From: Doris Fillion <outdoorlady29@yahoo.com>
Date: February 14, 2021 at 5:25:49 PM EST
To: Rob Phillips <phillipsr@southington.org>
Subject: ADDITIONAL FACTS FOR COMMISSION CONSIDERATION

The huge proposed car wash is unreasonable and unsuitable for the requisitioned location, among other reasons, because residents in this rural neighborhood vacuum and wash their vehicles in their own driveways. The few residents who choose to utilize a car wash, have no problem driving 3 miles down Meriden-Waterbury Turnpike to E-Wash America—and they certainly have no need to wash or vacuum their vehicles in the middle of the night.

What could possibly be the reason for the applicants to request a 24-hour colossal car wash operation, in the middle of a residential neighborhood, except the necessity of the owners to try to recoup their massive investment in this unreasonable business at this unsuitable location?

It appears the proposed car wash owners are looking to attract and draw their major customer business from Interstate 691, and they have no concern for the best interests of the adjacent residential and business neighborhood.
Case Law Court cases, which I have documented below, include the following rulings:

"....the only benefit shown was to that of the applicant (business) and not to those residing in the vicinity."

"The ultimate test is whether, upon the facts and circumstances before the zoning authority, the use... primarily serves a public need in a reasonable way, or whether it is an attempt to accommodate the business use."

"The board...concluded that the residential character of the neighborhood made the place in question unsuitable....It also reasonably concluded that property use...was not for the general welfare of the neighborhood."

The fact that there is no neighborhood desire for this intrusive proposed car wash is verified by the fact that no residents have expressed being in favor of approving this major operation.

On the contrary, over the years, when I have spoken to various nearby residents, regarding what businesses we would like to see on the vacant business properties, I have received many suggestions—and I totally agree with the suggestions—such as a bank, restaurant, hair salon, barber shop, bakery, grocery store, hardware store, craft store, pet supplies store, card shop, etc.

Obviously, the intrusive, inappropriate proposed car wash does not benefit—or serve the needs of our rural residential and business neighborhood.
Case Law Court cases, which I have documented below, include the following rulings:

“...the residents in the vicinity need the stores and services which could be...for their benefit...”

.”..uses will be appropriate, harmonious and desirable in the district....”

Upon conducting a Town Traffic Survey, the results should determine that this unnecessary, imposing, large car wash operation would escalate the current traffic travel and congestion problems in the busy area of the Pratts Corner intersection—resulting in a hazardous situation.
Case Law Court cases, which I have documented below, include the following rulings:

“...the Commission had denied the application...that any increase in traffic at this location could create a hazardous situation, especially considering the grade and curves involved, and the inclement weather driving conditions on this road...”

“...it is required to judge whether any concerns, such as parking or traffic congestion, would adversely impact the surrounding neighborhood.”

“The...increased patronage...would create...traffic problems and other conditions detrimental to the neighborhood.”

“Concerns were also expressed about the adequacy of the streets in this area to handle larger traffic volumes.”

“It also reasonably concluded that property use...would have an adverse effect on traffic conditions...and that it was not for the general welfare of the neighborhood.”
At the February 2nd meeting, Mr. Carabetta erroneously stated that the proposed car wash would add value to the properties “in the community.” Judges have consistently ruled against businesses which devalue adjacent residential properties. Case Law Court cases, which I have documented below, include the following rulings:

“...the Commission had denied the application...stating reasons for the Commission denying:...that a public building of this size may and will decrease property values in this...single-family dwelling district.”

“The site plan and architectural plans...will not protect property values....”

“The...facilities...would tend to harmfully affect the value of the nearby residential properties....The conclusions of the Court that it was reasonably probable that the value of the plaintiffs' properties would be decreased, and that the plaintiffs would suffer injury special and peculiar to them...”

“The trial referee also concluded that the defendants' use of the property has caused the plaintiffs... to suffer...devaluation of their properties....”

Carabetta Enterprises, Carabetta Builders, Et Al, have had previous contract shortcomings, with resulting lawsuits, as included in the following Additional Pertinent Connecticut Case Law Precedent.

The proposed car wash, especially with 24-hour operation, would encourage and motivate crime in our neighborhood, by providing a launch-pad parking location—for vandalism, car break-ins, burglary, etc—with my adjacent property as the first target. To date, our neighborhood has not had a problem with crime.

