



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

## MEMORANDUM

To: Members of the Zoning Board of Appeals  
From: Laurie Montagna, CAZEO, Zoning Official  
Date: September 3, 2024  
Re: **Additional Information**

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**ADDRESS:** 63 Old Hill Road  
**ZONE:** Residential AA zone  
**ZBA #:** ZBA-24-00240  
**PID #:** B11017000  
**OWNER:** James & Diana Coyne Trustees  
**APPLICANT:** Eric Bernheim, Esquire

**Proposal:** To appeal letter dated 5/6/2024 issued by Planning and Zoning Staff, which denied the issuance of zoning permit for pickleball court in the setbacks in Res. AA zone.

### **Additional Information:**

Attached please find additional information regarding the appeal noted above.

1. Copy of Map titled "Site Improvements for a Proposed Paddle Tennis Court" by Andy Soumelidis, PE, dated 4/14/23, and most recently revised 4/16/24 showing:
  - a. Right of Way highlighted in pink;
  - b. And 30' front setback highlighted in blue.

2. Email from Keith Wilburg, E, LS Deputy Town Engineer dated August 15, 2024. Attached to this email is the 1936 deed from Volume 65, page 276 and map number 1162 dated September 1936.

In this email, Keith states that the Right of Way of Side Hill Road is 40' as clarified by the 1936 deed.

3. These are All Public comments/Emails received to date (9/32024) regarding this case:
  - a. From Glen and Sarah Siegal dated July 22, 2024;
  - b. From Jordan Mendell dated July 22, 2204 (2 pages);
  - c. From Joseph Jackson dated May 22, 2024;
  - d. From Kevin Rakin & Alison Hoffman dated June 13, 2024;
  - e. From Dominic and List Rispoli dated July 8, 2024;
  - f. From Mike & Lisa Swotes dated July 8, 2024;
  - g. From Mark Goldstein & Vicki Volper dated June 3, 2024
  - h. From Dr. Michael Sachs dated July 15, 2024.
4. Emails from Eric Bernheim dated July 23, 2024

Attachments as noted above

## Montagna, Laurie

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**From:** Wilberg, Keith  
**Sent:** Thursday, August 15, 2024 1:29 PM  
**To:** Perillie, Michelle; Montagna, Laurie  
**Subject:** 63 Old Hill Rd - Deed from 1936  
**Attachments:** Old Hill Rd 63 Vol 65 Page 276 1936.pdf

Ted was able to find the deed for this parcel prior to its subdivision. The deed calls out WLR 1162 by name which has yet to be assigned that WLR number.

In the deed, it clearly labels the 20' portion at the north of the lot is intended to be considered as a Right-of-Way. This is NOT the 20' north of this parcel, owned by 65 Old Hill Rd.

I realize that the more recent maps have not expressly stated that the entire width (40') of Side Hill Road is a ROW, but this deed seems to clarify that intent.

So would any reasonable assessment of the deeds and maps conclude that the ROW for Side Hill Rd is the 40' as shown on the maps.

Thus, any setback would be from the street line regardless of who owns to the center of the road, as you have correctly stipulated and maintained.

We'll meet in a bit.

Thanks,

Keith

**KEITH S. WILBERG, PE, LS**

*Westport Town Engineer, Department of Public Works*  
*Town Hall, 110 Myrtle Avenue, Westport, CT 06880*  
*203.341.1128 (Office) | 203.515.8427 (Cell) | [kwilberg@westportct.gov](mailto:kwilberg@westportct.gov)*

[V65 PG 276]

To all People to whom these Presents shall come,—GREETING:

KNOW YE, THAT I, William H. Power of the town of Westport, county of Fairfield and state of Connecticut,

for the consideration of one dollar and other valuable considerations received to my full satisfaction of Minnie E. George of Englewood, New Jersey

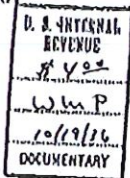
Do Give, Grant, Bargain, Sell and Confirm unto the said Minnie E. George, All that certain tract or parcel of land, situate in said town of Westport, in quantity two and five one hundredths (2 5/100) acres, more or less bounded and described as follows: Beginning at a point on the westerly side of Old Hill Road 302.30 feet northwesterly from an iron pipe marking the boundary between property of the grantor and Honora Robertson; running thence N 05d. 00' W for a distance of 274.36 feet; thence N 0d. 30' 40" W for a distance of 298.85 feet; thence N 89d 20' 20" E 286.34 feet to the westerly side of Old Hill Road; thence S 3d. 12' 40" E for a distance of 12.14 feet; thence S 1d. 14' 40" E 102.00 feet; thence following the arc of a curve the radius of which is 453.50 feet and a length of 99.60 feet; thence S 11d. 20' 20" W 21.04 feet to the point or place of beginning. Said premises are bounded northerly by land of William H. Power; Easterly by Old Hill Road; Southerly and Westerly by land of William H. Power.

