

KAREN A. MURPHY

March 31, 2014

Thomas R. Mills, Chair of the City of Stamford's
Zoning Board 7th Floor
888 Washington Blvd.
Stamford, CT 06904-2152

Re: Redniss' Proposed Zoning Map Amendment to Change the District for Six Properties
on Saddle Rock Road from R-20 to RA-1: File # 213-33

Dear Mr. Mills:

The purpose of this letter is to request the Zoning Board to reconsider/vacate its decision in the above referenced matter and withdraw the associated referral to the Board of Representatives ("BOR") due to, among other things, the Zoning Board's failure (a) to properly comply with the City's Charter in referring the matter to the Board of Representatives, (b) to properly consider the many jurisdictional issues in this matter, and (c) to properly consider the testimony and evidence of the opponents to the Proposed Zoning Map Amendment as disclosed in Mr. Cole's February 28th Memorandum discussed below. The opponents' testimony and evidence submitted into the record shows that the Redniss' Proposed Zoning Map Amendment was not designed to achieve a legitimate police power purpose but to advance the purely private interest of Cullman/Kirby. It was not proposed in furtherance of the comprehensive plan and was designed in an unreasonably discriminatory manner.

In the alternative, I am requesting that you take corrective action for the conduct (i.e., material misrepresentations and omissions) of Mr. Norman Cole, the Zoning Board's representative before the Land Use-Urban Development Committee of the Board of Representatives ("Land Use Committee") in connection with the above referenced matter as discussed below. I am assuming that you, as the Chair of the Zoning Board, appointed Mr. Cole to represent the Zoning Board before the Board of Representatives because there is no resolution that I am aware of that appointed Mr. Cole as the Zoning Board's agent in this matter, and you attended at least a part of Mr. Cole's presentation before the Land Use Committee.

I. Failure to Comply with Charter Section C6-40-5: Referral to BOR

It is undeniable that the Zoning Board did not timely file with the Board of Representatives its written findings, recommendations and reasons for approving the Redniss Proposed Zoning Map Amendment. More alarming, however, is the Memorandum dated February 28, 2014, from Norman Cole to Randal Skigen, President of the Board of Representatives (the "Memorandum") that was put into the record and that was not signed by the Chair or any member of the of the Zoning Board, and rightfully so. The Memorandum's clear intent is to feign compliance with the City's Charter Section C6-40-5 and, more significantly, it is not an accurate statement of the Zoning Board's findings, recommendations and reasons in this matter. It is a false document prepared with the intention to induce the members of the Board of Representatives to accept it as genuine, and by reason of so accepting it to cause the members of the Board of Representatives to act in a manner prejudicial to the opponents of Redniss' Proposed Zoning Map Amendment.

(a) Norman Cole's February 28, 2014 Memorandum to Mr. Skigen, President of BOR

Mr. Cole, the Zoning Board's agent before the BOR, states in the Memorandum contrary to the facts that:

The principal reason for approval of the zoning map amendment, paraphrasing the Staff Report, is to comply with Coastal Area Management policies and related federal floodplain management policies, by considering in the planning process the potential impact of coastal flooding and erosion patterns on coastal development so as to minimize damage to and destruction of life and property of future development from such hazards. The six affected properties on Saddle Rock Road are located in a high hazard coastal flood zone and the proposed rezoning from R-20 to RA-1 will lower residential density. The rezoning will also facilitate the elevation of structures to comply with FEMA standards and decrease the risk of damage and loss of property.

During the Zoning Board deliberations the Zoning Board members never referred to the Coastal Area Management Act ("CAM"). In fact the opponents of the Redniss' proposed Zoning Map amendment were wrongfully precluded from discussing CAM issues. Further, the Zoning Board members never referred to the very questionable, coerced so-called "Staff Report" which was not based on the criteria set forth in the City's Charter for Zoning Map amendments.

Ms. McManus noted, according to the Board's January 27, 2014 minutes, that "future subdivisions are not an issue." Except for Mr. Morris who said he liked the reduction in density, no Board member considered it an issue, and properly so because it would be contrary to the facts in the record that the chance of any subdivision in this high hazard coastal flood zone is remote, less than 99.9%, due to the City's flood zone policies. In addition in this particular case there are private deed restrictions or accessway restrictions on all but two of the seven properties initially included in the rezoned area.

The Zoning Board members expressed a need to elevate houses in response to increasing flood heights but as the record reveals none of the owners of the six homes included in Redniss' Application are considering raising their homes at this time. Further a review of the variances granted by the neighboring towns reveals that both height and story variances are needed for coastal properties which the Board did not consider. Moreover, according to the Zoning Board's Guidelines, height changes are accomplished by way of Text Changes not by Zoning Map amendments. Unintended consequences will flow if this ill-considered, unconstitutional amendment is approved, because Cullman/Kirby and others will have the right to build a house with a building height of 35 feet and then request a height and story variance due to flooding and safety hardships.

The Zoning Board members did not address the need to increase the number of stories from 2 ½ to 3 stories for homes in this high hazard coastal flood zone because there are none.

The only property that benefits from this unlawful, unconstitutional Proposed Zoning Map Amendment by Redniss is 74 Saddle Rock Road, at the expenses of the Ward's/Lu's property, and possibly others, becoming non-conforming, increased flooding for the area, decreased property values, and the loss of, among other things, views and abutters' rights.

