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CITY OF STAMFORD
Land Use Bureau

MEMORANDUM

From: Ralph Blessing 

To: Zoning Board

Date: 4/26/2022

RE: Petition to Appeal Zoning Board Approval 221-20 – Counting of Signatures

On Friday, December 17, the Land Use Bureau received a Petition pursuant to City of Stamford Charter Section C6-40-9 to refer Zoning Board Approval No. 221-20 to the Stamford Board of Representatives for rejection of the Zoning Board's approval. The Land Use Bureau reviewed the signatures on the Petition and determined that the Petition did NOT contain the number of signatures required for a referral to the Board of Representatives (see my memorandum to the Zoning Board dated December 28, 2021).

On March 15, 2022, the Connecticut Supreme Court issued a decision in *High Ridge Real Estate Owner, LLC v. Board of Representatives of the City of Stamford*, 342 Conn. 423 (2022), in which the Court decided, among other things, that under Sec. C6-40-9, which governs the petition process for objecting to zoning regulation amendments approved by the Zoning Board, the signature of each joint owner of an eligible property counts toward the total number of signatures required, if all owners of the property sign the petition.

Based on the new methodology, I reviewed the petitions to understand what the outcome would have been had the Supreme Court's holding been in effect at the time they were submitted. It should be noted that this process was not intended to supersede the Land Use Bureau's conclusion as presented in its December 28, 2021 memo to the Board. The Land Use Bureau conducted the initial count based on the Law Department's reading of the Charter and its reliance on existing legal precedent. The Law Department has advised that the documents submitted at the time and the standards in place at the time are those that govern.

It should also be noted that the Zoning Board is under no obligation to review or accept the results of a count conducted by any other City official, board or commission or members of the public. Accordingly, although the Town Clerk and the Stamford Neighborhood Coalition offered their own counts, based in part on properties, documentation, or signatures that would not meet the Charter's standards even after the *High Ridge* decisions, only the Zoning Board's review is dispositive. In *High Ridge*, the Court confirmed the Zoning Board's exclusive authority to verify

petitions, subject only to any legal remedies that could be provided by a court. The purpose of this recount is, therefore, an exercise in transparency, quality control, and information gathering to develop consistent and clear expectations for submitting and reviewing future petitions.

The re-evaluation of the Petition was conducted as follows:

1. I reviewed each Petition sheet submitted, to determine whether all property owners of a property signed and if so, how many signatures needed to be counted.
2. At my request, Erin McKenna, independently reviewed the Petition sheets. Ms. McKenna is a senior staff member in the Land Use Bureau but the nature of her work is such that she is not involved with the Zoning Board or its review of applications. Ms. McKenna conducted her review based on the original Petition sheet and a list of eligible properties prepared by the City's GIS division. This list is based on tax data. We each arrived at the same conclusion independently.
3. I then reviewed the counts submitted to the Land Use Bureau staff by the Town Clerk and the Stamford Neighborhood Coalition.

After reviewing all of the above described counts, I have concluded that the Petition to reject the text changes of Application 221-20 does not meet the Charter requirements for referral to the Board of Representatives because it does not contain 100 valid signatures. Thus, even if the rules of the Supreme Court decision could be applied retroactively, the Zoning Board could not lawfully refer the Petition to the Board of Representatives and the issue of retroactivity is a moot point. Below is a summary of the review of the information submitted by the Town Clerk and the Neighborhood Coalition as well as an explanation of the discrepancies between my count and their respective counts. A detailed analysis and comparison of the different counts can be found on the attached spreadsheet.

1. Review of the Town Clerk's Petition Count

At my request, on March 31, the Town Clerk provided to me her results. I have reviewed those results and compared them with my findings.

The Town Clerk counted 73 properties within 500 feet of the area affected by the C-D District zone change. Of those properties, the Town Clerk found one signature – for a condominium unit at 119 Barnes Road – invalid.¹ After omitting that signature, she arrived at a count of approximately 111 signatures.² There are three discrepancies between the Town Clerk's and the Land Use Bureau's signature count. These discrepancies are based on whether a property for which a signature appears on the Petition is within the 500 feet.

¹ The Land Use Bureau agrees that this signature should not count and it has not been included in the Land Use Bureau tally.

² The Town Clerk's final count is not quite clear as some of the notations on the Town Clerk's recount indicate "2 or 3" (p. 16) or "10+" (p. 13) signatures.

1. The Town Clerk did not identify 16 Dubois Street. The Land Use Bureau accepted one signature.
2. The Town Clerk accepted two signatures for 57 Jessup Street even though the tax records only show one owner.
3. The Town Clerk counted only one signature for 51 Clover Hill Drive even though both property owners signed.

The Land Use Bureau determined that signatures from 75 eligible properties were received, i.e., properties within 500 feet of a C-D District. Of these 75 properties, the Land Use Bureau identified 95 valid signatures for 58 eligible properties, i.e., eligible properties where all property owners have signed. Even though the property ownership was not fully clear for two properties – 45 Clover Hill Drive and 38 Terrace Avenue – the signatures for these two properties were counted, for a total of 97 signatures. Consequently, the Petition did not meet the threshold for referral to the Board of Representatives pursuant to City Charter, even giving these two signatures the benefit of the doubt.

The difference between the Town Clerk’s count and the Land Use Bureau’s count is a result of the Land Use Bureau’s finding that the signatures of 14 properties³ are deficient for the following reasons:

- For eight properties, not all property owners signed.
- For two properties, the names did not match the names of the owners of those properties on the tax records.
- For one property, no signature was listed.
- For two properties owned by living trusts only one trustee signed even though the documents on the land records showed two trustees.
- For one signature, an address was given that does not exist on the tax records (49 Wire Mill Road).

2. Review of the Stamford Neighborhood Coalition’s count.

On April 21, 2022, I received documents from Stephen Garst, who identified himself as a representative of the Stamford Neighborhood Coalition. Based on the spreadsheet submitted by Mr. Garst, the Neighborhood Coalition counted 103 valid signatures.

For 68 of the 75 properties, both the Land Use Bureau and the Coalition count the same number of valid signatures – 95. The Coalition counted the following five properties that were not considered by the Land Use Bureau.

The difference between the Land Use Bureau’s count and the Coalition’s count is a result of the Land Use Bureau’s finding that five signatures were deficient for the following reasons:

³ See the attached spreadsheet for details.

- For one signature, an address was given that does not exist on the tax records (49 Wire Mill Road).
- For one property, the name did not match the name of the owners of this property on the tax records.
- For two properties owned by living trusts only one trustee signed even though the documents on the land records showed two trustees.
- For one property, there was only one signature although there are two owners on the land records.

For two properties, the Land Use Bureau and the Coalition arrived at a different count.

- For one property, the Coalition counted two signatures even though there is only one owner on record.
- For one property, the Coalition counted one signature even though the property is owned by two people and both signed.

cc. Doug Dalena, Corporation Counsel
Cynthia Anger, Assistant Corporation Counsel
Bridget Fox, Chief of Staff, Mayor's Office
Jeffrey Curtis, President, Stamford Board of Representatives
Barry Michelson, for the Petitioners
Michael Battinelli, for the Petitioners
Stephen Garst, for the Petitioners