Said premises are more particularly delineated on a certain map entitled "Map of Property of William H. Power, Westport, Conn. to be transferred to Minnie E. George Sept. 1936, Scale 1"-100' certified substantially correct, W. J. Wood, Jr. Civil Engineer and Surveyor" which map is to be filed simultaneously herewith.

Reserving a right of way for all purposes for myself, my heirs and assigns over the northerly twenty feet of above described property including the curve to Old Hill Road, together with the right to improve said right of way.

It is the intention of this conveyance to also grant to said grantee, her heirs and assigns a right of way for all purposes over that tract of land 20 feet in width adjoining premises herein conveyed along its northerly boundary from Old Hill Road westerly to the westerly boundary line of the tract herein conveyed.

Said premises are conveyed subject to zoning regulations established by the town of Westport, taxes on the list of 1936 and also those certain covenants and agreements contained in a certain agreement dated December 18th, 1935, recorded Westport Land Records, vol. 64, page 646.



TO HAVE AND TO HOLD the above granted and bargained premises, with the privileges and appurtenances thereof, unto her the said grantee, her heirs and assigns, forever, to her and their own proper use and behoof. And also, I the said grantor do for myself, my heirs, executors and administrators covenant with the said grantee her heirs and assigns, that at, and until the enclosing of these presents I am well seised of the premises as a good indefeasible estate in fee simple; and have good right to bargain and sell the same, in manner and form as is above written; and that the same is free from all incumbrances whatsoever, except as above mentioned.

AND FURTHERMORE, I the said grantor do by these Presents, bind myself and my heirs forever to warrant and defend the above granted and bargained premises to her the said grantee her heirs and assigns, against all claims and demands whatsoever, except as above mentioned.

In Witness Whereof, I have hereunto set my hand and seal this 19th day of October A.D. 1936.

Signed, Sealed and Delivered } William H. Power [SEAL]  
in presence of }

Harry R. Sherwood [SEAL]  
L. Livingston George [SEAL]

STATE OF CONNECTICUT, FAIRFIELD COUNTY, ss, WESTPORT, October 19th, A.D. 1936

Personally appeared William H. Power

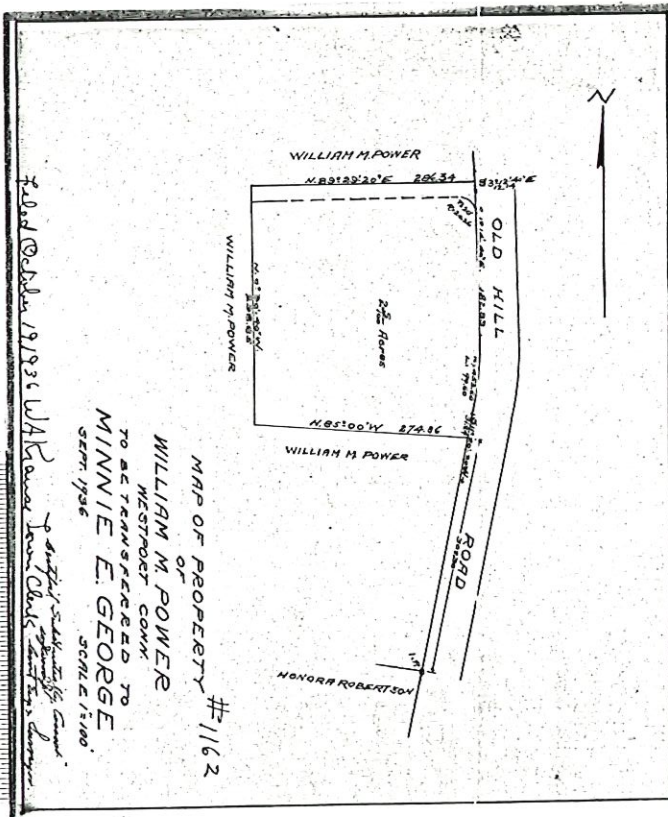
signer and sealer of the foregoing instrument, and acknowledged the same to be his free act and deed, before me.

