



CITY OF STAMFORD, CONNECTICUT
INTER-OFFICE CORRESPONDENCE

To: Megan Cottrell
From: Dana B. Lee Esq. /S DLEE
Copy: Thomas Cassone, Esq.
Date: January 12, 2024
RE: Ordinance Re: Cannabis Dispensary Signs

ISSUE:

Can the Board of Representatives enact an ordinance requiring nonconforming smoke shop signs existing at the time of the adoption of the zoning regulations to come into compliance with those zoning regulations?

BRIEF ANSWER:

No. For the reasons discussed below, the Board of Representatives does not have the authority to adopt such an ordinance.

DISCUSSION:

The Stamford Charter expressly vests the power to regulate commercial signs in the City with the Zoning Board. Stamford Charter, Sec. C6-40-1 (“The Zoning Board is authorized to regulate...the height, size, location and character of advertising signs and billboards.”).

Connecticut General Statutes Section 8-2 prohibits the Zoning Board from applying new zoning regulations to preexisting, legal nonconforming uses. The “Stamford zoning board performs the same functions as a zoning commission created pursuant to General Statutes § 8–1 and exercises an authority parallel to that given a zoning commission by General Statutes § 8–2 to enact and amend zoning regulations...” Weinstein v. Zoning Board of City of Stamford, 214 Conn. 400, 405 (1990). Connecticut General Statute § 8-2(a)(1)(E) provides, in pertinent part, that the “(t)he zoning commission of each city, town or borough is authorized to regulate, within the limits of such municipality...the height, size, location, brightness and illumination of advertising signs and billboards...” However, General Statute § 8-2(d)(4)(A) provides that these zoning regulations “shall not...(p)rohibit the continuance of any nonconforming use, building or

structure existing at the time of the adoption of such regulations...” (emphasis added). This statute applies to preexisting legal nonconforming signs. James J. Laughlin Agency, Inc. v. Town of West Hartford, 166 Conn. 305, 309 (1974).

Given this law, the question now comes as to whether the Stamford Board of Representatives can adopt an ordinance that would bypass the provisions of General Statute Sec. 8-2 and require compliance by legal nonconforming signs. For the following reasons, such an ordinance would not be permitted.

First, the ordinance would not be permitted as an amendment to Stamford’s zoning regulations. The Connecticut Supreme Court has held that “[o]nce a zoning commission has adopted zoning regulations ... the municipality is powerless to amend them... (internal citations omitted). Burke v. Stamford Board of Representatives, 148 Conn. 33, 43 (1961). After reviewing the Stamford Charter, the Court held that “(t)he legislative intent expressed in the Stamford charter modifies this principle by enabling the board of representatives to approve or reject any amendment by the zoning board to the zoning map or regulations, if proper and timely objection is made.” (Citation omitted.) Id. The Court, however, did not identify any other authority in the Charter allowing amendment to the regulations adopted by the Zoning Board and we have found none.

Second, the ordinance would not be permitted even if it was considered independent from the power to amend zoning regulations. In James J. Laughlin Agency, Inc., supra, the Town of West Hartford argued that an ordinance requiring compliance by nonconforming signs within five years of the adoption of new sign regulations flowed from the police power conferred upon the town to legislate ‘for the welfare, public health and safety of its inhabitants as a whole.’ The Connecticut Supreme Court rejected this argument holding, in part, that “(a) town, acting by its town council, can exercise only the powers which are expressly granted to it by statute, or such as are necessary to enable it to discharge the duties and carry out the objects and purposes of its creation.” (citations omitted). James J. Laughlin Agency, Inc., at 311., citing, Aunt Hack Ridge Estates, Inc. v. Planning Commission, 160 Conn. 109, 115 (1970). Moreover, “(b)eing a creature of the state, the defendant town has no inherent power to modify a legislative act.” Id. (citations omitted). We note that neither the General Statutes nor the Stamford Charter provide express authorization for this ordinance, and we can identify no other grant of authority that would permit that conclusion given the Court’s holding in the Laughlin matter.