
ZONING BOARD

**Continuation of Public Hearing on Zoning Application 213-33
Scheduled for January 6, 2014 at 7:00 p.m.**

In the Matter of:

Zoning Application 213-33

Map/Zone Change from R20 to RA1

**For Seven Properties located at 68, 74, 88, 89,
102, 107, and 123 on Saddle Rock Road in Stamford
Connecticut, Fairfield County.**

**SECOND APPENDIX¹ – IN OPPOSITION TO ZONING
APPLICATION 213-33**

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¹ Initial/First Appendix (50 pages) was submitted into the record at the Public Hearing held on December 2, 2013. This Second Appendix, which starts at page 51, was submitted into the record on January 6, 2014.

**Part 2 Westport Planning and Zoning Commission
Response to Super Storm Sandy**

Memo to Planning and Zoning Commission (“Westport P&Z Commission”) -
Proposed change to Special Flood Hazard Zone Regulations (Amendment #656)
Dated December 7, 2012..... A65

Final Draft Version of text Amendment # 656.....A68

Note:

- a) The Application was put forth by the Westport P&Z Commission, not by a resident and was by a Text Change not a Map/Zone Change (A65)
- b) Purpose: In exchange for elevating their structures to the BFE, property owners would avoid having to obtain a variance from the ZBA (A65)
- c) The height for the principal building may be increased from 26 feet to a maximum height of 31 feet when the structure is elevated to at least the Base Flood Elevation. An additional foot of building height is permitted for each foot the average grade is below BFE up to a maximum of 5 feet. (A73-A74)
- d) Amendment only affects existing homes not homes built in the future.
- e) Westport does not give credit for fill.
- f) Increasing the number of stories from 2 ½ to 3 was not even proposed or considered

Westport News Article, dated December 27, 2012, after the date of the Adopted
Text Change.....A76

**Part 3 Map/Zone Change Inconsistent With Master Plan²:
See Charter Section C6-40-3**

Master Plan Map – the 7 properties are categorized Residential #2,
“low density”.....A78

Note: The ZB Application is inconsistent with the Master Plan. See A80 for definitions of Residential # 1 and Residential #2. Land Use Category Residential #2 permits developments on less than one acre. Therefore, pursuant to Charter Sec C6-40-3 (see below) before the ZB Application can be approved a Master Plan Amendment is necessary to categorize the seven properties Residential #1. In the

² Link: <http://www.stamfordct.gov/planning/pages/master-plan>

Residential #1 Land Use Category development cannot exceed one principal dwelling per acre.

Sec. C6-40-3. Amendments to Zoning Map After the Effective Date of the Master Plan.

After the effective date of the Master Plan the Zoning Map may, from time to time, be amended by the Zoning Board provided, prior to any such action, the Board shall hold at least one public hearing thereon, notice of which shall be given as hereinafter provided. If said Board is the proponent of any such change said notice shall contain the Board's reasons for such proposed change. **The Zoning Map shall not be amended by said Board to permit a use in any area which is contrary to the general land use established for such area by the Master Plan.**

Zoning Map.....A79
Land Use Categories³.....A80

Note: The “seven properties” are categorized as Residential #2 on the Mater Plan Map, as acknowledged by Mr. Redniss indicated in submitting Exhibit 4 at the December 2nd Public Hearing (A121)

- #1 Residential –Very Low Density Single-Family (A80)
- #2 Residential – Low Density Single-Family (A81)

Other Inconsistencies with the Master Plan include:

- A. Neighborhood Plan Reports: Cove-East Side, Shippan⁴:.....A82
 - 1B6: Destination point for water views; protect water views; front yards setbacks (increasing backyard could impact front yards); and other scenic features (A82)
 - 1B8: Promote waterfront views. “[E]very opportunity should be exploited to preserve if not improve access to and/or views of the waterfront from public roads.” (A83)
 - 1C15: Protect and minimize danger to life and property from coastal flooding; preservation of waterfront and other important view corridors (A85)
- B. Neighborhood Quality of Life⁵.....A86