Harry R. Sherwood Notary Public  
[Signature]

Received for Record Oct. 19, 1936

at 12:00 M. Recorded by W.A. Krause Town Clerk

1162



Deed V 65  
Pg 276

**From:** [Glenn Siegel](#)  
**To:** [Planning and Zoning](#)  
**Cc:** [Sarah Siegel](#)  
**Subject:** Appeals meeting 7/23/24  
**Date:** Monday, July 22, 2024 9:23:39 PM

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To the Planning and Zoning Board of Appeals:

We are writing to express our opposition to the proposed construction of a pickleball court at 63 Old Hill Road, which neighbors our property. The noise from pickleball is simply too loud and noxious for a quiet residential community, and thus would result in a significantly reduced quality of life for its residents.

Sincerely,

Glenn Siegel and Sarah Siegel  
15 Side Hill Road  
Westport

RECEIVED  
JUL 23 2024  
WESTPORT P. & Z. C

## Tartaglia, Michael

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**From:** Jordan Mendell <jomendell@gmail.com>  
**Sent:** Monday, July 22, 2024 10:07 AM  
**To:** Zoning Board of Appeals  
**Cc:** Mara  
**Subject:** Letter Regarding Pickleball Court 63 Old Hill Road  
**Attachments:** 63 Old Hill Road Letter.pdf

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Dear Members of Zoning Board of Appeals,

I understand the appeals hearing for the construction of a pickleball court at 63 Old Hill Road is coming up in the next few days. I live directly next to this property and am strongly against the variance or construction of the court in any manner.

We have a great relationship with our neighbors, but we don't think it's necessary that a pickleball court be built in the middle of a residential neighborhood. There are commercial areas better suited for this that don't have such a severe negative impact on surrounding residents.

Please find a letter attached voicing our opposition. Thank you for the consideration.

Regards,  
Jordan

RECEIVED  
JUL 22 2024  
ZBA

Jordan and Mara Mendell  
7 Side Hill Road  
Westport, CT 06880

RECEIVED  
JUL 22 2024  
ZBA

Town of Westport Zoning Board of Appeals

July 22, 2023

**Re: Application for Construction of Pickleball Court at 63 Old Hill Road**

To whom it may concern,

I hope this letter finds you well. I am writing to formally express my opposition to my neighbor's proposal to construct a pickleball court at 63 Old Hill Road, which is directly adjacent to my property, 7 Side Hill Road.

As a resident of Westport, I value the community spirit and the facilities provided for recreational activities. However, the location of this particular project raises significant concerns regarding noise pollution and the subsequent impact on our daily lives. The letters you've received in support are from residents not as directly impacted as my family.

My wife and I both work from home and are parents to three young children under the age of four, who are home throughout the day. The constant noise from a pickleball court so close to our home would severely disrupt our work environment and our children's sleep schedules. This would not only affect our productivity and mental well-being but also potentially hinder the healthy development of our three children.

We understand the desire for recreational spaces and fully support such initiatives when they are appropriately located. However, the proposed location of this court within a residential neighborhood seems unsuitable given its proximity to homes, especially those with young children and families. Additionally, a pickleball court will negatively impact home values as the buyer pool will be limited – no one wants to live near a pickleball court.

We respectfully request that the town reconsider granting a zoning variance for the construction of this pickleball court in a residential backyard as it will be intrusive to nearby homes and materially compromise the quality of life for adjacent residents.

Thank you for your attention. We trust you will consider our concerns seriously and look forward to a resolution that serves the best interest of all community members.

Sincerely,

  
Jordan Mendell



**Trianovich, Amanda**

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**From:** Joe Jackson <joejackwestport@gmail.com>  
**Sent:** Wednesday, May 22, 2024 3:46 PM  
**To:** Zoning Board of Appeals  
**Subject:** 63 Old Hill Road Variance Request Comment

CAUTION: This email originated from outside of the Town of Westport's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

The variance requested by James A. Coyne should be denied just as the original application was.

