



CITY OF STAMFORD, CONNECTICUT  
INTER-OFFICE CORRESPONDENCE

To: Vineeta Mathur, Principal Planner

From: John R. Harness, Assistant Corporation Counsel

Date: March 4, 2024

Re: ZB Application 223-45 - AYR Wellness, Inc.  
417 Shippan Avenue Special Permit Application  
Adult - Use/Hybrid Cannabis Retailer and Schools

The Zoning Board (the “Board”) has requested a legal opinion regarding ZB Application #223-45 of AYR Wellness, Inc., for a special permit to locate a hybrid cannabis retail facility at 417 Shippan Avenue, Stamford. The Board asks whether the programs and activities offered for children at Building One Community (“B1C”), Americares, and Knights of Columbus (“KOC”) would qualify these facilities as “schools” per the Zoning Regulations (the “Regulations”). This request is being made presumably because the Regulations state that no Adult-Use Cannabis Retailer shall be located within 1,000 feet of public or non-public schools as defined by the Regulations. Our reading of the applicable regulations suggests that the programs and activities offered for children at these facilities could meet the definition of “schools” as established in the Regulations, subject to a fact specific inquiry by the Board.

## I. Discussion

“Review of a special permit application is inherently fact-specific, requiring an examination of the particular circumstances of the precise site for which the special permit is sought and the characteristics of the specific neighborhood in which the proposed facility would be built.” *Meriden v. Planning & Zoning Commission*, 146 Conn. App. 240, 245 (2013), citing *Hayes Family Ltd. Partnership v. Town Plan & Zoning Commission*, 115 Conn. App. 655, 659, cert. denied, 293 Conn. 919 (2009). “Generally, it is the function of a zoning board...to decide within prescribed limits and consistent with the exercise of [its] legal discretion, whether a particular section of the zoning regulations applies to a given situation and the manner in which it does apply.” *Wood v. Zoning Board of Appeals*, 258 Conn. 691, 699 (2001) citing *Schwartz v.*

*Planning and Zoning Commission*, 208 Conn. 146, 152 (1988). “A local board...is in the most advantageous position to interpret its own regulations and apply them to the situations before it.” *Doyen v. Zoning Board of Appeals*, 67 Conn. App. 597, 611 (2002) citing *New London v. Zoning Board of Appeals*, 29 Conn. App. 402, 405 (1992).

Section 5.E. of the Regulations contains the definitions of schools. A public school is defined as, “Any Building, Structure and/or land principally and regularly used by teachers and students for instructional or educational purposes, which is under the direct supervision and control of the Stamford Board of Education (“BOE”). None of the three facilities immediately appear to be under the direct supervision and control of the BOE but B1C appears as a Board Report on the February 27, 2024, BOE meeting agenda which suggests some supervision and control.

A nonpublic school is defined as, “Any Building, Structure and/or land principally and regularly used by teachers and students for instructional and educational purposes, at the nursery, primary and secondary levels only, which is not under the direct supervision and control of the Stamford Board of Education, and which is licensed by the State of Connecticut, or which is administered by an accredited educational institution or a bona fide religious institution. School, Non-Public shall include land used for recreational purposes as an adjunct to the principal instructional or educational use and any dormitories connected with such schools but excluding fraternities and sororities. School, Non-Public shall not include vocational or secretarial schools.

A cursory review of current publicly available information reveals the following. B1C located at 417 Shippan Avenue, Americares located at 401 Shippan Avenue, and “KOC”, located at 453 Shippan Avenue, when measured using available internet distance tools, are all located within 1,000 feet of the proposed cannabis retail facility.

The B1C’s website indicates that it provides services that educate immigrants and the broader community. These services include English classes, reading classes, and “Homework Club” in the afternoons. The B1C 2022 Annual Report contains images of a reading and math youth program showing children receiving instruction in the park across the street from their location at 417 Shippan Avenue. The deputy director of B1C, Don Strait, states that Stamford Public School teachers participate in the design and teaching of the summer school programs, that some programming is tutored by SPS high school students and that B1C is affiliated with the Springboard Collaborative which coaches teachers in small group literacy instruction. The foregoing suggests that the B1C facility could fit the definition of a School, Non-Public. Deputy director Strait advised he could provide further information concerning the programs offered to children at B1C.

The KOC website provides that it has a youth organization with an objective of developing leadership skills in Catholic young men ages 10-18 years old. The Americares website reveals no programs for instructional and educational purposes.

Our Supreme Court “has defined the word ‘school’ as ‘a generic term, denoting an institution for instruction or education. Indeed, the term ‘school’ alone, according to American usage, more generally denotes the collective body of pupils in any place of instruction, and under the direction and discipline of one or more instructors. (Internal citations and quotation marks

omitted.) *State v. Laurel Crest Academy*, 2 Conn. Cir. Ct. 294, 297 (1963). For over two centuries, Connecticut law has defined ‘school’ liberally in a variety of contexts. See *American Asylum v. Phoenix Bank*, 4 Conn. 172, 177 (1822) (charitable corporation educating disabled students qualifies as a school); *Armstrong v. Zoning Board of Appeals of Town of Washington*, 158 Conn. 158, 168 (1969) (applying the “accepted meaning of the word ‘school’ under ‘the broad modern concept of education to combined research, residential, and educational facility); *State v. Laurel Crest Academy*, 2 Conn. Cir. Ct. 294 *supra* (dormitory located on land near, but not adjoining, the defendant's main campus was a “school” permitted by zoning regulations); *Langbein v. Board of Zoning Appeals*, 135 Conn. 575 (1949) (upholding trial court’s determination that a summer camp which provided only recreational activities for children was a school under the broad modern concept of education because such uses have an educational purpose.)

## **II. Conclusion**

Our caselaw focuses not just on the name or type of the activity in terms of whether it qualifies as educational use, but also the specific facts of each case. The Board must first determine if any of the three facilities are located within 1,000 feet of the proposed use at 417 Shippan Avenue. If so, then it must then determine whether any of them can reasonably be viewed as a school within the meaning of that term as it is defined in the Regulations based on the specific facts presented on the record before it.