

PETITION TO INTERVENE IN ADMINISTRATIVE PROCEEDING

VERIFIED PLEADING PURSUANT TO CGS 22a-19

SEPTEMBER 18, 2020

HAMDEN CONNECTICUT PLANNING AND ZONING COMMISSION

SPECIAL PERMIT/SITE PLAN APPLICATION #20-1511

(Eighty-Two Ninety-Two Crestway, Applicant)

82-92 CRESTWAY - HAMDEN CONNECTICUT

PROPOSED REMOVAL of 5,925 CYDs of MATERIAL

PETITIONER:

LAUREN GARRETT
47 ANDOVER ROAD
HAMDEN, CT 06518

RECEIVED
TOWN OF HAMDEN
SEP 18 2020
PLANNING AND
ZONING DEPT.

SUBMITTED TO:

DANIEL KOPS, PHD, HAMDEN CT TOWN PLANNER
TOWN OF HAMDEN CT PLANNING AND ZONING COMMISSION
2750 DIXWELL AVENUE, HAMDEN CT 06518

Petitioner asserts, based on the facts contained in this petition, that it is reasonably likely that unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the State will occur if the conduct proposed in the Application is approved.

Petitioner respectfully requests that the Hamden CT Planning and Zoning Commission accept this Petition and grant the Intervenor Party Status in this administrative proceeding.

I. Basis for Intervention

- a. The proposed conduct (removal, handling and disposition of bulky waste over 1,000 cubic yards) is under Hamden PZC's authority.
- b. Intervenor has reviewed the application materials (Special Permit/Site Plan #20-1511 - the "Application") and the current Hamden Zoning Regulations.

- c. Intervenor has previously requested, received and reviewed public records associated with Hamden's acceptance and use of FEMA funding for the removal, processing and disposition of bulky waste resulting from the May 2018 tornado.
- d. The following Factual Allegations are made:
 - i. The Application is deficient and those deficiencies deny the Hamden PZC and public of information necessary to fully evaluate and act on the Application.
 - ii. The Application contains no information/data on the nature of the bulky waste (its specific origin or potential insect infestation). Some or all of this bulky waste is tornado debris, brought to the site by the applicant and possibly other parties contracted by the Town for storm recovery purposes.
 - iii. The State of CT DEEP has adopted regulations intended to mitigate insect infestation impacts on the State's resources, including prudent measures to contain the spread of infestation.
 - iv. Hamden has documented insect infestation per the State DEEP.
 - v. Substantial public funds have been and will continue to be, expended for the purpose of identifying and mitigating insect infestation and its deleterious impact on CT's natural resources.
 - vi. The land where storm debris was deposited (primarily 82-92 Crestway and the "Cube Smart" property) are not DEEP approved Debris Management sites ("DMS").
 - vii. Compliance with DEEP regulations as to insect infestation or possible infestation has not been documented with respect to the subject bulky waste.
 - viii. It is reasonable to conclude that some of the subject bulky waste material may be infested or show signs of insect infestation.
 - ix. Any such infestation would have a deleterious impact on the State's air, water or other natural resources, including potentially those on 82-92 Crestway, on adjacent sites, on the Cube Smart parcel and on the site's listed in the application as possible disposal sites (as well as on lands adjacent to those sites).
 - x. The Application contains no information about active zoning enforcement, the ongoing zoning violation, the Town's injunctive relief request, the apparent violation of DEEP, DEM and FEMA grant requirements and regulations, the illegal processing and sale of material as fire wood, the lack of a zoning permit, a certificate of zoning compliance or a certificate of occupancy, the illegally issued building permit and related inspections by the Hamden Building Department, the active illegal use of the building

and failure of Hamden Building to take any enforcement action. All of these facts are relevant to the PZC's review and action on the Application.

- xi. The Application contains no proposed measures to evaluate the bulky waste and to confirm that no infestation is present; no protocols for securing material if infestation is discovered; no protocols for properly disposing of infested materials; no documentation of the applicant's technical expertise and credentials to undertake these actions, no assessment of the possible liability to Hamden from potential impacts on affected lands, and no indemnification or hold harmless to the Town's benefit to assure that Hamden citizens are not at risk of damage claims by potentially affected parties.
 - xii. The Application is lacking relevant information on the proposed disposal sites, their ownership, the owner's approval and legal authority to accept this waste, whether necessary permits (local or State) to do so are in place, or the compliance status of proposed receiving locations in terms of accepting this bulky waste.
 - xiii. The proposed disposal sites are or may be outside the Hamden PZC's jurisdiction.
 - xiv. The Application contains no acknowledgement that the remediation once approved, will be carried out in accordance with the approved plan and any related conditions by a date certain.
- e. The Application is grossly and fatally deficient:
- i. The "Cube Smart" consent is conditional and unacceptable; it purports to usurp the PZC's authority and implies that the PZC is bound by Cube Smart's approval of aspects of the application that are exclusively within the PZC's jurisdiction.
 - ii. "Cube Smart" and other affected parties must be co-applicants (a "joint application" is required per 520.8.4d iii). Conditional consent or even unconditional consent does not meet this standard. The rationale for this higher standard is self evident and intentional by Hamden PZC and failure to comply renders the application deficient on its face.
 - iii. The Application in current form also fails to comply with various applicable zoning regulations, including but not necessarily limited to:
 - 1. Section 718 (Special Permit)
 - 2. Section 720 (Site Plan)
 - 3. Section 520.1 (preservation)
 - 4. Section 520.7.2 (as to waste management)
 - 5. Section 520.8.4 (storm water impacts)

