

Town of Newtown, CT

3 Primrose Street, Newtown, CT 06470

Noise Control Ordinance

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CHAPTER 262

NEWTOWN NOISE CONTROL ORDINANCE

§ 262.1 PURPOSE

Pursuant to the general authority of Conn. Gen. Stat. 7-148, and the specific authority of Conn. Gen. Stat. 22a-73 (c), it is hereby resolved that, to preserve and promote the health, safety and general welfare of the citizens of the Town of Newtown (the "Town"), it is in the common interest to enact reasonable regulations pertaining to the reduction, control and/or prevention of noise so as to promote a general environment free from excessive noise and vibration.

This ordinance is enacted to preserve, protect, and promote the public health, safety, convenience, general welfare, peace, quality of life, and property values for the citizens of Newtown, and to facilitate the enjoyment of the natural resources and tranquility of the Town, through the reduction, control and prevention of excessive noise and vibration.

§ 262.2 DEFINITIONS

When used in this ordinance, and future revisions thereto, the terms below shall have the meanings set forth thereafter. Terms not defined below shall have the meanings set forth in the regulations of the State of Connecticut, Department of Environmental Protection. Regulations of Connecticut State Agencies ("RCSA").

Construction – Any and all physical activity at a site necessary or incidental to the erection, placement, demolition, assembly, altering, blasting, cleaning, repairing, installing or equipping of buildings or other structures, public or private highways, roads, accessways, premises, parks, utility lines or other property, and shall include, but shall not be limited to, land clearing, grading, excavating, filling and paving, and site preparation.

Construction Related and Heavy Machinery – Equipment or heavy machinery that used for construction, demolition, loading and offloading of materials: including but not limited to: excavators, bulldozers, backhoes, pile drivers, pneumatic tools, air compressors, traxcavators or track loaders, wheel loaders, and volume reduction equipment.

Daytime – The hours between 7:00 AM and 7:00 PM on Mondays to Fridays; 8:00 AM and 6:00 PM on Saturdays, State or Federal holidays, and 10:00 AM and 4:00 PM on Sundays.

Decibel – A logarithmic unit of measurement used in determining magnitude of sound. The symbol is dB.

Emergency – Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Excessive Noise - Any sound or disturbance, the intensity of which exceeds the standards set forth in this Chapter.”

Emitter – Any person who creates, causes to be created or allows the Noise.

Impulse Noise - Noise of short duration (generally less than one second) of high intensity, abrupt onset and rapid decay, and often rapidly changing composition.

Motor Vehicle – As defined in Conn. Gen. Stat. 14-1 (30).

Nighttime – . All hours not defined as “Daytime.”

Noise Level – The sound pressure level, in Decibels, as measured with a Sound Level Meter, using the A Weighting network. The level so read is designated dB(A) or dBA.

Non-residential zone – Those areas of the Town designated by the Zoning Regulations of the Town, as they may be from time to time amended, currently: BPO, B-1, B-2, M-1, M-2A, M-3, M-4, M-5, SDD, HCDD, SHDD, PS and FHAR.

Person – Any individual, firm, partnership, association, syndicate, company, trust, corporation, agency or administrative subdivision of the state or other legal entity of any kind.

Premises – Any building, structure, land or portion thereof, including all appurtenances, and yards, lots, courts, inner yards and real properties, without buildings or improvements, owned or controlled by a Person.

Property Line – The real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and separates real property from the public right-of-way.

Property Maintenance Equipment - All engine or motor powered tools and equipment used occasionally in the repair and upkeep of exterior property and including, but not limited to, lawn mowers, riding tractors, wood chippers, power saws, leaf blowers, and the like.

Receptor – “A property or parcel of land where sound is heard or received from another property or parcel of land emitting the sound or noise.”

Residential Zone – Those areas of the Town designated by the Zoning Regulations of the Town, as they may be from time to time amended, currently: R-1/2, R-1, R-2, R-3, EH-10, CA.

Sound – A transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, auditory response when impinging on the ear.

Sound Level Meter – An instrument to take sound level measurements and which should conform, as a minimum, to the operational specifications of the American National Standards Institute for Sound Level Meters.

