

August 10, 2021

Carson Fincham  
Chair, Zoning Board of Appeals  
Town of Ridgefield  
c/o Kelly Ryan, Paralegal/Administrator  
66 Prospect Street  
Ridgefield, CT 06877

707 Summer Street  
Stamford, CT 06901

**RE: Appeal #21-019 (63-67 Prospect Street, Ridgefield)  
“Covered Laws” under Executive Order 7JJ(3)**

Dear Chair Fincham and members of the Board:

As you know, our firm represents Pierandri Realty LLC and The Giardini Limited Partnership (the “Property Owners”), the owners of property known as 63-67 Prospect Street, Ridgefield, Connecticut (collectively, the “Property”). It is the Property Owners’ position that the ZEO improperly revoked a Zoning Permit to develop the Property on an incorrect finding that the underlying site plan approval (the “Site Plan Approval”) expired on May 15, 2021. One argument in support of this position is that, on that date, the expiration date of the Site Plan Approval was tolled pursuant to Executive Order 7JJ(3) of the Governor. At the Board’s request, I am writing to further address how the Site Plan Approval falls under the numerous “Covered Laws” of that Executive Order.

I first note that our prior correspondence to you, dated July 16, 2021, details in Section 2 that the Site Plan Approval is a “Covered Law” under Executive Order 7JJ(3) because it is a municipal decision issued pursuant to General Statutes Chapter 124 and related zoning regulations. At the public hearing on July 19, we detailed the context and history of the definition of “Covered Laws” and Executive Order 7JJ(3) to underscore that Order’s intent to protect and preserve approved real estate development projects in the State such as the Site Plan Approval.

Namely, as the Covid-19 pandemic and its impact on the economy evolved last year, the Governor issued a series of Executive Orders to keep Connecticut’s land use and permitting process “open for business.” Within days of declaring a State of Emergency on March 10, 2021, the Governor issued Executive Order 7B (1) on March 14, 2020, which suspended all in-person open meeting requirements and permitted all public meetings (including land use meetings) to be hosted via conference call, videoconference or other technology subject to certain special notice requirements.

Immediately thereafter, the Governor’s office worked to ensure that the land use application and hearing process could continue safely and smoothly despite the pandemic. This culminated in Executive Order 7I (19), issued on March 21, 2020, specifically pertaining to the “suspension, modification and clarification of certain municipal procedural requirements and time limitations regarding notice, commencement and holding of public hearings, decisions, and appeals.” The definition of “Covered Laws” originates in this Order, as follows:

*In connection with Executive Order 7B (1), dated March 14, 2020, and in order to further prevent the potential health threat and spread of COVID-19 to any person who*

*might otherwise participate in the process of submitting, reviewing, hearing, discussing, deciding, or appealing any municipal decision or action regarding any petition, application or other proposal, or in the adoption or amendment of any municipal plan, regulations or ordinances, under specific Sections of **Connecticut General Statutes Chapters 14, 97a, 98, 103, 124, 126, 246, 368k, 440, 444, 446i, and the repealed Section 14-55, if and to the extent such repealed section is revived by current judicial action, and any related special act(s), and municipal charter, ordinance, resolution, or regulation (all such state and municipal laws and regulations being, collectively, the "Covered Laws"); any provision of such Covered Laws that establish procedural requirements for municipal decisions and that conflict with this order, is suspended and modified, as enumerated below, and as hereafter provided: . . .***

(Emphasis added.) A “Covered Law” is, in part, Chapter 124 of the General Statutes and any related regulation. The Site Plan Approval is an approval issued pursuant to Chapter 124 and related regulations.<sup>1</sup>

In the months that followed, the adverse impact of the pandemic on real estate development and construction became evident. For example, the volatility of the market and the dramatic rise in the costs of construction materials and labor affected project financing, and the time it took to complete projects slowed as materials became scarce and precautions had to be implemented on-site. As a result, on May 6, 2020, the Governor issued Executive Order 7JJ (3), titled “Tolling of Land Use and Building Permits,” for the stated purpose: “[i]n order to ensure that land use and building permit holders may continue to diligently pursue permitted activities *after* the state of emergency.” This Order applies in relevant part to “an approval or permit *issued* by a municipal land use agency or official pursuant to the “Covered Laws” as defined in Section 19 of Executive Order 7I.” As detailed above, the Site Plan Approval was issued pursuant to CGS Chapter 124 and related regulations, all being “Covered Laws.”

Public Act 20-7, § 18, did not change this. That Act simply clarified what is required to vest certain site plan approvals by their expiration date (in response to ambiguity in the law).<sup>2</sup> As detailed in our letter dated July 16, 2021, that Act (1) did not set a specific or special new expiration date; rather, the term is entirely open-ended; (2) does not change the fact the Site Plan Approval was originally submitted, heard and approved pursuant to Chapter 124 of the General Statutes (a “Covered Law”); and (3) does not change the fact the Site Plan Approval was *issued* pursuant to Chapter 124 of the General Statutes (a “Covered Law”) as required by Executive Order 7JJ (3). While that Act does set special requirements for vesting site plan approvals “[n]otwithstanding the provisions of subsection (m) of section 8-3 of the general statutes,” § 8-3(m) does not pertain to submission, approval, and most importantly, issuance of approvals as defined as “Covered Laws.” Those provisions are contained in different subsections of 8-3 as well as the Ridgefield Zoning Regulations. Rather, it is our firm belief

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<sup>1</sup>See e.g., Ridgefield Zoning Regulations § 1.1 (Authority) (“These Regulations are adopted under the authority of Chapter 124 of the Connecticut General Statutes, as amended (CGS 8-1 et seq.)”). The Commission has the authority to adopt regulations pursuant to Chapter 124, and the site plan was submitted and approved pursuant to such regulations.

<sup>2</sup>PA 20-7, § 18 provides: “Notwithstanding the provisions of subsection (m) of section 8-3 of the general statutes, any site plan approval granted by the Ridgefield Planning and Zoning Commission at its meeting held on May 15, 2007, and further extended by said commission, for the construction of residential multi-family structures, and any modifications to such site plan, shall not expire if the applicant has obtained all the necessary building permits and commenced construction on or before the expiration date.”

that the two provisions should be read together such that Executive Order 7JJ (3) operated to extend the applicable expiration date of the Site Plan Approval *and* Public Act 20-7, § 18 set the requirements for vesting said approval before that date.<sup>3</sup>

For these reasons, and the reasons detailed in our prior letter, the Property Owners respectfully request that the decision of the ZEO to revoke the Zoning Permit be reversed.

Sincerely,

*William J. Hennessey, Jr.*

William J. Hennessey, Jr.

cc: Tom Pierandri  
Nancy Riedy  
Richard Baldelli, ZEO  
Patricia Sullivan, Esq.

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<sup>3</sup>In a case of statutory interpretation, we are guided by the presumption “that the legislature, in amending or enacting statutes, always [is] presumed to have created a harmonious and consistent body of law....” (Internal quotation marks omitted.) *Lagueux v. Leonardi*, 148 Conn. App. 234, 241–42, 85 A.3d 13, 19 (2014) (citing *State v. Courchesne*, 296 Conn. 622, 709, 998 A.2d 1 (2010)).