

**TOWN PLAN AND ZONING COMMISSION  
TOWN OF FAIRFIELD  
MINUTES OF MEETING – FEBRUARY 8, 2022**

The Town Plan and Zoning Commission held a Meeting at 6:30 p.m., on Tuesday, February 8, 2022. The Town conducted this meeting via WEBEX

Members Present: Tommy Noonan, Chairman; Lenny Braman, Vice Chairman; Meg Francis, Secretary; Kathy Braun; Dan Ford; Alexis Harrison; Steve Levy

Alternate Members Present: Sarah Keitt

Town Department Members Present: Jim Wendt, Planning Director  
Emmeline Harrigan, Asst. Planning Director  
Josephine Keogh, Clerk

**Meeting Minutes** Motion was made by Ms. Francis, seconded by Ms. Harrison and members present unanimously **VOTED TO APPROVE** the Meeting Minutes of January 25, 2022.

**2780 Redding Road** Motion was made by Mr. Levy, seconded by Ms. Braun and members present unanimously **VOTED TO APPROVE** the request of Atty. John Fallon for a 90-day extension for recording final Subdivision Map for to May 7, 2022.

**2-6 Beacon Square** Motion was made by Mr. Levy, seconded by Ms. Francis and members present unanimously **VOTED TO RECOMMEND TO PUBLIC HEARING** the Zoning Compliance Application of Beacon Square Properties, LLC pertaining to a 26-unit residential development, pursuant to Section 8-30g of the Connecticut General Statutes. Res. R-3 Zone

**855 Stillson Road** Motion was made by Mr. Braman, seconded by Mr. Ford and members present unanimously **VOTED TO RECOMMEND TO PUBLIC HEARING** the Subdivision application of 855 Stillson Road, LLC for two (2) lots in an A Zone.

**1609 Fairfield Beach Road** Motion was made by Mr. Levy, seconded by Ms. Francis and members present unanimously **VOTED TO RECOMMEND TO PUBLIC HEARING** the Special Exception and Coastal Site Plan application of Gregory Sargent pertaining to the demolition and reconstruction of a single family dwelling. Beach District

**Zoning Regulations Amendment** Motion was made by Ms. Braun, seconded by Mr. Mr. Braman and members present unanimously **VOTED TO APPROVE** the Application of 1401 King, LLC to amend Section 13.14.2 of the Zoning Regulations (permitted uses in the Transit Oriented Development Park) to allow dog day care uses to include overnight boarding, day care, grooming and training with the following modifications:

13.14.2: Dog day care uses, to include pet services such as overnight boarding, day care, grooming, and training provided that the applicant shall demonstrate all reasonable efforts to prevent any unreasonable offensive odor or excessively loud noise to emanate outside of the premises and to establish an effective protocol for waste removal.

To quantify performance compliance under this section the instantaneous maximum (L<sub>max</sub>, fast response) from operations (including dogs barking) shall not exceed the average (L<sub>eq</sub>) within the adjacent spaces by more than 4 dBA or 7 dBC. When average sound levels of adjacent spaces are not measured, the noise level from operations shall not exceed an instantaneous (L<sub>max</sub>, fast response) within the adjacent space of 40 dBA / 60 dBC for adjacent residential spaces and 45 dBA / 60dBC for adjacent commercial spaces.

**1401 Kings Highway** Motion was made by Mr. Braman, seconded by Ms. Braun and members present unanimously **VOTED TO APPROVE** Zoning Compliance Application of 1401 King, LLC to establish a dog day care, overnight boarding, grooming and training use in a portion of an existing building. Des Comm. Dist./TODP

**Zoning Regulation Amendment** Motion was made by Ms. Harrison, seconded by Mr. Braman and members present unanimously **VOTED TO APPROVE** the Application of the Town Plan and Zoning Commission to amend Section 2.4 of the Zoning Regulations (Prohibited Uses) of proposed prohibition of Cannabis Establishments.