In sum, the Memorandum demonstrates conclusively, *inter alia*, that the Zoning Board failed to provide sufficient reasons and findings for its approval of the proposed Redniss amendment to the Zoning Map. (a) The Zoning Board's reliance on the coerced "Staff Report" is misplaced for any number of reasons; (b) there is no basis in law for the Zoning Board to rely on the statement of one Planning Board member that the proposed amendment to the Zoning Map complies with the Master Plan; and (c) based on the Board's interpretation of Attorney Kari Olson's testimony as revealed in the Zoning Board's January 6, 2014, minutes, the Zoning Board's reliance Attorney Kari Olson's testimony is misguided because Attorney Kari Olson's testimony - "the Stamford Charter defines the Master Plan as the guide for zone changes, not the "comprehensive plan" - is contrary to law.

II. Duty to Correct Misrepresentations and Omissions – Supervisory Liability

Mr. Cole, the Zoning Board's agent, has made a number of material misrepresentations and omissions before the Land Use Committee of the BOR in this zoning matter. As Chair of the Zoning Board you have the authority and duty to correct the Zoning Board's agent's misrepresentations and omissions and I am requesting that you do so. Specifically, Table I below summarizes just a few of Mr. Cole's material misrepresentations based on the Land Use Committee Report for the February 25 meeting on this matter. See Exhibit 3 that I entered into the record on March 11, 2014, for Mr. Cole's other misleading comments.

Table I

| Mr. Cole's Reported Comments | Why Comment is False |
|---|--|
| 1. 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). | There is absolutely no evidence that the Planning Board found the Redniss' Application consistent with the Master Plan or that there was a discussion/argument about the land use categories by the Planning Board in this matter. |
| 2. Recent storms resulted in significant flood losses; if there were more serious flood losses and the house were left in in R-20 zone, it could result in subdivision of these | There is absolutely no basis in fact or law or in the record for this comment. |

| | |
|--|--|
| lots to three or four ½ acre lots, so the change to the RA-1 designation is beneficial over time. | |
| 3. The fact that some lots will be non-conforming has nothing to do with use and will not change anyone's right to develop. | Materially misleading in that the owner continues to have a right to develop but not without first obtaining a variance. |
| 4. 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. | As the record shows except for some minor Text Changes, the municipalities are handling the FEMA and Flood Safety issues on a case-by-case basis via variances. And no municipality is addressing the issue via an amendment to the Zoning Map. See Exhibit B, attached. |
| 5. 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. | See Comment 3 above. Because Mr. Cole's Land Use Bureau has put forth extremely misleading information on this issue, I will ask Corporation Counsel to address it. |

III. Deliberate Indifference to the Rights of the Opponents

By appointing Mr. Cole's as the Zoning Board's agent before the BOR, you and/or the Zoning Board acted with deliberate indifference to the rights of the opponents of the Redniss Proposed Zoning Map Amendment. Mr. Cole is a member of the American Institute of Certified Planners and is subject to the Institute's Code of Conduct. In my January 6, 2014, letter to the Zoning Board members several Code of Conduct violations were alleged in this matter. These Code of Conduct violations should have been addressed by you and/or the Zoning Board before the Zoning Board's decision in this matter and definitely before selecting Mr. Cole as the Zoning Board's agent before the BOR.

At this juncture under the facts and circumstances of this particular matter you have requisite authority to affect the conduct of Mr. Cole by, *inter alia*, correcting his misrepresentations, causing Mr. Cole to withdraw his February 28th Memorandum, and re-examining the evidence starting with what

Thomas R. Mills, Chair of City of Stamford's Zoning Board
Redniss' Proposed Zoning Map Amendment to Change the District for Six Properties on Saddle
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occurred at the Planning Board. Listen to the Planning Board's audio and review the comments I submitted with Exhibit 2 at the March 11th public hearing held by the BOR. Also read Exhibit 5 - Response to Redniss' December 20, 2013 Letter, affirmed by Mr. Lunney on January 2, 2014 – that I submitted into the record on March 11, 2014, and verify with Corporation Counsel whether or not the Redniss/Lunney letter is intentionally misleading or a failure to correctly interpret and apply the City's Zoning Regulations regarding nonconforming uses.

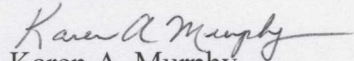
IV. Conclusion

For your information summarized in the attached Exhibit A are the jurisdictional issues I requested Corporation Counsel to advise Board of Representatives on before the Board votes on April 7th. The jurisdictional issues apply to the Zoning Board as well. As Chair of the Zoning Board you have the right to revisit the Zoning Board's authority to consider the Redniss Zoning Application and the duty to prevent the reckless abuse of the Zoning Board's authority from continuing for failing to act within its jurisdictional authority.

If you find that Corporation Counsel is reluctant or conflicted in providing the Zoning Board with competent legal advice, you always have the option of calling the Connecticut Conference of Municipalities at 203-498-3000 for free legal advice.

If you have any questions concerning this letter, please do not hesitate to contact me.

