

## AGENDA

### **MANSFIELD PLANNING AND ZONING COMMISSION**

Regular Meeting, Monday December 7, 2009, 7:30 p.m.  
Or upon completion of Inland Wetlands Agency Meeting  
Council Chambers, Audrey P. Beck Municipal Building

#### Minutes

11/16/09

#### Scheduled Business

##### Zoning Agent's Report

- A. Monthly Activity
- B. Enforcement Update
- C. Hall Property Old Mansfield Hollow Rd; DeBoer Property, Storrs Rd
- D. Other

#### Old Business

1. By-Laws Review/Revision
2. Committee Assignments
3. Potential Re-Zoning of the "Industrial Park" zone on Pleasant Valley Rd and Mansfield Ave.  
(To be tabled -awaiting potential comments from primary property owner)
4. Other

#### New Business

1. Site Modification Request, Sidewalk and Parking Improvements, Hillel Property, 54 N. Eagleville Rd, File #1289  
Memo from Director of Planning
2. Proposed Telecommunication Tower, Daleville Rd, Willington  
Memo from Director of Planning
3. 11/30/09 Letter from M. Margulies for the American Civil Liberties Union of CT  
(to be tabled-Referred to Town Attorney for Review)
4. Verbal Update from Director of Planning RE: Proposed Parking Ordinance for 1,2 and 3 Dwelling Unit Rental Properties; Potential Student Residence Ordinance; Definition of Family  
(10/16/09 and 11/9/09 staff notes attached)
5. Other

#### Reports from Officers and Committees

1. Chairman's Report
2. Regional Planning Commission
3. Other

#### Communications and Bills

1. 12/9/09 ZBA Hearing Notice
2. 11/16/09 Legal Opinion from Town Attorney Re: State Fees on local land use applications
3. 12/3/09 Invoice from Town Attorney
4. Other

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## DRAFT MINUTES

### MANSFIELD PLANNING AND ZONING COMMISSION Regular Meeting, Monday, November 16, 2009 Council Chamber, Audrey P. Beck Municipal Building

Members present: R. Favretti (Chairman), M. Beal, J. Goodwin, R. Hall, K. Holt, P. Plante, B. Pociask, B. Ryan  
Alternates present: G. Lewis, K. Rawn, V. Stearns  
Staff Present: Gregory Padick, Director of Planning

Chairman Favretti called the meeting to order at 7:01 p.m. It was noted that Vera Stearns was present but not acting, as she had not been sworn in by the Town Clerk in time for this meeting.

#### Election of Officers:

- Holt MOVED, Plante seconded, to nominate Rudy Favretti as Chairman of the Mansfield Planning and Zoning Commission. MOTION PASSED UNANIMOUSLY.
- Holt MOVED, Plante seconded, to nominate Joann Goodwin as Vice Chairman of the Mansfield Planning and Zoning Commission. MOTION PASSED UNANIMOUSLY.
- Plante MOVED, Pociask seconded, to nominate Kay Holt as Secretary of the Mansfield Planning and Zoning Commission. MOTION PASSED UNANIMOUSLY.

#### Committee Appointments:

Chairman Favretti reviewed the various town committees on which Planning and Zoning members currently serve.

- Town University Relations Committee: Beal agreed to continue serving as the Planning and Zoning member.
- Transportation Advisory Committee: Hall agreed to continue serving as the Planning and Zoning member.
- Regional Planning Agency: Holt agreed to continue serving as the Planning and Zoning member. Rawn expressed interest in the alternate's position vacated by Betty Gardner.
- Design Review Panel: Pociask MOVED, Holt seconded, to re-appoint the current members of the Design Review Panel. MOTION PASSED UNANIMOUSLY.
- Four Corners Sewer Study Advisory Committee: Plante agreed to continue serving as the Planning and Zoning member.
- Sustainability Committee: Ryan agreed to continue serving as the Planning and Zoning member.
- Regulatory Review: Favretti noted that any and all members are encouraged to attend and partake in the Regulatory Review Committee meetings and a Chairman will be nominated at the next Regulatory Review meeting.

Chairman Favretti welcomed new alternates Kenneth Rawn and Vera Stearns to the Planning and Zoning Commission and thanked them for volunteering their time.

#### Review of By-Laws:

Chairman Favretti asked members to review the by-laws prior to the next meeting.

#### Minutes:

11/2/09-Hall MOVED, Plante seconded, to approve the 11/2/09 minutes as written. MOTION PASSED UNANIMOUSLY.

#### Zoning Agent's Report:

Hirsch noted that there has been progress at the Hall site, noting one trailer body has been removed and Hall told him that the remaining one will be removed in the next few weeks. Plante related that Hall had been given many opportunities to remedy the site and yet he has not done so in a timely manner. He felt that violation notices should be sent instead of extending the deadlines.

**Old Business:**

**1. Special Permit Application, Proposed Retail Package Store, 153 N. Eagleville Rd, Pesaro's LLC, o/a. File #585-3**

Hall MOVED, Holt seconded, that the Planning and Zoning Commission approves with conditions the special permit application (File #585-3) of Pesaro's LLC., for a retail package store on property located at 153 North Eagleville Road, as shown on plans revised to 10/26/09, as presented at Public Hearings on 10/19/09 and 11/2/09 and as described in other application submissions. This approval is granted because the application as approved is considered to be in compliance with Article V, Section B and other provisions of the Mansfield Zoning Regulations, and is granted with the following conditions:

1. To facilitate safe pedestrian access to the package store entrance, a five (5) foot wide access way between parking spaces shall be designated west of the entrance door. This access way may be incorporated into a new or relocated handicap parking space. The re-striping of the western parking area and installation of an employee parking space sign shall be completed before the issuance of a Certificate of Compliance.

This approval authorizes the applicant to relocate the existing handicap space to the package store entry area, to relocate the handicap space to an area between the two business entries or to keep the handicap space in the current location. The decision about location shall be approved by the Director of Planning and shall be so indicated on the final plans.

2. The existing dumpster area shall be screened on all sides as per regulatory requirements. Currently the easterly side is not screened with a fenced gate. A plan for screening shall be submitted to and approved by the PZC Chairman and Director of Planning and installed before the issuance of a Certificate of Compliance.
3. All applicable Health, Building and Fire Codes shall be addressed and required permits obtained prior to construction/renovation or occupancy by the public for this approved change in use.
4. This approval grants the requested site plan submission waivers, including an A-2 Survey. The information submitted is adequate to appropriately address approval criteria.
5. This permit shall not become valid until the applicant obtains the permit form from the Planning Office and files it on the Land Records. The filing on the Land Records shall not occur until the subject site has been authorized by the State Liquor Control Authority.

MOTION PASSED UNANIMOUSLY.

**2. Site Modification Request, Chuck's Margarita Grill, Proposed Deck, 1498 Stafford Rd, File #303**

After discussion, Plante MOVED, Hall seconded, that the Planning and Zoning Commission finds that the potential impacts from this proposal are such that it cannot be approved as a modification, and therefore Special Permit approval would be necessary. MOTION PASSED UNANIMOUSLY.

**3. Special Permit Application, Proposed Conversion from one to two family, 1620 Storrs Road, Y. Ghiaei o/a, File #1276-2 M.A.D. 12/23/09**

Pociask disqualified himself. Holt MOVED, Beal seconded, that the Mansfield Planning and Zoning Commission approves with conditions the special permit application (file #1276-2), of Y. Ghiaei, for converting a single-family home to a two-family dwelling on property located at 1620 Storrs Road, in a RAR-90 zone, as shown on submitted plans, as described in other applicant submissions and as presented at Public Hearings on 9/8/09, 10/5/09 and 10/19/09.