2.4.1 Cannabis Establishments, including any related buildings, structures and uses, are prohibited in all zones in the Town of Fairfield. Cannabis establishments are defined as a producer, dispensary facility (including a Medical Marijuana Dispensary), cultivator, micro-cultivator, retailer, hybrid retailer (i.e., licensed to sell both recreational cannabis and medical marijuana), cannabis food and beverage manufacturer, cannabis product manufacturer, and/or cannabis product packager. Notwithstanding the foregoing, the prohibition of Cannabis Establishments will expire and terminate on February 28, 2023 unless otherwise extended by the Plan and Zoning Commission.

**Zoning Regulation Amendment** Motion was made by Ms. Braun, seconded by Ms. Harrison and members present unanimously **VOTED TO APPROVE** the Application of the Town Plan and Zoning Commission to opt-out of State mandated parking regulations. Pursuant to Public Act 21-29.

**Zoning Regulation Amendment** Motion was made by Mr. Braman, seconded by Ms. Francis, and members present **VOTED TO TABLE** the Application of the Town Plan and Zoning Commission to amend Section 6.0 of the Zoning Regulations (Accessory Apartments) and proposed opt-out of State mandated language.

For Motion: Noonan, Braman, Levy, Ford  
Against Motion: Harrison, Braun, Francis



**Zoning Regulation Amendment** Motion was made by Ms. Braun, seconded by Mr. Ford and members present unanimously **VOTED TO APPROVE** the Application of the Town Plan and Zoning Commission to amend Section 2.12 (Flood Management) and Section 32.0 (Flood Protection).

## 2.12 Flood Management

The Legislature of the State of Connecticut has in Title 7, Chapter 98, Section 7-148(c)(7)(A) and in Title 8, Chapter 124, Section 8-2 of the General Statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The flood hazard areas of Fairfield are subject to periodic flood inundation which results in the loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

The Town of Fairfield has voluntarily participated in the National Flood Insurance Program (NFIP) since 1978. The NFIP is founded on a mutual agreement between the federal government and each participating community. Local, state and federal governments must share roles and responsibilities to meet the goals and objectives of the NFIP. The community's role is of paramount importance. Property owners are able to receive federally- subsidized flood insurance only if the community enacts and enforces the minimum floodplain regulations required for participation in the NFIP.

All property and structures located within an area of special flood hazard shall be subject to the provisions of Section 32.0 of the Zoning Regulations pertaining to Flood Plain Management requirements.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for Fairfield County, Connecticut dated July 8, 2013, and accompanying Flood Insurance Rate Maps (FIRM) dated July 8, 2013, (Panels 09001C0418G, 09001C0419G, 09001C0438G, 09001C0556G, 090010557G) and June 18, 2010 (Panels 09001C0404F, 09001C0406F, 09001C0407F, 09001C0408F, 09001C0409F, 09001C0412F, 09001C0416F, 09001C0417F, 09001C0426F, 09001C0428F, 09001C0437F), and other supporting data applicable to the Town of Fairfield and any subsequent revisions thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA. The area of special flood hazard includes any area shown on the FIRM as Zones A, AE, and VE, including

areas designated as a floodway on a FIRM. Zone VE are also identified as a Coastal High Hazard Area. Areas of special flood hazard are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on a Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS and FIRM are on file in the Plan & Zoning Department.

## SECTION 32.0 - FLOOD PROTECTION

32.0 General The underlying purpose of the floodplain management regulations is to protect the public health, safety, and general welfare and to minimize the harmful impacts of flooding upon the community in specific areas by provisions designed:

- i. To protect human life and health, and prevent damage to property;
- ii. To minimize expenditure of public funds for costly flood control projects;
- iii. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- iv. To minimize prolonged business interruptions and other economic disruptions by requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- v. To minimize damage to public facilities, infrastructure and utilities, such as water and gas mains, electric, telephone and sewer lines, and streets and bridges, located in the floodplain;
- vi. To help maintain a stable tax base by providing for the sound use and development of flood hazard areas in such a manner as to minimize flood damage;
- vii. To insure that potential buyers are notified that property is in a flood hazard area;
- viii. To prevent increases in flood heights that could further increase flood damage by limiting alteration to natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of flood waters;
- ix. To ensure that activities such as filing, grading, dredging and other development that may create obstructions to flow do not increase erosion or flood damage, or divert flood waters onto adjacent properties.



