TOWN OF WATERTOWN
ZONING BOARD OF APPEALS
REGULAR MEETING AGENDA
Wednesday, November 18, 2026, at 7:00pm
Watertown Town Hall, Town Council Chambers
61 Echo Lake Road

1. **Call to Order**
2. **Roll Call & Appointment of Alternates**
3. **Approval of Minutes**
    a. Regular Meeting October 22, 2025
    b. Regular Meeting March 25, 2026
4. **Old Business**
    a. Review of By-Laws
5. **New Business** (None)
6. **Communications & Bills**
    a. Approval of 2027 Meeting Dates
    b. CT Federation of Plannng and Zoning Agencies Quarterly Newsletter Fall, 2026
    c. CT Federation of Plannng and Zoning Agencies Quarterly Newsletter Winter, 2026
7. **Adjournment**

Rick Sarandrea, Chairman
Zoning Board of Appeals
Town of Watertown, CT

11/12/2026

THIS MEETING WILL BE AN IN-PERSON MEETING AND WILL ALSO BE AVAILABLE VIA ZOOM FOR LISTEN ONLY. A LINK WILL BE POSTED ON THE DAY OF THE MEETING. PLEASE SEE WWW.WATERTOWNCT.ORG - UNDER THE CALENDAR OF MEETINGS

Town of Watertown, Connecticut

Land Use Administration
Watertown Municipal Center
61 Echo Lake Road
Watertown, CT 06795
office: (860) 945-7766 fax: (860) 945-4706
web: watertownct.org

MINUTES
REGULAR MEETING AGENDA
October 22,2025
7:00PM

Place: Watertown Town Hall
Planning and Zoning Conference Room
61 Echo Lake Road
Watertown, Connecticut

1. CALL TO ORDER

Chairman Enrico Sarandrea called the meeting to order at 7:00PM

2. ROLL CALL

Members Present: Rick Sarandrea, Chaiman
Vincent Giannetto
Gary Swingle
James Proe

Members Absent: Phillippe Roger, Vice-Chairman
Ned Dalton, Secretary
Jeff Franson

Others Present: Cameron Natusch, Assistant Zoning Enforcement Officer/Wetlands Enforcement Officer
Carol Allen, Administrative Assistant

Gary Swingle sat in for Phil Roger
James Proe sat in for Ned Dalton

3. PUBLIC PARTICIPATION

4. ELECTION OF OFFICERS

Vincent Giannetto made a motion to re-elect the current officers.
Gary Swingle seconded the motion.
All in favor

Chairman: Enrico Sarandrea
Vice Chairman: Phillipe Roger
Secretary: Ned Dalton

5. MEETING DATES for calendar year 2026

Text of Motion: Approve Meeting Dates for calendar year 2026
Motion made by: Gay Swingle
Second by: Jim Proe
All in favor

6. MINUTES

7. OLD BUSINESS

The Commission requested hard copies of maps for review of applications.

8. NEW BUSINESS

Chairman Sarandrea said the two public hearings App #2025-002 and App #2025-003 should be heard together.

a. Application ZBA#2025-002 of Water Oak LLC for a variance of 13 Ft to the front yard property line setback for the construction of a 39'x 78' single family home to be located, at closest, 22 Ft from the front property line at Lot 2A Booth Avenue, Watertown, CT in an R-12.5 Residential Zoning District.

b. Application ZBA#2025-003 of Water Oak LLC for a variance of 7 Ft to the front yard property line setback for the construction of a 39'x 51.58' single family home to be located, at closest, 28 Ft from the front property line at Lot 2B Booth Avenue, Watertown, CT in an R-12.5 Residential Zoning District.

Text of Motion: Motion made to close both Public Hearings App #2025-002 and App#2025-003
Motion made by: Gary Swingle
Second by: Jim Proe
All in Favor

Rick Sarandrea said the Commission should vote on the applications separately.

Text of Motion: Gary Swingle made a motion to approve App# 2025-002 of Water Oak, LLC for a 13 ft variance to the front yard property line located at Lot 2-A Booth Avenue, as proposed.
Vin Gianetto seconded the motion.
All in favor

Text of Motion: Gary Swingle made a motion to approve App# 2025-003 of Water Oak LLC for a 7 ft variance to the front yard property line setback located at Lot 2-B Booth Avenue, Watertown, as proposed.

Mr. Natusch asked the Commission to add additional details to the motion making it contingent on the buildings themselves because giving them a blanket variance to the front yard would allow them to build as much as they wanted to that distance.