This approval is granted because the application, as hereby approved, is considered to be in compliance with Article X, Section J, as it existed when the application was filed, Article V, Section B, and other provisions of the Mansfield Zoning Regulations, and is granted with the following conditions, which if not met shall lead to revocation of this permit:

1. This approval is granted for a four-bedroom, primary dwelling unit, and a one-bedroom secondary unit to be occupied by not more than two persons, as described in application submissions. Any increase in the number of bedrooms on this property or the occupancy of the secondary unit shall necessitate subsequent review and approval from Eastern Highlands Health District and the Planning and Zoning Commission.
2. This approval is conditioned upon owner-occupancy of the subject dwelling which is a specific requirement for conversions. To ensure that this requirement is met, a notarized affidavit confirming owner-occupancy shall be submitted to the Zoning Agent on or before January 2<sup>nd</sup> of each year.
3. Occupancy of the primary unit shall comply with all applicable Zoning, Building and/or Town Ordinance provisions.
4. Based on the use, as described, the submitted parking plan is considered adequate for residents and guests. To help ensure that the five (5) designated spaces are used as proposed, concrete or wooden wheel stops, acceptable to the Zoning Agent, shall be installed and maintained. Any change in the parking layout shall necessitate additional PZC review and approval.
5. Existing vegetation along Storrs Road, immediately adjacent to the driveway, shall be trimmed and maintained in a cut-back condition to provide appropriate sightlines for the subject driveway.
6. Pursuant to the provisions of Article X, Section J, this action authorizes a waiver of the front setback requirements for the subject dwelling. The existing setback from Storrs Road is considered adequate to address potential neighborhood impacts and other approval criteria.

However, setback waivers have not been authorized for on-site parking. Existing parking areas along the southerly side of the driveway shall be permanently blocked with appropriate barriers. The barriers shall be approved by the PZC Chairman and Zoning Agent and installed prior to the issuance of a Certificate of Compliance.

7. This approval accepts the applicant's request for a waiver of certain site plan submission requirements, including an A-2 Survey. The information submitted is considered adequate to address applicable approval criteria.
8. This special permit shall not become valid until filed upon the Land Records by the applicant.

MOTION PASSED with all in favor except Plante who was opposed and Pociask who disqualified himself.

4. **Potential Re-Zoning of the "Industrial Park" zone on Pleasant Valley Rd and Mansfield Ave.**  
Padick informed the Commission that he met and discussed the draft with property owner B. Hussey and his attorney K. Olsen who indicated that they will pass on their comments for the next meeting.
5. **Request to release/reduce bonding for Paideia Project, Dog Lane**  
Hall MOVED, Plante seconded, that the Planning and Zoning Commission does not authorize any change in the bonding requirements for the Paideia Amphitheater project on Dog Lane. The project remains under construction and the subject bonding is needed to help address any sediment and erosion problems and to ensure appropriate site stabilization in the event the project is not completed in accordance with approved plans. MOTION PASSED UNANIMOUSLY.

#### **New Business:**

1. **Notice of 11/18/09 Conservation Commission Meeting to discuss Drainage Plans for the UConn Storrs Campus**

Padick invited PZC members to attend the 11/18/09 meeting which will be held at 7:30 p.m. in Conference Room B unless capacity is exceeded, in which case it will be at the Community Center.

#### **Reports of Officers and Committees:**

None.

**Communications and Bills:**

Noted.

**Adjournment:**

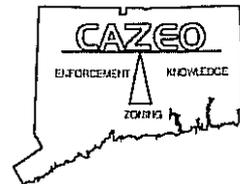
Favretti declared the meeting adjourned at 8:04 p.m.

Respectfully submitted,

Katherine K. Holt, Secretary



# Town of Mansfield



CURT B. HIRSCH  
ZONING AGENT  
HIRSCHCB@MANSFIELDCT.ORG

AUDREY P. BECK BUILDING  
4 SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3341

Memo to: Planning and Zoning Commission  
From: Curt Hirsch, Zoning Agent  
Date: December 2, 2009

## MONTHLY ACTIVITY for November - 2009

### ZONING PERMITS

<u>Name</u>	<u>Address</u>	<u>Purpose</u>
Green	1090 Stafford Rd.	gravel excavation
Watson	56 Lorraine Dr.	addition & screen porch
Beall - Higgens	Wormwood Hill Rd.	1 fm dw
Beaudoin	Lot 1 Adeline Pl.	1 fm dw
Laliberte	125 Woods Rd.	chicken coop
Taylor	310 S. Eagleville Rd.	handicap ramp
Chew	16 Thornbush Rd.	15 x 20 shed
Crossen	Lot 13 Windwood Est.	1 fm dw
Cayer	393 Stearns Rd.	12 x 16 shed
Park	76 Puddin La.	2-car garage
Everett	33 Shady La.	2 sheds

### CERTIFICATES OF COMPLIANCE

Chase	34 Circle Dr.	deck
Gormley	853 Storrs Rd.	in-ground pool
Sawtelle	74 Browns Rd.	shed
Te	19 Sheffield Dr.	shed
Maynard	37 Adeline Pl.	enlarge deck
Hurlock	9 Dunham Pond Rd.	1 fm dw
Ouimette Bldrs.	36 Crane Hill Rd.	1 fm dw
Hunley	112 Stafford Rd.	shed
Martin	152 Hanks Hill Rd.	house add. & deck

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**TOWN OF MANSFIELD  
OFFICE OF PLANNING AND DEVELOPMENT**

GREGORY J. PADICK, DIRECTOR OF PLANNING

Memo to: Planning and Zoning Commission  
From: Gregory Padick, Director of Planning  
Date: 12/3/09  
Re: Modification request: B'nai B'rith Hillel Foundation of CT, 54 North Eagleville Road, File #1289



**Modification Request**

The subject modification request seeks modification approval for additional sidewalk, parking and drainage improvements at 54 N. Eagleville Road. These site modifications are depicted on a 10/16/09 (revised to 11/13/09) site plan prepared by Datum Engineering and Surveying, LLC. On September 8, 2009, the PZC authorized additional site work on this property and the current request essentially extends an approved sidewalk northerly, expands existing parking accessed by an adjacent driveway on UConn owned land and adds 3 rain gardens. The subject site is zoned Institutional and is adjacent to other religious or University of Connecticut facilities. The subject religious use was established prior to existing zoning regulations. The subject modifications have been submitted to the Inland Wetland Agency for review.

**Analysis**

The provisions of Art. V, Sec. B.9 and Art. XI, Sec. D authorize the PZC to approve site modifications without the submission of a new special permit application, provided the proposed revisions are not considered a significant alteration having potential land use impacts that must be evaluated through a new special permit process. I have reviewed the proposed revisions with respect applicable regulatory requirements and the following review comments are presented for the PZC's consideration.

- The subject plans necessitate IWA approval. Subject to this approval, the proposal is not considered a significant alteration or intensification of use. No significant neighborhood impacts are expected.
- The proposed parking is within the 50-ft. sideline setbacks for the Institutional zone. Since the subject property and adjacent properties are within a Design Development District, the PZC has the right to waive setback provisions pursuant to Art. X, Sec. A.4.d. Similar waivers have been authorized by the PZC.
- It is understood that the subject work has been approved by the University of Connecticut Facilities Department. This needs to be confirmed.
- The proposed walkway and parking modifications will enhance pedestrian and vehicular safety. The proposed walkway will extend to an existing UConn walk that connects to the Towers dormitories and Greek Village housing.