Proposed uses, buildings, structures, in flood prone areas as delineated on the Flood Insurance Rate Map shall conform to the following standards:

32.1 In all special flood hazard areas, designated A, AE, Coastal AE, and VE Zones, the following provisions shall apply:

- a. Proposed development shall be reviewed to assure that all necessary federal, state, and local permits have been received, including those from governmental agencies where approval is required by the Federal Water Pollution Control Act. Proposed development shall be reviewed to determine whether proposed building sites will be reasonably safe from flooding.
- b. All proposed developments shall include within such proposals base flood elevation data.
- c. Permits shall be required for all new construction, substantial improvements, including the placement of prefabricated buildings, and other development and shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure, be constructed with materials resistant to flood damage, and be constructed by methods and practices that minimize flood damage. Plans shall be designed and certified for flood compliance by a CT registered architect and/or engineer.
- d. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- e. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of the flood waters into the systems and discharges from the system into flood waters and on-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- f. The bottom of all electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Electric utility meters and service panels shall be elevated to (1) foot above the base flood elevation (BFE) and located with a landing or deck area of minimum 3' x 3' dimension that has unrestricted stair or ladder access.

Any HVAC, generator, or utility meter platforms, in addition to being (1) foot above BFE must also meet the required setbacks and lot coverage requirements of the underlying zone. In the VE zone, gas meters must be mounted on the rear side of a pier or column protected from the directional wave action flow. Systems, fixtures, equipment and components shall not be mounted on or penetrate through breakaway walls intended to fail under flood loads. Electrical wiring systems that must be located below the BFE plus

1.0 foot shall conform to the standards for wet locations, as well as not be located on breakaway walls.

- g. Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated at least (1) foot above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe/vent extended at least (1) one foot above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water. No underground tanks are permitted.
- h. If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, docks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.
- i. If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)
- j. **If the Town acquires data or studies that changes the base flood elevation within a FEMA mapped Special Flood Hazard Area (SFHA) and/or floodway boundaries, such information shall be submitted to FEMA within six months after such data and information becomes available. Such data and information may include that which is necessary to maintain or modify FIRMs, including hydrologic and hydraulic engineering analyses prepared for flood zone areas within the Town of Fairfield.**

32.2 In all special flood hazard areas designated as A Zones, the following shall additionally apply:

- a. The Zoning Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation, limit of moderate wave action (LiMWA) boundary line, and floodway date available from a Federal, State or other source, as criteria for requiring that new construction, substantial improvements, or other development in Zone A have the lowest floor, including basement, elevated to (1) one foot or more above the base flood elevation and all new construction and substantial improvements of non-residential structures have the lowest floor, including basement, elevated or flood proofed to (1) one foot or more above the base flood elevation.
- b. For the purpose of the determination of applicable flood insurance risk premium rates, the applicant shall provide the elevation in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures and whether or not



such structures contain a basement; obtain, if the structure has been flood proofed, the elevation, in relation to mean sea level, to which the structure was flood proofed, and a record of all such information shall be maintained with the Zoning Enforcement Officer. Upon completion of the applicable portion of construction, the applicant shall provide the Zoning Enforcement Officer verification of the as-built lowest floor elevation and utility elevation or in the case of flood proofed buildings, the elevation to which the flood proofing is effective.

- c. In riverine situations, the applicant shall notify adjacent communities and the Connecticut Department of Environmental Protection prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Zoning Enforcement Officer and Federal Emergency Management Agency.
- d. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- e. Manufactured Homes and Manufactured Home Parks and Subdivisions are prohibited in all flood hazard areas, designated Zones A, AE and VE.

