



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue
Westport, CT 06880
Tel: 203-341-1030 Fax: 203-454-6145
www.westportct.gov

July 9, 2021

The following meeting of the Planning & Zoning Commission was held remotely using Zoom Technology:

Planning and Zoning Commission Minutes

July 8, 2021

Meeting Started: 6:00P.M.

P&Z Commission Members and Alternates in attendance:

Paul Lebowitz, Michael Cammeyer, Jon Olefson, Amie Tesler, John Bolton & Nicole Laskin

P&Z Staff & Others:

Mary Young, P&Z Director.

Ruth Cavayero, Deputy Town Clerk (for work session only).

I WORK SESSION

- **Discussion and potential vote on a Republican P&Z Alternate**
Action: John Bolton was unanimously voted in as the Republican Alternate of the Westport Planning and Zoning Commission. He was sworn in by Ruth Cavayero.
- **Approval of Action Minutes: 6/17/21 & 6/24/21.**
Action: Unanimously approved 5-0.
- **Bond Release Request:**
 - **25 Oak Ridge Park: #18-057- \$2,893.00- (Landscaping Bond),**
Action: Unanimously approved to release bond 6-0.

II PUBLIC HEARING

1. **(REVISED) Text Amendment #793:** Appl. #PZ-21-00226 submitted by Peter Romano/ LANDTECH to amend §5, Definitions, to modify the Swimming Pool definition to exclude swimming pools of a certain size from Total Coverage calculations on lots that are non-conforming to Total Coverage; to amend §5, Definitions, to create a new definition for Sports Courts; to modify §11-2.4 Accessory Uses permitted in a Residence AAA district, to modify language for Swimming Pools to exclude them from Total Coverage calculations on lots that are non-conforming to Total Coverage; and add language documenting Sports Courts are permitted as an Accessory Use to a Dwelling. The amendment if adopted will apply to all properties in all zoning districts that meet the proposed

eligibility criteria. A copy of the text amendment is available on-line at www.westportct.gov, is on file in the Town Clerk's Office, is on file in the Planning and Zoning Office.

Action: Testimony received.

Denied, 6-0, see resolution.

2. **17 Burr Farms Road:** Special Permit/Site Plan Appl. #PZ-21-00369 submitted by B&B Engineering LLC for property owned by Brian and Tami Sunshine, to authorize non-exempt front-yard landscaping activities pursuant to §32-8, Excavation and Filling of Land listed in the Westport Zoning Regulations, for property located in the Residence AA District, PID #F10051000.

Action: Item opened, Testimony received.

Granted, 6-0, see resolution.

3. **Text Amendment #796:** Appl. #PZ-21-00393 submitted by Urstadt Biddle Properties, Inc. c/o Attorneys John Knuff and Amy Souchuns to modify Westport Zoning Regulations §6, Non-Conforming Uses, Buildings and Lots, to create a new subsection §6-6.3, Non-Conforming Medical Redevelopment. The text amendment if adopted will benefit only 1460 Post Road East, (Greens Farms Plaza) according to the applicant, as the eligibility criteria requires lots be: (A) Not less than 2.5 acres nor more than 3.0 acres; (B) Located in a split zone comprised of General Business District (GBD) and Residence A; and (C) Where a building is located entirely in the GBD portion of the lot; and (D) where the building is intended for redevelopment primarily as medical offices. If adopted, the Text Amendment will allow standards to be applied, distinct from those otherwise applicable, related to:

- Building Height;
- Building Coverage;
- Floor Area;
- Parking and Loading;
- Landscaping;
- Fire Lanes;
- Grading; and
- Setbacks.

A copy of the proposed text amendment is available on-line at www.westportct.gov is on file in the Westport Town Clerk's Office and is on file in the Westport Planning and Zoning Office.

Action: Item opened; Testimony received.

Adopted, 6-0, see resolution.

Effective Date: 7/15/21

4. **1460 Post Road East:** Special Permit/ Site Plan Appl. #PZ-21-00394 submitted by Urstadt Biddle Properties, Inc. c/o Attorneys John Knuff and Amy Souchuns, for property owned by Urstadt Biddle Properties, Inc. located in both the General Business District, and Residence A District, PID #H09019000. The application is to redevelop property to accommodate a new medical office tenant (and retain the existing medical marijuana dispensary) using regulations if adopted as proposed pursuant to Text Amendment #796 available for review on-line at www.westportct.gov, on file in the Westport Town Clerk's Office, and on file in the Westport Planning and Zoning Office. Proposed building activities include constructing an entrance addition, adding an elevator, adding building mechanicals, and adding an emergency generator. Proposed site work includes modifications to the parking lot, completing landscaping improvements, and completing drainage improvements.

Action: Testimony received.

Granted, 6-0, see resolution.

Effective Date: 7/22/21.

III WORK SESSION

(The following items will be discussed and voted on as time permits. The public may observe the work session, but not participate.)

Old Business:

- **Opportunity to submit comments on pending Special Permit/Site Plan application to redevelop property at 40 Fullin Road, Norwalk for 40 units of elderly housing.**

Action: Discussed.

- **10 Bermuda Road-** Coastal Site Plan Appl. #PZ-21-00454 submitted by Peter Cadoux for property owned by David and Danielle Perdue to construct a new single-family residence, for property located in the Residence A zone, PID#B02029000.

Action: Testimony received.

Approved, 5-1(Bolton)-0, see resolution.

Meeting Ended 9:10pm

Respectfully submitted by S. McNally, July 9, 2021



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue Westport, CT 06880
Tel: 203-341-1030 Fax: 203-454-6145
www.westportct.gov

Hearings: May 6, and July 8, 2021

Decision: July 8, 2021

July 12, 2021

Peter Romano
LANDTECH
518 Riverside Avenue
Westport, CT 06880

RE: Text Amend. #793/PZ-21-00226 to modify various sections of the Zoning Regulations to Define Sports Courts and to Exclude Swimming Pools of a Certain Size on Certain Properties from Total Coverage

Dear Mr. Romano:

This is to certify that at a meeting of the Planning and Zoning Commission held on July 8, 2021 it was moved by Mr. Olefson and seconded by Ms. Tesler to adopt the following resolution.

