

**BOOK ORDER FORM**

Name of Agency: \_\_\_\_\_

Person Making Order: \_\_\_\_\_

Address: \_\_\_\_\_

Purchase Order No.: \_\_\_\_\_

“PLANNING AND ZONING IN CONNECTICUT”  
 at \$ 30.00 each for members      Copies \_\_\_\_\_ \$ \_\_\_\_\_  
 at \$ 35.00 each for nonmembers

“CONNECTICUT ZONING BOARD OF APPEALS”  
 at \$ 25.00 each for members      Copies \_\_\_\_\_ \$ \_\_\_\_\_  
 at \$ 30.00 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**

2B Farmington Commons  
 790 Farmington Avenue  
 Farmington CT 06032

East Hampton Planning & Zoning Commission  
 Town Hall  
 20 East High Street  
 East Hampton, CT 06424



**CONNECTICUT FEDERATION OF PLANNING  
 AND ZONING AGENCIES  
 QUARTERLY NEWSLETTER**

Spring 2019

Volume XXIII, Issue 2

**SOBER HOUSES AND  
 REASONABLE ACCOMMODATION**

An application for a zoning permit to operate a sober house in a large, single family home was approved by the land use administrator. Neighboring property owners appealed this decision to the zoning board of appeals claiming the use was not a permitted use under the zoning regulations and should not have been issued a zoning permit. The zoning regulations permitted sober houses in other districts and limited single family home occupancy to 14 or fewer persons related by blood and/or marriage and to 4 or fewer unrelated persons. The proposed sober house use, on its face, did not comply with the zoning regulations.

In deciding the appeal, the board took into consideration that sober homes come under two federal regulatory schemes: the Fair Housing Act and the Americans with Disabilities Act. Both of these federal laws require that reasonable accommodations must be made for providing housing for certain protected persons, which include those suffering from drug addiction. Thus, in deciding whether the land use administrator’s decision to approve the zoning permit for the sober house was correct, the board needed to consider more than whether this use complied with the zoning regulations. It also needed to determine whether a reasonable accommodation could be made so that the permit could be

approved for this housing. The board affirmed the issuance of the zoning permit, leading to an appeal to court.

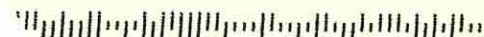
In reviewing the board’s decision, the court set forth the following test. When deciding whether a reasonable accommodation can be made, in this case permitting the sober house, two factors must be considered: that there not be an undue financial burden on the community and that the accommodation would not alter the zoning scheme for the district.

In this case, evidence submitted at the Board’s hearing showed that there was adequate water and sewer service for the home as well as adequate parking. In addition, the number of persons to reside at the sober house – 9, would be less than the 14 allowed for a traditional family. Spring Glenn Civic Assoc. v. Zoning Board of Appeals, 67 Conn. L. Rptr. 357 (2019).

71<sup>st</sup> ANNUAL CONFERENCE

The Federation’s Annual Conference was held on March 28, 2019 at the Aqua Turf Country Club in Southington Connecticut. Our principal speaker was John Filchak, Executive Director of the Northeastern Connecticut Council of Governments. John’s presentation focused on explaining the idea of shared municipal services as a way of reducing costs without reducing municipal services. Known as regionalism, it provides municipalities with the ability to voluntarily come together to achieve efficiencies of scale

Written and Edited by  
 Attorney Steven E. Byrne  
 790 Farmington Ave., Farmington CT 06032  
 Tel. (860) 677-7355 Fax. (860) 677-5262  
[attysbyrne@com](mailto:attysbyrne@com) [cfpza@live.com](mailto:cfpza@live.com)



CONNECTICUT FEDERATION OF PLANNING  
AND ZONING AGENCIES  
QUARTERLY NEWSLETTER

Spring 2019

Volume XXIII, Issue 2

that individually would be difficult to realize. During the question and answer portion of the presentation, the members present made clear their opinion that local control over zoning and planning should not be reduced and that any move toward regionalism would need to safeguard this.

In addition to this presentation, the moderator for this event, Attorney James Steck, presented 13 Length of Service Awards. Special mention is made to the Lifetime Achievement Award recipients who are: Richard Fitzgerald of the Groton Zoning Board of Appeals, Margil Steinfeld of the Groton Planning Commission, David Wiig of the Morris Planning & Zoning Commission, Paul Sullivan of the Southbury Zoning Board of Appeals and Karl Profe of the Windsor Planning & Zoning Commission. All of them served a land use agency or agencies for 25 years of more, representing an unselfish devotion to their communities through land use.