32.3 In all special flood hazard areas designated as Zones A and AE, the Following additionally shall apply:

- a. All new construction, substantial improvements and repair to structures that have sustained substantial damage which are residential structures shall have the lowest floor, including basement, and associated utilities elevated to (1) one foot or more above the base flood level.
- b. All new construction, substantial improvements, and repair to structures that have sustained substantial damage which are non-residential structures, shall have the lowest floor, including basement, elevated to (1) foot or more above the base flood level, or together with attendant utility and sanitary facilities, be designed to be dry flood-proofed so that below one foot above the base flood level the structure is water tight with walls substantially impermeable to the passage of water, and with structural components having the capability of resisting hydrostatic, and hydrodynamic loads, and effects of buoyancy.
- c. Where flood proofing is utilized for a ~~particular~~ **non-residential** structure in accordance with paragraph 32.3b of this section, a Connecticut registered professional engineer or architect **shall review and/or develop structural design specifications and plans for the construction and** shall certify that the flood proofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood. ~~and a record of such certificate indicating the specific elevation, in relation to mean sea level, to which such structures are flood proofed shall be maintained with the Zoning Enforcement Officer.~~ **Such certification shall be provided to the Floodplain Administrator on the FEMA Floodproofing Certificate, FEMA Form 086-0-34.**

- d. For all new construction, substantial improvements, and repair to structures that have sustained substantial damage, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a CT registered professional engineer or architect or must meet or exceed the following minimum criteria:

A minimum of two openings having a total net area of not less than one square inch for every square foot (measured to the exterior enclosure walls) of each enclosed area shall be provided. Flood openings shall be provided on at least two separate enclosure walls and if the structure has more than one enclosed area, openings must be installed in the exterior walls of each enclosed area so that flood waters can enter directly from the outside. Garage doors do not meet the flood vent requirements unless equipped with flood openings. The bottom of all openings shall be no higher than one foot above original exterior grade. Openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. Fully enclosed areas below the BFE within the AE zone area are limited to building access only, cannot exceed 299 square feet in size and shall be constructed of flood resistant materials per FEMA Technical Bulletin 2, Flood Damage-Resistant Requirements. Enclosures below 1.0 foot above the BFE can only be used for vehicle parking, building access, or limited storage and are prohibited for use as living area.

- e. Recreational vehicles placed on sites within Zones A, AE, VE shall either (1) be on the site for fewer than 180 consecutive days, (2) be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions) or (3) meet all the general standards of Section 32.1 and the elevation and anchoring requirements of Section 32.3 for A or AE Zones or 32.5 for VE Zone.
- f. Equal Conveyance. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.
- g. Compensatory Storage. The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent



property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

32.4 In the floodway as delineated on the Flood Insurance Rate Map, any encroachments, including fill, new construction, substantial improvements, and other development that would result in any 0.00 feet increase in flood levels within the community during the occurrence of the base flood discharge shall be prohibited. The provision of proof that there shall be no (0.00 feet) increase in flood discharge due to the proposed construction or encroachment shall be the responsibility of the applicant and shall be based on hydrologic and hydraulic studies, performed in accordance with standard engineering practice, and certification, with supporting technical data, by a Connecticut Registered Professional Engineer. Buildings and structures meeting the standard above and located in whole or in part in the floodway shall be designed and constructed in accordance with ASCE 24. Fences in the floodway must be aligned with the flow and be of an open design.

- a. The Town may request floodway data of an applicant for watercourses without FEMA-published floodways. When such data are available from any other source (in response to the Town's request or otherwise), the Town shall designate regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the elevation more than one (1) foot at any point along the watercourse.
- b. In "A" zones where base flood elevations have been determined but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted which will increase base flood elevation more than one (1) foot any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.

32.5 In the coastal high hazard zones, designated as VE and the Coastal AE (LiMWA), the following provisions shall additionally apply:

- a. The applicant shall obtain the elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor, excluding pilings or columns of all new and substantially improved structures, and whether or not such structures contain a basement. A record of all such information shall be maintained with the Zoning Enforcement Officer.
- b. All new construction shall be located landward of the reach of mean high tide with the exception of accessory uses that include ~~boat houses~~, landings, docks and piers.

