

ZONING BOARD OF APPEALS TOWN OF WESTON, CONNECTICUT

FEE: \$160.00

ZBA Agenda 10/28/25

APPEAL FROM ORDER OR ACTION

Attn: Grant Putnam

Date _____

APPELLANT One Good Hill, LLC/Putnam's Landscaping LLC

TELEPHONE 1-203-241-4846

Address 1 Good Hill Road, Weston

OWNER One Good Hill, LLC TELEPHONE 1-203-241-4846

Address 1 Good Hill Road, Weston

TAX ASSESSOR MAP NO. 31 BLOCK NO. 4 LOT NO. 6

DISTRICT: RESIDENTIAL: BUSINESS:

Property Is: Is Not Within 500 Feet Of A Town Line.

Give accurate description of property site so it can be located when an inspection is required.

1 Good Hill Road, Weston

Based on the Order or Action, a copy of which is included with this Appeal form, state precisely the nature of your Appeal including reasons and any other pertinent information in support of your Appeal.

See attached letter from Secor, Cassidy & McPartland, P.C. and letter dated July 29, 2025 from Pullman & Comley. Also submitted are copies of the assessor map, a historic picture, and a historic newspaper article. Additional information will be provided. Affidavits and testimony will be provided at the Public Hearing.

Applicant hereby grants to ZBA Members the right to make physical on-site inspection of the subject property as may be necessary to acquaint themselves with actual conditions.

I hereby affirm that I have read the "Application Procedure and Requirements for Appeal from Order or Action" and that all statements in the Application, and the information contained in the accompanying submissions are true to the best of my knowledge.

Owner [Signature] member

Date 9/9/2025 RECEIVED

Appellant [Signature] member
Grant Putnam

Date 9/9/2025 SEP 11 2025

RICHELLE HODZA
LAND USE DIRECTOR

Received By Code Enforcement Officer _____ Date _____

SECOR, CASSIDY & MCPARTLAND, P.C.

ATTORNEYS AT LAW

GAIL E. MCTAGGART
THOMAS G. PARISOT
PATRICK W. FINN
DAVID J. BOZZUTO
JAMES R. STRUB
CONNOR P. MCNAMARA
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Tax Counsel

JOHN J. PALMERI, CPA, JD, LL.M.[†]
[†] Taxation

September 9, 2025

Town of Weston
Zoning Board of Appeals (ZBA)
C/O Land Use Office
24 School Road
Weston, CT 06883-1007

Re: Formal Appeal Pursuant to Connecticut General Statutes section 8-7
Appeal of "Order to Cease and Desist Zoning Violations at 1 Good Hill Road"
Dated both August 13, 2025, and August 14, 2025
Received via email to Grant Putnam on August 14, 2025
Received via Certified Mail August __, 2025 (the "Cease and Desist Order")
Order issued by Richelle Hodza, Land Use Director & Deputy Certified Zoning
Enforcement Officer

Dear ZBA Members,

This firm represents One Good Hill, LLC, and its Member, Grant Putnam. This firm also represents Putnam's Landscaping LLC, and its Member, Grant Putnam. Pursuant to the attached Land Use Authorization, this firm and its attorneys are authorized to present information on both LLCs' behalf.

One Good Hill, LLC is the owner of real property known as 1 Good Hill Road, Weston, Connecticut (the "Property").

Putnam's Landscaping LLC operates its business out of 1 Good Hill Road, Weston, Connecticut, and does business as "Weston Gardens".

Ownership and Procedural History

One Good Hill, LLC took title to the Property on January 1, 2022. Putnam's Landscaping LLC has been operating its business at the Property continuously since that date. The current and historic use of the Property is set forth below.

On June 23, 2025, a Notice of Violation was issued to 1 Good Hill, LLC, which Notice of Violation was signed by Cheryl A. Vallerie, Zoning Enforcement Officer. On July 29, 2025, Attorney W. Glenn Major, on behalf of One Good Hill, LLC, submitted a letter to Members of the Planning and Zoning Commission. Attorney Major's letter provided a history of the use of the Property, set forth the applicable law governing the protection and preservation of legal, pre-existing non-conforming uses, and concluded that based on the history presented and current use of the Property that "Weston Gardens at 1 Good Hill Road continues to operate as a legal pre-existing non-conforming use." A copy of Attorney Major's letter has been submitted with the current Appeal to the ZBA. The Notice of Violation was formally rescinded by letter dated August 6, 2025.