Gary Swingle amended his motion to approve App #2025-003 of Water Oak LLC for a 7 ft variance to the front yard property line set back as shown on the plan located at Lot 2B Booth Avenue, Watertown
Second by: Jim Proe
All in favor

Gary Swingle amended his motion for Water Oak LLC for App #2025-002 to approve App# 2025-002 of Water Oak, LLC for a 13 ft variance to the front yard property line for Lot 2-A Booth Avenue as shown on the plan.
Vin Gianetto seconded the motion.
All in favor

9. COMMUNICATIONS AND BILLS

10. ADJOURNMENT

Text of Motion: Adjourn at 7:58PM
Motion made by: Vin Gianetto
Second by: Gary Swingle
All in favor:

Town of Watertown, Connecticut

Land Use Administration
Watertown Municipal Center
61 Echo Lake Road
Watertown, CT 06795
office: (860) 945-5266 fax: (860) 945-4706
web: watertownct.org

MINUTES SHEET
Zoning Board of Appeals
Regular Meeting
March 25, 2026
7:00PM

Place: Watertown Town Hall
Town Council Chambers
61 Echo Lake Road
Watertown, Connecticut

1. **CALL TO ORDER**

   Chairman Enrico Sarandrea called the meeting to order at 7:00PM

2. **ROLL CALL**

   Members Present: Enrico Sarandrea, Chairman, Gary Swingle, Jeff Franson, James Proe

   Members Absent: Phil Roger, Ned Dalton

   Others Present: Cameron Natusch, Asst Land Use Administrator and Wetlands Enforcement Officer, Carol Allen, Administrative Assistant

   Rick Sarandrea sat Jeff Franson in for Ned Dalton and James Proe in for Phil Rogers

   Text of Motion: Move items 5 and 6 on the agenda before item 3
   Motion made by: Gary Swingle
   Second by: Jeff Franson
   All in favor

5. PUBLIC HEARING

a. Application #2026-0001 of Raymond Lagasse for a variance of 6 Ft to the side yard setback and 15 Ft to the rear yard setback to allow for an oversized accessory structure (garage) to be located, at closest, 14 Ft from the side property line and 35 Ft from the rear property line at 292 Kimberly Lane, Watertown, CT 06795.

   Section 1.4 of the Watertown Zoning Regulations requires a side yard setback of 20 Ft and rear yard setback of 50 Ft for oversized accessory structures in an R-30 Residential Zoning District.

   Application received March 25, 2026

   Text of Motion: Close public hearing
   Motion made by: Jim Proe
   Second by: Gary Swingle
   All in favor

6. NEW BUSINESS

a. Application #2026-0001 of Raymond Lagasse for a variance of 6 Ft to the side yard setback and 15 Ft to the rear yard setback to allow for an oversized accessory structure (garage) to be located, at closest, 14 Ft from the side property line and 35 Ft from the rear property line at 292 Kimberly Lane, Watertown, CT 06795.

   Section 1.4 of the Watertown Zoning Regulations requires a side yard setback of 20 Ft and rear yard setback of 50 Ft for oversized accessory structures in an R-30 Residential Zoning District.

   Application received March 25, 2026

   Text of Motion: Approve application #2026-0001
   Motion made by: Gary Swingle
   Second by: James Proe
   All in favor

3. APPROVAL OF MINUTES

October 22, 2025
November 19, 2025
January 28, 2026

Text of Motion: Table item 3a and approve items 3b and 3c
Motion made by: Jeff Franson
Second by: James Proe
All in favor

4. OLD BUSINESS

a. Review of By-Laws

Text of Motion: Table item 4a to next meeting
Motion made by: Jeff Franson
Second by: Gary Swingle
All in favor

7. COMMUNICATIONS AND BILLS

a. Reappointment of Gary Swingle as an alternate member of the Zoning Board of Appeals for a term to expire January 31, 2031.
b. Phil Rogers resignation letter read by Rick Sarandra

Text of Motion: No Motions Made

8. ADJOURNMENT

Text of Motion: Adjourn at 7:45PM
Motion made by: Jeff Franson
Second by: Gary Swingle
All in favor

BY-LAWS
ZONING BOARD OF APPEALS



TOWN OF WATERTOWN
CONNECTICUT

ZONING BOARD OF APPEALS

Regular Members:

Rick Sarandrea, Chairman
Phil Roger, Vice Chairman
Edwin Dalton, Secretary
Roger Mitchell
Vincent Giannetto

Alternate Members:

Gary Swingle
Jeff Franson
Marie Genovese

Adopted April 26, 1995
Revised February 28, 1996
Revised March 27, 1996
Adopted April 24, 1996
Revised March 27, 2013
Revised March 26, 2014
Revised June 24, 2015
Revised April 26, 2017
Revised July 25, 2018
Revised April 28, 2021

ARTICLE 1
PURPOSE AND AUTHORIZATION

The objectives and purposes of the Zoning Board of Appeals of the Town of Watertown, Connecticut, Are those set forth in Chapters 124 (Zoning) of the Connecticut General Statutes, latest revision, as amended, and those powers and duties delegated to the Zoning Board of Appeals by the Watertown Charter.

ARTICLE II
NAME

The Board shall be known as the Zoning Board of Appeals, Town of Watertown, Connecticut.

ARTICLE III
OFFICE OF AGENCY

The Office of the Zoning Board of Appeals shall be located within the Planning and Zoning Office, Watertown, Connecticut, where all Board records will be kept. Copies of all official documents, records, maps, etc. will be filed or recorded in the Office of the Town Clerk.

ARTICLE IV
MEMBERSHIP

The Zoning Board of Appeals shall consist of five (5) regular members and three (3) alternate members who shall be electors of the Town of Watertown. The Town Council shall appoint regular members and alternate members for a term of five (5) years. Any vacancy shall be filled by appointment of the Town Council to serve the unexpired term of the member whose office has been vacated.

Alternate members shall, when seated as herein provided, have all the powers and duties set forth in the General Statutes or any Special Act relating to Watertown for the Zoning Board of Appeals and its regular members. Members of the Zoning Board of Appeals shall not be members of the Planning and Zoning Commission. If a regular member is absent or disqualified, the Chairman of the Board shall designate an Alternate to so act, choosing Alternates in rotation so that they shall act as nearly equal a number of times as possible. If any Alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting. All Alternates may be involved in discussions included on the agenda, but may not vote unless designated to act as a regular member by the Chairman. If an Alternate is seated for a Public Hearing on an application, that Alternate must complete that hearing and application for decision.

The Board will request that the Watertown Town Council seek the resignation of any Board member who fails to attend three (3) successive regular meetings without good cause. Such request will be made only after a 2/3rd vote of the entire Board.

A recording stenographer shall be appointed by a majority vote of the Board.

ARTICLE V
OFFICER AND THEIR DUTIES

Section 1. The Officers of the Board shall consist of a Chairman, a Vice-Chairman and a Secretary.

Section 2. The Chairman shall preside at all meetings and hearings of the Board and shall have the duties normally conferred by parliamentary usage on such Officers. The Chairman shall have the authority to appoint committees, certify expenditures of funds up to $100 without prior approval of the Board, calls Special Meetings, and generally perform other duties as may be prescribed in these By-Laws.

Section 3. The Chairman shall be one of the Board members, and shall have the privilege of discussing all matters before the Board and of voting thereon.

Section 4. The Vice Chairman shall act for the Chairman in the absence of the Chairman and have the authority to perform the duties prescribed for that office. The Vice Chairman shall be a Board Member.

Section 5. The Secretary, with staff assistance, shall keep the minutes and records of the Board, shall prepare the agenda of Regular and Special Meetings under the direction of the Chairman, shall provide notice of all meetings to Board members, shall arrange proper and legal notice of hearings, shall attend to correspondence of the Board, and shall perform other duties as are normally carried out by a Secretary.

Section 6. In the absence of the Secretary, due to illness, personal, or disqualification reasons, the Chairman shall appoint a Secretary pro tem.

Section 7. In the absence of elected Officers of the Board, the senior member of the board shall preside as chairman at a duly called meeting and shall have the duties normally conferred by parliamentary usage of such Officer.

Section 8. The Zoning Board of Appeals shall have all powers and duties set forth in Connecticut General Statutes or any Special Act relating to the Town of Watertown with respect to Zoning Board of Appeals matters.

ARTICLE VI
ELECTION OF OFFICERS

Section 1. An organization meeting shall be held on the first meeting date in February, at which time Officers shall be elected. Two-thirds of members must be present before election of officers can take place.

Section 2. Nominations shall be made from the floor at the organizational meeting and elections of the officers specified in Section 1 of Article V shall follow immediately thereafter.