³ Link: <http://www.stamfordct.gov/sites/stamfordct/files/file/file/landusecategories.pdf>
⁴ Link: <http://www.stamfordct.gov/planning/pages/neighborhood-plans-report>
⁵ Link: <http://www.stamfordct.gov/sites/stamfordct/files/file/file/neighborhoodquality.pdf>

C1.7 Limit the expansion of pre-existing, non-conforming uses (A86)

C7.1 Protect and minimize danger to life and property from coastal flooding This will require rigorous application of the floodplain management guidelines of the National Flood Insurance (A87)

Agenda for Planning Board November 19, 2013 Meeting.....A88

Note: Because of Mr. Redniss’ misrepresentations most, if not all, of the non-conflicted property owners within and outside of the proposed area to be rezoned did not know of the Planning Board’s meeting to review the ZB Application that was held on November 19, 2013. Mr. Redniss’ and others’ conduct denies such owners their property right to meet with the Planning Board pursuant to Sec. C6-40-10⁶ before rendering its decision.

Minutes of Planning Board November 19, 2013 Meeting.....A90

Note: The sole reason the Planning Board members gave for the approval of the Map Change was that it “lessen density in a flood prone area,” which based on the facts is not the case. There is no change in density resulting from this Map Change. More significantly, there was no finding that the Map Change is consistent with the Master Plan, which it is not for the reasons cited above. Further there is no mention of Master Plan or what documents were reviewed.

Staff Report, dated November 26th (A 95), was apparently finalized after Planning Board meeting and is dated the same date as Mrs. Dell’s November 26th letter noted immediately below.

November 26 letter from Mrs. Dell, Chair of Planning Board.....A94

⁶ Sec. C6-40-10. Referral of Proposed Amendments to the Regulations or Zone Boundaries to Planning Board.

Any proposed amendments to the Zoning Regulations or zone boundaries or changes thereof shall be referred to the Planning Board for a report at least thirty days prior to the date assigned for a public hearing to be held thereon. The failure of the Planning Board to report prior to or at the hearing shall be taken as approval of such proposals. A statement of the vote of the Planning Board, approving, disapproving, or proposing a modification of such proposal shall be publicly read at any public hearing held thereon. The full report of the Planning Board regarding such proposal shall include the reasons for the Board's vote thereon and shall be incorporated into the records of any public hearing held thereon. A proposal disapproved by the Planning Board may be adopted by the Zoning Board by a two-thirds vote of the Zoning Board. Upon request to the Planning Board by either the applicant or the opponent, a meeting shall be held by the Planning Board with such applicant and/or opponent before it shall render a decision. (emphasis added)

guided by the same standards as are prescribed for the Zoning Board in Section C6-40-1 of this Charter. The guidelines in Section C6-40-1¹⁰ were neither referenced nor considered in the Staff Report. The guidelines provide that there should be a comprehensive plan for a district. Severing seven properties from the R-20 district and rezoning them RA-1 was not done in accordance with a comprehensive plan. Further there was no consideration of (i) the dangers from flooding, (ii) of the character of the district, or (iii) a view to conserving the value of buildings due to, among other things, converting conforming lots into non-conforming lots.

As further evidence there is no comprehensive plan involved, Mr. Redniss unilaterally agreed to reduce the number of properties to be rezoned from seven to six by eliminating 68 Saddle Rock Road at the December 2nd Public Hearing (A123)

After the effective date of the Master Plan, if twenty percent or more of the owners of the privately-owned land in the area included in any proposed amendment to the Zoning Map, or if the owners of twenty percent or more of the privately-owned land located within five hundred feet of the borders of such area, file a signed petition with the Zoning Board, within ten days after the official publication of the decision thereon, objecting to the proposed amendment, said decision shall have no force or effect but the matter shall be referred by the Zoning Board to the Board of Representatives within twenty days after such official publication, together with written findings, recommendations and reasons. The Board of Representatives shall approve or reject such proposed amendment at or before its second regularly-scheduled meeting following such referral. When acting upon such matters the Board of Representatives shall be guided by the same standards as are prescribed for the Zoning Board in Section C6-40-1 of this Charter. The failure of the Board of Representatives either to approve or reject said amendment within the above time limit shall be deemed as approval of the Zoning Board's decision.