RESOLUTION #PZ-21-00226

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 8, 2021 and made the following findings:

FINDINGS

Proposal

1. Text Amendment #793 dated 3/29/21 submitted by LANDTECH originally proposed to:
 - A. Modify §5-2, to change the definition for "Coverage, Total" to exclude Sports Courts up to 40' x 40' in size, and Swimming Pools up to 850 SF, from Total Coverage;
 - B. Modify §5-2, to add a definition for Sports Courts and to identify they are excluded from Total Coverage, up to 40' x 40' in size;
 - C. Modify §5-2, to change the definition for Swimming Pools to identify Swimming Pool, up to 850 SF shall be excluded from Total Coverage;
 - D. Modify §11-2.4.2, to clarify Swimming Pools are a permitted Accessory Use to a single-family home that shall be excluded from Total Coverage; and
 - E. Modify §11-2.4.3, to clarify Sports Courts are a permitted Accessory Use to a single-family home; to identify Sports Courts shall be excluded from Total Coverage; and identify Sports Courts (like a Tennis Court and paddle tennis court) shall not be lighted when outside.

2. A revised version of the text amendment dated 6/28/21 was subsequently submitted. The applicant modified and reduced his proposal to only seek Total Coverage relief for Swimming Pools up to 850 SF in size and to limit the benefit to lots non-conforming or in excess of allowable Total Coverage. Additionally, the applicant removed the request for Coverage relief for Sports Courts but kept the proposed definition for Sports Courts in §5-2 and kept the reference to Sports Courts in the list of allowable Accessory Uses in §11 as recommended by P&Z Staff.
3. Specifically, the revised text amendment dated 6/28/21 proposes to:
 - A. Modify §5-2, to change the definition for “Coverage, Total” to exclude Swimming Pools up to 850 SF, from Total Coverage on lots that are non-conforming or exceed allowable Coverage;
 - B. Modify §5-2, to add a definition for Sports Courts where one does not exist;
 - C. Modify §5-2, to change the definition for Swimming Pools to identify Swimming Pools, up to 850 SF shall be excluded from Total Coverage on lots that are non-conforming or exceed allowable Coverage;
 - D. Modify §11-2.4.2, to identify Swimming Pools up to 850 SF are a permitted Accessory Use to a single-family home and shall be excluded from Total Coverage on lots that are non-conforming or exceed allowable Coverage; and
 - E. Modify §11-2.4.3, to clarify Sports Courts are a permitted Accessory Use to a single-family home; and to require Sports Courts (like a Tennis Court and paddle tennis court) shall not be lighted when outside.
4. The amendment will apply to all properties in all zoning districts that meet the proposed eligibility criteria.

Department Comments

5. A referral of Text Amendment #793 was sent to Town Department Heads, regional planning agencies and state agencies as required by the Connecticut General Statutes.
6. Comments were received in response to both the original and revised versions of the amendment as described in the P&Z staff reports dated 4/29/21, 6/20/21, and 6/29/21.
7. The Town Attorney’s Office in comments dated 4/30/21, suggested should the Commission decide to adopt the amendment they might consider a modification:

“The only comment is that the Commission should consider the effect of the proposed amendments on existing pools. It may be appropriate to limit the regulation to pools built after the effective date of the amendment.”
8. The a forementioned P&Z staff reports identified the 2017 Plan of Conservation and Development contains language that supports adopting the amendment and supports denying the amendment.

Public Participation

9. Hearings were held on May 6, and July 8, 2021, to receive testimony from members of the public as required by State Statutes.
10. The public hearings were held remotely using electronic means due to COVID-19. The public hearings were broadcastlive on public access television, live on-line on the Town's website, and interested parties were provided the opportunity to join the meeting and offer "live" testimony.
11. Comments from the public were offered both in support of the amendment as well as in opposition to the amendment.
12. All application materials, and all public comments received in writing were posted on the Town's website to maintain transparency while conducting remote meetings during COVID-19.

NOW THEREFORE, BE IT RESOLVED that Text Amendment #793: Appl. #PZ-21-00226 submitted by Peter Romano/ LANDTECH to amend §5, Definitions, to modify the Swimming Pool definition to exclude swimming pools of a certain size from Total Coverage calculations on lots that are non-conforming to Total Coverage; to amend §5, Definitions, to create a new definition for Sports Courts; to modify §11-2.4 Accessory Uses permitted in a Residence AAA district, to modify language for Swimming Pools to exclude them from Total Coverage calculations on lots that are non-conforming to Total Coverage; and add language documenting Sports Courts are permitted as an Accessory Use to a Dwelling is **DENIED**.

REASONS

1. Enabling more footprint or Coverage may have a deleterious effect on the environment as described in correspondence from the Conservation Dept. staff in comments dated 5/18/21 and 6/30/21, the Conservation Commission in comments dated 5/19/21, and comments from the Sherwood Mill Pond Committee dated 5/21/21.
2. Excluding more improvements from Coverage may be considered contrary to the sustainability goals adopted by the Town of Westport referenced in the correspondence received from Peter Boyd dated 6/11/21 on behalf of Sustainable Westport.
3. Available land area that may be needed for future septic repair may be lost as referenced in the emails from the Westport Weston Health District Director dated 4/6/21 and 6/29/21.
4. Swimming pools and other Accessory recreational uses, distinct from housing, are a privilege not a necessity; therefore, change may not be warranted.
5. The amendment is not consistent with the *2017 Plan of Conservation and Development* that includes goals to "*Manage Residential Development and Redevelopment,*" and to "*Promote Sustainability and Resilience.*"

VOTE:

AYES	-6-	{Lebowitz, Cammeyer, Olefson, Tesler, Laskin, Bolton}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,



Paul Lebowitz, Vice Chairman
Planning & Zoning Commission

- cc: Building Official
- Conservation Director
- First Selectman's Office
- RTM Moderator
- RTM P&Z Committee Chairman
- Tax Assessor
- Town Attorney
- Town Engineer
- WWHD Director