§ 262-3 NOISE LEVELS

(a) Noise Levels and Guidelines. It shall be unlawful for any Person to emit or cause to be emitted any Noise beyond the boundaries of his/her/its Premises in excess of the following Noise Levels.

Property Use Emitter	Property Use Receptor			
	Residential	Non-residential		
		Day	Night	Day
Residential Zone Emitter	55 dBA	45 dBA	55 dBA	45 dBA
Non-residential Zone Emitter	55 dBA	45 dBA	52 dBA	45 dBA

Measurements shall be taken at a point on the property line of the emitter closest to the receptor and/or at the property line of any neighboring property (that may or may not be contiguous) with a more restrictive decibel allowance. In cases where the emitter is located on jointly owned property, such as industrial parks and condominiums, the noise measuring equipment (i.e. microphone) shall be placed at a 50 foot distance from the noise source. The microphone shall be placed no closer than five feet from any wall and not less than three feet

above the ground.

(b) Impulse Noise. In the case of Impulse Noise, the permitted Noise Levels, regardless of the type of Emitter or Receptor, shall be 100 dB DAYTIME and 80 dB NIGHTTIME.

(c) *Construction Related and Heavy Machinery.* Noise generated by construction related and heavy machinery operation is regulated under this ordinance and enforceable by Town officials in all Residential and Non-residential Zones.

Noise generated by Construction Related and Heavy Machinery may NOT be operated in the following time periods so that the noise from such equipment exceeds 45dBA measured at the receptors; property lines:

1. Monday to Fridays: before 7:00 AM or after 6:00 PM
2. Saturdays: before 9:00 AM or after 5:00 PM;
3. Anytime on Sundays

§ 262-4 EXCLUSIONS

This ordinance shall not apply to noise emitted by or related to:

- (1) The unamplified human voice.
- (2) A bell or chime from any building clock, school or church.
- (3) Sound created by a public emergency sound signal attached to an authorized emergency vehicle in the immediate act of responding to an emergency, as authorized by subsection (d) of Section 14.80 and Section 14.1a of Chapter 246 of the General Statutes and all amendments thereto, or located within or attached to a building, pole or other structure for the purpose of sounding an alarm relating to fire or civil preparedness provided; however, that no person shall cause, suffer, allow or permit the operation of any intrusion alarm which, from time of activation of audible signal, emits noise for a period of time exceeding ten minutes when attached to any vehicle, or thirty minutes when attached to any building or structure. The repetition of activation of the audible signal of an intrusion alarm due to malfunction, lack of proper maintenance, or lack of reasonable care shall not be permitted hereunder.
- (4) Noises created by snow removal equipment at any time shall be exempted provided that such equipment shall be maintained in good repair so as to minimize noise, and noise discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noises therefrom.
- (5) Activities specifically licensed or sanctioned by, or under permit of the Town, including, but not limited to, municipal parades, fireworks, historical reenactments, concerts and sporting events.
- (6) Noise generated by engine-powered or motor-driven lawn care or maintenance equipment shall be exempted between the hours of 7:00 a.m. and 9:00 p.m. provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom.
- (7) Construction equipment, while engaged in Premises construction, between 7:00 a.m. and 6:00 p.m., from Monday through Friday, and between 9:00 a.m. and 5:00 p.m. on Saturday for a reasonable duration, as determined by the Town Building Department.
- (8) State or municipally authorized and licensed drilling or blasting between 8:00 a.m. and 5:00 p.m., from Monday through Friday.
- (9) FAA preempted aircraft flights.
- (10) Home and commercial generators during periods of lost power.
- (11) Nighttime public road maintenance and line painting.
- (12) Actions necessitated by an emergency.
- (13) Warning devices required by OSHA or other state or federal safety regulations.
- (14) Farming equipment or farming activity, as defined in §1-1 and qualified as tax exempt under § 12-

91 of the Connecticut General Statutes.”

§ 262-5 STANDARDS – INSTRUMENTS

Acoustic measurements and equipment to ascertain compliance with, or violation of, this ordinance shall be in substantial conformity with the standards and practices established by professional organizations such as the American National Standards Institute. Instruments shall be of standard design, properly calibrated and maintained for the purposes of Noise regulation. Instruments shall conform, at a minimum, to the standards of the American National Standards Institute for Sound Level Meters.