A residential neighborhood is not an appropriate setting for a pickleball court, which produces incessant, obnoxious noise pollution at all hours and thus causes endless disputes among neighbors.

If you approve even a single one, then many others will demand the same exception.

Compo Beach and other town parks are the correct locations for such facilities.

Thank you,

Joseph Jackson

**From:** Kevin Rakin <[Kevin@klrakin.com](mailto:Kevin@klrakin.com)>  
**Sent:** Thursday, June 13, 2024 7:33 PM  
**To:** Montagna, Laurie <[lmontagna@westportct.gov](mailto:lmontagna@westportct.gov)>  
**Cc:** Jim Coyne <[jcoyne@stonecaps.com](mailto:jcoyne@stonecaps.com)>  
**Subject:** Zoning Board of Appeals Applications for Jim and Diane Coyne, 63 Old Hill Road

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Laurie Montagna  
Zoning Official  
Town of Westport  
110 Myrtle Avenue, Town Hall  
Westport, CT 06880

Dear Mr. Ezzes & Board members:

We are neighbors of Jim and Diana Coyne and our home is at 14 Side Hill Road. We have been neighbors for over 20 years and can attest to the Coyne's regard for their home, their neighbors and the neighborhood.

We have reviewed their plans to construct a pickleball court on their property. We also reviewed the Zoning Board of Approval application and understand the variance they are seeking. Based on our review of the plans and application we want to express our support for the construction of the pickleball court and associated site improvements. The Coyne's are very responsible neighbors and maintain their home and property at the highest level; we are confident the pickleball court will be installed with similar thoughtfulness, and be aesthetic pleasing with consideration for the neighborhood.

Regards

Kevin Rakin & Alison Hoffman  
14 Side Hill Road

**From:** [Dominic Rispoli](#)  
**To:** [Planning and Zoning](#)  
**Cc:** [Jim Coyne](#)  
**Subject:** Zoning Board of Appeals -- 63 Side Hill Road (Jim and Diana Coyne)  
**Date:** Monday, July 8, 2024 4:52:56 PM

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Dear Mr. Ezzes & Zoning Board members:

We live at 25 Side Hill Road and have enjoyed almost 20 years as members of the Side Hill community. Jim and Diana Coyne have been neighbors of ours for that entire time and we have the utmost respect for them and the outstanding manner in which they interact with the community.

We have had the opportunity to review the plans for the pickleball court, including the proposed location on the Coyne's property. We also reviewed the Zoning Board application and understand the variance requirements related to the site plan. We are writing to express our support for constructing the pickleball court in the proposed location on the Coyne's property. Over many years, we have witnessed the high-quality manner in which the Coyne's complete home improvements and we can say with confidence that they always factor in respect for the beauty of their property and equally for all of the neighbors on Side Hill Road.

If you have any questions, please feel free to contact us.

Thank you for your consideration.

Dominic and List Rispoli  
646-427-5791

**From:** [Michael Swotes](#)  
**To:** [Planning and Zoning](#)  
**Subject:** Pickleball Court- 63 Old Hill Road  
**Date:** Monday, July 8, 2024 4:24:38 PM

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To: The Zoning Board of Appeals

My wife and I reside at 28 Broadview, which is the corner of Old Hill and Side Hill. We have been neighbors with the Coyne's for over 20 years. They have reviewed with us their plans to construct a pickleball court on their property. The Coynes are wonderful neighbors, maintain one of the nicest properties in the Old Hill neighborhood and are terrific members of our community in every respect.

I want to express our support for the construction of the court, and the location the Coynes have requested. The location that they are looking to put it would be the best place given certain existing limitations (no need to remove a substantial number of old trees) and in terms of limiting noise for neighbors.

Please feel free to contact us with any questions.

--

Regards,  
Mike & Lisa Swotes

RECEIVED  
JUL 08 2024  
ZBA

**Velky, Karen**

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**From:** mgoldst@optonline.net  
**Sent:** Monday, June 3, 2024 9:12 PM  
**To:** Zoning Board of Appeals  
**Subject:** Comment re ZBA Notice Letter re 63 Old Hill Road Request for Variance

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To ZBA

Re: 63 Old Hill Road - Appeal from Denial of Zoning Permit to construct a pickleball court.