Section 3. A candidate receiving a majority vote from the voting membership of the Board shall be declared elected and shall serve for one year or until a successor shall take office.

Section 4. Vacancies in offices shall be filled by regular procedure as prescribed in the ordinance establishing the Board.

Section 5. Resignations from the Board shall be in written form and transmitted to the Watertown Town Clerk, Watertown Town Council and the Chairman of the Zoning Board of Appeals.

ARTICLE VII
MEETINGS

Section 1. Regular meetings will be held on the fourth Wednesday of each month at 7:00 P.M. at a place voted by a majority of members of the Board. In the event of conflict with holidays or other events, a majority at any meeting may change the date of said meeting. The Secretary shall notify the membership of Regular meetings not less than 48 hours in advance of such meeting.

Section 2. Four voting members of the Board shall constitute a quorum and the number of votes necessary to transact business. The notice of such a meeting shall specify the purpose of such a meeting and no other business may be considered except as provided by the General Statutes of Connecticut. The Secretary shall notify all members of the Board in writing, not less than 48 hours in advance of such meeting.

Section 3. All Board meetings shall be open to the public when in session and shall be open to the public when in Executive Session when so voted by the majority of the Board members present and voting.

Section 4. Unless otherwise specified, ROBERT'S RULES OF ORDER (latest revision) shall govern the proceedings at the meeting of the Board.

Section 5. The Planning and Zoning Office will provide each member a packet in the format of their choice either paper or digital that includes all necessary applications, maps, correspondence and other documents needed to fully understand the existing conditions and variances requested. As virtual meetings are increasingly commonplace, all meeting materials are posted to the town website for the convenience of both members and the public. The packet will be provided at least five (5) days before the meeting and will be provided whether meetings are held in person or virtually.

ARTICLE VIII
PUBLIC HEARINGS

Section 1. The Board must hold Public Hearings on all applications presented to them as required by the Connecticut General Statutes. The Board may also hold Public Hearings, in addition to required hearings, when it decides that such hearings will be in the public interest.

Section 2. All Public Hearings prescribed by law shall be held in accordance with the requirements set forth for such hearings in Chapter 124 (Zoning) of the Connecticut General Statutes.

Section 3. A competent stenographer shall take the evidence, or the evidence shall be recorded by a sound-recording device, at each hearing before the Board in which the right to appeal lies to the Court of Common Pleas. Proceedings of the hearing shall be incorporated into the minutes book of the Board to be a permanent part of that record located in the office of the Watertown Town Clerk.

ARTICLE IX
CONDUCTING THE PUBLIC HEARING

Section 1. The Chairman of the Board shall preside at the Public Hearing, or if absent, the Vice Chairman, or a duly appointed board member shall act as a presiding officer.

Section 2. The Secretary shall read the legal advertisement and note the dates and newspapers in which the advertisement appeared. Any correspondence pertaining to the application will be read into the minutes.

Section 3. The applicant or his representative will make their presentation regarding the purpose of the application. The applicant, or his representative, shall state his hardship for the record. Following the presentation, the Board members shall have the opportunity to ask questions of the applicant.

Section 4. The Chairman shall first call for statements from the proponents. The opponents shall be given equal opportunity to comment. The order is reversible, the discretion of the Board prevailing. Whichever the case may be, each group shall make its presentation in succession without allowing an intermixture of comment pro or con. However, at the Chairman's discretion, he may allow an intermixture of comments if he feels that it is beneficial to gaining knowledge about an application.

Section 5. The Chairman shall then allow the Zoning Enforcement Officer to comment on the application and/or the proposed variances. In the case of an appeal where it is alleged there is an error in the order, requirements, decision or determination of the Zoning Enforcement Officer the Chairman shall allow the Zoning Enforcement Officer to comment on all applicant statements.

Section 6. It shall be made clear to the hearing that all questions and comments must be directed through the Chair only after being properly recognized by the presiding officer.

Section 7. All persons recognized shall approach the hearing table in order to facilitate proper recording of comments. Before commenting on the matter before the hearing, each person shall give his name and address.

Section 8. The presiding officer shall assure an orderly hearing and shall take necessary steps to maintain the order and decorum of the hearing at all times. In the event the hearing becomes unruly or unmanageable, the presiding officer shall reserve the right to act in accordance with Section 1-2h of the Connecticut General Statutes to restore order or adjourn the hearing to another time or place.