¹⁰ Sec. C6-40-1. Powers and Duties of the Zoning Board.

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.

Part 5 The Map/Zone Change Inconsistent with the Guidelines for Zoning Amendments ¹¹

The ZB Application is inconsistent with the Guidelines for Zoning Amendments. The primary reason for this Map/Zone Change is to increase the height, bulk and setback of structures in this “new district” which according to the Zoning Guidelines should be done (if at all) by a Zoning Text Change not a Map Change.

Zoning Map Changes

The purpose of the Zoning Map is to divide the city into zoning districts of such number, shape and area as deemed necessary to guide the most appropriate use of land and provide for administration and enforcement of the Stamford Zoning Regulations.

Zoning Text Changes

The purpose of the Zoning Regulations is to establish uniform standards guiding the most appropriate use of land and buildings and controlling the height, bulk and setback of structures and site development standards.

Part 6 Who is the Applicant?

Application for Change in the Zoning Map (A116)

Note: Richard W. Redniss, AICP, is the Applicant. According to the Tax Assessor’s records, Mr. Redniss does not own property in the City of Stamford. Only property owners can make an application to change the Zoning Map. (Charter Section C6-40-4)

Charter Section C6-40-4:

Sec. C6-40-4. Applications for Amendments to the Zoning Map After Effective Date of the Master Plan.

(a) After the effective date of the Master Plan, **any Stamford property owner** or governmental agency, department, board or official, may file a written application with the Zoning Board for an amendment to the Zoning Map...(emphasis added)

Application for Coastal Site Plan Review, dated October 16, 2013 (A117)

¹¹ Link: <http://www.stamfordct.gov/zoning/pages/guidelines-for-zoning-amendments>

Note: Who is Richard W. Redniss representing in this October 16, 2013 Application as agent?

Cover letter to Norman Cole from Richard Redniss, dated October 16, 2013, Re: Application for CAM ApprovalA98

Note: Similar to the Zoning Application and notwithstanding the representation to the contrary, the Included Property Owners (at least not all) did not receive a copy of the Cover Letter or the Application for Coastal Site Plan Review, dated October 16, 2013.

Further, the Included Property Owners had no notice that this CAM Application would be heard on December 2, 2013.

Who is Mr. Redniss referring to in the Cover Letter with the statement: "...to facilitate this helpful change for the area residents?"

Letter from Susan Cullman & John Kirby s to Norman Cole, dated October 15, 2013.....A99

Note: Neither the property owners within, or outside of, the proposed rezone area knew that David and Nancy Lu, the owners/beneficiaries of 102 Saddle Rock Road, did not consent to the proposed Map Change.

It is misleading for Susan Cullman and John Kirby to state that "[a]ll other owners have expressed their support of the application," when they intentionally and wrongfully failed to disclose to such owners, among other things, the change in height, bulk and setbacks associated with the application

Also Cullman/Kirby authorize the office of Redniss & Mead, Inc., not Richard Redniss, to act as their agent in connection with land approvals. What Cullman/Kirby failed to disclosed, and is not disclosed on the applications, is the fact that they were representing other neighbors as well. (A42, A98)

Part 7 Correspondence from Norman Cole

Referrals (List): Sent 10-25-2013.....A100

Letters Sent by Norman Cole, dated October 25th, to Planning Board, Office of

Long Island Sound Programs, Harbor Commission, Board of Representatives
(District 1); ZEO, EPB, Engineering Bureau, WPCA and Chief Fire
Marshall.....A101-A105

David Woods confirmed that attached to Norman Cole's Cover Letters (A100-105) were (i) Application for Change in the Zoning Map of Stamford, Connecticut, File # 213-33, including Area Description (Exhibit A), Property Owners List (Exhibit B) and a Map, all dated October 11, 2013; and (ii) an Application for Coastal Site Plan Review, dated October 16, 2013. In other words, the documents shown at A113 to A117.