§ 262-6 VARIANCES

A Person may apply to the First Selectman for a variance from one or more of the provisions of this ordinance, provided the applicant provides the First Selectman, or his/her designated assistant, at least ten (10) days prior to the proposed activity, with the following:

- (1) The location of the proposed activity;
- (2) Time period and hours of operation;
- (3) Nature and intensity of anticipated Noise; and
- (4) Such other information which the First Selectman may reasonably deem necessary.

A variance may be granted if the First Selectman reasonably concludes that the noise levels will not endanger public health, and ordinance compliance would result in unreasonable hardship to the applicant. Notwithstanding the foregoing, no variance shall allow noise in violation of the State of Connecticut Department of Environmental Protection Regulations of Connecticut state agencies.

The First Selectman shall issue a decision, in writing, within three (3) business days of the submission of a completed application. Appeals shall be made to a committee of two (2) Selectman appointed by the First Selectman and, thence, to the State Health Department, all as provided by statutes governing health department appeals, generally.

§ 262-7 MOTOR VEHICLES

(a) All Motor Vehicles operated within the limits of the Town shall be subject to the Noise standards and Decibel levels set forth in regulations of Connecticut state agencies. Conn. Gen. Stat. 14-80-1a through 14-80a-1Ga, as the same may be from time to time amended.

(b) No Sound amplifying devices on or within Motor Vehicles shall emit Noise in excess of the Noise Level specified in this ordinance.

§ 262-8 ENFORCEMENT

(a) The Town's Police Department shall be responsible for investigating and documenting, though acoustic measurements, violations of this ordinance. Violators may be served with an ordinance citation, which shall be known as a "Noise Ticket". Payment of the fine prescribed by such Noise Ticket within the time specified thereon shall constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offense cited. Fines shall be in the amount of \$99.00 for each day that the violation continues until the noise is abated. Nothing in this ordinance shall prevent the Police Department, because of the perceived nature of the offense, from proceeding not under the terms of this ordinance, but under the provisions of Conn. Gen. Stat. §53a-181 and §53a-182, as they may be amended from time to time, which sections relate, generally, to breach of peace, etc.

An appeal process relative to noise tickets is established below. The First Selectman shall appoint a hearing officer who shall serve at his/her discretion to hear appeals from the issuance of noise tickets. A Person shall have thirty (30) days from the date of the Noise Ticket to deliver a written application for a hearing. The Hearing Officer shall hold a hearing within five days of the receipt of the application, and his/her decision shall be final.

(b) In those individual cases where the background noise levels caused by sources not subject to this ordinance exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by 5 dBA, provided that no source subject to the provisions of § 262-3 shall emit noise in excess of 80 dBA at any time, and provided that this section does not decrease the permissible levels of the other sections of this ordinance.

§ 262-9 SEVERABILITY

Any provision of this ordinance held to be unconstitutional or superseded by state law or regulation shall not serve to invalidate the remaining unaffected provisions hereof. No provision of this ordinance shall serve to validate any activity otherwise prohibited by state or local law or lawfully enacted zoning regulation.

§ 262-10 EFFECTIVE DATE

This ordinance shall be effective 15 days after notice of passage is published in the Newtown Bee.

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27 June 2011 Town Council Meeting

Good evening!

I'd like to introduce my daughter Kathryn Kotula, and I am Anthony Kotula.

We, along with my wife Joan, live on 135 Maple Road, Mansfield.

We are the family trying to buy .15 acres of land. That will be discussed under Item 6 of New Business.

For your convenience we have provided color photos to replace the black and white photos that were provided to you previously.

Please note:

Enclosure #1 shows the location of Parcel A that we wish to purchase.

It also shows in green, the location of mature trees.

Enclosure #2, 3 and 4 show the contiguous stone wall that surrounds Parcel A and indicates the parcel was once part of Lot 7A, which was the Gardner Farm. In Enclosure #4, please note the property line posts installed by the Town surveyors.

Parcel A is indeed a small piece of land but I believe we can have 300 rhubarb plants growing there in a few years.