**Summary**

Subject to Inland Wetlands Agency approval, my review indicates that the proposed work is not expected to have significant land use impact and therefore, pursuant to Art. V, Sec. B.9 and Art. XI, Sec. D, can be authorized through the modification process. Conditions may be included in a modification approval. Provided the plans are approved by the IWA, the following motion is recommended:

**That the PZC Chairman and Zoning Agent be authorized to approve the modification request of B'nai B'rith Hillel Foundation of CT for site improvements at 54 N. Eagleville Road, as depicted on a 10/16/09 site plan (revised to 11/13/09) as prepared by Datum Engineering and Surveying, LLC, and as described in other application submissions, subject to the following conditions:**

1. **All work, including the sidewalk extension and parking area expansion, shall be approved by the University of Connecticut. This modification approval shall not become effective until UConn acceptance of this work has been provided in writing.**
2. **All Inland Wetlands Agency approval requirements shall be met.**
3. **This approval is limited to the work shown on the above referenced plans. Other work, including any grading of the hillside north of the Hillel building will necessitate additional PZC review and approval.**
4. **This action waives sideline setback provisions for the expanded parking area pursuant to the provisions of Article X, Section A.4.d. This waiver is based on existing site and neighborhood characteristics.**

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REQUEST FOR SITE/BUILDING MODIFICATIONS  
(see Article XI, Section D of the Mansfield Zoning Regulations)

APPLICANT/OWNER SECTION

1. Owner(s) BNA Birth Hills Foundation Telephone 860 727 5702 -  
(please PRINT)

Address 54 North Eagleville Rd Town MANSFIELD Zip \_\_\_\_\_

2. Applicant(s) HMZ Contracting LLC Telephone 860 727-5702 - 3062787  
(please PRINT)

Address 40 WOODLAND ST Town HARFORD Zip 06105

3. Site Location 54 North Eagleville Rd.

4. Reference any approved map(s) that would be superseded if this request is approved:  
DATUM BNG 148664 10/18/09  
JOHN FANF - HIGHLAND SOILS 9/8/09

5. Reference any new map(s) submitted as part of this request:  
DATUM - 10/18/09

6. Itemize and describe the modification(s) being requested, using separate sheet where necessary. The description must be adequate to determine compliance with all applicable land use regulations: -

1. CUT TREES IN WETLANDS
2. STORMWATER IN WETLANDS
3. BYPASS FILLING
4. ELIMINATE WETLANDS, IF POSSIBLE
5. GRADE AREAS -

7.  Applicant's signature

date 11/23/09

HENRY ZACHS  
HMZ CONTRACTING  
BNA BIRTH HILLS  
FOUNDATION OF CONN

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**TOWN OF MANSFIELD  
OFFICE OF PLANNING AND DEVELOPMENT**

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GREGORY J. PADICK, DIRECTOR OF PLANNING

Memo to: Mansfield Town Council  
Mansfield Planning and Zoning Commission  
Conservation Commission

From: Gregory Padick, Director of Planning

Date: 12/2/09

Re: Proposed telecommunication tower, Daleville Road, Willington



Please find attached a 12/1/09 letter from K. Baldwin, representing Cellco Partnership d/b/a Verizon Wireless, describing a proposed new telecommunication tower off of Daleville Road and portions of a technical report prepared in association with state permit requirements. The following comments are offered for the consideration of the PZC, Town Council and Conservation Commission:

- The proposed tower is under the jurisdiction of the Connecticut Siting Council. Pursuant to Siting Council guidelines, an advance sixty (60) day notice period has been provided to the Town of Willington and to the Town of Mansfield (due to the proposed tower's location within 2,500 feet of the Town line). In association with a formal application to the Siting Council, a public hearing will be held in Willington to receive any formal comments. Preliminary comments can be submitted prior to the formal application submittal.
- The proposed tower would be 100 feet tall and would be located near the center of a 22 acre parcel at 343 Daleville Road. Access would be from an existing driveway on Daleville Road.
- The expressed purpose of the proposed tower is to improve coverage along Route 44 where there is a 2.15 mile cellular frequency gap and a 1.99 mile PCS frequency gap. The tower has been designed for a minimum of three (3) additional wireless carriers.
- The technical report includes a preliminary viewshed map which indicates that there will be limited off-site visual impact. The tower will be visible year round from upper portions of Horse Barn Hill on the UConn campus and from a small area on Old Turnpike Road.
- The submitted information indicates that there will be minimal impacts on environmental resources and no impact on historic resources. The site is not within a DEP designated Natural Diversity Data Base area.
- In 2008, essentially the same tower proposal was formally submitted to the CT. Siting Council but withdrawn prior to the holding of a public hearing. Town officials reviewed the 2008 application and, at that time did not forward any comments for state consideration.

**Summary/Recommendation**

My review indicates that the proposed tower will have minimal impact on Mansfield residents or the physical environment. Other existing towers in the area are more visible. The proposed tower is expected to enhance wireless service for Mansfield residents and visitors. No comments or recommendations from Mansfield officials are considered necessary at this time. An additional opportunity to comment will be available in association with the CT Siting Council's Public Hearing.

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280 Trumbull Street  
Hartford, CT 06103-3597  
Main (860) 275-8200  
Fax (860) 275-8299  
kbaldwin@rc.com  
Direct (860) 275-8345

December 1, 2009

Christina B. Mailhos  
First Selectman  
Town of Willington  
40 Old Farms Road  
Willington, CT 06279

Re: **Submission of Technical Information Concerning Proposal to Construct a  
Wireless Telecommunications Facility at 343 Daleville Road, Willington,  
Connecticut**

Dear Ms. Mailhos:

This firm represents Celco Partnership d/b/a Verizon Wireless ("Celco"). In April of 2008, Sandy Carter and I met with you and Susan Yorgenson to discuss Celco's plans to construct a wireless telecommunications tower at 343 Daleville Road in Willington. Following that initial meeting, the Celco development team appeared before the Willington Inland Wetlands and Watercourses Commission to discuss the proposal. On August 25, 2008, Celco filed its application with the Connecticut Siting Council ("Council"). In November 2008, Celco determined that it was not prepared to proceed with the development of this tower site and withdrew its Council application. Following a recent review of network development priorities, Celco has decided to reactivate this site and recommence the Council approval process.



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The proposed wireless telecommunications facility in Willington (the "Facility") will provide service to Celco customers in the southeasterly portion of Willington and northerly portions of the Town of Mansfield. This technical report is submitted pursuant to Connecticut General Statutes ("Conn. Gen. Stat.") § 16-50(e), which establishes local input requirements for the siting of any facility under the jurisdiction of the Council.

For your information, a copy of this report will also be forwarded to Mayor Elizabeth C. Paterson and Matthew W. Hart, Town Manager for the Town of Mansfield. Conn. Gen. Stat. § 16-50(e) requires the submission of technical information to the municipality where the facility will be located and any other

# ROBINSON & COLE<sup>LLP</sup>

Christina B. Mailhos  
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municipality within 2,500 feet of the proposed facility location. The proposed Facility is located within 2,500 feet of the Mansfield town line.