Applicant: James Coyne

**RECEIVED**  
**JUN 03 2024**  
**WESTPORT P. & Z. C.**

We are residents of 57 Old Hill Road and are neighbors of James and Diana Coyne. We are writing in support of the applicants' request for a variance for the construction of a pickleball court. The Coyne's have several options for locating a pickleball court on their property. They are being good neighbors by proposing to place the court on the Sidehill Road location, which requires a variance. Doing so will cause the least disturbance to the surrounding homes. We urge you to grant the variance for the benefit of the Coyne's and their neighbors.

Thank you for your consideration.

Mark Goldstein (203) 984-9109

Vicki Volper (203) 858-0038

Dr. Michael S. Sachs  
P.O. Box 2837  
59 Old Hill Road  
Westport, CT 06880  
Telephone: 203-227-1058  
[sachs@optonline.net](mailto:sachs@optonline.net)

RECEIVED  
JUL 16 2024  
ZBA

July 15, 2024

Zoning Board of Appeals  
110 Myrtle Avenue, Town Hall  
Westport, CT 06880  
[lmontagna@westportct.gov](mailto:lmontagna@westportct.gov)

Dear Board members:

I have been an adjacent neighbor of Jim and Diana Coyne for over 25 years. They have informed me of their desire to construct a pickleball court in front of their house, along Side Hill Road. I support this plan. I believe the particular location of the court will have the least impact on the greatest number of their neighbors, and it should not be visible to any of them. This location will also not require major changes to the landscape and number of trees on their property.

The Coyne's do a good job of maintaining their home and landscaping, and I would expect that this court will be similarly maintained. They are also considerate of their neighbors, and I would expect that they will continue to be when deciding when and how often they will use their court.

Best regards,



**From:** [Jim Coyne](#)  
**To:** [Planning and Zoning](#)  
**Subject:** FW: 63 Old Hill  
**Date:** Tuesday, July 16, 2024 9:05:32 AM

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**From:** Jim Coyne  
**Sent:** Monday, July 15, 2024 9:20 PM  
**To:** [pandz@westport.gov](mailto:pandz@westport.gov)  
**Cc:** [msachs@optonline.net](mailto:msachs@optonline.net)  
**Subject:** 63 Old Hill

Attached is a letter from my neighbor Dr. Sachs. If you can add this to the file I would appreciate it. I've copied Dr. Sachs on this email in the event you need anything else.

Thank you  
Jim Coyne

---

**From:** Michael Sachs <[sachs@optonline.net](mailto:sachs@optonline.net)>  
**Sent:** Monday, July 15, 2024 9:09 PM  
**To:** Jim Coyne <[jcoyne@stonecaps.com](mailto:jcoyne@stonecaps.com)>  
**Subject:** Re: Bourbon.

**Rick Costantini**

---

RECEIVED  
JUL 23 2024  
ZBA

**From:** Eric Bernheim  
**Sent:** Tuesday, July 23, 2024 2:01 PM  
**To:** Peter Gelderman; Perillie, Michelle  
**Cc:** Conor McMullan; Rick Costantini  
**Subject:** RE: 63 Old Hill Road, #ZBA-24-00269

**Importance:** High

Pete: The client disclosed in its staff report that you “reversed your decision.” If that is not accurate but turns out to be the basis of their denial of this appeal, then that will need to be vetted by a court. They disclosed that you provided the advice that you reversed your decision, if that is false or misleading from what you actually said, then it needs to be clarified.

Michelle: Please add this continued thread to the record.

Conor/Rick, please print the thread and submit a hard copy to zoning before it closes today.

Eric

---

**Eric Bernheim**

*Partner, FLB Law*

*Email: [bernheim@flb.law](mailto:bernheim@flb.law)*

*Office: (203) 635-2200*

*Direct: (475) 236-5203*

*Cell: (203) 979-7169*

*Fax: (203) 293-9999*

*Website: [www.flb.law](http://www.flb.law)*

*Address: 315 Post Road W, Westport, CT 06880*

**FLB Law**

FOGERTY | LAMBERT | BERNHEIM



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**From:** Peter Gelderman <[pgelderman@berchemmoses.com](mailto:pgelderman@berchemmoses.com)>  
**Sent:** Tuesday, July 23, 2024 1:42 PM  
**To:** Eric Bernheim <[bernheim@flb.law](mailto:bernheim@flb.law)>; Perillie, Michelle <[mperillie@westportct.gov](mailto:mperillie@westportct.gov)>  
**Subject:** Re: 63 Old Hill Road, #ZBA-24-00269



Eric:

I will say I don't make decisions. I provide advice and then decisions are made by those seeking my advice. The advice I give is, of course, confidential unless the client wishes to disclose it.