Sincerely,


Karen A. Murphy

cc: Kathryn Emmett, Corporation Counsel (via Email)

EXHIBIT A: Jurisdiction Issues

The Planning Board, Zoning Board and Board of Representatives lacked jurisdiction to consider Mr. Redniss' Zoning Application 213-33, a proposed Zoning Map amendment to change the district for six waterfront properties located on Saddle Rock Road from R-20 to RA-1, for one or more of the following reasons:

- (a) Pursuant to Charter Section C6-40-4 only property owners and government officials may file a written application with the Zoning Board for an amendment to the Zoning Map. According to the City's tax records, Mr. Redniss, the applicant here, is not a property owner; and he is not a government official.
- (b) The Zoning Board's referral did not include written findings, recommendations and reasons, a prerequisite pursuant to the City's Charter C6-40-5 before a Zone Map amendment can be referred to the Board of Representatives.
- (c) Charter Section C6-30-3 requires that the Master Plan "show the **division of Stamford into land use categories** such as....
 - 1. Residential—single family plots one acre or more.
 - 2. Residential—single family plots less than one acre..."

The Master Plan uses land use category "#1 Residential" for zone districts one acre or more (i.e., RA-1, RA-2 and RA-3) and "#2 Residential" for zone districts less than one acre (i.e., R-20, R-10 and R-7 1/2.)

Charter Section C6-40-3 provides that: "The Zoning Map shall not be amended by [the Zoning] Board to permit a use in any area which is contrary to the **general land use established** for such area by the Master Plan." Therefore, the Boards did not have authority to consider the Redniss' proposed Zoning Map Amendment because, as required by Charter Section C6-40-3, the Master Plan was not amended to change the general land use established, #2 Residential, for the six properties currently in a R-20 district to #1 Residential for RA-1 districts.

- (d) The Zoning Board and the Board of Representatives lack the authority to grant variances via map amendments. As disclosed in the Planning Board's audio for this matter, Mr. Redniss' initial scheme was to change the zone only for Cullman's/Kirby's two adjacent properties on Saddle Rock Road in order to achieve the height and bulk desired changes without going through the Zoning Board of Appeals. Mr. Redniss stated that after purchasing one of the most expensive properties in the City, Susan Cullman and John Kirby should not have to "beg for a variance" from the Zoning Board of Appeals. Mr. Cole, the City's Land Use Bureau Chief, apparently agrees and described the ZBA as a "quirky board" (i.e., eccentric, peculiar, unpredictable, odd).

EXHIBIT B

Sample Coastal Variances Granted by:

The Town of Greenwich

Town of Westport

Darien

Unusual Hardship – Safety and Compliance with FEMA

ZBA Variances
from November 14, 2012 (Post-Sandy) through February 19, 2014
for properties in the Flood Zone.

SUMMARY:

23 variances applications (all granted, with the exception of 3 which were denied in part, granted in part as noted below)

18 of the 23 applications involved story variances

4 of the 23 involved variances of floor area

6 of the 23 involved variances of height

- No. 1 PLZE201301453 **21 WEST WAY, OLD GREENWICH**. Appeal of Marc Tessier-Lavigne & Mary Hynes for a variance of floor area ratio, to permit alterations to a dwelling located in the R-20 zone was granted.
- No. 2 PLZE201301526 **21 HEUSTED DRIVE, OLD GREENWICH**. Appeal of 21 Heusted Drive, LLC for a variance of floor area ratio and number of stories to permit the construction of a new dwelling located in the R-12 zone was granted in part and denied in part. (note: granted stories but denied FAR)
- No. 3 PLZE201301367 **39 WILLOWMERE CIRCLE, RIVERSIDE**. Appeal of Mark Weissler & Nancy Voye for a variance of allowable stories to permit the raising of a dwelling located in the R-20 zone was granted.
- No. 4 PLZE201301039 **5 OAK LANE, OLD GREENWICH**. Appeal of Patricia J. Hannigan for variances of number of stories, front and rear side yard setback to permit the raising of a dwelling and the construction of a new garage located in the R-12 zone was granted in part and withdrawn in part.
- No. 5 PLZE201301306 **15 MORTIMER DRIVE, OLD GREENWICH**. Appeal of Linda Filar and Louis Csak for variances of number of stories as well as front, rear and side yard setback to permit raising of a dwelling and associated alterations located in the R-12 zone was granted.
- No. 6 PLZE201301218 **29 PALMER ISLAND/ SOUTH END COURT, OLD GREENWICH**. Appeal of Christopher and Christina Broderick for variances of building height, number of stories and side yard setback to permit the raising of dwelling located in the R-12 zone was granted.
- No. 7 PLZE201301219 **TODS DRIFTWAY, OLD GREENWICH**. Appeal of the Town of Greenwich for a variance of flood zone requirements to permit the re-construction of a historic building located in the VE flood zone and RA-1 zone was granted.
- No. 8 PLZE201300787 **11 MORTIMER DR, OLD GREENWICH**. Appeal of Michael and Nicola Barry for variance of the flood zone requirements to permit the additions and alteration to a dwelling located

in the AE-11 Flood Zone and R-12 Zone was granted. (Note: This one was basically a variance of our interpretation of new construction where FEMA doesn't see this as new construction because it hasn't reached the 50% mark but we do because it's going from non-habitable to habitable)