Correspondence and/or communications regarding the information contained in this report should be addressed to:

Sandy Carter, Regulatory Manager  
Verizon Wireless  
99 East River Drive  
East Hartford, CT 06108  
(860) 803-8219

A copy of all such correspondence or communications should also be sent to Cellco's attorneys:

Kenneth C. Baldwin, Esq.  
Robinson & Cole LLP  
280 Trumbull Street  
Hartford, CT 06103-3597  
(860) 275-8345

Cellco intends to submit an application to the Council requesting a Certificate of Environmental Compatibility and Public Need ("Certificate") for the construction, maintenance and operation of a wireless telecommunications facility at 343 Daleville Road. The proposed Facility would provide coverage along Route 44 and local roads in the area, particularly in those areas not currently served by Cellco's existing Ashford West 2 cell site (an existing tower at 99 Knowlton Road, Ashford); Mansfield cell site (an existing tower at 497 Middle Turnpike, Mansfield); Storrs cell site (an existing tower at 82 North Eagleville Road, Storrs); UCONN East cell site (a facility at the Storrs Congregational Church at 2 North Eagleville Road, Storrs); UCONN cell site (an existing building façade installation at 855 Bolton Road, Mansfield); and Mansfield North cell site (an existing Town-owned tower at 1725 Stafford Road, Mansfield). Coverage plots for Cellco's existing cell sites in the area alone and together with the proposed Facility are included in Attachment 1. On these plots the proposed Facility at 343 Daleville Road is identified as the "Wilmington-Mansfield 4 Corners" cell site.



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## Cell Site Information

The proposed Facility would be located in the central portion of a 22 acre parcel located at 343 Daleville Road in Willington. This site is located in Willington's Residential R-80 zone district.

At this site, Cellco proposes to construct a 100-foot telecommunications tower. Cellco will install a total of twelve (12) panel-type antennas at the top of the tower with their centerline at the 97-foot level. Equipment associated with the Cellco antennas would be located in a 12' x 30' shelter located near the base of the tower. Cellco will also place a 1000 gallon propane tank on the ground within the fenced compound. All site improvements associated with the proposed Facility would be located within a 100' x 100' leased area. Access to the cell site would extend from Daleville Road over a portion of the landowner's existing driveway, a distance of approximately 710 feet, then over a new gravel access driveway, a distance of approximately 450 feet to the cell site. Both the tower and leased area are designed to accommodate additional carriers. Project plans for the Facility are included in Attachment 2.

## Connecticut Siting Council

Municipal jurisdiction over the siting of the proposed telecommunications facility described in this report is pre-empted by provisions of the Public Utilities Environmental Standards Act ("PUESA"), Conn. Gen. Stat. § 16-50g *et seq.* The PUESA gives exclusive jurisdiction over the location, type and modification of telecommunications towers to the Council (Conn. Gen. Stat. § 16-50x(a); 16-50i(a)(6)). Accordingly, the Facility described in this report is exempt from the municipal land use regulations (e.g. zoning, wetlands, etc.), which may ordinarily apply to this type of site development. However, pursuant to § 16-50l(e) of the General Statutes, municipal officials are entitled to receive technical information regarding the proposal at least sixty (60) days prior to the filing of an application with the Council. This technical information is provided to the municipalities in accordance with this provision.

Pursuant to Section 16-50l(e) of the General Statutes, Cellco must provide a summary of the Town's comments and recommendations, if any, to the Council within fifteen (15) days of the filing of an application. Upon receipt of an application, the Council will assign a docket number and set a hearing date. At that time, the Town may choose to become a party in the proceeding. Other procedures followed by the Council include serving the applicant and other participants with interrogatories, holding a pre-hearing conference, and conducting a public hearing.



Christina B. Mailhos

December 1, 2009

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The public hearing would be held at a location in Willington. Following the public hearing, the Council will issue findings of fact, an opinion and a decision and order. Prior to construction, the Council will also require the Applicant to submit a development and management plan ("D&M Plan") which is, in essence, a final site development plan showing the location of structures and details of site development. These procedures are also outside the scope of the municipality's jurisdiction and are governed by the Connecticut General Statutes, the Regulations of Connecticut State Agencies, and the Council's Rules of Practice. If the Council approves the Facility described in this report, Cellco will submit to the municipal Building Official an application for approval of a local building permit. Under Section 16-50x of the General Statutes, which provides for the exclusive jurisdiction of the Council, the building official must honor the Council's decision.

### **Public Need**

The primary purpose of the Facility described above is to provide coverage to customers between Cellco's existing Ashford West 2, Mansfield and Storrs cell sites, particularly along the heavily-traveled Route 44 and local roads in the area. As depicted on the coverage maps included in Attachment 1, Cellco cannot currently provide reliable service at PCS or cellular frequencies to customers traveling along Route 44 from its existing sites in this area. The Facility described in this filing will provide coverage to a 2.15 mile portion of Route 44 at cellular frequencies; a 1.99 mile portion of Route 44 at PCS frequencies; and an overall area of approximately 3.2 square miles at cellular frequencies and 1.4 square miles at PCS frequencies.

### **Environmental Effects**

From our experience, the primary impact of a wireless facility, such as the one proposed here, is visual. The visual impact of the proposed facilities will vary from place to place around each facility, depending upon factors such as vegetation, topography, distance from the tower, and the location of buildings in the sight-line of the facility. (See Attachment 4 – Preliminary Viewshed Map).

There would also be no significant air, water, noise or other environmental impacts from the proposed Facility. The operations at the Facility would not pose any hazard to human health. No sanitary facilities are required and none are proposed. Finally, the leased area has been located so as to minimize the need to remove any significant trees in the area.



Christina B. Mailhos  
December 1, 2009  
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## Power Density

The Federal Communications Commission ("FCC") has adopted a standard (the "Standard") for exposure of radio frequency ("RF") emissions from telecommunications facilities like the proposed Facility. To ensure compliance with the Standard, Cellco has performed power density calculations for the site according to the methodology described in FCC Office of Science and Technology Bulletin No. 65 ("OST Bulletin 65"). This calculation is a conservative, worst-case approximation of RF power density levels at the closest accessible point to the antenna (i.e., the base of the tower), and with all antennas transmitting simultaneously on all channels at full power. The calculated power density level for Cellco antennas at the Facility would be 35.43% of the Standard (see Attachment 3).

## Scenic Natural Historic or Recreational Impacts

To further assess the environmental impacts of the proposed Facility, Cellco has asked Vanasse Hangen Brustlin, Inc. ("VHB") to prepare a National Environmental Policy Act ("NEPA") Environmental Screening Checklist (the "NEPA Checklist") to determine if the Facility will have any significant adverse environmental effects. The NEPA Checklist includes information from the Environmental and Geographic Information Center of the Connecticut Department of Environmental Protection ("DEP"), the U.S. Fish and Wildlife Service ("USFWS") and the State Historic Preservation Officer ("SHPO"). The USFWS has already determined that the proposed Facility will not have an adverse impact on Federal endangered, threatened or special concern species or critical habitat.

Copies of the DEP, USFWS and the SHPO determinations will also be included in the Council Application.

## Site Selection Process

Cellco's real estate representatives conducted a search for suitable cell site locations in the southerly portion of Willington and northerly portion of Mansfield. Cellco's site search included the review of existing tower sites, existing tall structures and "raw land" sites within or near the identified search ring. The proposed Facility described in this report satisfies Cellco's coverage objectives in the area and results in significantly fewer environmental effects and was therefore preferred over the other alternative locations considered.