Section 9. The show of hands by those persons present shall not be allowed on any general question presented at the public hearing. The hearing shall be conducted only for the purpose of taking testimony to be considered in deliberations of the Regular meeting of the Board.

ARTICLE X
ORDER OF BUSINESS FOR REGULAR MEETING

Section 1. Unless otherwise voted by the majority of the members of the Zoning Board of Appeals, the order of business at Regular meetings shall be:

1. Call meeting to order
2. Roll call
3. Action on minutes *
4. Old business

5. New business
6. Communications and bills
7. Reports from committees
8. Adjournment

*Minutes shall be sufficiently detailed to insure accuracy of meeting discussions

Section 2. A motion from the floor must be made and passed in order to dispense with any item on the agenda or change the order of business.

Section 3. The concurring vote of four members of the Board is necessary.

(1) to reverse any order, requirement or decision of the official charged with the enforcement of the Zoning Regulations;

(2) to decide in favor of an applicant any matter upon which the Board is required to render a decision under Connecticut General Statutes or regulations.

(3) to vary the requirements of the Zoning Regulations of the Town of Watertown.

ARTICLE XI
PUBLIC RELATIONS

Section 1. The Chairman or a duly appointed Board member or staff personnel shall act as public relations or publicity director for the Board. His duties include the preparation of all news releases to be distributed to the communications media. All information releases shall reflect the thinking of the majority of the Board.

ARTICLE XII
Use of Electronic Devices

Except as provided below, cell phones and all other electronic devices should be turned off or at least silenced during the meeting and should not be used or consulted except in case of a family or other emergency. It is preferable if all electronic devices are turned off entirely during the meeting. Texting, emailing or conversing on any social media or other media platform during a meeting is to be avoided and any electronic communications with anyone whether a member of the commission or not about matters before the commission at the meeting are forbidden entirely. If a Board Member must take a phone call or a text he should excuse himself from the room. Notwithstanding the foregoing, the use of a tablet or other device for purposes of keeping one's personal notes is permissible.

ARTICLE XIII
AMENDMENTS

These By-Laws may be amended by a two-thirds vote of the entire membership of the Board, only after the proposed change has been read and discussed at a previous Regular meeting except that the By-Laws may be changed at any meeting by the unanimous vote of the entire voting membership of the Board.

INCORPORATED 1780

TOWN OF WATERTOWN

Land Use Office

Planning & Zoning Commission Zoning Board of Appeals Conservation Commission / Inland Wetlands Agency

Watertown Municipal Center 61 Echo Lake Road Watertown, CT 06795

Tel (860) 945-5266 www.watertownct.org

To: Zoning Board of Appeals
From: Spencer Musselman, Administrator For Land Use
Date: November 18, 2026
Subject: Zoning Board of Appeals Meeting Dates for Calendar Year 2027

The following are proposed Zoning Board of Appeals meeting dates for calendar year 2027. Meetings will be held in the Watertown Town Hall, Town Council Chambers, 61 Echo Lake Road, Watertown, CT. at 6:30PM.

January 27, 2027
February 24, 2027
March 24, 2027
April 28, 2027
May 26, 2027
June 23, 2027
July 28, 2027
August 25, 2027
September 22, 2027
October 27, 2027
November 17, 2027
No meeting December, 2027

CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES
QUARTERLY NEWSLETTER

Winter 2026 Volume XXX, Issue 1

SAVE THE DATE – 2026 ANNUAL CONFERENCE

The Federation will hold its Annual Conference on March 26, 2026 at the Aqua Turf Country Club in Plantsville CT. The event starts at 5:00 p.m. The program for the Conference will include a presentation on HB 8002 'An Act Concerning Housing Growth'. Flyers announcing the event will be sent to all members later this month. Attendees will be entitled to receive credit for One Hour of Training as well as enjoy a wonderful dinner.

CONDITIONS OF APPROVAL FOR A VARIANCE MUST BE STATED ON THE VARIANCE CERTIFICATE

The owners of a parcel of property abutting Long Island Sound were granted a variance to exceed building height limitations contained in the zoning regulations. The variance would allow a room on the top of their planned home, providing access to a rooftop deck. Before work could commence, various tropical storms impacted the Long Island shoreline, leading to revised floodplain and zoning regulations. The property owners submitted a revised permit application for their proposed home which was approved by the land use officer.