Note: Only Planning Board (A78-94) and Engineering Bureau (A106) responded to-date.

Question: How can any board, commission, agency, bureau or City official make an informed decision based on the scanty information provided to such decision-makers in this case? More alarming is the fact that only information from the Applicant is forwarded to the agencies, bureaus and others.

What is also troubling about Norman Cole's correspondence is the fact that there is no effort by City officials to review the CAM Application or the Map Change Application for consistency with the general statutes or the regulations, or provide specific local knowledge and information related to the properties involved in the rezoning before sending such applications to CT DEEP and other agencies and bureaus for review.

This utter lack of credible, verified and complete information can only result in subpar reviews, at best, by the agencies and bureaus. This is an ineffective Planning and Zoning Process. The residents have a reasonable expectation of an effective Planning and Zoning process.

Simply put, without extensive, burdensome work, the agencies and bureaus (and the taxpayers) are not able to make informed decisions based on the inadequate, unclear and inaccurate information provided by, and the material omissions of, Mr. Redniss in this case for example.

Further there has been no mention of the construction standards which reduce the potential for loss of life and property from flooding in this Coastal A Zone. The Zoning Board should be proposing zoning regulation amendments that encourage the appropriate construction standards for this Coastal A Zone, not a discriminatory, arbitrary unlawful Map Change. Three of the seven properties included in this ZB Application were destroyed by Super Storm Sandy and this ZB Application does nothing to identify or

height of 7 1/3 feet above the floor is not more than one-third the area of the next floor below. (91-002; 203-38)

ZEO's Map of Area.....A111

Part 9 Redniss' Exhibits (December 2nd Public Hearing)

Exhibit 1

Statement of Notification of Property Owners.....A112
Application for Change in the Zoning Map of Stamford, Connecticut,
File # 213-33.....A113
Area Description (Exhibit A).....A114
Property Owners List (Exhibit B).....A115
Map by Redniss & Mead, dated October 7, 2013; and.....A116
Application for Coastal Site Plan Review, dated October 16, 2013.....A117
Property Owners within 300 Feet.....A118

Exhibit 2

Elevation Section depicting 74 Saddle Rock Road prepared by Mead & Redniss,
dated December 2, 2013.....A119

Note: A height increase of 5 feet from 30 feet to 35 feet as the ZB Application does in this case results in a height increase of 10 feet. See Darien ZBA Memo at A57, para. 19.

Exhibit 3

Westport Height Regulation.....A120

Note: See comments above (A65-77)

Exhibit 4

Stamford Master Plan – Residential #2.....A121

Note: Redniss' admission that Land Use Category Residential #2 applies to the 7 properties. (See comments under Master Plan Map at A78)

Exhibit 5

Email from David Tunick to Richard Redniss, dated December 2, 2013.....A122

What specifically did Mr. Tunick learn?

Where are the written statements by the property owners within the proposed rezone area agreeing to this ZB Application? What exactly has Mr. Redniss represented to these home owners?

Exhibit 6

Redniss' Revised/Amended Application eliminating 68 Saddle Rock Road from the proposed rezoned area for the Zoning Board to consider.....A123

Part 10 Other Documents

Notice¹² in The Stamford Advocate-November 20th and 27thA125

Questions: What date was the Notice drafted? Who drafted the Notice? Why didn't the Town Clerk use a date and time stamp?

Note: No notice of CAM Application Review in Zoning Board Agenda or the Notice. Also the residents did not receive Mr. Redniss' October 16th letter, notwithstanding Mr. Redniss' representation to the contrary. (A98)

Abutters List: 500 feet from 68 Saddle Rock Road.....A130

Demolition Application for 74 Saddle Rock Road.....A132

Note: Indicates that the razed home was 2 stories. The height of the building is not shown.