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Hearing: July 8, 2021

Decision: July 8, 2021

Bryan Nesteriak
B&B Engineering LLC
15 Research Drive, Suite 3
Woodbridge, CT 06525

RE: 17 Burr Farms Road, Special Permit/Site Plan, Appl. #PZ-21-00369

Dear Mr. Nesteriak:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 8, 2021, it was moved by Mr. Olefson and seconded by Mr. Lebowitz to adopt the following resolution:

RESOLUTION #PZ-21-00369

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 8, 2021, and made the following findings:

FINDINGS

Property Description/Background

1. 17 Burr Farms is a 1.42-acre parcel located in the Residence AA (1 acre minimum) zoning district, approximately ¼-mile north of Long Lots Road. The lot is conforming in the Res. AA zone, where a minimum lot area of one (1) acre is required. It is currently developed with a single-family dwelling, driveway and a swimming pool. It is serviced by a septic system and public water supply. The property is not located within the Coastal Area Management boundary.
2. 17 Burr Farms Road does not contain any steep slopes or wetlands. The survey shows the property ranges in grade from approximately EL 145' on the southeastern corner of the property and slopes up to EL 170' on the northwestern corner of the property.

Proposal

3. The applicant is requesting Special Permit approval for landscaping activities as part of a larger overall project that also includes renovations to the single-family dwelling, removal of the existing pool and construction of a new pool, installation of a storm water drainage system, and driveway modifications.
4. Proposed front-yard landscaping activities exceed the bounds of the exempt areas surrounding the other work being performed per §32-8.1.2 and therefore require an Excavation and Fill permit.
5. The applicant proposes to comply with slope requirements, cut and fill quantity limits, and maximum fill height requirements per §32-8. Minor grading is proposed within five (5) feet of a property line in conjunction with driveway alterations.
6. Excavation and fill activities are permitted. Certain activities are exempt from review when associated with other proposed activities as listed in §32-8.1. The exempt area around the proposed dwelling, pool, and driveway work is twenty-five (25) feet per §32-8.1.2(a). The exempt area around the proposed drainage system is five (5) feet per §32-8.1.2(b). All Excavation and Fill activities, even those which are exempt from review, must conform to the standards listed in §32-8.3.
7. The regrading may not exceed a five (5) horizontal to one (1) vertical (20%) slope unless approved by the Town Engineer per §32-8.3.2. In addition, the regulations states that there shall not be any grading or slope changes within five (5) feet of any lot line. The proposed landscaping does not result in any steep slopes more than 20%; however, it does include grading within five (5) feet of the northern property line. The Engineering Department determined that, since the proposed grading near the property line is being done in conjunction with driveway alterations, it is permissible.
8. Excessive fill is not permitted. Excessive fill is defined as an amount greater than that required to raise a parcel ten feet above or below the existing natural grades over an area equal to 50% of the allowable Total Coverage in the respective zones per §32-8.2.1. The proposed activity will not represent excessive fill. A total of **2,871** cubic yards are allowed; **1,860** cubic yards are proposed.
9. §32-8.2.3 states that no portion of any lot shall be filled or excavated to a height or depth greater than ten (10) feet above or below the existing grade. The proposal complies with this regulation as the maximum height change is approximately four (4) feet.

Department Comments

10. The applicant submitted a sign-off sheet prepared by the Conservation Department on March 23, 2021, indicating that no Conservation Permit will be required prior to the issuance of a Zoning Permit. No wetlands exist on-site, and the property is outside of the Waterway Protection Line Ordinance (WPLO) jurisdiction.

11. The Westport-Weston Health District submitted comments indicating no objection on June 2, 2021.
12. The Westport Police Department submitted a statement of “no comments” on May 29, 2021.
13. The Engineering Department issued comments dated June 11, 2021 indicating that the plan is substantially correct and requires no further revisions; however, a drainage report evaluating the proposed storm water detention system shall be required as part of securing a Planning & Zoning Permit.
14. The Engineering Department provided a subsequent explanation on June 11, 2021 that the proposed grading within five (5) feet of the property line is permissible because it is being done in conjunction with driveway alterations. Additionally, said work is very minor and is within the margins for what is considered customary landscaping.
15. The Planning and Zoning Commission finds this application complies with the standards found in §32-8, Excavation and Filling of Land.
16. Testimony was received at the July 8, 2021 public hearing.

NOW THEREFORE, BE IT RESOLVED that **17 Burr Farms Road**: Special Permit/Site Plan Appl. #PZ-21-00369 submitted by B&B Engineering LLC for property owned by Brian and Tami Sunshine, to authorize non-exempt front-yard landscaping activities pursuant to §32-8, Excavation and Filling of Land listed in the Westport Zoning Regulations, for property located in the Residence AA District, PID #F10051000 be **GRANTED** subject to the following modifications:

Modifications

1. Conformance to Westport-Westport Weston Health District approval, dated March 22, 2021.
2. Conformance to Engineering Department comments, dated June 11, 2021.
3. Conformance to Detailed Statement of Existing and Proposed Use, prepared by B&B Engineering.
4. Conformance to Engineering Plans, prepared by B&B Engineering, revised May 14, 2021, including:
 - A. Proposed Site Development Plan
 - B. Construction Notes & Details

5. Conformance to Building Plans, prepared by Vita Design Group, revised January 11, 2021, including:
 - A. A-100: First Floor Plan
 - B. A-101: First Floor Plan – Pool Patio Plan
 - C. A-200: Elevations
6. Trees and shrubs on Town property or in the Town right of way shall not be removed, pruned, injured, or defaced without consent of the Town's Tree Warden.
7. Prior to the commencement of any construction, site work, tree removal, or demolition, the soil and erosion controls shall be installed and inspected by Staff.
8. Prior to the issuance of a new Zoning Permit for this work, the applicant shall submit and obtain the following:
 - A. Submit a drainage report for review by the Engineering Department;
 - B. Obtain final sign-off from the Engineering Department;
 - C. Obtain final sign-off from the Health Department;
 - D. Submit proof of filing the approval resolution on the Land Records.
9. The replacement and/or repair of a stone wall greater than four (4) feet in height shall require the issuance of a building permit.
10. All new utilities shall be placed underground.
11. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit a Certified "As-Built" survey stamped by a registered Engineer or Surveyor.
12. This 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 Commission.
13. All work approved pursuant to this Special Permit/Site Plan shall be completed within five (5) years of date of approval, by July 8, 2026.
14. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