- No. 9 PLZE201300859 **18 BYRAM DOCK ST, GREENWICH.** Appeal of Leonard and Katherine Mackey for a variance of front yard setback and number of stories to permit the construction of a new home in the VE-17 flood zone and R-12 zone was granted.
- No. 10 PLZE201300879 **25 NORTH WAY, OLD GREENWICH.** Appeal of Ramze J. Zakka for variances of building height and rear yard setback as well as special exception approval to permit alterations of an accessory building in excess of 800 square feet containing a dwelling unit in the R-20 zone was granted.
- No. 11 PLZE201300800 **10 GRIMES ROAD, GREENWICH.** Appeal of Martin and Anna Waters for a variance of number of stories to permit the raising of a dwelling located in the R-12 zone was granted.
- No. 12 PLZE201300595 **10 NORTHWAY, OLD GREENWICH.** Appeal of Harriet Jiranek for a variance of flood zone requirements to permit additions on a dwelling located in the R-20 zone was granted.
- No. 13 PLZE201300531 **21 WEST WAY, OLD GREENWICH.** Appeal of Marc Tessier-Lavigne & Mary Hynes for variances of required front, rear and side yard setbacks as well as number of stories to allow for the raising of a dwelling and the construction of a new pool, with deck, located in the R-20 zone was granted.
- No. 14 PLZE201300761 **10 MEADOWBANK ROAD, GREENWICH.** Appeal of CPP 10 Meadowbank Road, LLC. for variances of number of stories, front and rear yard setbacks to permit alterations to a dwelling located in the R-12 zone was granted with conditions.
- No. 15 PLZE201300554 **16 MORTIMER DRIVE, GREENWICH.** Appeal of Mortimer drive, LLC, for variances of building height and number of stories to permit the construction of a new 3 and ½ story dwelling located in the R-12 zone was granted in part and denied in part. (note: granted stories but denied height)
- No. 16 PLZE201300555 **17 MORTIMER DRIVE, GREENWICH.** Appeal of Mortimer drive, LLC, for variances of building height and number of stories to permit the construction of a new 3 and ½ story dwelling located in the R-12 zone was granted in part and denied in part. (note: granted stories but denied height)
- No. 17 PLZE201300469 **7 EGGLESTON LANE, OLD GREENWICH.** Appeal of Joseph and Elizabeth Cipolla for variances of number of stories, front and side yard setbacks to permit additions and the raising of a dwelling located in the R-12 zone was granted.
- No. 18 PLZE201300236 **5 NORTH CROSSWAY, GREENWICH.** Appeal of High Tide Ventures, LLC, for variances of floor area ratio, front yard setback and number of stories to permit the construction of a single family dwelling in the R-20 zone was granted with conditions.

- No. 19 PLZE201300273 10 HEUSTED DRIVE, GREENWICH. Appeal of Gary and Diane Hirsch for a variance of floor area ratio to permit the addition of a second floor on a dwelling located in the R-12 zone was granted.
- No. 20 PLZE201300234 **20 MORTIMER DRIVE, GREENWICH.** Appeal of Royce Family Fund, Inc. for variances of rear yard setback and number of stories to permit the raising of a dwelling located in the R-12 zone was granted.
- No. 21 PLZE201300224 **30 HEUSTED DRIVE, OLD GREENWICH .** Appeal of Peter and Patricia Ekvall for variances of front yard setback, building height and number of stories to permit the raising of a dwelling located in the RA-12 zone was granted.
- No. 22 PLZE201300035 **18 MORTIMER DRIVE, OLD GREENWICH.** Appeal of Jill Mangold, for a variance of number of stories to permit the raising of a dwelling on a property located in the R-12 zone granted.
- No. 23 PLPZ201201236 **9 MEADOWBANK ROAD, OLD GREENWICH.** Appeal of Jill Mastolini for a variance of building height and number of stories to permit a dwelling, with a non-conforming location, to be raised in the R-12 zone was granted.



TOWN OF WESTPORT
Zoning Board of Appeals

Town Hall, 110 Myrtle Ave.
Westport, CT 06880
Phone (203) 341-1081; Facsimile (203) 454-6145

December 4, 2013

William Achilles
Achilles Architects
498 Anson Street
Bridgeport, CT 06606

RE: ZBA CASE #7223

ADDRESS: 17 Marine Avenue

OWNER OF PROPERTY: Anthony F. Sousa

Dear Mr. Achilles:

This is to certify that at the work session of the Zoning Board of Appeals held on November 26, 2013, the Board voted 5 - 0 (Ezzes, Wong, Gordon, Harris, Deverin) in favor to **GRANT** your request for a variance and the following resolution was adopted:

1. **RESOLVED:** ZBA Appl #7223 William Achilles, Achilles Architects for property owned by Anthony f. Sousa for a variance to Sec 13-5 (Height for Feet and Number of Stories), Sec 6-3.3 (Non Conforming Height for Feet and Number of Stories), Sec 6-2.1.3 ((Expansion of Non Conforming Building), Sec 6-2.1.6 (New Construction), to lift existing house and additions **is hereby GRANTED**, in a Res A zone, PID #B01072000.

Zoning Board of Appeals found the following unusual hardship from the application of the regulations to the subject property:

- Pre Existing
- FEMA
- Corner Lot, Two Front Setbacks

The above being **GRANTED** in accordance with Proposed Conditions Zoning/Location Survey, Map of Property prepared for Anthony F. Sousa, prepared by Walter H. Skidd – Land Surveyor LLC, dated 4/1/13, revised 9/19/13; plans titled House Lifting & Renovations for the Sousa

Residence, 17 Marine Avenue, Westport, CT, 06880, prepared by Achilles Architects, dated 9/20/13, revised 9/21/13, 6 pages A-1 through A-6.