A neighbor appealed the zoning permit approval to the zoning board of appeals claiming that the variance could not be relied upon to approve the new permit because the variance approval was conditioned on the building plans submitted at that time, and not on the new plans which proposed a full top floor instead of a rooftop deck and access room.

The zoning board of appeals affirmed the issuance of the zoning permit. An appeal to court followed. The court found that the variance was not conditioned on the building plans submitted with the variance application. The certificate of variance, which was recorded on the land records, contained no conditions including no references to any building plans. If the board wanted to condition its issuance of a variance based upon plans submitted with the variance application, it must state this on the certificate of variance. *Sargent v. Zoning Board of Appeals, 236 Conn. App. 269 (2025).*

LOSS OF REMOTE CONNECTION AT HYBIRD MEETING IS LOSS OF FUNDEMENTAL FAIRNESS

A land use commission scheduled a hybrid public hearing on a special permit application. The first night of the public hearing went according to plan. However, at the second night of the hybrid hearing, the zoom meeting connection failed for over two hours. Despite this technical issue, the public hearing continued in-person. The Commission subsequently held a

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CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES
QUARTERLY NEWSLETTER
Winter 2026 Volume XXX, Issue 1

hybrid meeting wherein it approved the application. Again, the zoom meeting connection failed leaving remote attendees unable to view or hear the proceedings. The court found these proceedings fatally flawed as the failure of the remote connection during the hearing and meeting on the pending application deprived remote attendees of fundamental fairness.

Fundamental fairness requires that administrative agencies provide the public with the right to offer testimony and other evidence and to cross-examine witnesses as well as pose questions to the agency. The zoom meeting failure deprived the public of this right. The zoom failure and the Commission's response also violated the freedom of information act, providing additional supporting evidence that fundamental fairness was not provided. *Wallach v. Plan & Zoning Commission, LND-CV-24-6188465 (10.28.25).*

SEWER CONNECTION PERMITS CAN EXPIRE

An application to connect to a municipal sewage system was approved with a condition that the approval would expire if a connection to the system was not made within 2 years of the approval. This time limit condition was appealed, wherein the court found that it was within the water pollution control authority's powers to impose it. The court also ruled that the 2-year time period was stayed during any pending appeals to court.

This decision places WPCA approvals in the same class as zoning approvals wherein such approvals can expire and any pending court cases involving the approval stay the running of the time period. *Shapiro Commons LLC v. WPCA, FBT-CV-24-6140246 (10.17.24)*

TREE REMOVAL AND THERMAL POLLUTION

The removal of mature trees within a regulated area was determined by the commission as likely to cause a significant adverse impact to a wetland, forming the basis for a denial of an application to construct a single-family dwelling. Evidence in the record demonstrated that by removing the trees, there would be increased thermal pollution that would negatively impact water temperature, increase algae growth and change the water content of the soil.

While the applicant disputed whether there would be any adverse impact from the tree removal, the commission could decide which expert evidence to believe as long as fundamental fairness was observed. Fundamental fairness in an administrative hearing includes placing an expert witness on notice of the reviewing agencies concerns and doubts about the expert's evidence. *Milne v. IWWA, FST-CV-24-6068722 (11.10.25)*

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CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES
QUARTERLY NEWSLETTER

Winter 2026 Volume XXX, Issue 1

SELF-INFLICTED HARDSHIP DUE TO LOT MERGER

An application to vary the required street frontage for a lot was denied on the basis that any hardship was self-inflicted. The applicant wanted to split his lot and create a new building lot. One lot contained an existing home and fronted on a street. The second lot would have access by means of a 25' wide deeded driveway. The zoning regulations required 50' of street frontage for an interior lot.

The history of the existing lot was that it had once been two lots. The applicant had purchased both lots and due to a lot merger provision in the zoning regulations, the lots had merged into one lot. Sometime after this merger, the zoning regulations had been amended to increase lot frontage requirements from 25' to 50'.

Any hardship was self-inflicted because if the applicant had placed the lots in different ownership, then he could have avoided the merger of his lots. In doing so, the lots would have been nonconforming as to frontage requirements.

Another issue on appeal was whether the board members were biased against the application. Apparently, this same application had been submitted several times before and been denied each time. Several board members stated their displeasure to have to hear the same application again. The court found that this frustration did not amount to bias. *Haines v. ZBA, LND-CV-23-6171028 (1.24.25)*

ANNOUNCEMENTS

Lifetime Achievement Award and Length of Service Award

Nomination forms will be sent out later this month for these awards which will be presented to recipients at the Federation's annual conference. You should begin your process of finding eligible nominees now.