ENFORCEMENT Failure to comply with any standard or condition contained in this Resolution, shall be considered a zoning violation pursuant to §45-2 of the Westport Zoning Regulations. The failure to undertake corrective action within ten (10) days of being notified of such violation may result in the following remedies: 1) issuance of a notice of violation; 2) issuance of a cease and desist order; 3) issuance of a municipal citation with daily fines of up to the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

Reasons:

The application as conditioned has been found to be in conformance with all applicable zoning regulations, with the 2017 Plan of Conservation and Development, and the Site Plan and Special Permit standards listed in §44-5 and §44-6.

VOTE:

AYES	6	Paul Lebowitz, Michael Cammeyer, Jon Olefson, Amie Tesler, Nicole Laskin, John Bolton
NAYS	0	
ABSTENTIONS	0	

Very truly yours,



Paul Lebowitz
 Vice Chairman, Planning & Zoning Commission

cc: Keith Wilberg, DPW Engineering Department
 Mark Cooper, Westport-Weston Health District



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Hearing: July 8, 2021
Decision: July 8, 2021

July 12, 2021

Urstadt Biddle Properties, Inc.
c/o Amy E. Souchuns, Esq.
147 N. Broad Street.
Milford, CT 06460

RE: Text Amend. #796/ PZ-21-00393, to modify §6, Non-Conforming Uses, Buildings and Lots, to Add Subsection §6-6.3, Non-Conforming Medical Redevelopment

Dear Attorney Souchuns:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 8, 2021 it was moved by Ms. Tesler and seconded by Ms. Laskin to adopt the following resolution.

RESOLUTION #PZ-21-00593

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 8, 2021 and made the following findings:

Proposal

1. Text Amendment #796 proposes to add subsection §6-6.3, *Non-Conforming Medical Redevelopment*, to facilitate redevelopment of split zoned properties for “primarily medical offices” that meet specific location criteria, with the intent of enabling improvements at 1460 Post Road East (Greens Farms Plaza) as shown on pending Special Permit/Site Plan Appl. #PZ-21-00394.
2. The text amendment if adopted will benefit only 1460 Post Road East as the eligibility criteria requires lots be: (A) Not less than 2.5 acres nor more than 3.0 acres; (B) Located in a split zone comprised of General Business District (GBD) and Residence A; and (C) Where a building is located entirely in the GBD portion of the lot; and (D) where the building is intended for redevelopment primarily as medical offices.

3. As originally submitted, the Text Amendment if adopted will allow standards distinct from those otherwise applicable, related to: Building Height; Building Coverage; Floor Area (FAR); Parking and Loading; Landscaping; Fire Lanes; Grading; and Setbacks.
4. Attorney Souchuns, on 7/6/21 identified the applicant no longer requires any Grading relief and accepts any modification that does not include the proposed Grading language.
5. Attorney Souchuns described the benefits associated with the amendment if adopted in her Explanatory Statement:

"The regulation's benefit to the town is multi-fold. First, it enables the Property to be transitioned from uses with economic limitations – retail and restaurant – into one that serves a community need – medical office. Second, its new standards allow for greatly enhanced access to the building for those patrons with mobility constraints (changes that cannot be accomplished under existing regulations), while minimizing the extent of other changes on the Property that could negatively affect adjoining developments. Finally, the regulation is narrowly tailored and applies only to this Property. If the Commission's preference was to expand its applicability, it could be modified to provide additional redevelopment opportunities for other split-zoned parcels along the Post Road."

Department Comments

6. A referral of Text Amendment #796 was sent to Town Department Heads with all comments received described in the P&Z staff report dated 7/2/21.
7. The Town Attorney's Office in comments dated 6/28/21, offered the following:

*"A question may come up involving 'spot zoning' or as some phrase it, 'spot texting.' Even though the amendment may only currently be applied to one property, it is still valid because it affects the entire zoning district. Spot zoning is a concept that relates to a map change that effects usually one relatively small parcel. A text change, **in theory at least**, applies uniformly throughout the relevant zoning district even if only one parcel currently satisfies the criteria needed to apply the language. Otherwise, we have no comment."*

8. The Tax Assessor in comments dated 7/8/21, offered the following:

"I have reviewed the information you forwarded me regarding the changes to this property. The changes would allow for significant renovations to the current building and site. It would increase the current size to approximately 42,000 square feet that preferably would support a single medical office tenant of 37,000, with the only other tenant being Blue Point marijuana dispensary. At minimum, if the larger single tenant goal cannot be achieved, the building could support multiple traditional medical offices. Currently, this building supports a retail liquor store, a restaurant and an orthodontist. My review of the proposed development to a medical office building considers the new use of the property, renovation work to the building and the necessary site work. I believe that the improvements to this property, mainly the change in use from retail to medical office will help stabilize the occupancy of the building and provide for a long term positive affect on its future assessment. In addition, medical offices generally provide the personal property grand list with leasehold improvements and specialized equipment for taxation that are generally higher than retail businesses."

9. The Building Official in comments dated 6/30/21 confirmed the requested Building Height relief is needed:

“To meet the required building code air circulation requirements the equipment needs to be sized properly and large enough. I support the request to replace the rooftop units and/or the zoning text amendment.”

10. The aforementioned P&Z staff reports identified the amendment may be considered consistent with the economic development goals listed in the *2017 Plan of Conservation and Development*.

Public Participation

11. A public hearing was held to receive testimony from members of the public as required pursuant to State Statutes.
12. The public hearing was held remotely using electronic means due to COVID-19. The public hearing was broadcast live on public access television, live on-line on the Town's website, and interested parties were provided the opportunity to join the meeting and offer “live” testimony.
13. All application materials, and public comments received in writing were posted on the Town's website to maintain transparency while conducting remote meetings during COVID-19.