Effective Date: Contingent upon applicant filing this resolution with the Town Clerk.

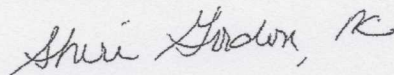
The structure cannot be demolished unless it has been specifically requested on the application.

This variance application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements or representations made by the applicant or agent on the record. Any deviation from such documents or representations shall require further review and approval from the Board.

This variance needs to be filed with the Town Clerk before you can obtain either a Zoning or a Building permit.

The project must be conducted in conformance with the approved plans.

Yours Truly,

A handwritten signature in cursive script that reads "Sheri Gordon, R".

Sheri Gordon, Secretary
Zoning Board of Appeals

Certified Mail:RRR
cc: ZEO

enc.



TOWN OF WESTPORT
Zoning Board of Appeals

Town Hall, 110 Myrtle Ave.
Westport, CT 06880
Phone (203) 341-1081; Facsimile (203) 454-6145

March 7, 2014

Attorney Alan R. Spirer
830 Post Road East
Westport, CT 06880

RE: ZBA CASE #7249

ADDRESS: 101 Harbor Road

OWNER OF PROPERTY: 101 Harbor Road LLC

Dear Attorney Spirer:

This is to certify that at the work session of the Zoning Board of Appeals held on February 25, 2014, the Board voted 5 - 0 (Ezzes, Wong, Gordon, Harris, Deverin) in favor to **GRANT** your request for a variance and the following resolution was adopted:

1. **RESOLVED:** ZBA Appl #7249 by Alan R. Spirer for property owned by 101 Harbor Road, LLC for a variance for coverage, for height and for number of stories, for setbacks for a new single family dwelling and for setbacks for air conditioner condensers is hereby **GRANTED**, in a Res A zone, PID #B02139000.

Zoning Board of Appeals found the following unusual hardship from the application of the regulations to the subject property:

- Non Conforming Lot
- Flood Zone
- Pre - Existing

The above being **GRANTED** in accordance with Proposed Plot Plan, prepared for Alan Spirer, 101 Harbor Road, prepared by Leonard Surveyors, LLC, dated 10/25/13; Plans titled Proposed Renovations to the Spirer Residence, 101 Harbor Road, Westport, CT, prepared by Sean O'Kane AIA Architect P.C., dated 11/7/13, 13 pages, Drawing #1 through Drawing #8, DWG. #EX1 through EX4.

Effective Date: Contingent upon applicant filing this resolution with the Town Clerk.

The structure cannot be demolished unless it has been specifically requested on the application.

This variance application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements or representations made by the applicant or agent on the record. Any deviation from such documents or representations shall require further review and approval from the Board.

This variance needs to be filed with the Town Clerk before you can obtain either a Zoning or a Building permit.

The project must be conducted in conformance with the approved plans.

Yours Truly,

A handwritten signature in cursive script that reads "Sheri Gordon" followed by a small flourish.

Sheri Gordon, Secretary
Zoning Board of Appeals

Certified Mail:RRR
cc: ZEO

enc.



TOWN OF WESTPORT
Zoning Board of Appeals

Town Hall, 110 Myrtle Ave.
Westport, CT 06880
Phone (203) 341-1081; Facsimile (203) 454-6145

December 17, 2013

Paulo Vicente
Vicente Burin Architects, LLC
200 Carter Henry Drive
Fairfield, CT 06824

RE: ZBA CASE #7226

ADDRESS: 52 Canal Road

OWNER OF PROPERTY: 52 Canal Road, LLC

Dear Mr. Vicente:

This is to certify that at the work session of the Zoning Board of Appeals held on December 10, 2013, the Board voted 5 - 0 (Ezzes, Wong, Gordon, Masumian, Deverin) in favor to **GRANT** your request for a variance and the following resolution was adopted:

1. **RESOLVED:** ZBA Appl ##7226 by Paulo Vicente for property owned by 52 Canal Road, LLC for variances to raise existing house and additions over allowable height and within 25 feet of a wetland or watercourse is **hereby GRANTED**, in a Res A zone, PID #B01008000.

Zoning Board of Appeals found the following unusual hardship from the application of the regulations to the subject property:

- Flood Zone
- Wetlands

The above being **GRANTED** in accordance with Zoning Location Survey, prepared for Mark MacDonald, prepared by Richard W. Plain, Land Surveyors, dated 9/9/11, revised 9/24/13,; Plans titled 52 Canal Road LLC, Mark MacDonald, 52 Canal Road, Westport, CT 06880, prepared by Vicente Burin Architects, dated 9/24/13, 5 pages, EX-1, EX-2, A-500, A-501, A-502.

Effective Date: Contingent upon applicant filing this resolution with the Town Clerk.

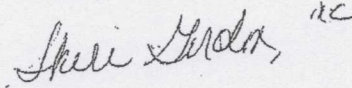
The structure cannot be demolished unless it has been specifically requested on the application.

This variance application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements or representations made by the applicant or agent on the record. Any deviation from such documents or representations shall require further review and approval from the Board.

This variance needs to be filed with the Town Clerk before you can obtain either a Zoning or a Building permit.

The project must be conducted in conformance with the approved plans.