- c. All new construction, substantial improvements, and repair to structures that have sustained substantial damage shall be elevated on adequately anchored pilings or columns, designed not to exceed a maximum 30" x 30" dimension including any cladding material, and securely anchored to such piles, and columns so that the lowest horizontal structural member, excluding piles or columns, is elevated to (1.1) one point one foot or more above the base flood level. Any pier or column section which exceeds the maximum dimension shall be oriented parallel to direction of wave flow and shall achieve a design that provides greater free of obstruction area with a smaller number of structural supports than the maximum 30" x 30" design. A CT registered professional engineer or architect shall certify that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash, and the space beneath the lowest floor shall be free of obstruction or be constructed with breakaway walls intended to collapse under stress without jeopardizing structural support; said space shall not be used for human habitation. The top of foundation grade beams shall be located a minimum of 5 feet below existing grade to protect from scour damage.

Enclosures with breakaway walls are not to exceed 299 square feet including any elevator enclosures designed to meet FEMA requirements. The remainder of the building's exterior perimeter may be screened with open-work lattice or slat materials compliant with FEMA Technical Bulletin 5 (Free of Obstruction) that also provide 40% visibility into screened areas.

A breakaway wall shall have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered engineer or architect has certified that the designs proposed meet the following conditions:

Breakaway wall collapse shall result from a water load less than that would occur during the base flood; and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acts simultaneously on all building components (structural and non-structural). Wind loading values used shall be those required by applicable State or local standards. Such enclosed space shall be used solely for parking of vehicles, building access, or storage. Areas enclosed by breakaway walls shall contain hydraulic flood vents per the requirements of Section 32.3.d.

- d. No use of fill for structural support of buildings shall be permitted. Minor grading and the placement of minor quantities of non-compacted fill shall be permitted for landscaping and drainage proposed under and around buildings, and for support of parking slabs, pool decks, patios, and walkways installed at current grade. The fill must wash out from storm surge, thereby rendering the building free of obstruction, prior to generating excessive loading forces, ramping effects, or wave deflection.
- e. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.



- f. Concrete slabs located at grade below an elevated structure within the VE zone shall be “frangible” or intended to break into smaller pieces during storm and surge events. Frangible slabs must be constructed independent of structural columns and piers, without reinforcement, and to a maximum thickness of 4 inches thick.
- g. An exterior door shall be installed at the top of any stairs that provide access to the to the lowest (habitable) floor of the structure.
- h. The base of a chimney or fireplace shall not extend below the BFE plus one foot. When vertical support is required, a chimney or fireplace shall be vertically supported on pile or column foundations embedded at least as deep as the rest of the structure foundation or deeper where needed to support the chimney against water and wind loads. The chimney and fireplace system shall be designed to minimize transfer of water and wind loads to the structure or structure foundation.

32.6 The applicant shall file with the commission a performance bond, in form and with surety acceptable to the commission, in an amount sufficient to insure proper performance of those elements of the proposed work which have a bearing on protection from flooding.

#### 32.7 Variances

- a. **Variances from the flood protection regulations of this section shall only be issued by the Zoning Board of Appeals upon making the following findings:**
  - (i) **a showing of good and sufficient cause,**
  - (ii) **a determination that failure to grant the variance would result in exceptional hardship to the applicant that are based on unusual or unique physical characteristics of the property in question that are also not shared by other adjacent parcels,**
  - (iii) **a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and**
  - (iv) **variances** shall not be issued within any designated regulatory floodway if any increase will result in flood levels during the base flood discharge.
- b. The applicant for a variance shall be notified in writing over the signature of the Zoning Enforcement Officer that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates to the maximum in accordance with which such is below the base flood level and increases risks to life and property. **Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation (BFE), and that the cost of flood insurance will be commensurate**

with the increased risk resulting from the reduced lowest floor elevation up to amounts as high as \$25 for \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions as required in paragraph c of this section.