Workshops

Connecticut law now requires that every land use agency member receive 4 hours of training every two years. At the price of $200.00 per session for each agency attending, our workshops are an affordable way for your board to 'stay legal'.

ABOUT THE EDITOR

Steven Byrne is an attorney with an office in Farmington, Connecticut. A principal in the law firm of Byrne & Byrne LLC, he maintains a strong focus in the area of land use law and is available for consultation and representation in all land use matters both at the administrative and court levels.

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BOOK ORDER FORM

Name of Agency: _____

Person Making Order: _____

Address: _____

_____

Purchase Order No.: _____

"PLANNING AND ZONING IN CONNECTICUT"
at $ 35.00 each for members Copies _____ $ _____
at $ 40.00 each for nonmembers

"CONNECTICUT ZONING BOARD OF APPEALS"
at $ 30.00 each for members Copies _____ $ _____
at $ 35.00 each for nonmembers

"WORKSHOP BOOKLETS" at $12.00 each for members & $16.00 each for nonmembers

Planning & Zoning Commissions	Copies _____	$ _____
Zoning Board of Appeals	Copies _____	$ _____
Inland Wetlands & Watercourses	Copies _____	$ _____
Historic District Commissions	Copies _____	$ _____

TOTAL DUE: $ _____

Please make check payable to:
Connecticut Federation of Planning & Zoning Agencies

CONNECTICUT FEDERATION OF
PLANNING & ZONING AGENCIES
P.O. Box 1065
270 Farmington Avenue
Farmington CT 06034

UNITED STATES OF AMERICA
FOREVER/USA

Watertown Zoning Board of Appeals
61 Echo Lake Road
Watertown, CT 06795

SAVE THE DATE!

CFPZA Annual Conference – March 26, 2026

Please consider attending this year's Annual Conference of the Connecticut Federation of Planning and Zoning Agencies scheduled to take place at 5:00 pm on Thursday, March 26, 2026, at the Aqua Turf, Southington, CT. The night is sure to be both enjoyable and informative.

Our speaker will be presenting information on HB 8002 'An Act Concerning Housing Growth'. This comprehensive law imposes substantial requirements and responsibilities on municipal land use commissions to amend their regulations and affordable housing plans. This includes state-mandated amendments to zoning regulations to allow 'as-of-right' multi-family housing and eliminate parking requirements for certain types of housing. In addition, housing plans will need to be adopted or amended to show how each town will meet its affordable housing needs. Our speaker will provide a summary of this new law and also address what resources are available to towns to comply with it.

Connecticut General Statute §8-4c now requires an educational component for all land use commission members. At a cost of only $70.00 per individual, this conference is a cost-effective way to complete one hour of education while providing an opportunity to socialize with commission members from other towns.

In addition, Length of Service awards will be presented to commission members who have served in any capacity for 12 or 25 years. If you have a commission member who is eligible for this recognition, please submit his or her name. Nomination forms will be included in the registration packet that will be sent to your commission in the coming weeks.

I hope to see you and members of your commission at this worthwhile event!

CONNECTICUT FEDERATION OF PLANNING & ZONING AGENCIES
QUARTERLY NEWSLETTER

Fall 2026 Volume XXX, Issue 4

CHANGE FROM NONCONFORMING HEMP OPERATION TO CANNABIS UPHELD BY COURT

The issue of whether the cultivation and processing of cannabis was a lawful continuation of the nonconforming cultivation and processing of hemp was answered in the affirmative by a Superior Court judge. The zoning board of appeals had reached the opposite conclusion based upon the reasoning that since Connecticut law treated hemp and cannabis differently, then the change of processing and cultivating hemp to cannabis would amount to a change of use.

The property in question had been used for the manufacture of tobacco products, a use no longer permitted at the site. When the use of the property was changed to the cultivation and processing of hemp, the town's zoning enforcement officer found this to be a continuation of the existing nonconforming tobacco activity. An opposite finding was made when the change was to be from hemp to cannabis.