NOW THEREFORE, BE IT RESOLVED Text Amendment #796: Appl. #PZ-21-00393 submitted by Urstadt Biddle Properties, Inc. c/o Attorneys John Knuff and Amy Souchuns to modify Westport Zoning Regulations §6, Non-Conforming Uses, Buildings and Lots, to create a new subsection §6-6.3, Non-Conforming Medical Redevelopment, that includes new zoning standards to be applied distinct from those otherwise applicable related to Building Height; Building Coverage; Floor Area (FAR); Parking and Loading; Landscaping; Fire Lanes; and Setbacks. The text amendment will benefit only 1460 Post Road East as the eligibility criteria requires lots be: (A) Not less than 2.5 acres nor more than 3.0 acres; (B) Located in a split zone comprised of General Business District (GBD) and Residence A; and (C) Where a building is located entirely in the GBD portion of the lot; and (D) where the building is intended for redevelopment primarily as medical offices. The amendment is **ADOPTED AS MODIFIED**. A copy of the adopted text amendment is on file in the Town Clerk’s Office, is on file in the Planning and Zoning Office, and is attached.

MODIFICATIONS

1. §6-6.3.7, Grading, is **NOT APPROVED**, as agreed to by the applicant, as the relief is not needed to implement the intended improvements to 1460 Post Road East as shown on the plans submitted for pending Special Permit/Site Plan Appl. #PZ-21-00394.

2. Language is added to §6-6.3, as agreed to by the applicant, to identify Special Permit/Site Plan approval from the Planning and Zoning Commission is required to utilize §6-6.3, Non-Conforming Medical Redevelopment.
3. §6-6.3.2 Coverage, is modified from 40% to 37%, as agreed to by the applicant, consistent with what is needed to implement the improvements at 1460 Post Road East as shown on the submitted plans.
4. §6-6.3.3, Floor Area and Floor Area Ratio (FAR), is modified from 0.55 to 0.51, as agreed to by the applicant, consistent with what is needed to implement the improvements at 1460 Post Road East as shown on the submitted plans.

REASONS

1. The Commission is persuaded by the following offered in the applicant's Explanatory Statement regarding the benefits to the Town from the amendment:

"The regulation implements smart growth principles by allowing the transformation of a developed site into a new use in a manner that minimizes disruption to the existing conditions or surrounding properties. The regulation allows the current building to be effectively repurposed thereby avoiding extensive construction waste and the truck trips associated with a teardown and reconstruction of a new facility."
2. The proposed standards when applied to 1460 Post Road East will result in reducing some non-conformities that exist on site and will bring the landscaping conditions in greater conformance with current standards.
3. The Planning and Zoning Commission finds this amendment is consistent with the Comprehensive Plan (Zoning Regulations and Zoning Map), and the 2017 Plan of Conservation and Development that contains various economic development goals including:
 - A. *"Business and economic development in Westport enhances the community by increasing the grand list, providing jobs, making goods and service available, and enhancing the quality of life in the community." Pg. 73*
 - B. *"Guide business and economic development in Westport so that it is appropriate for the community, enhances community character, and minimizes any potential negative impacts while striving to increase the Grand List." Pg. 73*
 - C. *"Support Appropriate Economic Development." Pg. 74*
 - D. *"The POCD supports the establishment and expansion of appropriate uses that provide net tax revenue to support municipal services. This includes business and residential uses (such as assisted living facilities) which provide more in tax revenue than require in services." Pg. 74*

VOTE:

AYES	-6-	{Lebowitz, Cammeyer, Olefson, Tesler, Laskin, Bolton}
NAYS	-0-	
ABSTENTIONS	-0-	

The effective date of this amendment is: July 15, 2021

Very truly yours,



Paul Lebowitz, Vice Chairman
Planning & Zoning Commission

Attached

Adopted Text Amendment #796

- cc: First Selectman
- DPW Director
- Fire Marshal
- First Selectman's Office
- Police Chief
- RTM P&Z Committee Chairman
- RTM Moderator
- Town Attorney
- Town Engineer

Text Amendment #796

Dated: 5/28/21

Revised: 6/8/21

Public Hearing: 7/8/21

Adopted: 7/8/21

Effective date: 7/15/21

PROPOSED TEXT AMENDMENT

Urstadt Biddle Properties, Inc.

May 28, 2021

[Revised 6.8.21 to modify title and description in subsection 6-6.3(c)]

Note: All language is new; no deletions are proposed.

Bold Language represents modifications by the P&Z Commission

6-6 Redevelopment of Split Zoned Properties

6-6.3 Non-Conforming Medical Redevelopment

Notwithstanding the above, on lots (a) not less than 2.5 acres nor more than 3.0 acres, (b) located in a split zone comprised of the General Business District (GBD) & Residence A districts, (c) where a building is located entirely in the GBD zoned portion of the lot, and (d) where the building is intended for redevelopment primarily as medical offices; a nonconforming building and its uses may be allowed full or partial redevelopment **subject to Special Permit/Site Plan approval from the Planning and Zoning Commission**, in the nonresidential portion of the lot, provided the redevelopment will achieve superior architectural design, will improve access for disabled individuals, will enhance existing landscaping and buffering, and shall result in no increase of height, building coverage, or floor area, except as provided below and subject to the standards herein.

6-6.3.1 Height

Rooftop mechanical equipment necessary for compliance with the building, health or other applicable code shall be permitted and shall be concealed from all sides.

6-6.3.2 Coverage

Building coverage shall not exceed ~~40%~~ **37%** for the area of the lot located in the GBD. In no event shall additional building coverage be located in the Residence A portion of the lot, nor shall total coverage in the Residence A portion of the lot exceed 80%.