Christina B. Mailhos  
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**Tower Sharing**

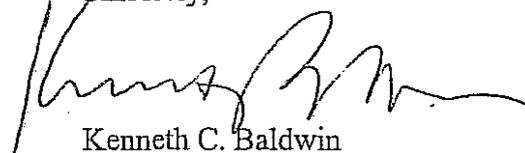
As stated above, Cellco intends to build a tower in Willington that is capable of supporting Cellco's antennas and those of additional wireless telecommunications providers. The provision to share the tower is consistent with the intent of the General Assembly when it adopted Conn. Gen. Stat. § 16-50aa. The availability of space on the proposed Facility tower may reduce, if not eliminate, the need for additional towers in the Willington-Mansfield area for the foreseeable future.

**Conclusion**

This technical report is submitted in accordance with Conn. Gen. Stat. § 16-50(e), which requires Cellco to supply the Town with technical information regarding its proposed Facility. This report includes information regarding the site selection process, need for the Facility, and the potential environmental impacts of the Facility. Cellco submits that the proposed Facility would not have any significant, adverse environmental effects. Moreover, Cellco submits that the need for high quality wireless service, and a competitive framework for providing such service has been determined by the FCC to be in the public interest and that such public need far outweighs any perceived environmental effects of the proposed Facility.

Please contact me if you have any additional questions regarding the proposed Facility.

Sincerely,



Kenneth C. Baldwin

Enclosures

Copy to:

Elizabeth C. Paterson, Mayor of Mansfield  
Matthew W. Hart, Mansfield Town Manager  
Sandy M. Carter







# Preliminary Viewshed Map

Topography and Forest Cover as Constraints

Town of  
Willington  
Connecticut

## Proposed Telecommunications Facility Willington - Mansfield 4 Corners 343 Daleville Road Willington, Connecticut

### NOTE:

- Viewshed results are preliminary pending balloon float and in-field reconnaissance.
- Viewshed analysis conducted using ESRI's Spatial Analyst.
- Proposed Facility height is 100 feet.
- Existing tree canopy height estimated at 50 feet.
- The Study Area is comprised of a 2-mile radius surrounding the proposed Facility and includes 8,042 acres

### DATA SOURCES:

- Digital elevation model (DEM) derived from USGS National Elevation Dataset (NED) with a resolution of one arc-second (approximately 30 meters) produced by the USGS, 1925 - 1999
- Forest areas derived from 2006 digital orthophotos with 1-foot pixel resolution; digitized by VHB, 2008
- Base map comprised of Coventry (1983) and Spring Hill (1983) USGS Quadrangle Maps
- Protected properties data layer provided CTDEP; May, 2007
- Scenic Roads layer derived from available State and Local listings.
- Nipmuck Trail digitized based on Connecticut Walk Book (East)

Map Compiled March, 2008

### Legend

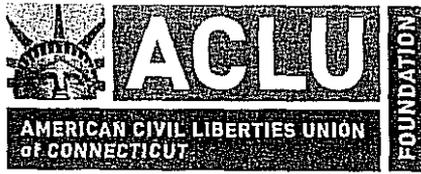
- |   |   |
|---|---|
| Proposed Monopole Location<br>(Includes select areas of visibility<br>approximately 500 feet around facility) | Protected Properties (CT DEP)<br>State Forest<br>State Park<br>DEP Owned Waterbody<br>State Park Scenic Reserve<br>Historic Preserve<br>Natural Area Preserve<br>Fish Hatchery<br>Flood Control<br>Other<br>State Park Trail<br>Water Access<br>Wildlife Area<br>Wildlife Sanctuary |
| Approximate Year-Round Visibility<br>(Approximately 8 Acres)  | Protected Properties (Municipal)<br>Cemetery<br>Preservation<br>Conservation<br>Existing Preserved Open Space<br>Recreation<br>General Recreation<br>School<br>Uncategorized  |
| Protected Properties (Federal)  | DEP Boat Launches<br>Town Line<br>Nipmuck Trail (CT Blue Blaze)   |



• - Areas identified that would have year-round visibility (total of ~ 8 acres)

*gjd*

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November 30, 2009

Mayor Elizabeth C. Paterson  
Town of Mansfield  
Audrey P. Beck Municipal Building  
4 South Eagleville Road  
Mansfield, CT 06268

RE: Zoning Regulations, Town of Mansfield, Article Ten, Section C (Sign Regulations)

Dear Mayor Paterson,

We are writing in response to a complaint about the Zoning Regulations of the Town of Mansfield, Article Ten, Section C (Sign Regulations). In pertinent part, the Regulations allow political signs, on residential property, only if they “pertain to the election of candidates to a public office [or] to the passage or defeat of a measure for which a specific voting date has been established” (C-4-b-1) and are “displayed no earlier than thirty (30) days prior to a voting day and ... removed within five (5) days after the voting day” (C-4-b-6). No political signs are allowed on commercial or industrial property (C-4-b-5), and commercial signs, on all such property, must “pertain only to goods sold, services rendered, and establishments, activities, persons or organizations on the same lot where the sign is located” (C-1-c). All of these requirements violate the First Amendment to the United States Constitution and Article First, Sections 4 and 5 of the Connecticut Constitution under clearly controlling principles enunciated by the United States Supreme Court, the Connecticut Supreme Court and other courts in the federal and state systems.

#### I. The Residential Sign Restrictions

The residential sign restrictions are unconstitutional for two reasons. First, they are impermissibly content based. Second, even if a court were somehow to conclude that they are content neutral, which we think nigh inconceivable, they “foreclose an entire medium of expression,” Ladue v. Gilleo, 512 U.S. 43 (1994), namely, residential signs – the very medium that the Court protected in Ladue.

##### A. Content Discrimination

It surely requires no elaborate citation of cases to establish that content discrimination – including discrimination based on subject matter – is highly

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OF CONNECTICUT  
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F/860.586.8900  
WWW.ACLUCT.ORG



suspect and can survive only if it satisfies the most rigorous standard of judicial scrutiny. Turner Broadcasting System, Inc. v. FCC, 512 U.S. 622 (1994). For examples of constitutionally forbidden subject-matter discrimination, see City of Cincinnati v. Discovery Network, Inc., 507 U.S. 410 (1993); Simon & Schuster, Inc. v. Members of New York State Crime Victims Bd., 502 U.S. 105 (1991); Boos v. Barry, 485 U.S. 312 (1988); Metromedia v. San Diego, 453 U.S. 490 (1981); and Consolidated Edison Co. v. Public Service Comm'n, 447 U.S. 530 (1980). It also requires no elaborate argument to demonstrate that the regulations in question discriminate on the basis of subject matter. They allow, for specified brief periods, signs that advocate the election or defeat of candidates for office, or the approval or rejection of ballot measures. They even allow signs or displays that celebrate holidays (C-5). See The Complete Angler, LLC v. City of Clearwater, 607 F.Supp.2d 1326 (M.D. Fla. 2009) (finding municipal sign ordinance unconstitutionally content based, in part because the ordinance gave holiday decorations preferential treatment). But they do not allow signs that advocate political positions in more general terms (for instance, “For Peace in the Gulf” – precisely the sign that was at issue in Ladue, *supra*). They do not allow signs that call for the impeachment of an office-holder. They do not allow signs that say “God Is Love,” “Abortion Is Murder,” or “Have a Nice Day.”