Thank you to all who attended and please plan to attend next year's conference.

PROTEST PETITION INEFFECTIVE  
AGAINST ZONE CHANGE TO  
ALLOW AFFORDABLE HOUSING

An affordable housing application received a favorable vote from a planning and zoning commission. The application was to amend the zoning classification for a particular parcel of property so as to add as a permitted use,

affordable housing developments. The vote to approve was 3 in favor with 2 against. However, since a protest petition had been filed, the commission deemed the application denied. An appeal to court followed.

The protest petition had been filed in conformance with Connecticut General Statutes Sec. 8-3(b) which provides that if a protest against a proposed zone change is filed with the commission signed by 20% or more of the area of the lots included in the proposed change or of the lots within 500 feet of the property included in the proposed change, then the amendment can only be approved by a vote of two-thirds of all the members of the commission.

Upon review, the court determined that 8-3(b) does not apply to a zone change application for affordable housing as the Affordable Housing Act [8-30g] lies outside of the traditional zoning scheme of which 8-3(b) is a part. Thus, the approval of the affordable housing application was done by a simple majority of the commission. Housing Authority v. Planning & Zoning Commission, 67 Conn. L. Rptr. 348 (2019).

GENERAL STANDARD CAN BE  
BASIS FOR DENIAL

A recent decision by the Superior Court has reaffirmed the well-established rule that a planning and zoning commission can deny a special exception application based solely on

CONNECTICUT FEDERATION OF PLANNING  
AND ZONING AGENCIES  
QUARTERLY NEWSLETTER

Spring 2019

Volume XXIII, Issue 2

noncompliance with general standards found in the zoning regulations.

In this case, an owner of property located within an industrial zone applied for a zone amendment that would allow a crematoria by special exception. When the amendment was approved, he filed a special exception application for this use. The application allegedly complied with all of the specific requirements in the regulations. Nonetheless, the Commission denied the application finding that the proposed crematoria would not promote the public health, safety and general welfare. Neighbors to the proposed use stated at the hearing that having a crematoria in the industrial park would decrease property values, inhibit further development in the industrial district and pose a health risk. A finding of noncompliance with this general standard was a sufficient basis for the commission's denial, so found the court. McLoughlin v. Planning & Zoning Commission, 67 Conn. L. Rptr. 373 (2019).

STATE LEGISLATURE LOOKS TO  
AMEND SECTION 8-2

Entitled "An Act to Reorganize the Zoning Enabling Act and Promote Municipal Compliance", this proposed bill, if it becomes law, would make changes to Section 8-2 of the Connecticut General Statutes. Most of the proposed bill aims to break up the long, run-on paragraph which is Sec. 8-2 and break it up into many, numbered,

small paragraphs so it will become easier to understand.

In addition to this 'housekeeping' measure, this proposed bill would require municipal zoning regulations to do more than 'encourage' a variety of housing opportunities, including affordable housing and instead require that they amend their zoning regulations to provide for these uses or risk losing discretionary funding from the State. Known as HB 6749, it was favorably approved by the Planning and Development Committee of the State Legislature and now awaits consideration by the full body.

ANNOUNCEMENTS

**Membership Dues**

Notices for this year's annual membership dues were mailed March 1, 2019. The Federation is a nonprofit organization which operates solely on the funds provided by its members. So that we can continue to offer the services you enjoy, please pay promptly.

**Workshops**

If your land use agency recently had an influx of new members or could use a refresher course in land use law, contact us to arrange for a workshop to be held at your next meeting. At the price of \$180.00 per session for each agency attending, it is an affordable way for your commission or board to keep informed. The price for these workshops includes a booklet for each agency member.

Written and Edited by  
Attorney Steven E. Byrne  
790 Farmington Ave., Farmington CT 06032  
Tel. (860) 677-7355 Fax. (860) 677-5262  
[attysbyrne@gmail.com](mailto:attysbyrne@gmail.com) [sebyrne@live.com](mailto:sebyrne@live.com)

Written and Edited by  
Attorney Steven E. Byrne  
790 Farmington Ave., Farmington CT 06032  
Tel. (860) 677-7355 Fax. (860) 677-5262  
[attysbyrne@gmail.com](mailto:attysbyrne@gmail.com) [sebyrne@live.com](mailto:sebyrne@live.com)