6-6.3.3 Floor Area

Notwithstanding the provisions of § 24-8.1, no building shall exceed 50,000SF of gross interior floor area, which may be utilized by a single user or by multiple users. FAR shall not exceed ~~.55~~ **0.51** for the area of the lot located in the GBD. In no event shall additional floor area be located in the Residence A portion of the lot.

6-6.3.4 Parking and Loading

Off-street parking shall be provided in accordance with §34-5 of the Supplementary Regulations. Existing parking spaces shall not be required to comply with the Design Standards for Off-Street Parking and Loading unless proposed to be modified as part of the redevelopment plan.

Notwithstanding §34-10, no loading spaces shall be required.

6-6.3.5 Landscaping

Where the existing lot is non-conforming with respect to the landscape buffers and parking lot landscaping and further modifications are necessary to improve building access, notwithstanding the provisions of §34-3, 35-2.2, 35-2.4 and 35-4, screening, landscaped buffer areas or parking lot landscaping shall be provided to the greatest extent possible without reducing required parking.

6-6.3.6 Fire Lanes

When the existing lot is non-conforming with respect to the fire lane requirements established by § 34-11.3, appropriate emergency access shall be provided to the satisfaction of the Fire Marshal.

6-6.3.7 Grading

Notwithstanding the grading limitations contained in § 34-11.5, grading for driveways may exceed 3% when necessary to match existing conditions on non-conforming access driveways.

6-6.3.7 Setbacks

No building setback shall be required from a Residential District Boundary Line.



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue
Westport, CT 06880
Tel: 203-341-1030 Fax: 203-454-6145
www.westportct.gov

Hearing: July 8, 2021

Decision: July 8, 2021

July 12, 2021

Urstadt Biddle Properties, Inc.
c/o Amy E. Souchuns, Esq.
147 N. Broad Street.
Milford, CT 06460

RE: 1460 Post Road East, Special Permit/Site Plan Appl. #PZ-21-00394

Dear Attorney Souchuns:

This is to certify that at a meeting of the Planning and Zoning Commission held on July 8, 2021, it was moved by Ms. Tesler and seconded by Mr. Cammeyer to adopt the following resolution:

RESOLUTION #PZ-21-00394

WHEREAS THE PLANNING AND ZONING COMMISSION met on July 8, 2021 and made the following findings:

FINDINGS

Background

1. 1460 Post Road East is a 2.96-acre lot with frontage on Post Road East (US Route 1), connected to the public sewer, and improved with a 39,654 SF multi-tenant commercial building. The current building is occupied by retail, medical, and restaurant tenants, the Town's only medical marijuana dispensary, plus vacancies. The lot is a split zoned lot with 37% of the lot in a residential zone (Residence A) and 63% of the lot in a commercial zone (General Business District or GBD). A 20' wide easement bisects the property and is reserved for emergency access to Regents Park, the condominium complex next door.
2. The building and property are non-conforming to various zoning standards. The lot is fully developed with the parking lot in both the non-residential and residential zones. The current FAR is 0.49 and exceeds the allowable 0.25. Landscaping does not comply with current standards for Front Landscape, Parking Area, or Buffer Strip. While the building is wholly in the GBD, it is not setback 25' from the Residence A zoning district boundary that bisects the property. Building Coverage is 35% where 25% is allowed. The site does not comply with Fire Lane standards nor driveway slope standards.

Proposal

3. The application proposes redevelopment of property at 1460 Post Road East to set the stage to attract primarily medical office tenants (and retain the existing medical marijuana dispensary). Redevelopment is proposed pursuant to Text Amendment #796 that requires Special Permit/Site Plan approval to utilize §6-6.3 Non-Conforming Medical Redevelopment, to *“achieve superior architectural design, to improve access for disabled individuals, and enhance existing landscaping and buffering.”* Specifically, the applicant is proposing:
 - A. Constructing a 2,276 SF entrance addition;
 - B. Adding an elevator between the first and second building levels;
 - C. Re-configuring the front drive-aisle to facilitate accessibility;
 - D. Creating angled parking for patient drop and shifting sidewalk closer to the roadway;
 - E. Modifying circulation to be one-way entering from the eastern driveway, and one-way exiting from the western driveway;
 - F. Reducing overall parking on site from 225 to 213 including 7 ADA spaces;
 - G. Modifying drainage system to include new catch basin, manhole, hydrodynamic separator, and associated piping;
 - H. Adding landscaping throughout the site; and
 - I. Installing an emergency generator at the southwest corner of the building.
4. Text Amendment #796 was adopted by the Planning and Zoning Commission on 7/8/21, and is effective on 7/15/21.

Department Comments

5. The Architectural Review Board recommended approval of the project at their 10/27/20 meeting.
6. The Conservation Department in comments dated 6/24/21 identified the application is eligible for an administrative approval prior to issuance of a Zoning Permit.
7. The Police Department submitted comments dated 6/18/21 and 7/2/21 that conclude they are satisfied with the proposal and predict when implemented it will represent an improvement to traffic flow.
8. The Fire Marshal's Office submitted comments dated 6/22/21 identifying they are satisfied with the "best efforts" made by the applicant to improve access around the building.
9. DPW Engineering submitted comments dated 6/29/21, and 7/2/21 that conclude they are satisfied with the proposal as currently revised by the applicant. Their comments note supplemental information is required from the applicant subsequent to this approval:

- A. *“Permitting. As part of the Planning & Zoning Permit process, the applicant shall be required to secure a Road Opening Permit from the Town, and an Encroachment Permit from the State of Connecticut DOT.*
- B. *Aprons and Sidewalks. The proposed activity includes the replacement of sidewalks and aprons along Post Road East. Such work shall be coordinated with an inspector from the Engineering Department prior to commencement.”*

10. The applicant’s Traffic Engineer advised in an email dated 6/10/21 he is seeking preliminary comments from ConnDOT which should be received prior to the close of the hearing to confirm the project meets the requirements in §44-2.2 for “Sufficient evidence” of a “reasonable probability of success” for obtaining State approval for work in their jurisdiction which in this case is the ROW of Route 1 (Post Road East). At the 7/8/21 public hearing it was described that replies from ConnDOT have not been received as usual delays have been exacerbated by COVID-19. The Planning and Zoning Commission was persuaded that no work in the State ROW will begin unless and until ConnDOT approval is eventually obtained as this will be monitored by both the Planning and Zoning Department and Department of Public Works Engineering Division.