Part 11 The ZB Application is Inconsistent with Connecticut Coastal Area Management Act ("CAM")

There is no indication that anyone has reviewed this proposed Map Change for consistency with the applicable policies of the Connecticut Coastal Area Management

¹² Sec. C6-40-11. Notice of Public Hearings.

Notice of each public hearing held with respect to amendments of the Zoning Regulations and Map or applications for approval of site and architectural plans and/or requested uses shall be given by publishing in an official newspaper the time, place and purpose of such hearing. If any such hearing is to be held with respect to an amendment to the Zoning Map, such notice shall include a clear and accurate map showing the bounds of any area or areas affected. Said notice shall be published at least twice, the first not more than fifteen nor less than ten days before such hearing, and the last not less than two days before such hearing; and a copy of such proposed amendment or a copy of such application for approval of site and architectural plans and/or requested uses shall be filed in the office of the Town and City Clerk at least ten days before such hearing.

Act, CGS Sections 22a-90 through 22a-112, inclusive¹³. Listed below are four inconsistencies with the Coastal Management Act.

1. The proposed Map Change is not proceeding in a manner consistent with the rights of private property owners. This relevant policy is contained in CAM's general goals and policies, which includes but is not limited to (1) the development... of the coastal area proceeds in a manner consistent with the rights of private property owners....(CGS Sec 22a-92(a)(1))¹⁴ (See Legal Arguments and misrepresentations, *infra*, and Part 7, *supra*, lack of information provided to decision-makers.)
2. The planning process for the Map Change failed to consider the potential impact of coastal flooding so as to minimize damage to and destruction of life and property. This relevant policy is contained in CAM's general goals and policies, which includes but is not limited to the need to consider in the planning process the potential impact of coastal flooding. CGS Sec 22a-92(a)(5))¹⁵
3. Views of Long Island Sound will be materially altered by the proposed Map Change. The relevant CAM policy is contained within the minimization of "adverse impacts on coastal resources" policy, which includes but is not limited to... (F) degrading visual quality through the significant alteration of the natural features of vistas and viewpoints (CGS Sec. 22a-93(15))¹⁶. Within this context, this policy recognizes the

¹³ Link to CGS: <http://law.justia.com/codes/connecticut/2012/>

¹⁴ CGS Sec. 22a-92(a)(1) " (a) The following general goals and policies are established by this chapter: (1) To ensure that the development, preservation or use of the land and water resources of the coastal area proceeds in a manner consistent with the rights of private property owners and the capability of the land and water resources to support development, preservation or use without significantly disrupting either the natural environment or sound economic growth;..."

¹⁵ CGS Sec. 22a-92(a)(5) To consider in the planning process the potential impact of a rise in sea level, coastal flooding and erosion patterns on coastal development so as to minimize damage to and destruction of life and property and minimize the necessity of public expenditure and shoreline armoring to protect future new development from such hazards;

¹⁶ CGS Sec. 22a-93(15) "Adverse impacts on coastal resources" include but are not limited to: (A) Degrading water quality through the significant introduction into either coastal waters or groundwater supplies of suspended solids, nutrients, toxics, heavy metals or pathogens, or through the significant alteration of temperature, pH, dissolved oxygen or salinity; (B) degrading existing circulation patterns of coastal waters through the significant alteration of patterns of tidal exchange or flushing rates, freshwater input, or existing basin characteristics and channel contours; (C) degrading natural erosion patterns through the significant alteration of littoral transport of sediments in terms of deposition or source reduction; (D) degrading natural or existing drainage patterns through the significant alteration of groundwater flow and recharge and volume of runoff; (E) increasing the hazard of coastal flooding through significant alteration of shoreline configurations or bathymetry, particularly within high velocity flood zones; (F) degrading visual quality through significant alteration of the natural features of vistas and view points; (G) degrading or destroying essential wildlife, finfish or shellfish habitat through significant alteration of the composition, migration patterns, distribution, breeding or other population characteristics of the natural species or significant alteration of the natural components of the habitat; and (H) degrading tidal wetlands,

importance of the visual quality of the natural resources of the coastline and the visual access to them. In plain English, CAM protects “public” views of the coastline and coastal resources. The creation of a number of tall structures as proposed by this ZB Application on Saddle Rock Road, a residential street and a destination point for vistas of Long Island Sound for residents of, and visitors to, Shippan, is inconsistent with CAM.