Those plants should produce up to 3,000 pounds of rhubarb annually. We can grow this cultivar of rhubarb on that land.
Show rhubarb!

The Planning and Zoning Commission, after considerable discussion, noted:

1. The .15 acre area is not acceptable for a parking lot.
2. An existing irregular lot configuration would be made uniform by this conveyance.
3. The existing stonewall should not be disturbed.
4. The land should be used only for agricultural purposes.
5. The Planning and Zoning Commission recommended “that the Town Council authorize Mr. Anthony Kotula’s proposed acquisition of a .15 acre portion of existing Town Open Space land.”

The Town Manager’s Staff “recommends that the Council schedule a public hearing to receive public comment regarding the proposed sale”

The Kotula family remains cautiously optimistic that the Council will agree with the Planning and Zoning Commission and the Town Manager’s Staff.

Thank you!

Kathy Statement:

I wish to spend the remainder of my life on our farm. I believe that our future generations will benefit by our present efforts to enhance the viability of our farm.

Thank you!

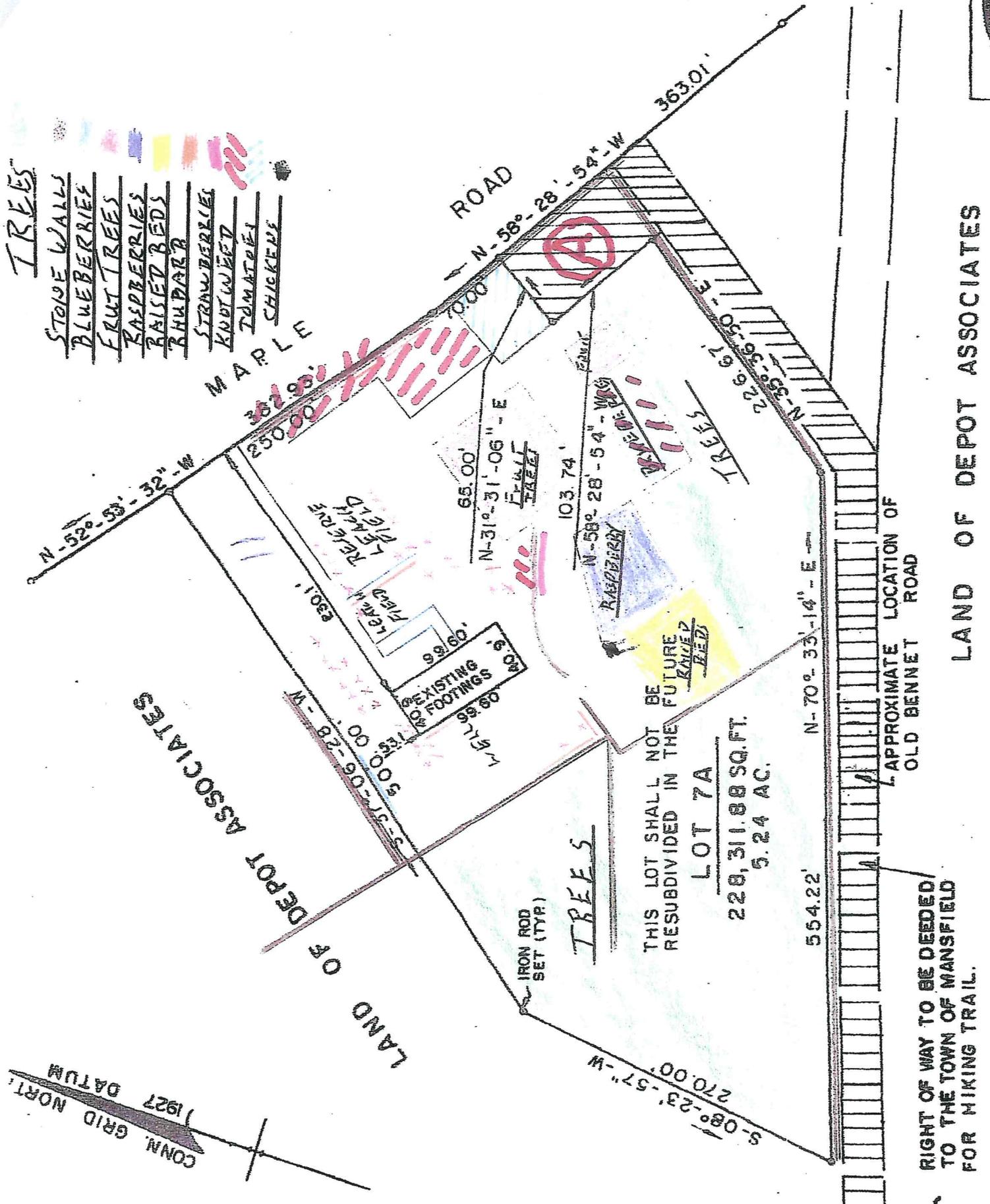
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BE PH SC RE SE 89 HO PL

