

September 2, 2020

Mary Young, Director of Planning & Zoning  
Westport Town Hall  
110 Myrtle Avenue, RM 203  
Westport, CT 06880

**Re: 270 Saugatuck Avenue referral to ARB/HDC Joint Committee**

Dear Mary:

Our offices have been engaged to assist with the pending special permit/site plan modification to add 14 parking spaces to the above referenced property. As part of that application, this matter was referred to the Joint Committee for review and comment. On September 1, 2020, the Joint Committee held a public hearing to review the project. During that meeting there was some discussion about the Joint Committee's purview and role in this modification. Our position is set forth below, please share this with the Joint Committee, as well as the Town Attorney.

The referral to the Joint Committee was made because the property is subject to an existing special permit/site plan approval under Section 32-18 of the Westport Zoning Regulations, the approval is set forth in Resolution #17-015 dated April 11, 2017. Condition #7 of the resolution requires any deviation from the approved plan to be subject to the review and approval of the Commission. The Historic Structure is not being altered, and the property is not located in a Historic District, so the Zoning Regulations do not require the Joint Committee to review this proposal.

Section 32-18.2(d) requires the Historic District Commission or its designee to determine whether the structure is eligible for consideration under Section 32-18. That determination was made as part of the original approval and is binding on the Joint Committee. Accordingly, the Joint Committee need not review the Historic Structure on site again or determine if it is eligible for consideration under Section 32-18, because it has already done so.

Furthermore, Section 32-18.3 sets forth the Application Requirements for a Section 32-18 Special Permit/Site Plan project. Subsection (b) states "Any proposed plans for **alteration** to the historic structure or historic accessory structure or its use" must be submitted as part of the application. This proposal does not involve any **alteration** to the Historic Structure, we are merely proposing to add parking to bring the parking ratio into compliance with the current zoning regulations.

Finally, the only regulations in Section 32-18 that make reference to a referral to the Joint Committee are Section 32-18.3(d) and 32-18.7. Section 32-18.3(d) states, "Any application for **alteration** pursuant to (b) herein, shall be referred to the Historic District Commission and the Architectural Review Board for a combined recommendation from a joint meeting. Their guidelines for review will be the most recent Secretary of the Interior's Standards for the Treatment of Historic Properties, Standards for Rehabilitation." Those guidelines relate to the appearance and alteration of the Historic Structure, and because we are not proposing any changes to that structure, their right to review and comment on this proposal is not afforded by the Regulations. Section 32-18.7 states that "once a Special Permit/HRS has been granted, the historic structure or historic accessory structure shall not be altered unless such alteration is reviewed by the HDC Administrator to evaluate whether HDC review is needed and is reviewed by the P&Z Commission or their designee to determine if approval is required from the P&Z Commission." The Regulations are clear that those referrals are only required if there is a proposed alteration to the Historic Structure. In this pending application, there is no proposed alteration to the Historic Structure. Accordingly, the Joint Committee has no jurisdiction over the pending zoning application, and we look forward to presenting this application to the Planning & Zoning Commission.

If you would like to discuss this matter further, please feel free to contact me.

Very truly yours,



Eric D. Bernheim

EDB/cf

cc: Historic District Commission