The proposed massive car wash operation and architectural design does not conform—and would be in direct opposition—to the character and harmony of our present rural residential and business neighborhood.

The following Case Law Court cases, which I have documented, include the following rulings:

"...the Commission had denied the application...wherein the site plan and architectural plans will not be in harmony with and conform to the orderly development of this neighborhood...wherein the site plan and architectural plans will not harmonize with the neighborhood and enhance the appearance and beauty of the community."

"In disapproving this application, the defendant zoning commission noted that this...would set a precedent in this area...and change the rural...character of the neighborhood."

Per attached aerial photo of the Meriden location of Class Act Car Wash @ 1275 East Main Street, Corner of Research Parkway, the applicants of the Southington location provide their own proof that the proposed Southington location is inappropriate and unsuitable. As verified in the photo ,the Meriden location is sensible and correctly designed—with the building architecture, site plan, and traffic pattern, logically operating on a rectangular piece of property—the entrance and exit are parallel. The magnificent car wash is properly located in a business development. There are no adjacent residential properties.

Normally, business applicants would search for a piece of property to adequately accommodate the site plan and architecture of their proposed business venture. Conversely, the applicants of Class Act Car Wash in Southington appear to have taken the opposite approach. They are attempting to maneuver and manipulate their proposed huge operation to fit the unsuitable, illogical piece of property— thereby causing their proposal to be totally inappropriate and incompatible for the Southington location.

The proposed immense area and operation of this proposed car wash will certainly result in excessive noise caused by cleaning and vacuuming machines, uncontrollable vehicle noises, etc—noxious air pollution from vehicle emissions—possibility of well-water-contamination—danger to health and welfare of nearby individuals. The proposed operation would quickly become a nuisance to all adjacent and nearby residential and business properties.

Case Law Court cases, which I have documented below, include the following rulings:

"The...facilities...would create noise...and other conditions detrimental to the neighborhood. The conclusions of the Court that it was reasonably probable...that the plaintiffs would suffer injury special and peculiar to them....The Court was warranted in issuing a permanent injunction."

“The trial referee also concluded that the defendants' use of the property has caused the plaintiffs much annoyance, personal inconvenience.... substantial damage to their persons and properties as a direct result of the...operations, in one or more of the following ways: excessive noise; air pollution; damage and threat of damage to domestic wells and quality of drinking water; devaluation of their properties; loss of peaceful and quiet enjoyment of their properties.”
In conclusion, I am respectfully requesting the Southington Planning & Zoning Commission members:

Please conduct a Town Traffic Study, to verify the additional, extensive, hazardous travel and traffic problem which would result from the proposed constantly-moving-vehicles—attempting to enter on Meriden-Waterbury Turnpike—and attempting to double-lane exit onto Meriden Avenue.

Please carefully read, examine, consider, and assess all the evidential documentation I have submitted in objection to the approval of this intrusive, inappropriate, unsuitable proposal to our present rural residential and business neighborhood.

Please respect and honor my 85-year, legal “grandfather right” to the peaceful, private enjoyment of my residential property, which borders the business-zoned properties on two entire sides of my property. Please deny the application for the proposed intrusive, undesirable, inappropriate, unsuitable, hazardous car wash operation—which would also result in devaluation of nearby properties.

In order to create a large number of new jobs, which are urgently needed in today's economy, please subsequently approve applications for less intrusive businesses, consistent and appropriate to the needs, desires, and harmony of this neighborhood, including but not limited to, those requested and listed above.

ADDITIONAL PERTINENT CONNECTICUT CASE LAW PRECEDENT

William J. Kuehne Et Al. v Town Council Town of East Hartford 136 Conn. 452, 72 A. 2d 474 1950
“...the residents in the vicinity need the stores and services which could be...for their benefit, a shopping center on the property....the only benefit shown was to that of the applicant (business) and not to those residing in the vicinity, that no consideration was given to the general plan...that there was sufficient cause to justify...”