F



- TREES
- STONE WALLS
- BLUEBERRIES
- FRUIT TREES
- RASPBERRIES
- RAISED BEDS
- RHODOD
- STRAWBERRIES
- KNOTWEED
- TOMATOES
- CHICKENS



LAND OF DEPOT ASSOCIATES

ROAD

LAND OF DEPOT ASSOCIATES

APPROXIMATE LOCATION OF
OLD BENNET ROAD

THIS LOT SHALL NOT BE
RESUBDIVIDED IN THE
FUTURE

LOT 7A
220,311.88 SQ. FT.
5.24 AC.

RIGHT OF WAY TO BE DEEDED
TO THE TOWN OF MANSFIELD
FOR MIKING TRAIL.

CONN. GRID NORTH
1927 DATUM

BENNET ROAD

PARCEL "A"

MAPLE ROAD

ENCLOSURE 2



BENNET ROAD

PARCEL "A"

MAPLE ROAD



ENCLOSURE 4

BENNET ROAD

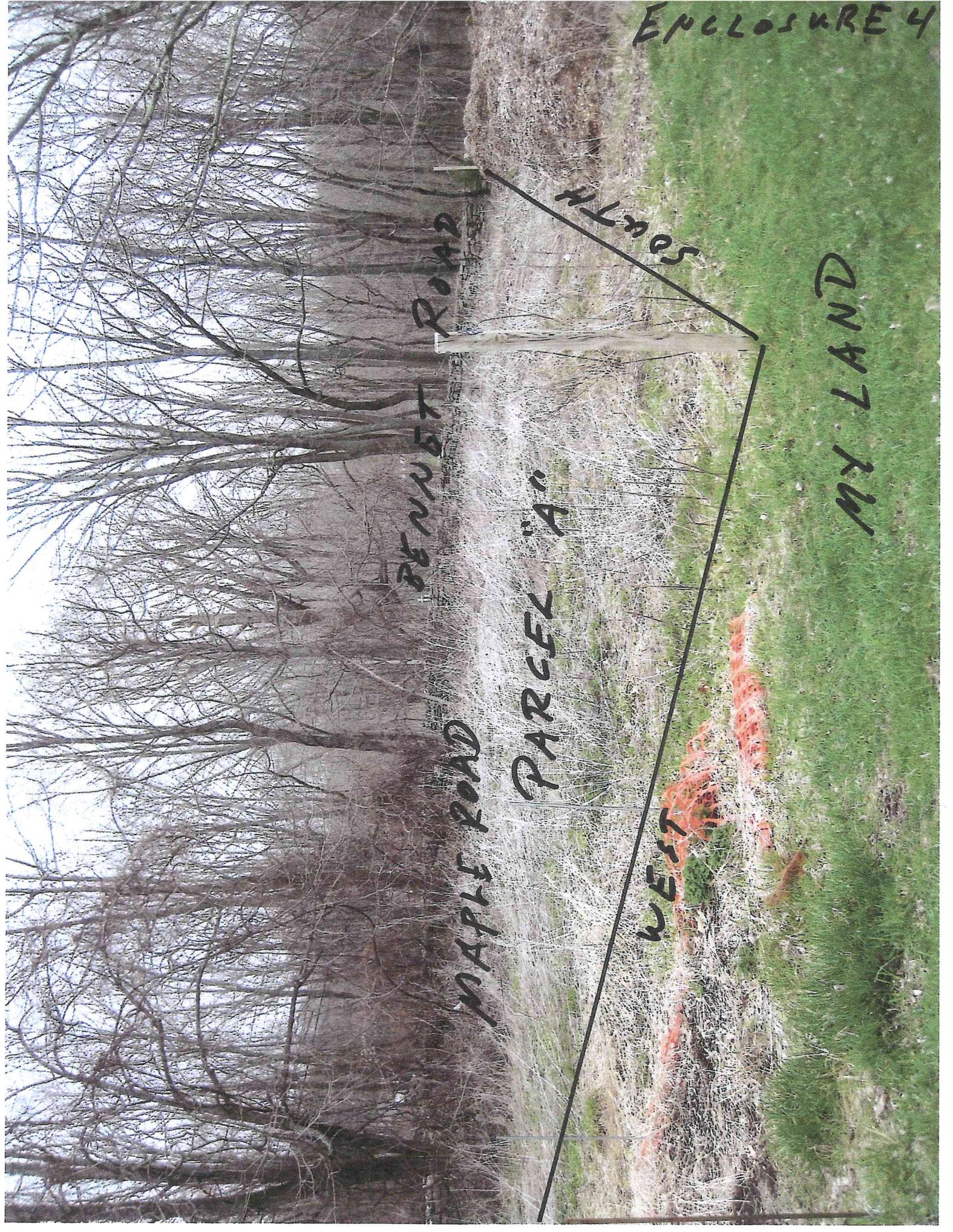
SOUTH

MY LAND

PARCEL "A"

WEST

MAPLE ROAD



Anthony Kotula*Enclosure 6*

From: "Anthony Kotula" <awkotula@msn.com>
To: <PadickGJ@mansfieldct.org>
Sent: Monday, March 21, 2011 3:25 PM
Subject: Planning and Zoning Commission Meeting

Dear Mr. Padick:

In the few hours I have to prepare a reply to the Open Space Committee report about my desire to purchase 0.1548 acres of land from the Town of Mansfield, I submit the following:

The expressed concerns of the Open Space Committee are presented in black type and my reply is in blue.

1. The PZC is asked to refer to the 2010 request by the Weiss family to terminate the easement and hiking rights in a portion of the Weiss' property.

Response: In our letter dated 6 June 2007 to Mr. Matt Hart we stated "We have no objection to placing a conservation easement on the parcel of land in question, as long as agricultural uses were permitted." Therefore our request is completely different from that of the Weiss family.

2. The PZC is requested to deny making a favorable decision to allow the sale of the parcel of land because it would set a precedent.