Pete



**Peter V. Gelderman**  
Berchem Moses PC



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1221 Post Road East, Suite 301, Westport, CT 06880

(203) 227-9545 • (203) 571-1720

[www.berchemmoses.com](http://www.berchemmoses.com)

[pgelderman@berchemmoses.com](mailto:pgelderman@berchemmoses.com)

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**From:** Eric Bernheim <bernheim@flb.law>  
**Sent:** Tuesday, July 23, 2024 1:38:15 PM  
**To:** Perillie, Michelle <mperillie@westportct.gov>  
**Cc:** Peter Gelderman <pgelderman@berchemmoses.com>  
**Subject:** RE: 63 Old Hill Road, #ZBA-24-00269

I'd like Pete to go on the record of whether he "reversed his decision." Can he submit an e-mail? Please add this e-mail thread to the record for this matter.

Eric

---

**Eric Bernheim**

*Partner, FLB Law*

*Email: [bernheim@flb.law](mailto:bernheim@flb.law)*

*Office: (203) 635-2200*

*Direct: (475) 236-5203*

*Cell: (203) 979-7169*

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*Address: 315 Post Road W, Westport, CT 06880*

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**From:** Perillie, Michelle <[mperillie@westportct.gov](mailto:mperillie@westportct.gov)>  
**Sent:** Tuesday, July 23, 2024 1:35 PM  
**To:** Eric Bernheim <[bernheim@flb.law](mailto:bernheim@flb.law)>  
**Cc:** Peter Gelderman ([pgelderman@berchemmoses.com](mailto:pgelderman@berchemmoses.com)) <[pgelderman@berchemmoses.com](mailto:pgelderman@berchemmoses.com)>  
**Subject:** Re: 63 Old Hill Road, #ZBA-24-00269

There will be 5 members sitting: Liz Wong, Josh Newman, Joe Scordato, Michelle Hopson and RB Benson for Jim Ezzes.

Pete Gelderman will not be there tonight but Laurie will be at the meeting.

Michelle Perillie AICP CFM

Deputy Planning and Zoning Director

203-341-1076



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**From:** Eric Bernheim <[bernheim@flb.law](mailto:bernheim@flb.law)>  
**Sent:** Tuesday, July 23, 2024 1:21 PM  
**To:** Perillie, Michelle <[mperillie@westportct.gov](mailto:mperillie@westportct.gov)>  
**Cc:** Peter Gelderman ([pgelderman@berchemmoses.com](mailto:pgelderman@berchemmoses.com)) <[pgelderman@berchemmoses.com](mailto:pgelderman@berchemmoses.com)>  
**Subject:** RE: 63 Old Hill Road, #ZBA-24-00269

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Michelle: Please confirm we will have a full 5 members tonight and whether Pete Gelderman will be in attendance to address the statement in the staff report that he "reversed his decision expressed in the 3/20/24 email."

I was told by Laurie that Staff decided not to heed his advice and overruled him, not that Pete had "reversed his decision." That seems to be misleading from what I was told by Laurie. Also, will Laurie be present tonight?

Eric

---

**Eric Bernheim**

*Partner, FLB Law*

*Email: [bernheim@flb.law](mailto:bernheim@flb.law)*

*Office: (203) 635-2200*

*Direct: (475) 236-5203*

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**From:** Perillie, Michelle <[mperillie@westportct.gov](mailto:mperillie@westportct.gov)>

**Sent:** Monday, July 22, 2024 11:14 AM

**To:** Eric Bernheim <[bernheim@flb.law](mailto:bernheim@flb.law)>

**Subject:** 63 Old Hill Road, #ZBA-24-00269

**Importance:** High

Please find the attached Agenda for the 7/23/24 ZBA meeting which includes the Zoom link.

Q: Can you also send me name, email and cell number of those presenting at the meeting?

Thanks,

Michelle Perillie AICP CFM

Deputy Planning and Zoning Director

203-341-1076



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