Bethlehem Christian Fellowship, Inc. v. Planning & Zoning Commission 73 Conn. App. 442 – Conn: Appellate Court 2002
“...the Commission had denied the application...stating reasons for the Commission denying:
...that a public building of this size may and will decrease property values in this...single-family dwelling district.;
...that any increase in traffic at this location could create a hazardous situation, especially considering the grade and curves involved, and the inclement weather driving conditions on this road;
...the potential for increasing the level of activity associated with this type of facility;
...wherein the site plan and architectural plans will not be in harmony with and conform to the orderly development of this neighborhood;...wherein the site plan and

architectural plans will not harmonize with the neighborhood and enhance the appearance and beauty of the community.
When a zoning authority has stated reasons for its actions...the zoning board's actions must be sustained if even one of the reasons is sufficient to support it."

Whisper Wind Development Corp. v. Planning & Zoning Commission 229 Conn. 176, 177, 640 A. 2d 100 1994
"Before the zoning commission can determine whether the...use is compatible with the uses permitted as of right in the particular zoning district, it is required to judge whether any concerns, such as parking or traffic congestion, would adversely impact the surrounding neighborhood."

Beit Havurah v. Zoning Board of Appeals 177 Conn. 440, 418, A. 2d. 82 1979
"The purpose of zoning regulations...uses subject to the approval of the commission are deemed to be permitted uses...subject to the satisfaction of the requirements...uses will be appropriate, harmonious and desirable in the district....
The proposed use and the proposed buildings and structures...in location, type, character, and extent of use of any building or structure...will not be in harmony with and conform to the appropriate and orderly development of the town and the neighborhood....
The site plan and architectural plans...will not protect property values, will not harmonize with the neighborhood, and will not preserve and enhance the appearance and beauty of the community."

Jobert v. Morant 150 Conn. 584 – Conn: Supreme Court 1963
"The...facilities...would tend to harmfully affect the value of the nearby residential properties...because the increased patronage...would create noise, traffic problems and other conditions detrimental to the neighborhood. The conclusions of the Court that it was reasonably probable that the value of the plaintiffs' properties would be decreased, and that the plaintiffs would suffer injury special and peculiar to them if the defendants were permitted to proceed with, complete and utilize the structure contemplated. The Court was warranted in issuing a permanent injunction."

Raymond v. Rock Acquisition Ltd. Partnership 50 Conn. App. 411 – Conn: Appellate Court 1988
"The trial referee specifically concluded that the defendants' use of the property has caused the plaintiffs irreparable use and harm. The trial referee also concluded that the defendants' use of the property has caused the plaintiffs much annoyance, personal inconvenience....have all suffered and continue to suffer substantial damage to their persons and properties as a direct result of the...operations, in one or more of the following ways: excessive noise; air pollution; damage and threat of damage to domestic wells and quality of drinking water; devaluation of their properties; loss of peaceful and quiet enjoyment of their properties."

Burnham v. Planning & Zoning Commission 189 Conn. 261 – Conn. Supreme Court 1983

“In disapproving this application, the defendant zoning commission noted that this...would set a precedent in this area...and change the rural...character of the neighborhood. Concerns were also expressed about the adequacy of the streets in this area to handle larger traffic volumes.”

Hyatt v. Zoning Board of Appeals 163 Conn. 379 – Conn: Supreme Court 1972
“In the case before us, there has been no showing whatever that any condition peculiar to the land of the defendants exists to justify the granting of a variance. The trial Court found further that the...use...would allow the construction...in a district zoned for residences.

Wade v. Town Planning & Zoning Commission 145 Conn. 592 – Conn: Supreme Court 1958
“Our cases have repeatedly held that any act of a zoning authority, to be valid, must meet two basic tests: (1) It must promote the public welfare, and (2) it must do it in a reasonable manner.
...an act can be manifestly unfair to the neighbors, and thereby discriminatory to an unreasonable degree. It can also be an abrupt departure from the scheme of orderly development in the town....
The ultimate test is whether, upon the facts and circumstances before the zoning authority, the use... primarily serves a public need in a reasonable way, or whether it is an attempt to accommodate the business use.”

Miller v. Zoning Board of Appeals 138 Conn. 610 – Conn: Supreme Court 1952
“The mere fact that the property in question was...in close proximity to to property used for residential purposes might reasonably be considered something approaching a public nuisance.
….The board...concluded that the residential character of the neighborhood made the place in question unsuitable....It also reasonably concluded that property use...would have an adverse effect on traffic conditions...and that it was not for the general welfare of the neighborhood.”