Neither does it require elaborate argument to show that the regulations cannot survive strict scrutiny. As in Ladue, the Town of Mansfield’s legitimate interests can easily be satisfied by “more temperate measures.” Interestingly, in City of Clearwater, *supra*, the defendant essentially conceded that it could not satisfy the strict scrutiny standard. It would behoove Mansfield to do the same.

## B. Medium Foreclosure

The Supreme Court ruled unanimously, in Ladue, that the display of signs on the windows, walls or lawns of one’s own residence was not only protected by the First Amendment but was inextricably intertwined with the cherished right to “individual liberty in the home.” Accordingly, municipalities may not “foreclose [this] entire medium of expression,” on private residential property, even if the “prohibitions [are] completely free of content or viewpoint discrimination.”

Mansfield’s signage regulations, of course, foreclose the entire medium of residential signs apart from miniscule exceptions for holiday decorations and such. *This total foreclosure extends even to the temporary political signs that the regulations countenance*; as to these, the regulations are “the equivalent of a year-round ban on political sign posting, which is simply temporarily suspended for the prescribed period.” Painesville Bldg. Dept. v. Dworken & Bernstein Co., 89 Ohio St.3d 564 (Ohio 2000). That is why “the overwhelming majority of courts that have reviewed sign ordinances imposing durational limits for temporary political signs tied to a specific election date have found them to be unconstitutional.” *Id.* A number of these cases are cited in Painesville; see in particular (or in addition) Whitton v. City of Gladstone, 54 F.3d 1400 (8<sup>th</sup> Cir. 1995); Bell v. Baltimore County, 550 F.Supp.2d 590 (D. Md. 2008); McGuire v. City of American Canyon, 2007 WL 875974 (N.D. Cal. 2007); McFadden v. City of

Bridgeport, 422 F.Supp.2d 659 (N.D. W.Va. 2006); Quinly v. City of Prairie Village, 446 F.Supp.2d 1233 (D. Kan. 2006); Dimas v. City of Warren, 939 F.Supp. 554 (E.D. Mich. 1996). We believe that any federal or state court in Connecticut would do the same.

## II. Sign Restrictions On Commercial and Industrial Property

The Connecticut case that bears most closely on Regulations C-4-b-5 and C-1-c is Burns v. Barrett, 212 Conn. 176 (1989). Burns upheld, as content neutral, a state regulation that permitted premises-related, but not non-premises related, billboards within 500 feet of highway interchanges. There is an important difference, however, between that case and this one (in addition to the fact that the state's asserted safety interests, in Burns, were of the highest order): as the Connecticut Supreme Court explained in Burns, "We construe the regulation, however, to include in the exception for on-premises signs those relating to noncommercial as well as commercial activities located on the premises, such as those of a hospital, church, club, *political organization* or other noncommercial institution" (emphasis added). Had it been otherwise, the analysis and outcome would have been very different, for, as the Court recognized, "a political message falls classically within the protection of the First Amendment and any justification for its curtailment must be greater than for a restriction on commercial speech."

By expressly prohibiting political signs on commercial or industrial lots, Regulation C-4-b-5 precludes a court from adopting a similar saving construction of Regulation C-1-c. Accordingly, the two regulations fall squarely within the strictures – which Burns acknowledges – of the U.S. Supreme Court's decision in Metromedia, supra. Not only do they discriminate on the basis of subject matter; they do so, moreover, in the most invidious possible way: they "invert" First Amendment priorities "by affording a greater degree of protection to commercial than to noncommercial speech." Id. Burns states flatly that no court will tolerate this inversion.

Although it is not presently an issue, we would add that if the Town supposes that it can comply with Burns, and with its own constitutional obligations, simply by excising the concluding sentence of Regulation C-4-b-5 (the one that bars political signs on commercial and industrial property), it is in all likelihood mistaken. In the first place, Burns has been undermined, even as a First Amendment precedent, by later U.S. Supreme Court decisions that tighten up the "intermediate" review standard which (despite inconsequential differences in wording) controls both commercial speech and the content-neutral time, place and manner regulation of noncommercial speech. Thus, Burns ignored various exemptions (for on-premises signs; for signs near interchanges located within large cities) as inconsequential under that standard. Yet a decade later, the U.S. Supreme Court held that a commercial regulatory scheme contained so many exemptions that it did not "directly advance" the government's objectives, as the standard requires. The Court has also held, in Discovery Network, Inc., supra, that content differentiations in commercial speech regulations must be related "to the particular interests that the city has asserted." (The on- versus off-premises distinction is not so related, as far as we can discern.) In recognition of these developments, more recent

rulings that address on-premises versus off-premises signage restrictions have rejected the Burns approach. E.g., Vono v. Lewis, 594 F.Supp.2d 189 (D. R.I. 2009).

Even more importantly, Article First, Section 4 of the Connecticut Constitution explicitly protects the right to “speak, write and publish *on all subjects*” (emphasis added). States with similarly worded speech clauses have construed this language to prohibit any sort of subject-matter discrimination whatsoever. E.g., State v. Henry, 732 P.2d 9 (Or. 1987). The Burns plaintiff pled Section 4 but did not brief it separately, and the Court pointedly responded, in the opinion’s first footnote: “The defendant has not in his brief argued that *the textual differences* between our state and federal freedom of speech provisions are of any particular significance in this case. Accordingly, our discussion is limited to the federal constitutional provisions” (emphasis added). We cannot imagine a clearer invitation to address those textual differences – the “all subjects” language and other language as well (for instance, “publish”) – when the opportunity presents itself. We are prepared to pursue that opportunity.

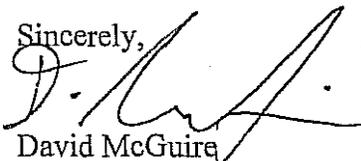
Although the town is not now enforcing the political sign restrictions, they should nevertheless be deleted. Recommending voluntary compliance while keeping them on the books can have a chilling effect, because residents who are unaware that the restrictions are not being enforced will likely err on the side of caution by complying with them in order to avoid fines. Moreover, nothing prevents future town administrators from enforcing them again. For these reasons, we do not believe that the present non-enforcement policy renders the matter moot.

In event of litigation, a plaintiff, if successful in his or her First Amendment claims, would recover damages and attorneys fees from the Town under 42 U.S.C. Sections 1983 and 1988. In addition, we believe that the controlling First Amendment principles are so clear, in their application to the present regulations, that town officials who attempt to enforce those regulations might forfeit their qualified immunity against individual liability and perhaps expose themselves to punitive damages. See, e.g., Gilles v. Pepicky, 511 F.3d 239 (2d Cir. 2007) (discussing loss of qualified immunity for violating settled rules of which reasonable officials ought to have known); Smith v. Wade, 461 U.S. 30 (1983) (allowing punitive damages for “callous indifference” to constitutional rights).

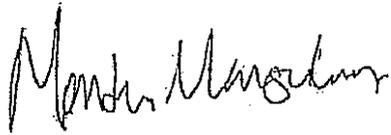
We appreciate your time and concern regarding this important issue. Please provide written assurance that you will revise the pertinent Mansfield zoning regulations to reflect constitutional standards at the next zoning meeting.

Thank you for the courtesy of your attention and early reply.