- c. The Town shall maintain record of all variance actions, including justification for their issuance, and report such variances issued in its annual report submitted to the Administrator.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. Variances may be issued for new construction and substantial improvements and other development necessary for the conduct of a functionally dependent use or facility, as defined herein, provided the structure or other development is protected by methods that minimize flood damage, creates no additional threat to public safety and meet all the requirements of Section 32.7.a.

### 32.8 Definitions

- a. Administrator - means the Federal Emergency Management Agency, to whom the Secretary has delegated the administration of the Program.
- b. Area of Special Flood Hazard - is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.
- c. Base Flood - means the flood having a one percent chance of being equaled or exceeded in any given year as designated on the Flood Insurance Rate Map and measured in accordance with the North American Vertical Datum of 1988 - is expressed and measured on a vertical scale that corresponds to 14.5 feet below Town of Fairfield datum.
- d. Base Flood Elevation (BFE) – means the elevation of the crest of the base flood or 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.
- e. Basement – any area of the building having its floor sub-grade (below ground) on all sides.
- f. Breakaway walls – means type of walls, whether solid or lattice and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support of the building, and which are so designed as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building.
- g. Building – means see the definition for “Structure”.



- h. Coastal AE Zone – The portion of the Coastal High Hazard Area with wave heights between 1.5 feet and 3.0 feet during the base flood and seaward of the line labeled the “Limit of Moderate Wave Action” (LiMWA) on a Flood Insurance Rate Map (FIRM).
- i. Coastal High Hazard Area – means the area of special flood hazard subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone VE and Coastal AE (LiMWA).
- j. Development - means any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- k. Federal Emergency Management Agency (FEMA) – is the federal agency that administers the National Flood Insurance Program (NFIP).
- l. Flood or Flooding - means a general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.
- m. Flood Insurance Rate Map (FIRM) - means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
- n. Flood Insurance Study (FIS) - means the official report provided in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Insurance Rate Map (FIRM) and water surface elevation of the base flood.
- o. Flood Plain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works and flood plain management regulations.
- p. Flood proofing - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- q. Floor - means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

- r. Floor (lowest) - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this section.
- s. Functionally Dependent Facility - means a facility which cannot be used for its intended purpose unless it is located in close proximity to water. The term includes only docking facilities or port facilities necessary for the loading and unloading of cargo or passengers; shipbuilding, and ship repair. The term does not include seafood processing facilities or the long-term storage, manufacture, sales or service facilities.
- t. Historic Structure – means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.
- u. Hydrodynamic Loads - means loads that are caused on building or structures by the flow of flood water moving at moderate or high velocity around the buildings or structures or parts thereof, above ground level which allow the free flow of flood water. Hydrodynamic loads are basically of the lateral type and relate to direct impact loads by the moving mass of water, and to drag forces as the water flow around the obstruction.
- v. Hydrostatic Loads - means loads that are caused by water, either above or below the ground surface, free if confined, which is either stagnant or moves at slow velocities or up to 5' per second. Hydrostatic pressures at any point are equal in all directions and always are perpendicular to the surface on which they are applied and are divided into the following types: Vertical Loads, Lateral Loads and Uplift.
- w. Limit of Moderate Wave Action (LiMWA) – The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are seaward of the line labeled "Limit of Moderate Wave Action (LiMWA) on a Flood Insurance Rate Map (FIRM).
- x. Manufactured Home – means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures



placed on a site for one hundred and eighty (180) consecutive days or longer and intended to be improved property.