PERTINENT CARABETTA CASE LAW DECISIONS

Kloter v. Carabetta Enterprises, Inc, 186 Conn. 460 – Conn: Supreme Court 1982
“The plaintiff brought this action seeking money damages and injunctive relief against the defendant. He alleged the storm drainage system installed by the defendant...resulted in the flooding of his land, thereby reducing its value.
Upon the defendant's failure to comply with a court order to answer certain interrogatories and to pruduce certain documents as requested by the plaintiff, a default judgment was rendered in favor of the plaintiff. At no time did the defendant...notify the plaintiff, pursuant to Practice Book Section 367, that it intended to contest any other issue other than the amount of damages at the hearing.
Throughout the proceedings the defendant has admitted the plaintiff's essential allegations that the defendant's storm drainage system was installed incorrectly and that the system caused damage to the plaintiff's land.”

Kloter v. Carabetta Enterprises, Inc. 3 Conn. App. 103 – Conn: Appellate Court 1985
“The defendant moved for a hearing in damages at which the plaintiff was awarded $18,000 with costs....
At the second hearing in damages, the court awarded the plaintiff $16,436, representing the difference between the value of the lnd before and after the defendant added its culvert. The court also awarded the plaintiff permanent injunctive relief, directing the defendant to seal up its culvert and further enjoining it from installing any other system or device to divert water onto the plaintiff's land.
In this case, the wrong to the plaintiff would continue if the defendant's actions were not enjoined.
As to the defendant's final claim of error, that the trial court was biased against it...its claim shows the claim to be entirely baseless. Such a reckless attack on the trial judge does not advance the cause of justice.”

DuBose v. Carabetta 161 Conn. 254 – Conn: Supreme Court 1971
“The plaintiff, an architect licensed to practice architecture in Connecticut, brought this action to recover a fee alleged to be due under a contract wherein the plaintiff agreed to provide architectural services for the construction of an apartment building on land situated in the city of Meriden....
The referee rendered judgment for the plaintiff to recover of the defendants the sum of $57,378.65, together with interest in the sum of $9324, making a total of $66,702.65....
After the plans were delivered, the defendants sought to reduce the cost of the building without conferring with the plaintiff. The defendants, without the knowledge of the plaintiff, engaged Thurston Klayton, an engineer, who was authorized by the defendants to change the plaintiff's plans....The plaintiff was willing to cooperate and change the plans...the the defendants were not willing to pay the plaintiff for the services he had rendered....Engaging Klayton without first consulting the plaintiff was an improper act by the defendants and a professionally unethical act by Klayton. The defendants claimed...that the plaintiff's plans were not suitable....the referee concluded that the plaintiff contracted with the defendants to design an apartment building...that the defendants agreed to pay the plaintiff a fee for these services...that the plaintiff fully performed his contract with the defendants...and is entitled to compensation; and that amount due him under the contract...amounting to $56,460 plus $918.65 for expenses, or a total of $57,378.65.”

Holtz Corporation v. Carabetta 226 Conn. 812 – Conn: Supreme Court 1993
“...the plaintiff entered into a written subcontract with Carabetta Builders, Inc (Carabetta Builders)....A dispute arose between the parties....the plaintiff sought damages for breach of the subcontract by Carabetta Builders, claiming that it had failed to tender timely payments to the plaintiff....On July 12, 1989, Joseph Carabetta allegedly personally guaranteed full payment to the plaintiff of all sums owed under the subcontract. The arbitrator subsequently awarded $2,470,701 in favor...of the plaintiff. The trial court, Shaller, J., confirmed the award and denied Carabetta Builders' application to vacate the award.
On April 29, 1992, the trial court granted the plaintiff's application for prejudgment remedy in the amount of $2,750,000.”

ADDDITIONAL PERTINENT CONNECTICUT GENERAL STATUTE

Section 8-6: “The zoning board of appeals shall have the following powers and duties:...(3) to determine...the application...in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land...not affecting generally the district in which it is situated....”