4. The map Change will disturb more than 8 acres, which are surrounded by water on three (3) sides, and may increase the hazard of coastal flooding through significant alteration of shoreline configurations (taller structures; also see proposed designs for new home - larger footprint, use of fill etc.) within a high velocity flood zone. (ftn 15, CGS Sec. 22a-93(15)(E))

Mr. Redniss’ representations regarding the beneficial impacts of the Map Change and the proposal’s consistency with the goals and policies of CAM are meritless. (See CAM Application at A117)

First, Mr. Redniss admits that with the City’s current strong policies and practices against subdivisions in this Coastal A Zone it is highly unlikely there will ever be an increase in the number of residences in this area. (A22, point 4) And if subdivisions are a real concern, why are the two largest lots - 71 Saddle Rock Road (1.446 acres) and 91 Rogers Rogers (1.377 acres) – which would be contiguous to the area to be rezoned, not included in the proposed area to be rezoned?

Second, the City of Stamford has never denied anyone the right to raise their existing home above the BFE. And there are no pending applications or backlog requests to raise homes in the flood prone areas in the City of Stamford.

Third, the additional half story (i.e., increasing the number of stories from 2 ½ to 3 stories) does nothing to allow “homes to be raised above critical flood heights” as represented by Mr. Redniss.

Fourth, other municipalities (e.g. Darien and Westport) have properly reviewed and analyzed the height and other relief Sandy victims need. Darien decided any height variance had to be decided on a case-by-case basis. Westport provided limited height relief (up to a maximum of 31 feet) to a few existing homes on

beaches and dunes, rocky shorefronts, and bluffs and escarpments through significant alteration of their natural characteristics or function; (emphasis added)

small lots. Mr. Redniss' admitted that he discussed with City officials new coastal height regulations but learned that such an analysis "would require much study and time." (A22, para. 1) As Mr. Redniss knows, or should know, proper analyses do take time and for the general welfare of the community such studies should be undertaken, not an ad hoc map change that benefits no one except his real client.

Part 12

FEMA

Flood engineering design and decisions are currently too closely linked with insurance policy decisions. The homeowners in the Coastal A Zone area of the City of Stamford need scientifically based recommendations that focus on the actual risk to such homeowners. The Coastal Construction Manual (CCM), currently considered the best practice available, provides code-plus design recommendations, but these best practices are not required to be followed in Stamford. Further, the CCM does not account for simultaneous high tides and peak surges which (I believed) accounted for a significant amount of the damages in the Coastal A Area proposed to be rezoned.

The primary goal of the Zoning Board and other boards and commissions for this Coastal A Zone should be to improve the understanding of coastal flooding in the changing environment and to provide guidance to homeowners and others to consider increased mitigation and adaptation for buildings designed in this coastal area, not an arbitrary map change proposed by a conflicted resident.

Part 13 Numerous Misrepresentations from Conception and Still On-going with Zoning Application

During the course of the approval process for this ZB Application Mr. Redniss has made many material misrepresentations and material omissions to include:

- a) Representing that he is the Applicant when he does not own property in the City of Stamford.
- b) Implying that he is representing many of the owners in the area proposed to be rezoned when in fact he is representing Cullman/Kirby.
- c) Failure to disclose that Nancy and David Lu did not agree to the Map Change; and now, without discussing the issue with anyone, wants the Zoning Board to impose the proposed Map Change on Nancy and David Lu and make their property non- conforming. Except for one or two conflicted neighbors, I don't believe any neighbor wants to see the proposed Map Change imposed on the Lu's property. Cullman/Kirby/Redniss did not force the Map Change on David Tunick's property.
- d) Failure to disclose the true interests of the owners of 74 Saddle Rock Road when participating in the planning process for the proposed Map Change.
- e) Misrepresenting the footprint of 74 Saddle Rock Road prior to the demolition of the building