Yours Truly,

Handwritten signature of Sheri Gordon in cursive script, followed by the initials "KG" to the right.

Sheri Gordon, Secretary
Zoning Board of Appeals

Certified Mail:RRR

cc: ZEO

enc.

Variances Considered by Darien Post Sandy
(Source - Darien Homepage)

| NAME | ADDRESS | DECI | A_COMMENT | A_DATE | ZON | A_ | A_LOT |
|---------------------------|------------------------|------------|--|------------------|------------|-----------|--------------|
| SIMONSON, ERIC | HOLLOW TREE | DN | appeal of the determination of the ZEO regarding possi | 9/12/2012 | R-2 | 9 | 111A |
| MARTIN, PETER & | 6 ANDREWS DRIVE | GR | allow the construction of a deck and the installation of | 7/25/2012 | R-1/ | 64 | 109 |
| TINAJ, ANTON | 114 HECKER | GRS | allow the construction of second and attic story and tw | 7/25/2012 | R-1/ | 42 | 135 |
| ROCHE, KEVIN & | 4 OAK CREST | GRS | allow the installation of an AC compressor and a propa | 9/12/2012 | R-1/ | 15 | 110 |
| SIMONSON, ERIC | HOLLOW TREE | DN | an appeal of the issuance of the Certificate of Zoning C | 9/12/2012 | R-2 | 9 | 111A |
| GORSKI, DAVID & | 7 PLEASANT | GRS | to allow the construction of a replacement two and on | 9/12/2012 | R- | 45 | 120 |
| LANGVELD, | 47 NEARWATER | GRS | to allow the construction of a replacement two and on | 9/19/2012 | R-1 | 52 | 22 |
| ANTONELLI, | 18 FIVE MILE RIVER | GRS | to allow the existing deck and HVAC unit to remain | 9/19/2012 | R-1/ | 66 | 102 |
| BICKFORD, ERIC & | 5 LAUREL LANE | GRS | to allow an expansion of the existing second story to a | 9/19/2012 | R-1/ | 27 | 18 |
| ST. LUKES | 1864 BOSTON POST | GR | to allow renovations of a portion of the existing basem | 9/19/2012 | R-1 | 49 | 5,455 |
| CALABRO, | 5 OAK PARK | DN | to allow the construction of a two and one-half story a | 9/19/2012 | R- | 23 | 12 |
| MCNULTY, DANIEL | 6 WOODLEY ROAD | G/D | to allow the previously constructed building features a | 9/19/2012 | R-2 | 4 | 59 |
| BAIERA, GAVIN & | 26 SHIPWAY ROAD | DN | allow the construction of a swimming pool with a raise | 10/17/2012 | R-1 | 57 | 43 |
| SHTUFAJ, ROCK | 19 FAIRMEAD ROAD | DN | allow the construction of a one story addition | 10/17/2012 | R-1 | 35 | 23 |
| GOLDEN, HUGH & | 22 SUNSET ROAD | GRS | allow the construction of a replacement two story dwe | 1/16/2013 | R- | 15 | 80 |
| MAPLEWOOD | 599 BOSTON POST | GRS | allow the installation of two monument signs | 11/14/2012 | DB-2 | 14 | 33 |
| EDGEWOOD | 31 EDGEWOOD | GRS | allow the construction of a replacement two and one-h | 11/14/2012 | R-1/ | 20 | 94 |
| DARIEN YMCA | 2420 BOSTON POST | GR | allow installation of a replacement hanging sign and th | 11/14/2012 | R-1/ | 53 | 60 |
| KILMARTIN, | 176 NEARWATER | GRS | allow raising of the house with modifications, construct | 1/9/2013 | R-N | 55 | 1 |
| BAIERA, GAVIN & | 26 SHIPWAY ROAD | G/D | allow the construction of a pool with | 1/9/2013 | R-1 | 57 | 43 |
| RAYMOND, LUKE | 178 NEARWATER | GR | allow the installation of a propane tank | 1/16/2013 | R-N | 55 | 2 |
| WILLCOX, | 117 WEST AVENUE | GRS | allow the construction of second and two story additio | 1/9/2013 | R-1/ | 39 | 93 |
| WHARTON, | 18 WAVERLY ROAD | WD | allow repairs and modifications to the existing house a | 11/26/2012 | R-1 | 55 | 23 |
| JOYRIDE DARIEN, | 25 OLD KING'S | GRS | allow the installation of two wall signs and a blade sign | 2/13/2013 | DC | 71 | 19 |
| ANTONELLI, | 18 FIVE MILE RIVER | GRS | interpretations, and variances if necessary, of Section 3 | 1/9/2013 | R-1/ | 66 | 102 |
| BENEDETTO, | RAYMOND STREET | WD | allow the construction of two residences and a carport | 4/10/2013 | R-1/ | 36 | 107 |
| BENEDETTO, | RAYMOND STREET | WD | allow the construction of two residences and a carport | 4/10/2013 | R-1/ | 36 | 108 |
| WRIGHT, MARK & | 26 WAVERLY ROAD | GR | allow the raising of the existing residence, the construc | 1/16/2013 | R-N | 55 | 26 |
| SIKORA, PETER | 16 MAYFLOWER | GR | allow the raising of the existing residence, the construc | 1/16/2013 | R-N | 55 | 45 |
| KLEBAN DAY | 1015 BOSTON POST | DN | allow a first floor personal service business use | 1/16/2013 | CBD | 73 | 15 |
| JONES, CRAIG & | 9 SHIPWAY ROAD | GRS | allow the raising of the existing house and the construc | 1/23/2013 | R-N | 55 | 51-52 |
| MATURO, FRANK & | 40 BAYWATER | G/D | allow the construction of a two and one half story repl | 1/23/2013 | R-N | 55 | 87 |
| FOSTER, NEIL & | 35 PLYMOUTH | GRS | allow the raising of the existing house and the construc | 2/13/2013 | R-1 | 57 | 38 |