The court found that the zoning board's sole reliance on the different treatment the law applied to cannabis and hemp was an insufficient basis to find that the processing and cultivation of cannabis could not be a lawful extension of the existing nonconforming use. Instead, the board should have determined whether the change from hemp to cannabis changed the character of the use. In this case, the processing was identical except that the end product would have a differing concentration of THC. *Lasa Extract LLC v. Zoning Board of Appeals, 355 Conn. 426 (2026).*

WHAT IS A MATERIAL CHANGE OR INTENSIFICATION OF USE

A zoning permit was approved to allow for certain changes to an approved special exception use. The permit holder wanted to make some interior changes to a building on the property. Neighbors appealed the issuance of the permit to the zoning board of appeals on the issue of whether the zoning permit violated a condition of approval for the special exception. This condition stated that 'there shall be no material change to the approved use or intensification of any use'.

On appeal, the question before the court was whether the changes allowed by the zoning permit resulted in an intensification or material change to the use approved by the special exception. The court refused to apply the legal analysis for whether a nonconforming use had expanded or intensified. The reason was that a nonconforming use is a use not permitted by the zoning regulations while a special exception use is an approved use. This resulted in a less strict analysis.

For purposes of determining whether a special exception use had

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materially changed or intensified, the court applied the standard that for there to be a material change, the change in use must be significant to such a degree that the commission would change its mind as to whether it would approve the special exception. Similarly, intensification is equated to mean growing stronger.

Interior changes to a building did not amount to a material change or intensification as the type of use would not change. For example, the number of people working at the building would not increase. *Markatos v. Zoning Board of Appeals, 355 Conn. 143 (2026).*

APPLICANT CANNOT ALWAYS BE REQUIRED TO PAY COMMISSION'S ATTORNEY FEES

Connecticut General Statutes Sec. 8-1c provides that a municipality can establish a schedule of fees for the processing of land use applications. This fee schedule is established by ordinance and can require an applicant to pay the reasonable fees for consultants with land use expertise hired by the land use agency. The question raised in this case was whether the commission's attorney qualified as a consultant with land use expertise so that the applicant could be required to pay his fees.

Without evidence that there were any legal issues presented to the commission which required his legal expertise, the attorney's fees fell outside of this statute and the municipal fee ordinance. The application before the commission concerned a special permit for a home occupation. The legal issue presented by the application could have been addressed by the commission and its staff in the court's opinion. *Sherman Building Design LLC v. Planning & Zoning Commission, DBD-CV-25-6055215 (7.16.2026).*

TIME-TESTED INTERPRETATION OF REGULATONS

The owner of a nonconforming private golf club sought approval to construct tennis courts on its property. The applicable zoning regulation stated in part that permitted uses included unilluminated tennis, basketball and other outdoor sports courts. The application was denied by the Commission based on its long-held interpretation of this regulation that tennis courts, as well as other listed permitted uses such as swimming pools, patios, generators and accessory buildings are only permitted as accessory uses to a permitted use. Since the golf course was a nonconforming use, the application was denied.

On appeal, the Court found that the Commission's interpretation of the zoning regulations whereby certain listed uses were permitted solely as accessory uses to a permitted use followed long standing policy of the Commission. When reviewing a land use agency's application of a zoning regulation, courts afford considerable weight to a board's

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reasonable time-tested interpretation of a zoning regulation. *Washington Club Inc. v. Zoning Commission, LLI-CV-25-6040494 (4.27.26).*

REDUCTION IN NONCONFORMITY MAY NOT JUSTIFY VARIANCE

It has been long established that the reduction of a nonconforming use to a less nonconforming use constitutes an independent ground for granting a variance. This includes the situation when the overall nonconforming nature of a property would be reduced. Doubt has now been imposed on this rule.

An application for 6 variances was approved by a zoning board of appeals on the basis that the overall nonconforming characteristics of the property would be reduced. Older nonconforming structures would be removed and replaced by new structures, such as a swimming pool, that while nonconforming as to location were more in conformity with setback requirements than the old structures.

In reviewing this decision on appeal, the Court ruled that since the new structures created new nonconformities, the variances could only be approved upon a showing of unusual hardship. This decision has been appealed to the Appellate Court. *Connecticut River Gateway Commission v. Zoning Board of Appeals, MMX-CV-24-6042449.*

BUILDING PERMIT VALID FOR 9 YEARS

A Superior Court confirmed that any open building permit 9 years old or older is deemed closed pursuant to Connecticut General Statutes Sec. 29-265(c). Prior to the enactment of this law, a building permit could remain open indefinitely provided that work under the permit was not stopped for a continuous period of 180 days. *Lunney v. Palkimas, FST-CV-23-6061948 (3.31.26).*

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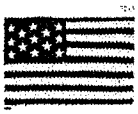
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