



# WESTPORT CONNECTICUT

PLANNING & ZONING  
TOWN HALL, 110 MYRTLE AVENUE  
WESTPORT, CONNECTICUT 06880  
(203) 341-1030 • (203) 341-1079  
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Hearing: April 26, 2012  
Decision: June 7, 2012

June 11, 2012

G. Kenneth Bernhard  
Cohen & Wolf, P.C.  
320 Post Road West  
Westport, CT 06880

**RE: Text Amendment #649/P&Z Application #12-013, Modifications to §32-20 (5),  
Coverage Requirements for Tents, Canopies and Fixed Awnings at Outdoor Eating  
Areas**

Dear Mr. Bernhard:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on 6/7/12 it was moved by Mr. Stephens and seconded by Mr. Whittle to adopt the following resolution.

## RESOLUTION #12-013

WHEREAS, THE PLANNING AND ZONING COMMISSION met on 6/7/12  
and made the following findings:

1. The request to amend the Westport Zoning Regulations is to modify §32-20 (5) of the Westport Zoning Regulations regarding Outdoor Eating Areas to exempt tents, canopies and fixed awning from Building Coverage if storm water runoff is addressed in a drainage plan approved by the Town Engineer.
2. On May 13, 2010, the Planning & Zoning Commission adopted Amendment #610 which made substantial changes to the Outdoor Eating Areas. On March 17, 2011, the Commission approved Amendment #628 which further refined and clarified the regulations regarding Outdoor Eating Areas.
3. The current zoning regulations regarding Outdoor Eating Areas counts tents, canopies and fixed awnings as building coverage but they are exempted from setback requirements. Retractable awnings and umbrellas are not counted in coverage.

4. According to the Director of the Westport Weston Health District, the State Health Code requires that tables used for Outdoor Dining be covered with umbrellas, awnings, tents or canopies.
5. The applicant worked with the Town Engineer on developing the language of the amendment and their submission includes the words recommended by the Town Engineer.
6. Despite having no Total Coverage requirement impervious areas in Non-Residential Zones such as driveways and parking lots must provide for adequate drainage. However, patios and terraces are exempt from drainage requirements in both Residential and Non-Residential Zones.
7. Outdoor Eating Areas would most likely occur on patio areas in Non-Residential Zones; this regulation would be beneficial because if a tent, canopy or fixed awning were to be used over the patio area, the applicant would now have to provide for adequate drainage.
8. A public hearing was held to receive testimony on the application.

NOW THEREFORE, BE IT RESOLVED that **Amendment #649**: Appl. #12-013 by Kenneth Bernhard c/o Cohen and Wolf, P.C. for a text amendment to the zoning regulations to modify §32-20 (Special Requirements for Outdoor Eating Areas) subsection 5 (Setback and Coverage Requirements), to add the word "not" and add the words "if storm water runoff from said tent, canopy or fixed awning is addressed in a storm water drainage plan, approved by the Town Engineer.", be **ADOPTED** for the following reasons:

#### REASONS

1. Modifying the Zoning Regulations by removing barriers to creating Outdoor Eating Areas for Restaurants and Retail Food Establishments.
2. The amendment insures that Outdoor Eating Areas have proper drainage that is approved by the Town Engineer.
3. This amendment reduces the number of applications processed by the Zoning Board of Appeals.
4. This amendment allows Restaurants and Retail Food Establishments to expand their seating capacity and thus be more profitable and successful.

The effective date of this amendment is: **JULY 9, 2012**

#### VOTE:

AYES -6- Walsh, Whittle, Stephens, Corwin, Lathrop,  
Jinishian

NAYS

ABSTENTIONS

Very truly yours,

A handwritten signature in cursive script that reads "Catherine Walsh".

Catherine Walsh  
Chairman,  
Planning & Zoning Commission

cc: Town Attorney  
Fire Marshal  
Police Chief  
Town Engineer  
WWHD Director  
RTM Moderator  
RTM P&Z Committee Chairman

Attached: Adopted Text Amendment 649

**Amendment #649**

Submitted: 3/7/12

Received: 3/8/12

Revised: 4/12/12

Public Hearing: 4/26/12

Adopted: 6/7/12

Effective date: 7/9/12

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Language to be deleted is ~~[struck out]~~ and  
Language to be added is underlined.

**Sec. §32-20 Outdoor Eating Areas**

5. **Setback and Coverage Requirements:** Outdoor Eating Areas shall not be permitted within 50 feet of any Residential Zoning District Boundary Line unless separated from the Residential Zone by a public street or a water body or approved by the P&Z Commission by a site plan and Special Permit application. Outdoor Eating Areas and any associated patios are permitted on private property in front, side and rear setback areas and front landscape areas, except for patron bars which must comply with setbacks, and may not block or interfere with sidewalks, walkways or emergency egress as determined by the Fire Marshall. Outdoor Eating Areas that have a tent, canopy or fixed awning shall not be counted in building coverage, if storm water runoff from said tent canopy or fixed awning, is addressed in a drainage plan, approved by the Town Engineer. Required front landscape areas and vegetative buffers that are planted and were approved as part of a Site Plan application shall not have vegetation removed to accommodate this use. If removal of such landscaping is proposed a new Site Plan and Special Permit application will be required.