change in zone will not increase traffic in the neighborhood and, in fact will serve to minimize the increase in traffic that would be occasioned by further subdivision of this area into 20,000 s.ft. lots.

4. Effect on Infrastructure: There will be no increase in infrastructure requirements by the proposed Amendment, such as roads, sewer and water. As with traffic, the decreased lot size will preclude the possibility of a more dense development and thereby maintain current infrastructure demands in this location.

5. Safety and General Welfare Concerns: It bears repeating that the change in zone is a benefit from an environmental and safety standpoint. The less development the less unnatural impacts to be expected. In an area at such high risk to flooding, this must be of critical concern. As this Board has espoused through its preface to the Flood Prone Area Regulations Section 7.1.A:

The purpose of this Section is to implement comprehensive flood prone area regulations that promote the health, safety and welfare of the general public, that limit public and private property losses and diminish expenditures of public money for costly flood protection projects and relief efforts, and that minimize prolonged governmental and business interruptions.

The proposed Amendment fosters all of these goals and purposes.

IV. Conclusion

The proposed Amendment has support from the City's Planning Board and a majority of the properties that will be directly impacted.

While some people have expressed concerns for the Amendment, most of these concerns stem from my clients' plans to construct a new home at 74 Saddle Rock Road. While these concerns should not be ignored, respectfully, they are premature and not relevant to the Board's consideration of the Amendment. This is not an application for a building permit or site plan approval. Any and all concerns related to construction of my clients' home and any perceived flooding impacts must be and will be addressed through a proper CAM review. The only thing to be decided relative to this application is whether it is appropriate to change the zone in which these properties lie and we submit to you that it is. If the proposed construction of a dwelling on any of the properties at issue is of any relevance, it is in bringing to the forefront the need to address whether the zone should be changed now. Pursuant to Section 7.1.A.3, not only must this Board regulate the use of

Mr. Thomas Mills
January 6, 2014
Page 6

properties "that are threatened by the action of flood waters, velocity or erosion hazards or increase the potential for damages caused by increased flood heights, velocities or erosion hazards," but also, the Board must consider zoning of flood prone areas such that it can protect uses vulnerable to flooding "at the time of initial construction or when substantially improved." Accordingly, if ever there were an appropriate time to consider rezoning this area, it is now.

There are also those who apparently wish to maintain the ability to subdivide their properties in the future. However, this Board must balance those desires with the obvious and overwhelming benefits to limiting development in this area of the City. As the weather experts have opined and Hurricane Sandy has proven, climatic changes are more pronounced and more severe than ever before. Planning and zoning must similarly evolve to secure the future health, safety and general welfare of the entire community.

For all of the foregoing reasons, the Board should grant the requested Amendment.

Very truly yours,



Kari L. Olson

c: Mr. John J. Kirby, Jr.
Ms. Susan R. Cullman
Mr. Richard Redniss