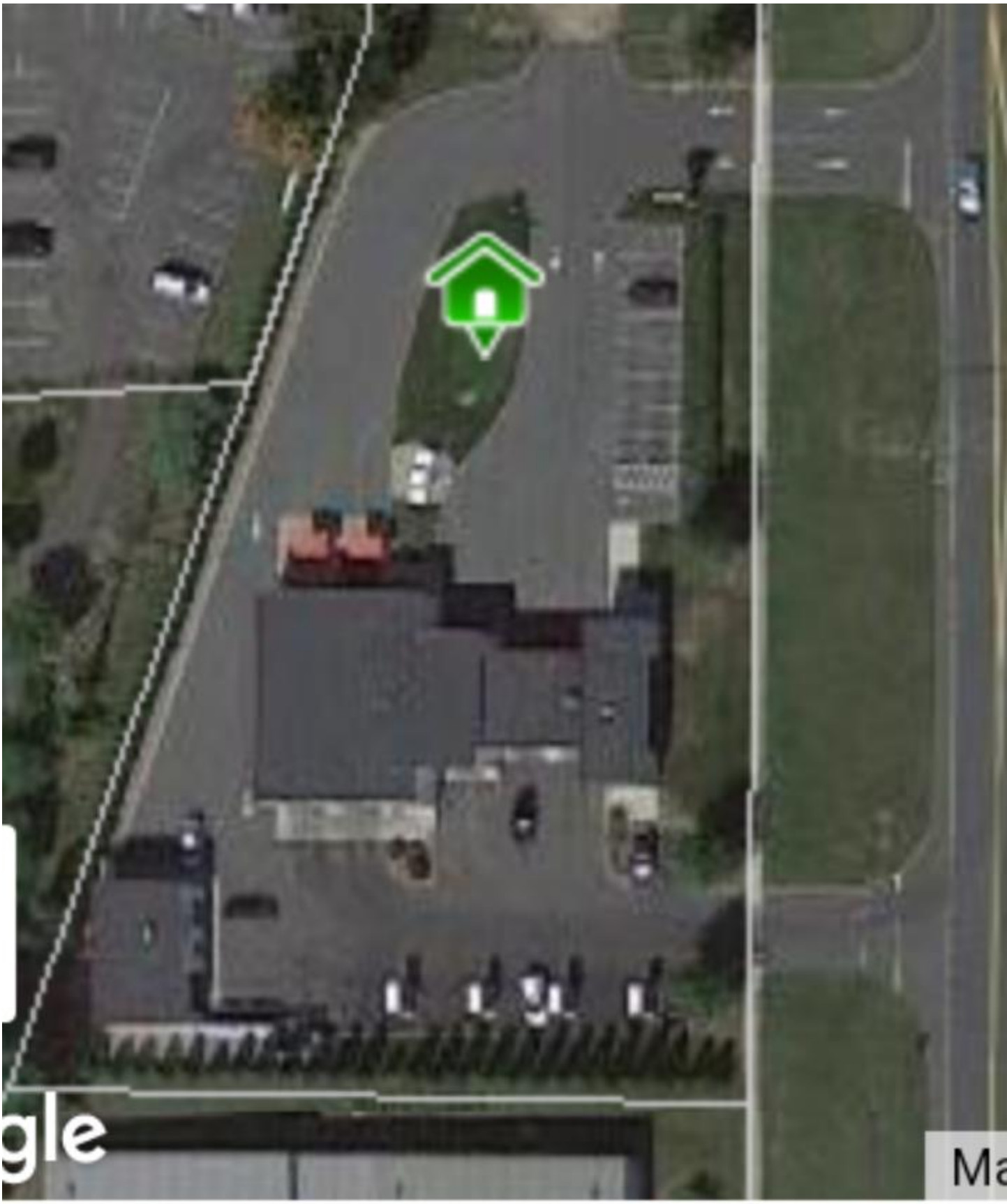
ADDITIONAL PERTINENT SOUTHINGTON ZONING REGULATIONS

Section 4-03 BUSINESS ZONE (B)

4-03.11 “The following uses shall be considered permitted uses...

I. Other uses which, in the opinion of the Commission, are of the same general character as those listed as permitted uses and which will not, in the opiniion of the Commission, be detrimental to the zone....”

4-03.2 C.2 “All proposed uses shall be of lesser objectionable character than those presently allowed in that zone....”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