Response: The Town of Mansfield has the authority to deny proposals based on their merit or lack thereof. Is it now the intent of the Town to deviate from the Plan of Development which states in the Policy Goals and Objectives: "to discourage non-agricultural uses on productive farmland and prime agricultural soils."

3. The Open Space Committee states the 0.15 acres is not prime land.

Response: When the Plan of Development was being prepared, a map on the wall outside the Office of the Town Planner listed the land on both sides of MaxFelix Road as prime farm land. It included my Lot 7. The parcel in question may be listed otherwise, not because it is not prime farm land, rather because it was part of the forest of Lot 17. I have been able to use adjacent land for farming successfully, thus it is productive farm land.

4. The Open Space Committee states that Removing trees in this parcel would not be consistent with the interior forest designation".

Response: I have no desire to remove any trees from the parcel in question. The trees basically grow along Maple Road and Old Bennett Road. I invite representatives of the various committees to visit the parcel. I am certain rhubarb and asparagus can be grown effectively on the parcel of land.

5. It was suggested I destroy some of my trees.

We can probably all agree that trees, especially such mature trees add to the rural nature of Mansfield and additionally provide benefits by themselves.

6. The sale of the Potter land is mentioned by the Open Space Committee as being dissimilar to the sale of the parcel in question.

Response: We agree it was not open space, however we do suggest the Town had options and they decided on one which was most beneficial to the Town.

I respectfully submit that the Town of Mansfield is capable of making educated decisions based on the unique criteria surrounding each proposed sale.