§6-6.3, Non-Conforming Medical Redevelopment

11. The Planning and Zoning Commission finds the application is consistent with §6-6.3 as it will achieve superior architectural design, will improve access for disabled individuals, will enhance existing landscaping and buffering, and shall result in no increase of height, building coverage, or floor area, except as provided by the proposed standards in §6-6.3.

Public Participation

- 12. A public hearing was held to receive testimony from members of the public as required pursuant to State Statutes.
- 13. The public hearing was held remotely using electronic means due to COVID-19. The public hearing was broadcast live on public access television, live on-line on the Town's website, and interested parties were provided the opportunity to join the meeting and offer “live” testimony.
- 14. All application materials, and all public comments received in writing were posted on the Town's website to maintain transparency while conducting remote meetings during COVID-19.

NOW THEREFORE, BE IT RESOLVED that 1460 Post Road East: Special Permit/ Site Plan Appl. #PZ-21-00394 submitted by Urstadt Biddle Properties, Inc. c/o Attorneys John Knuff and Amy Souchuns, for property owned by Urstadt Biddle Properties, Inc. located in both the General Business District, and Residence A District, PID #H09019000 is **APPROVED**. The application is to redevelop property to accommodate a new medical office tenant (and retain the existing medical marijuana dispensary) using regulations adopted pursuant to Text Amendment #796 available for review on-line at www.westportct.gov, on file in the Town Clerk's Office, and the Planning and Zoning Office. Proposed building activities include constructing an entrance addition, adding an elevator, adding building mechanicals, and adding an emergency generator. Proposed site work includes modifications to the parking lot, completing landscaping improvements, and completing drainage improvements.

MODIFICATIONS

1. Conformance to Drainage report prepared by Tighe and Bond, dated 5/21/20.
2. Conformance to Traffic Impact Statement prepared by Tighe and Bond, dated 5/27/21.
3. Conformance to Site and Building Plans prepared by SLAM Collaborative, dated 11/7/21, revised 5/28/21 with sheets L201, L402, L501, L503 revised through 7/2/21, and including Existing Conditions Survey (2 sheets) prepared by Kenneth Salzman dated 3/14/16, revised 9/21/20 (27 sheets total) to be further revised as noted in Item #7 below.
4. All projects requiring permits from the Department of Public Works shall obtain permits before commencement of that work.
5. Trees and shrubs on Town property or in the Town right of way shall not be removed, pruned, injured, or defaced.
6. Prior to the commencement of any construction, site work, tree removal or demolition, the soil and erosion controls shall be installed and inspected by Staff.
7. Prior to the issuance of a Zoning Permit for this work, the applicant shall submit the following:
 - A. A plan revision fee equal to half the original application fee pursuant to the Fee Schedule in Appendix A of the Zoning Regulations;
 - B. Revised Zoning Chart identifying proposed conditions with respect to ALL proposed standards in §6-3.3 (including Grading, Fire Lanes, Loading Space, etc.);
 - C. Revised architectural plans showing the overall Building Height including the rooftop mechanicals as agreed to by the applicant;
 - D. Revised landscape plans showing more landscape islands and/or tree wells to increase shade and enhance aesthetics in the parking lot to the greatest extent possible;
 - E. Administrative approval from the Conservation Department;
 - F. Final Signoff from DPW Engineering including submission of information referenced in Finding #9 herein;
 - G. Evidence of the probability of success of obtaining ConnDOT approval per §44-2.2;
 - H. Contractor contact information whom residents may call during construction;
 - I. A bond pursuant to §43-12 to ensure (A) the timely and adequate completion of any site improvements that will be conveyed to or controlled by the municipality and (B) the implementation of erosion and sediment controls required during construction activities.

8. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit:
 - A. Approval from the Office of the State Traffic Administration (OSTA) to modify the parking lot that exceeds 200 parking spaces; and
 - B. An "As-Built" Survey stamped by a licensed surveyor or engineer.
9. This 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 Commission.
10. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.
11. All work approved herein shall be completed within 5 years or by **July 22, 2026**.

ENFORCEMENT Failure to comply with any standard or condition contained in this Resolution, shall be considered a zoning violation pursuant to §45-2 of the Westport Zoning Regulations. The failure to undertake corrective action within 10 days of being notified of such violation may result in the following remedies: 1) issuance of a notice of violation; 2) issuance of a cease and desist order; 3) issuance of a municipal citation with daily fines of up the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

Reasons:

The application as modified is found to be in conformance with all applicable zoning regulations, the *2017 Plan of Conservation and Development*, and the Site Plan and Special Permit standards listed in §44-5 and §44-6.

VOTE:

AYES	-6-	{Lebowitz, Cammeyer, Olefson, Tesler, Laskin, Bolton}
NAYS	-0-	
ABSTENTIONS	-0-	

The effective date of this Special Permit/Site Plan is: July 22, 2021.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Paul Lebowitz".

Paul Lebowitz, Vice Chairman
Planning & Zoning Commission

cc: First Selectman
DPW Director
Fire Marshal
First Selectman's Office
Police Chief
RTM P&Z Committee Chairman
RTM Moderator
Town Attorney
Town Engineer



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue
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Tel: 203-341-1030 Fax: 203-454-6145
www.westportct.gov

Public Meeting: July 8, 2021

Decision: July 8, 2021

July 12, 2021

Peter Cadoux
Peter Cadoux Architects
35 Post Road West
Westport, CT 06880

RE: 10 Bermuda Road, Coastal Site Plan #PZ-21-00454

Dear Mr. Cadoux:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 8, 2021, it was moved by Mr. Lebowitz and seconded by Ms. Tesler to adopt the following resolution:

RESOLUTION #PZ-21-00454

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 8, 2021 and made the following findings:

Background

1. The lot is conforming with 0.6113 acres of lot area, where 1/2 acre is required, and is located within the Res. A district. There are 746 SF of tidal wetlands and 235 SF of steep slopes on the property. The survey shows that the property ranges from El. 8' at the road and slopes up to El. 10' around the existing house then back down to El. 3.3' at Mean High Water Line of Bermuda Lagoon.
2. 10 Bermuda Road is located within the Coastal Area Management (CAM) boundary and is within the 100-year flood zone which is designated as AE 13 on Panel #09001C0532G. The house is located wholly within the AE El. 13' flood zone. The property is connected to sanitary sewer.
3. The lot was created in 1961 as part of a 14-lot subdivision. The property is currently developed with a single-family dwelling built in 1984, driveway, pool, boat rack, deck and patio. There is also an existing dock located on the property for access to Bermuda Lagoon.

