



TO: Weston Planning & Zoning Commission
FROM: Ira W. Bloom & Peter V. Gelderman Office of the Town Attorney
RE: Weston Zoning Regulations – Village District or Amended Regulations
DATE: September 17, 2019

Section 8-2j of the Connecticut General Statutes allows a zoning commission (or combined planning and zoning commission) to establish village districts. There are two initial requirements for the establishment of a village district. The first is that only “areas of distinctive character, landscape or historic value” qualify to be rezoned as village districts. Second, the areas to be rezoned as village districts must be specifically identified in the plan of conservation and development (“POCD”). Therefore, in adopting/amending the POCD, the exact location(s) of the village district must be identified.

If both prerequisites are met, then the zoning map may be changed to establish the boundaries of the district (per CGS § 8-3) and the regulations may be amended to protect the distinctive character, landscape and historic structures within the district. The village district regulations can apply to new construction, reconstruction or rehabilitation of properties within the district that are in view from public roadways. The regulations must be appropriate to protect the character of the village district. In addition, things like the color, size, height, location, proportion of openings, roof treatments, building materials, landscaping, signage and lighting can be regulated to ensure that they are compatible with the local motif, and maintain views and historic buildings.

The creation of a village district also requires the appointment of a “village district consultant” for any application that involves new construction or substantial reconstruction that is in view from public roadways. The consultant must be an architect or architectural firm or a certified planner. The Commission can also use an existing architectural review board as the consultant provided at least one of the members is an architect or certified planner.

Note that § 8-2j only authorizes regulations that affect structures, lighting and landscaping. However, since the Commission can regulate “other elements that [it] deems appropriate to maintain and protect the character of the village district,” any use that is not compatible with the goals of the village district would arguably be a proper subject of the village district regulations as well.

An alternative to adopting village district regulations would be to enact amendments to the existing zoning regulations that added certain restrictions and limitations to existing and new non-residential structures. This may require the creation of a new zoning district because of the uniformity provision [unless the existing Neighborhood Shopping Center District

("NCS") regulations were amended]. The uniformity provision requires regulations to be applied uniformly throughout a district. If a new zoning district is not established, then the provisions of any zoning amendment would apply to all properties within the existing district – presumably the NCS district.

It may be possible to adopt special permit provisions that would have limited applicability within an existing district. By way of example only, a regulation may be limited to properties within 1,000 feet of a school. Such a provision would not violate the uniformity provision because it would apply equally to all properties within the district located within 1000 feet of a school.

Special permit regulations are helpful to give the Commission a limited amount of discretion. That discretion is limited to a determination by the Commission of the effect of a use on public health, safety, and welfare. Standards (i.e. setbacks, buffers, coverage, parking, etc.) that are set forth in a special permit regulation are not waivable nor can the Commission give itself the ability to apply standards on a case-by-case basis. Generally regulations that do not contain defined standards may be found to be invalid. In addition, once the Commission adopts standards, it is not permitted to modify them in order to apply to a specific situation.

Additionally, zoning regulations generally do not permit the Commission to regulate architectural features or aesthetics (something that the village district expressly permits).

A final alternative is to create another non-residential zoning district that is not a village district. If that were done, the Commission would be required to amend the zoning map and to create regulations that would apply to that district. Again, the possibility of such a new district should be specifically referenced in the POCD.

If the goal is to give the Commission maximum flexibility and to allow the Commission to regulate the appearance of an area, then the creation of a village district is the best approach. However, as stated, the area must be distinctive as to character, landscape or historic value and the goal of the village district should be to maintain that distinctive feature. If the POCD proposes a village district in such an area, then it is probably the best tool for giving the Commission maximum flexibility.