- f) Failed to correct City officials for utilizing an incorrect legal standard (i.e., the improper criteria) in analyzing and preparing the Staff Report for the ZB Application.
- g) Representing to City officials that certain communications were made to the property owners when they were not.
- h) Misrepresenting to residents their building rights either negligently or intentionally to achieve a goal.
- i) Providing non-responsive, vague answers to owners' questions.
- j) Misleading the Zoning Board about the distance the new house will be from the Murphy's property line under RA-1 and R-20 (66 vs 88 feet) by failing to note the location of the proposed pool and the cabana.
- k) Failure to disclose to the Planning and Zoning Boards that the ZB Application is inconsistent with the Master Plan.

Part 14

LEGAL ARGUMENTS

Zoning Board Lacks Power to Grant Variances

The City's comprehensive plan consists of the zoning regulations and the zoning map. The requirement of a comprehensive plan is generally satisfied when the Zoning Board acts with the intention of promoting the best interests of the entire community. The ZB Application before the Zoning Board is intended to benefit via height and story relief the owners of 74 Saddle Rock Road and does not promote the interest of the entire community.

It is illegal for the Zoning Board to vary height, bulk and setbacks on a case-by-case basis (via map change application to a map change application basis), when the exclusive authority to vary the zoning regulations is vested in the zoning board of appeals. No board or commission other than the zoning board of appeals may be given the power to vary the application of the zoning regulations in individual cases.

The power to issue variances is specifically granted to zoning board of appeals in the enabling statutes. That logic applies with equal force here. There is nothing contained within the General Statutes authorizing the Zoning Board to adopt arbitrary map changes empowering itself to vary the application of the zoning regulations.

Every municipality which exercises the zoning power is mandated by Connecticut General Statutes to have a zoning board of appeals, which acts as a "quasi-judicial" body in deciding whether to grant relief from the literal enforcement of the zoning regulations.

A zoning board of appeals is indispensable to the zoning process both from the constitutional and the practical standpoint. The essential purpose of the zoning board of appeals is to deal with these cases by furnishing some elasticity in the application of regulatory measures so that they do not operate in an arbitrary or confiscatory, and consequently unconstitutional, manner.

Violation of Uniformity Requirement within Districts

The obvious purpose of the requirement of uniformity within districts in the regulations is to assure property owners that there shall be no improper discrimination, all owners of the same class and in the same district being treated alike with provision for relief in cases of exceptional difficulty or unusual hardship by action of the zoning board of appeals.

The uniformity requirement serves the interests of providing fair notice to applicants and of ensuring their equal treatment. Uniformity requirement "represents a reenactment in statutory form of the general principle underlying the equal protection clause — that all land in similar circumstance should be zoned alike".

Part 15

SUGGESTED FINDINGS

1. Two (# 102 and 123) of the seven homes involved in this Map Change have been uninhabitable since Super Storm Sandy and the owners are in discussions with City Officials about their options. There is no written evidence that either of these owners need or support this Map Change. In fact one of these owners (#102) is on the record as still reviewing with their attorney the implications of the Map Change, and the preference of the owners of #123 is not to raise the existing house. One home (#68) meets the base flood elevation requirements and none of the other three homes (#88, #89 or #107) are considering raising their homes at this time. That leaves the seventh property (#74) where the owners, the conflicted proponents of the Map Change, after razing the prior home want to build a large new house without going through the variance process and in disregard of, among other things, the (i) property rights' of others, (ii) public views of Long Island Sound, and (iii) the potential loss of life and property resulting from flooding of the other properties.
2. The owners included within, and outside of, the proposed "new district" acquired their properties districted as R-20. If approved this ZB Application will, inter alia, change conforming lots into non-conforming lots, unlawfully diminish abutters' property rights and allow for the creation of tall structures on a residential street blocking public views of Long Island Sound.

More significantly, the approval of the ZB Application would be a violation of the State and Federal equal protection clauses that all land in similar circumstances should be zoned alike. It would also be a violation due process – fair notice.