Sincerely,



David McGuire  
Staff Attorney



Martin B. Margulies  
Cooperating Attorney  
79 High Rock Road  
Sandy Hook, CT 06482-1623

cc:

Dennis O'Brien Esq.  
Town Attorney, Town of Mansfield  
O'Brien & Johnson  
120 Bolivia Street  
Willimantic, CT 06226-2818

Matt Hart  
Town Manager  
Mansfield Director of Planning  
4 South Eagleville Road  
Mansfield, CT 06268

Gregory J. Padick  
Mansfield Director of Planning  
4 South Eagleville Road  
Mansfield, CT 06268

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## Staff Discussion Notes: 10/16/09 Meeting on Student Housing/Quality of Life Issues

The following notes summarize discussions and preliminary staff recommendations regarding various initiatives being reviewed by the Community Quality of Life Committee and other Town representatives.

- The Poughkeepsie N.Y. approach, which distinguishes student residences from families, requires all student residences to be registered and limits student residence occupancy to three (3) individuals will be used as the model for a draft Mansfield Ordinance. The Director of Planning has emailed a list of questions to the Poughkeepsie Planning staff but, to date, a response has not yet been received. The Town Attorney will prepare an initial draft ordinance.
- As currently planned, landlords would be responsible for registering all student residences and will need to provide the names of all tenants as part of the registration.
- As currently planned, student residence requirements would apply to single family and two family homes but would not apply to multi-family developments (apartment projects such as Carriage House, Celeron, Knollwood, Club House, Orchard Acres, etc).
- Ordinance Authority is most appropriate for the new student residence provisions because pre-existing student occupancies would not be legally “grandfathered” as non-conforming uses, which would be the case under Zoning statutes and case law.
- To reduce potential challenges, a student residence ordinance should include some phase in provision for student occupancies that have been legally established before the effective date of a new ordinance. Phase in options include linking compliance to a property transfer in title; a specific phase in period such as 3 or 5 years; or a combination of both.
- The existing Zoning Regulation Definition of Family needs to be revised to reference the Ordinance provisions for student residences. Any potential conflicts between the new ordinance and zoning provisions need to be addressed and eliminated. The definition of family also needs to address “reasonable accommodation” for certain groups of individuals and “functional families” such as religious orders and other unrelated individuals who clearly occupy their dwelling in a traditional family manner. The Director of Planning will prepare an initial draft of a new Zoning Definition of Family.
- Existing Housing Code provisions need to be reviewed to eliminate any potential inconsistencies or conflicts with the new Student Residence Ordinance and Zoning Definition of Family. Reference to the new Student Residence Ordinance may be appropriate. The Director of Building and Housing Inspection will be responsible for this review.
- The Town Attorney did not anticipate any relocation requirements for existing student residents who would have to relocate upon implementation of the 3 individual maximum Student Residence Ordinance.

## Staff Discussion Notes: 10/16/09 Meeting on Student Housing/Quality of Life Issues

- There will be some enforcement difficulties in identifying student residences, verifying student status, addressing on and off again students, etc. Staff has asked University of Connecticut representatives for assistance in identifying the names of UConn students. A current public listing is not available at this time.
- Since most neighborhood impact problems have been associated with student occupancies, a registry of all tenants is not considered necessary at this time.
- The Town Attorney is continuing the review of a Parking Designation Ordinance drafted by the Director of Building and Housing Inspection and Director of Planning. This Ordinance will require landlords to designate a specific parking area for all rental properties. The parking area would need to meet specific locational and construction standard provisions and would have maximum size requirements. Once approved, all on-site parking would need to be in approved areas.
- A Parking Pass Ordinance which would require all tenants and guests to have a specific parking pass would be expensive to administer and difficult to enforce uniformly. Students most likely would be responsible for registering. Such an Ordinance is not recommended at this time but could be considered in the future.
- The Director of Building and Housing Inspection, with assistance from the Town Manager and Director of Planning, has prepared an inventory of additional potential measures to address off-campus student housing issues. Discussion will continue on these additional measures.

## Mike E. Ninteau

---

**From:** Gregory J. Padick  
**Sent:** Monday, November 09, 2009 4:40 PM  
**To:** Dennis J. O'Brien; Mike E. Ninteau; Matthew W. Hart  
**Subject:** 11/9/09 Notes from Poughkeepsie, NY

Earlier today I spoke to Judith Kneff?? of the Poughkeepsie Building Dept (845-451-4007) regarding their Student Registry program and definition of family. Judith was directly involved with the drafting of current registry provisions and administration/enforcement of the registry. It is noteworthy that Poughkeepsie does not have any in Town colleges but 3 colleges, including Marist, are located in adjacent Towns. Poughkeepsie neighborhoods where student occupancy is allowed are characterized by a mix of single family, two family and small multi-family structures. They do not have a significant # of larger apartment complexes occupied by students. The information obtained from Judith is of interest and, in a positive way, does not suggest an alteration of the approach we are pursuing as summarized in 10/16/09 meeting notes. The following additional notes are provided for your information:

1. The current registry has been in existence about 5 years and has not been challenged in court. However, it is based on Poughkeepsie's definition of family which had been challenged and supported by the NY courts and which identifies student occupancy as a land use category distinct from family occupancy.
2. Judith related that their definition of family authorizes 3 unrelated individuals or 4 or more if the specific criteria for traditional or functional family is met and that student residences also are limited to 3 individuals. Although students are clearly identified as a separate use group, they are not considered a privileged class. She felt that use of the same # of individuals for both the unrelated individuals (3) in the family definition and the student residence definition, helped prevent a discrimination claim. She also related that students could make a functional family claim but such a claim likely would not meet the criteria. No such claim has been made to date.
3. Nonconforming student residences have not been a significant issue in Poughkeepsie. The student registry requires annual renewal and does not require Town reminder notices. Apparently, a few years ago, the Town did not send out renewal notices and most student residences lost any potential claim that a non-conforming use had been established. This approach would not work in Ct. under Zoning statutes and case law but may be another standard for phasing out any current student residences with 4 unrelated individuals. A combination of ownership change, failure to renew registration and length of time (3 to 5 years) may be appropriate to phase out any student residences with more than 3 students.
4. Landlords have the responsibility to register and provide student-tenant names.
5. Poughkeepsie does not actively enforce the registry provisions. The staff is aware that there are unregistered student residences, but unless there is a complaint or in some other manner the student residence is directly brought to the staff's attention, there is no enforcement of the registration requirements.
6. In NY violators are given a 60 day period to correct the violation. This period can be extended by an appeal of the notice of violation. It is not uncommon that the appeal process gets strung out until the lease ends.
7. Poughkeepsie has an exemption from the student residence registry for owner occupied accessory rentals of 1 or 2 rooms to student tenants. Somewhat like our efficiency unit provisions. This should be considered in Mansfield
8. Registry of student residences is required even if only 1 tenant is a student(full time or part-time). This provision is not actively enforced. A part time student with a full time job likely would qualify as a functional family.
9. Parking, particularly on-street parking, was a major factor in establishing the 3 person limits and requiring the student registry. It reinforces our approach to also enact an off street parking area designation requirement.

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Legal Notice:

The Mansfield Zoning Board of Appeals will hold a public hearing on December 9, 2009 at 7:00 p.m. in the Council Chamber of the Audrey P. Beck Municipal Building, 4 South Eagleville Road, to hear comments on the following application:

7:00 P.M. – Electric Repair Service LLC, DBA Mr. Electric for a Variance of Art VIII A for a photovoltaic array requiring a variance of 38' where 50' is required for rear yard setback and 3' where 35' is required for side yard setback, at 17 Chaffeeville Rd.