4. This property lies within the Coastal Area Management (CAM) boundary, as defined by C.G.S. §22a-94 and therefore, a CAM review is required in accordance with C.G.S. §22a-109 and the Town of Westport Zoning Regulations §31-10.6.
5. §31-10.6 of the Zoning Regulations exempt from a CAM Site Plan review projects that propose construction of an individual single family residential structure, except when such structure is (a) located on an island not connected to the mainland by an existing road, bridge or causeway, or (b) is in or within two hundred (200) feet of the Mean High Water Line (MHWL), or (c) is in or within one hundred feet of the following coastal resource areas; tidal wetlands, coastal bluffs and escarpments and beaches and dunes. As the proposed activity is occurring within 200 feet of the Mean High Water Line, a Coastal Site Plan review is required.
6. The following coastal resources have been identified on the site or within the influence of the project: General Resources, Coastal Hazard Area, Tidal Wetlands and Estuarine Embayment.

Proposal

7. The applicant is seeking to construct a new house, driveway, covered sitting area, patio, pool and drainage system. The existing boat rack located in the setbacks is proposed to be removed.
8. The first floor will provide have a finished floor elevation of 15, which is 2 feet higher than the adjacent flood zone (AE 13). The existing building coverage is 15.4% and is proposed to be reduced to 14.98%. The existing total coverage is 30.45% and is proposed to be reduced to 24.9%.
9. The average existing and proposed grade is 10.7'. The height measured from the average existing grade to the midpoint of the highest roof is 28.16', which complies with the 28.3' allowable height. The proposed new house will be 2 stories with an attic and on a crawl space.
10. As agreed to by the applicant and recommended in the Staff Report dated 7/2/21, a 5-foot vegetated buffer of native salt tolerant plantings should be installed from the tidal wetland line landward and will be required to remain in perpetuity in order to:
 - Reduce the adverse effects of human activities on natural resources including wetlands and surface waters by acting as filters to intercept and absorb nutrients, sediment and other pollutants carried in storm water runoff from fertilized lawns and landscaping where pesticides are applied.
 - Slow down runoff, which both reduces erosion and allows silt and other suspended solids to settle out before they reach a receiving water body or wetlands; and
 - Trap bacteria and pathogens from pet wastes and thereby preserving water quality.

11. The Westport Planning and Zoning Commission has determined that this project is consistent with the policies identified in Section(s) 22a-92(b) (1) and 22-a-92 (b) (2) of the Coastal Area Management Act; that it will not adversely affect adjacent Coastal Resources (General Resources, Bluffs & Escarpments, Coastal Hazard Areas, Coastal Waters, Developed Shorefront and Tidal Wetlands) identified in Sections 22-93 (a) (7) of said Act.

NOW THEREFORE, BE IT RESOLVED that 10 Bermuda Road: Coastal Site Plan Appl. #PZ-21-00454 submitted by Peter Cadoux for property owned by David and Danielle Perdue to construct a new single-family residence, for property located in the Residence A zone, PID#B02029000 be **APPROVED** subject to the following modifications:

MODIFICATIONS

1. Conformance to Engineering Department Comments, dated 7/2/21.
2. Conformance to the Project Narrative prepared by Peter Cadoux, Architect, dated 6/21/21.
3. Conformance to Existing Conditions Survey, prepared by Charles Leonard, dated 10/28/20, revised 6/14/21.
4. Conformance to Site Plan, prepared by Bryan Nesteriak, dated 6/15/21, revised 7/2/21.
5. Conformance to Building Plans, prepared Peter Cadoux, dated 6/21/21 (6 Sheets)
6. Conformance to CAM recommendations contained in the Staff Report, dated 7/2/21.
7. All projects requiring permits from the Department of Public Works shall obtain permits before commencement of that work.
8. Trees and shrubs on Town property or in the Town right of way shall not be removed, pruned, injured, or defaced.
9. Prior to the commencement of any construction, site work, tree removal or demolition, the soil and erosion controls shall be installed and inspected by Staff.
10. Prior to the issuance of a Zoning Permit for this work, the applicant shall submit and obtain the following:
 - A. Obtain final approval from Engineering Department for the drainage plans;
 - B. Submit Planting Plan for 5-foot vegetated buffer.
11. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit a Certified "As-Built" survey stamped by a registered Engineer or Surveyor.
12. This 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 Commission.
13. All work approved pursuant to this Site Plan shall be completed within 5 years of date of approval, by **July 8, 2021**.

14. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

ENFORCEMENT Failure to comply with any standard or condition contained in this Resolution, shall be considered a zoning violation pursuant to §45-2 of the Westport Zoning Regulations. The failure to undertake corrective action within 10 days of being notified of such violation may result in the following remedies: 1) issuance of a notice of violation; 2) issuance of a cease and desist order; 3) issuance of a municipal citation with daily fines of up to the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

Reasons:

The application as conditioned has been found to be in conformance with all applicable zoning regulations.

VOTE:

AYES	-5-	{Lebowitz, Cammeyer, Olefson, Tesler, Laskin}
NAYS	-0-	
ABSTENTIONS	-1-	{Bolton}

Very truly yours,



Paul Lebowitz, Vice Chairman
Planning & Zoning Commission

cc: P. Friia, Tax Assessor
K. Wilberg, Town Engineer