3. In order to maintain views and the character of the area, the Zoning Board of Appeals rarely grants height variances. The owners of the property located at 91 Rogers Road could not get a 4 inch height variance when building their new home. The owners of 75 Saddle Rock Road built to a height of only 24 feet due to neighbor concerns.

4. The disguised purpose of the ZB Application is to provide height and bulk relief to the property owners of 74 Saddle Rock Road which they could not get by way of a variance, the proper zoning process.
5. The ZB Application is inconsistent with the City's Charter, the Master Plan, Coastal Area Management Act, and the Guidelines for Zoning Amendments.
6. City officials utilized an incorrect legal standard (i.e., the improper criteria) in analyzing a change in Zoning Map. The key criteria used in the Staff Report to analyze the Map Change are inconsistent with the City's Charter. More alarming is the fact that David Woods, AICP, Principal Planner, admitted to Karen Murphy at their meeting on December 6, 2013, that the Staff Report was written on the premise that all of the included property owners wanted the Map/Zone Change – i.e., not on the law.
7. The Planning Board's findings that the Map/Zone Change will "lessen density in a flood prone area" is suspect based on (i) the private agreement in place; (ii) Mr. Redniss' admission that the City's strong policies and practices would preclude any subdivision in the area proposed to be rezoned; and (iii) due to the street frontage and set back requirements it is doubtful that the properties not subject to the private agreement could be subdivided.
8. The process to-date to advance this so-called called "Map Change" was accomplished by material misrepresentations and material omissions on the property owners within, and outside of, the proposed rezone area, and on City and State Officials.
9. During storms the height of the waves exceeds the height of the sea wall in the proposed area to be rezoned, and water flows over the top of the sea wall to flood the land behind it. The overtopping result in high velocity flows and there are no openings in the sea wall for the water to flow out.
10. Richard W. Redniss, AICP, does not own property in the City of Stamford. The Zoning Board, therefore, does not have jurisdiction to hear the Application for Change in the Zoning Map of Stamford, Connecticut, File # 213-33.
11. It is unclear who the applicant is on the Application for Coastal Site Plan Review. The Zoning Board, therefore, does not have jurisdiction to hear the Application for Coastal Site Plan Review, which apparently is associated with the Application for Change in the Zoning Map of Stamford, Connecticut, File # 213-33.
12. It is apparent that Mr. Redniss represented Susan Cullman and John Kirby in the application process and indicated, at the same time, that he was representing the interests of the other property owners within and outside of the proposed rezone area as well, which he knowingly and intentionally failed to do.

13. The owners, or predecessor owners, of 74 and 88 Saddle Rock Road created the less than one acre lots located at 68, 88 and 102 Saddle Rock Road and, therefore, should be precluded from joining any effort to make such lots non-conforming due to a self-imposed hardship.
14. Due to erosion and the change in the mean high water line, it is unclear if the lots located at 107 and 89 Saddle Rock Road will continue to be one acres lots.
15. The properties located at 102 and 123 Saddle Rock Road have been significantly damaged and are currently in discussions with City officials as to what can and cannot be done to make these homes habitable. The preference of the owners of 123 Saddle Rock Road is not to raise the existing building.
16. Mr. Redniss intentionally and wrongfully misrepresented to the Zoning Board and others the prior footprint of the home located at 74 Saddle Rock Road prior to its demolition earlier this year.
17. By ignoring where the pool and the cabana, both at an elevation of 16.5 feet, will be built, Mr. Redniss intentionally and wrongfully misrepresented the distance the new home will be built from the Murphy property line, and omitted to discuss the resulting flood issues due to the tortured lot line between the Murphys' and Cullman's/Kirby's properties which was created by a predecessor-in-interest of Cullman/Kirby.

In summary, Mr. Redniss' absurd reason for the Map/Zone Change that the purchasers of one of the most expensive properties in Stamford should not have to beg for a variance is both misguided and unlawful. Put simply, the proposed Map Change is not a lawful zoning technique.