6. Inaccuracy of the "Existing Conditions" survey

7. 520.8.4d iii

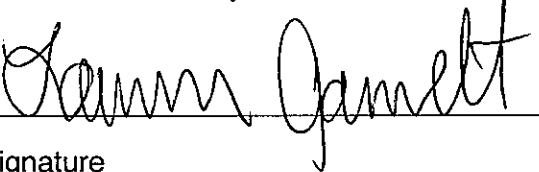
- f. There is the potential for PZC and Town liability if the application (proposed conduct) is approved as submitted.

II. Initial Requests and Recommendations

- a. Accept this Petition and grant the Intervenor Party status.
- b. Make an affirmative finding as to the potential environmental damage resulting from the proposed conduct and require the applicant to provide prudent and feasible alternatives to the proposed conduct.
- c. Suspend the current site plan approval (per section 720.9 of the Hamden Zoning Regulations)
- d. Separate the proposed scope/use change Application from the remediation aspects of the Application. Defer or deny any request for changes in use or additional uses until all violations are completely and sufficiently resolved.
- e. Incorporate the complete zoning enforcement file into the public record of the Application.
- f. Direct the owner/applicant to immediately cease all activity at the site and to remove all equipment and vehicles and to secure the site and building from use.
- g. Engage professional technical experts to review the Application (per sections 718.2c xii and 718.2 i of the Hamden Zoning Regulations) at the applicant's expense.
- h. Refer the Application to the State of CT DEEP WEED and to the CT Extension Service for review and comment.
- i. Seek legal counsel to assess potential PZC liability and to advise the PZC as to its duties and the implications of any proposed PZC actions.
- j. Request the Town Engineer confirmation required per 520.8.4d v of the Hamden Zoning Regulations as to impacts on adjoining properties.
- k. Table any PZC review/action to approve until all relevant information has been provided and reviewed by staff and experts retained by the PZC.
- l. When or if approved in some form, require periodic PE certified reports of progress during remedial activities (per section 520.8.4 of the Hamden Zoning Regulations).
- m. When or if approved in some form, require a substantial performance bond, part of which should be in "cash" (liquid) form.

- n. Require a hold harmless and indemnification agreement to the Town of Hamden's benefit from all co-applicants.
- o. Immediately provide a complete copy of the zoning enforcement file, this Petition and the Application to the owners of the "Cube Smart" parcel and also provide same with any and all additional documentation relating to this Application.
- p. The Applicant's unconditional written agreement to the requested injunctive relief, and advise the Court of same.
- q. Aggressively pursue Court approval of the requested injunction and keep the Court completely advised of the full record of this and any other related Hamden PZC proceedings or actions.
- r. Make a formal referral to the Town Council of the aspects of the application relating to FEMA grant compliance and request immediate Council review of same and that they direct the Town Attorney to advise the PZC in terms of PZC review and action on the Application in regard to any FEMA grant compliance implications.

I, Lauren Garrett, am over the age of eighteen years and know the meaning and obligation of an oath. I swear that the forgoing facts are, to the best of my knowledge, true and, in affirmation thereof, have set my hand, this date in Hamden, Connecticut.

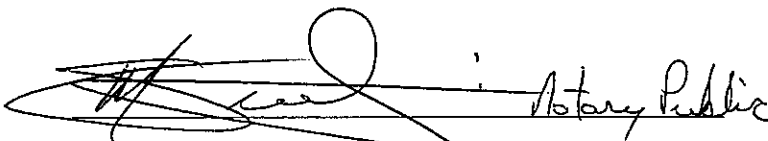


Signature

9/18/2020

Dated

The above-named individual, being known to me or duly identified, and being placed under oath, did on this date and in my presence swear to the truth of the foregoing and signed her name thereto in testament thereof.

 Notary Public

Notary Public/Commissioner of the Superior Court

September 18th, 2020

Dated

