



CITY OF STAMFORD, CONNECTICUT  
INTER-OFFICE CORRESPONDENCE

Memo

From:	James Minor, Special Counsel, Law Department
To:	Virgil de la Cruz and Charles Pia, Jr, co-chairs, Land Use Committee, Board of Representatives
Re:	Clarification of role of Board of Representatives under C6-40-9
Date:	July 25, 2018

I am providing this memo to clarify advice that I gave your Committee at the July 19, 2018 public hearing on Lifetime Fitness App. 217-01, when I discussed the fact that *the courts* on appeal give deference to the Zoning Board on text and map changes.

Under C6-40-9, *the Board of Representatives* is not required to give deference to the Zoning Board but rather is authorized to exercise its own independent judgment and discretion.

In Zenga v. Zebrowski, 170 Conn. 55 (1975), the Town Council of Plainfield, under a provision in its charter that is similar to C6-40-9, rejected a Planning and Zoning Commission change in the zoning map. The landowner appealed, claiming that the procedure followed by the Town Council was "vague and ambiguous".

The Supreme Court rejected the landowner's appeal and upheld the Town Council, stating:

In approving or rejecting the action of the planning and zoning commission, the town council acts as a zoning authority and exercises its own independent judgment and discretion, and is not cabined to a judicial-type review of the commission's work. ...

....a reading of the proceedings of that meeting reveals that the entire matter received thorough examination and scrutiny and that the members of the council were unanimous in agreeing that the proposed change in zoning would violate the comprehensive plan, militate against stabilization of property values, congest traffic and increase population concentration by allowing 97 apartments in an area zoned for 27 single-family residences.

Zenga v. Zebrowski, 170 Conn. 55, 60–61 (1975) (emphasis added).

The Board should give consideration to the “record” of the written findings and reasons of the Zoning Board, as summarized by letter of Ralph Blessing dated June 13, 2018, and exercise its own independent judgment and discretion, using zoning criteria and not political considerations.