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|------------------|--------------------|------|---|-----------|------|----|-------|
| MEYER, LOREN & | 164 OLD KING'S | GRS | allow an addition with parking | 2/13/2013 | SB | 63 | 19 |
| PASTOR, MICHAEL | 90 FIVE MILE RIVER | GRS | an amendment to the approved plans of Calendar No. | 1/23/2013 | R-1/ | 66 | 41 |
| OCHMAN, | 476 MANSFIELD | GRS | allow the construction of a replacement two story hou | 2/13/2013 | R-2 | 1 | 119 |
| NAME | ADDRESS | DECI | A_COMMENT | A_DATE | ZON | A_ | A_LOT |
| KAMENSKY, | 55 ANDREWS DRIVE | DN | allow a previously constructed pergola and deck to re | 2/13/2013 | R-1 | 63 | 45 |
| VASEY, RENEE | 32 DUBOIS STREET | GR | allow the construction of a two story addition | 2/13/2013 | R-1/ | 43 | 84 |
| GEISSINGER, | 9 SYLVAN ROAD | GR | allow the expansion of an existing one story garage | 3/13/2013 | R-1 | 4 | 76 |
| THORNBURGH, | 1 CANDLEWOOD | GRS | construction of a replacement in-ground swimming po | 3/13/2013 | R-1 | 62 | 71 |
| BUTKOVSKY, | 259 OLD KING'S | GRS | to allow the construction of a replacement one story d | 3/13/2013 | R-1+ | 49 | 48 |
| RAYMOND, | 11 WAVERLY ROAD | GRS | allow the raising of the existing residence | 3/13/2013 | R-N | 55 | 34 |
| LAVIN, ROBERT & | 480 MIDDLESEX | DN | allow the existing residence to remain until the propos | 3/13/2013 | R-2 | 68 | 158 |
| BLACK, ANDREW | 4 SHIPWAY ROAD | GR | allow the raising of the existing residence and the cons | 3/13/2013 | R-N | 57 | 29 |
| SINI, JOHN & | 36 BIRCH ROAD | GRS | allow the construction of an enlarged replacement two | 3/20/2013 | R-1 | 13 | 32 |
| TREPP, VICTORIA | 28 DRIFTWAY LANE | DN | allow the installation of a generator. | 6/26/2013 | R-1 | 66 | 125 |
| ASL PARTNERS, | 203 LONG NECK | GRS | allow the construction of a 5'-7 1/8" wide x 9' 9 3/8" hi | 4/10/2013 | R-1 | 61 | 9 |
| RADIN, MARK & | 350 HOLLOW TREE | GR | allow for the re-construction of an existing covered por | 3/20/2013 | R-1 | 9 | 121 |
| KEHLE, RON & | 64 CEDAR GATE | GRS | allow the construction of a replacement two story hou | 3/20/2013 | R-1 | 64 | 70 |
| COLE, MATT & | 23 CHESTNUT | GRS | allow the construction of two and one half story reside | 3/20/2013 | R-1/ | 21 | 55 |
| SEARLES ROAD | 26 SEARLES ROAD | GR | allow the installation of a replacement generator | 3/20/2013 | R-1 | 67 | 86 |
| GARDELLA, BETH | 27 BAILEY AVENUE | GRS | allow the construction of a one story covered porch. | 4/10/2013 | R-1/ | 39 | 61-5 |
| KUHN, PETER & | 11 CEDAR GATE | GRS | allow the construction of one story, two story and seco | 4/24/2013 | R-1+ | 64 | 80 |
| GOODNOW | 35 HAZEL STREET | GR | allow the construction of a one-half story addition to t | 4/24/2013 | R-1/ | 24 | 18 |
| CANELLI, SARAH | 95 HOLLOW TREE | DN | allow the construction of a replacement one and one-h | 4/24/2013 | R-1/ | 47 | 140 |
| MEYER, LOREN & | 164 OLD KING'S | WD | allow a revised parking layout and a ground sign relate | 6/13/2013 | SB | 63 | 19 |
| SHAKIR, HASSAN | 27 CHESTNUT | GRS | allow the construction of a two story residence with H | 4/24/2013 | R-1/ | 21 | 56 |
| DARIEN STATION | 20 WEST AVENUE | WD | installation of ground sign to replace an existing hangin | 4/23/2013 | CBD | 17 | 115 |
| DARIEN STATION | 20 WEST AVENUE | WD | installation of ground sign to replace an existing hangin | 4/23/2013 | CBD | 17 | 116 |
| DARIEN STATION | 20 WEST AVENUE | WD | installation of ground sign to replace an existing hangin | 4/23/2013 | CBD | 17 | 117 |
| CUDD, NANCY | 26 CONTENTMENT | WD | installation of generator | 4/23/2013 | R-1 | 67 | 60 |
| CONWAY, | 77 FITCH AVENUE | GRS | to allow the construction of one and one half, and seco | 5/22/2013 | R-1/ | 42 | 16 |
| FITZMAURICE, | 2 CLOCK AVENUE | G/D | to allow the previously constructed additions to remai | 5/22/2013 | R-1/ | 42 | 37 |
| BAYWATER 745 | 745 BOSTON POST | GRS | allow the installation of a monument sign. | 5/22/2013 | DB-1 | 16 | 15 |
| TAYLOR, | 30 RING'S END | GRS | allow the installation of an in-ground pool, spa and rela | 5/22/2013 | R-1/ | 51 | 29A |
| KOMMINSK, | 26 NOROTON | DN | allow the construction of one story, two story and seco | 5/22/2013 | R-1/ | 42 | 155 |
| CROWE, IAN & | 26 RAYMOND | GR | for an amendment to the approved plans of Calendar | 5/22/2013 | R-1/ | 36 | 101 |
| SEARLES ROAD | 26 SEARLES ROAD | DN | allow the installation of a replacement generator | 5/22/2013 | R-1 | 67 | 86 |
| MATTON, CAROL | 47 OLD FARM ROAD | GRS | allow the construction of a replacement two-story addi | 6/25/2013 | R-1/ | 66 | 96 |
| HOKIN, RICHARD & | 25 SHIPWAY ROAD | GRS | allow a portion of the existing residence to remain unti | 6/25/2013 | R-1 | 55 | 126 |
| LIA, JENNIFER | 33 TOWER DRIVE | G/D | allow the construction of a two story addition and inst | 7/17/2013 | R-2 | 1 | 127 |