- y. Manufactured Home Park or Subdivision – means a parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.
- z. Market Value – means the market value of the structure shall be determined by the property's tax assessment, minus land value; prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.
- a.a. Mean Sea Level – means the average height of the sea for all stages of the tide and is to be considered elevation zero ("O"), North American Vertical Datum of 1988 is expressed and measured on a vertical scale that corresponds to 14.5 feet below Town of Fairfield datum.
- b.b. New Construction – Structures for which the "start of construction" commenced on or after the effective date of the initial firm, August 15, 1978, and includes any subsequent improvements to such structures.
- c.c. Pilings – means columnar support members which may be of any approved type capable of resisting all applied loads and shall, as far as practicable, be compact and free from unnecessary appendages which would trip or restrict free passage of debris during a flood.
- d.d. Regulatory Floodway – means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- e.e. Recreational Vehicle – means a vehicle which is: (1) built on a single chassis (2) 40 square feet or less when measured at the largest horizontal projections (3) designed to be self-propelled or permanently towable by a light-duty truck and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Recreational vehicles and similar transportable structures placed on a site for 180 consecutive days or longer shall be considered structures for the purpose of this ordinance.
- f.f. Riverine – means relating to, formed by or resembling a river, including tributaries, stream, brook, creek.
- g.g. Sand Dunes – means naturally occurring accumulations of sand in ridges or mounds landward of the beach.
- h.h. Start of Construction – (for other than new construction or substantial improvements under the Coastal Barrier Resources Act)(P.L. 97-348) includes substantial improvement, and means the date the building permit was issued, provided the actual start of

construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the state of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- i.i. Structure – means a walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.
- j.j. Substantial Damage – means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- l.l. Substantial Improvement - means any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the “start of construction” of the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. This term includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. For the purpose of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term shall include the cumulative cost of any repairs, reconstruction or improvement for which less than one year has transpired between issuance of a certificate of occupancy and the issuance of a subsequent permit. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration will not preclude the structure’s continued designation as a historic structure.
- m.m. Variance – means a grant of relief by a community from the terms of the floodplain management regulation that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.
- n.n. Violation – Failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development



without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

- o.o. Water Surface Elevation – means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

### 32.9 Abrogation and Greater Restrictions

This regulation is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this regulation and another ordinance, regulation easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### 32.10 Warning and Disclaimer of Liability

The degree of flood protection required by this regulation is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering consideration and research. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This regulation does not imply or guarantee that land outside the Special Flood Hazard Area or uses permitted in such areas will be free from flooding and flood damages. This regulation shall not create liability on the part of the Town of Fairfield or by any officer or employee thereof for any flood damages that result from reliance on this regulation or any administrative decision lawfully made there under. The Town of Fairfield, its officers and employees shall assume no liability for another person's reliance on any maps, data or information provided by the Town of Fairfield.

**1271 Fairfield Beach Road** Motion was made by Ms. Braun, seconded by Ms. Francis and members present unanimously **VOTED TO APPROVE** the Coastal Site Plan Application of Helene Salerno pertaining to the construction of a single family dwelling. Beach District subject to the following conditions:

1. Native plantings to be installed and maintained in accordance with the Coastal Planting Plan.
2. Construction to be in conformance with Fairfield's Flood Protection Regulations (Section 32).
3. Soil erosion and sedimentation controls installed and maintained during the entirety of the construction project at both the subject site at 1271 Fairfield Beach Road and the stockpile site at 378 Penfield Road.

4. When stockpile activities are completed at 378 Penfield, the site shall be adequately reseeded and maintained. No fill from 1271 Fairfield Beach Road shall be used to re-grade any portion of 378 Penfield Road.

### **PUBLIC HEARING**

Alternate Member, Steve Leahy, was present via telephone.

**Zoning Regulation Amendment** Application of Sacred Heart University to amend Section 5.2.5 of the Zoning Regulations.

**175 Jefferson Street** Special Exception Application of Sacred Heart University pertaining to the construction of additional student housing. R-3 Zone

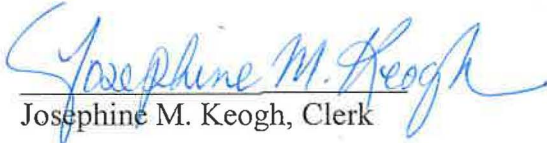
Atty. William Fitzpatrick presented the proposed application to the Commission.

This matter is continued to Public Hearing on February 22, 2022.

Meeting adjourned at: 10:00 p.m.



Meg Francis, Secretary



Josephine M. Keogh, Clerk