7:30 P.M. – Kathryn Myers for a Variance of Art VIII A for a 14' x 22' house addition requiring a variance of 6 ½' where 26' is required for side yard setback at 679 Browns Rd.

8:00 P.M. – William Paulson continued hearing for property at 527 Middle Tpke.

At this public hearing, interested parties may appear and written communications may be received. No information shall be received after the close of the public hearing. Additional information is available in the Mansfield Town Clerk's Office. Dated November 19, 2009.

Carol Pellegrine

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# O'Brien and Johnson

Attorneys at Law

120 Bolivia Street, Willimantic, Connecticut 06226

Fax (860) 423-1533

Attorney Dennis O'Brien  
dennis@OBrienJohnsonLaw.com  
(860) 423-2860

November 16, 2009

Attorney Susan Johnson  
susan@OBrienJohnsonLaw.com  
(860) 423-2085

Gregory J. Padick  
Director of Planning  
Town of Mansfield  
Audrey P. Beck Building  
Four South Eagleville Road  
Mansfield, CT 06268-2599

Dear Greg:

You have informed me that you recently received a written communication from the Connecticut Department of Environmental Protection advising all municipal land use agencies that municipalities "must take the appropriate actions necessary to make certain that the proper [additional] fees are collected and forwarded to the Department of Environmental Protection."

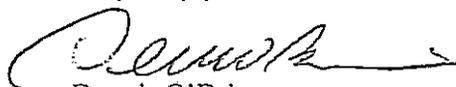
The additional fees referred to by the DEP are addressed in Connecticut General Statutes section 22a-27j, as amended by Public Act 09-03 of the June Special Session of the CT General Assembly. Generally, the fees apply to ". . . an application for **any approval** required by chapters 124 [zoning], 126, [planning], 440 [wetlands and watercourses], and 444 [coastal management] **or by regulations adopted pursuant to said chapters. . .**"

You have asked me whether these additional fees, recently increased from \$30.00 to \$60.00 per application by Public Act 09-03, apply, for example, to an application for a zoning permit, required by Article Eleven, Section C of the Town of Mansfield Zoning Regulations.

As noted above, the additional \$60.00 fee must be applied by the town to any application for **any approval** per the cited statutes, **or any regulations adopted pursuant to said statutes**. As all the town's zoning, planning, and wetlands regulations are adopted pursuant to land use statutory authority, the fee must be assessed upon any application filed to gain land use agency or staff approval per **any** of said statutes **or regulations**. Thus, the extra assessment must be applied to an application for a zoning permit.

Please let me know if you need any more from me on this.

Very truly yours,



Dennis O'Brien  
Attorney at Law

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INVOICE TO: Town of Mansfield PZC  
RE: Legal Services Provided  
FOR: October 6, 2009 to December 3, 2009  
DATE: December 3, 2009

<u>PROJECT</u>	<u>HOURS</u>	<u>FEE</u>
Ted's Spirit Shoppe Special Permit	2.2	\$264
DEP Land Use Approval Fees	2.0	\$240
Wetlands Regulations Revisions	4.7	\$564
Stevenson & Handwerker v. Inland Wetlands Agency	3.4	\$327
<b>TOTALS</b>	<b>12.3</b>	<b>\$1395</b>

**PLEASE REMIT \$1395**

Thank you,

Attorney Dennis O'Brien

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INVOICE TO: **Town of Mansfield**  
 RE: **Ted's Spirit Shoppe Special Permit**  
 FOR: October 19, 2009 to December 3, 2009  
 DATE: December 3, 2009

<u>DATE</u>	<u>ACTIVITY</u>	<u>HOURS</u>	<u>FEE</u>
10/19/09	Reviewed, analyzed Letter from Atty. DiFazio	0.1	\$12
	Emails from, to Planning Director, PZC Member	0.1	\$12
	Reply Email to Planning Director: 1 <sup>st</sup> Impression	0.1	\$12
10/20/09	Email from Planner: Result of PZC Meeting	0.1	\$12
10/28/09	Follow Up Email from Director of Planning	0.1	\$12
10/29/09	Legal Research	1.1	\$132
	Drafted Legal opinion	0.6	\$72
<b>TOTALS</b>		<b>2.2</b>	<b>\$264</b>

INVOICE TO: **Town of Mansfield**  
 RE: **DEP Land Use Approval Fees**  
 FOR: October 6, 2009 to December 3, 2009  
 DATE: December 3, 2009

<u>DATE</u>	<u>ACTIVITY</u>	<u>HOURS</u>	<u>FEE</u>
10/6/09	Town Hall Meeting with Planning Director	0.1	\$12
	Reviewed Materials from Planning Director	0.1	\$12
	Email from Planning Director: Added Materials	0.1	\$12
10/20/09	Follow Up Email from Planning Director: Fees	0.1	\$12
10/28/09	Follow Up Email from Planning Director: Fees	0.1	\$12
11/8/09	Legal Research	0.2	\$24
11/9/09	Email to Planning Director: Legal Analysis	0.1	\$12
11/13/09	Emails from Planning Director: More Materials	0.2	\$24
11/14/09	Completed Legal Research	0.4	\$48
11/16/09	First Draft of Legal Opinion	0.3	\$36
	Reply from Planning Director & Response	0.2	\$24
	Second Draft of Legal Opinion	0.1	\$12
<b>TOTALS</b>		<b>2.0</b>	<b>\$240</b>

INVOICE TO: **Town of Mansfield**  
 RE: **Wetlands Regulations Revisions**  
 FOR: October 6, 2009 to December 3, 2009  
 DATE: December 3, 2009

<u>DATE</u>	<u>ACTIVITY</u>	<u>HOURS</u>	<u>FEE</u>
11/23/09	Started Review of Draft Regulations	0.7	\$84
12/1/09	Completed Review & Analysis of Draft Regs	1.5	\$180
12/1/09	Town Hall Meet w/Agent, Planner, PZC Members	2.5	\$300
<b>TOTALS</b>		<b>4.7</b>	<b>\$564</b>

INVOICE TO: **Town of Mansfield**  
 RE: **Stevenson & Handwerker v. Inland Wetlands Agency**  
 FOR: October 6, 2009 to December 3, 2009  
 DATE: December 3, 2009

<u>DATE</u>	<u>ACTIVITY</u>	<u>HOURS</u>	<u>FEE</u>
7/30/09	Initial Review of Appeal Papers	0.2	\$24
	Emails to, from Planning Director, Wetlands Agent	0.1	\$12
8/17/09	Emails to,from Assistant to Town Mgr.: Insurance	0.1	\$12
8/24/09	Email from Director of Planning: Background Info	0.1	\$12
8/27/09	More Background Info from Wetlands Agent	0.1	\$12
9/4/09	Reviewed Appearance filed for Private Defendant	0.1	\$12
9/8/09	Reviewed Judicial Dept. Site & Email to Planner	0.1	\$12
	Filed Appearance Form with Court	0.1	\$12
	Emails from, to Various Parties and Persons	0.3	\$36
9/12/09	Reviewed Status of Appearances Form from Court	0.1	\$12
11/4/09	Emails from & to Various Parties & Counsel	0.1	\$12
11/5/09	Emails from & to Various Parties & Counsel	0.1	\$12
11/13/09	Emails from & to Various Parties & Counsel	0.1	\$12
11/19/09	Court Appearance (Finis) by Atty. Johnson	1.8	\$135
<b>TOTALS</b>		<b>3.4</b>	<b>\$327</b>