| DARLING, NAME | 12 GLENWOOD ADDRESS | GRS | allow the construction of a one story addition and a ro | A_COMMENT | A_DATE | R-1/ ZON | 47 A_ | 80 A_LOT |
|-----------------------|------------------------|------------|--|-----------|------------------|------------|-----------|-----------|
| BRANCA, STACIA | 16 MAYFLOWER | GRS | allow the raising of the existing residence, the construc | | 6/19/2013 | R-N | 55 | 45 |
| SUHLER, JOHN & | 200 LONG NECK | GRS | allow the construction of a replacement two story resi | | 6/25/2013 | R-1 | 61 | 18C |
| DARIEN LIBRARY | 1441 BOSTON POST | GR | allow the installation of a generator | | 6/19/2013 | R- | 39 | |
| DOOVEN, | 123 HOYT STREET | DN | allow the establishment of a second building lot | | 6/26/2013 | R-1/ | 29 | 11 |
| DARIEN | 274 MIDDLESEX | GRS | allow the installation of 6, 10 foot high light poles and | | 6/26/2013 | R-1 | 20 | 42 |
| JUDGE, | 97 NEARWATER | GRS | allow the raising of the existing residence with the cons | | 7/17/2013 | R-1 | 52 | 3 |
| GALLIGAN, GREG | 97 RAYMOND | GRS | allow the existing detached storage barn to be renovat | | 7/17/2013 | R-1/ | 33 | 10 |
| 205 POST ROAD | 205 BOSTON POST | GRS | -allow the construction of a drive-through restaurant w | | 7/17/2013 | SB-E | 13 | 6 |
| DESANCTIS, | 9 PLYMOUTH ROAD | DN | allow the raising of the existing residence with modifie | | 7/17/2013 | R-1 | 55 | 76 |
| TORTORELLA, | 7 SYLVAN DRIVE | GR | allow the construction of a second story addition | | 7/17/2013 | R-1 | 4 | 75 |
| TJP CAPITAL, LLC | 29 EDGEWOOD | GRS | to allow the construction of a replacement two and on | | 7/17/2013 | R-1/ | 20 | 93 |
| MOORE, SCOTT D. | 23 RED COAT PASS | P | allow the construction of a detached one story, two ca | | 1/1/2015 | R-1 | 63 | 52B |
| HERGET, TODD & | 30 TOWER LANE | P | allow the construction of a two and one-half story repl | | 1/1/2015 | R-2 | 1 | 133 |
| CHURCH, SCOTT | 27 BLUEBERRY | P | allow the construction of a replacement two and one-h | | 1/1/2015 | R-2 | 7 | 28 |
| VAN DIJK, PIETER | 19 NICKERSON | P | allow the construction of a one-story addition | | 1/1/2015 | R-1 | 52 | 10 |
| ROGERS, PATRICK | 40 FAIRFIELD | P | allow the construction of a one story addition with dec | | 1/1/2015 | R-1/ | 20 | 118 |
| GIANNATASSIO | 25 LIBBY LANE | P | allow the construction of a replacement two story dw | | 1/1/2015 | R-1 | 9 | 59 |
| CHISHOLM, | 8 CLOCK'S LANE | P | allow the construction of a replacement portico and a s | | 1/1/2015 | R-1 | 64 | 63 |
| DESANCTIS, | 9 PLYMOUTH ROAD | P | allow the raising of the existing residence with modifi | | 1/1/2015 | R-1 | 55 | 76 |
| GABRIELE, | 2748 BOSTON POST | P | allow the construction of a one and one half story entr | | 1/1/2015 | R-1/ | 54 | 35 |