On August 14, 2025, the Cease and Desist Order was sent to Grant Putnam via email. The Cease and Desist Order is dated August 13, 2025, on the first page and is dated August 14, 2025, on the second and third pages. The Cease and Desist Order was also sent Certified Mail, Return Receipt Requested. Additionally, a courtesy copy of the Cease and Desist Order was sent via US Mail.

As of the operative date of the Cease and Desist Order, this office is unaware of any formal written complaint received by the Land Use Office. As of the operative date of the Cease and Desist Order, this office is unaware of any site visit taken to the Property by any representative of the Land Use Office.

Based upon direct discussions that Attorney Major had with Ms. Hodza after the issuance of the June 23, 2025, Notice of Violation, as well as direct discussions I had with Ms. Hodza prior to her issuance of the Cease and Desist Order, the inquiry into the current use of the Property, which has led to this Appeal, was triggered by a verbal complaint lodged by the current owners of 5 Good Hill Road, a direct abutter. The current owners of 5 Good Hill Road acquired their property on or about September 3, 2024.

The current owner of the Property has owned and operated the Property since January 1, 2022, and the Town's own records will show that the Property has been continuously used in its current manner since the 1930s. For example, please see Town of Weston Planning and Zoning Commission Minutes from October 7, 1971, wherein Commissioner Robert Turner made clear "that the nursery is non-conforming in the sense of the present regulations." At that same meeting, one of the then current owners, Mr. Salvatore Gilbertie shared the following with the Commission about the business operation: "Mr. Gilbertie said that he bought the place seventeen years ago and he had an attorney when he purchased it and there were no restrictions when he bought it and he was allowed to open his business ... Mr. Gilbertie said that Weston Garden business started in 1933 ... Mr. Gilbertie said that he runs his business there fourteen hours a day."

While the substance of the 1971 proceeding was about the legality of the apartments on the Property, which were affirmed as legal nonconforming at the October 21, 1971,

Planning and Zoning Commission meeting, it is critical to understand how Mr. Turner and the Commission treated the business operation at the Property. The “nursery” was known in the community as a place to buy items on-site as well as an establishment that could provide off-site landscaping services. This is evidenced by the attached submissions from 1964 (Town Crier Picture and Caption), 1971 (Westport New Article entitled “Weston Gardens marks 25th year”) and the picture from the 1980s (showing the on-site Christmas sales while advertising “Weston Gardens Landscaping”) all of which affirm the continuous operation of the business on and off the Property. Additional evidence affirming this use will be submitted at the Public Hearing.

Current and Historic Use of the Property

Currently the Property is used as a nursery and garden center, which includes an on-site sales component as well as the operation of an off-site landscaping service.

Historically, since prior to the adoption of applicable Zoning Regulations, the Property has continuously been used as a nursery and garden center, which includes an on-site sales component as well as the operation of an off-site landscaping service.

Evidence to Be Provided

Select relevant information has been provided with the Appeal, including, but not limited to an article from 1971 that discusses the ownership of the Property by the Gilbertie brothers from the 1950s and discusses the nature of their on-site and off-site business operation. Additionally, a picture and caption showing Mike Gilbertie with his crew from Weston Garden Landscaping working on Town of Weston athletic fields from the Westport Town Crier dated April 26, 1964. Also submitted is a picture of Weston Gardens (circa 1980s) showing the winter operation of the Property, which included the sale of Christmas Trees and includes a sign advertising landscaping services. The use shown in the picture is identical to the use operated at the Property today. These named submissions are just the tip of the iceberg. At the Public Hearing significant historical information will be provided to show that the current use of the Property is consistent with the historic use of the Property. This will include in person testimony (or in the alternative affidavits) of individuals familiar with the history of the Property, current and past customers of the business operated at the Property, and past and present suppliers familiar with the current and historic use of the Property. Additionally, historical materials will be presented to show that even prior to 1950 the Property was owned and operated by a “Gardener”, which is consistent with the local understanding that this Property has been used in the same manner since the 1930s.

Request for In Person Public Hearing

Given what is at stake in this case, the appellant and owner formally request that the Public Hearing and any continued Public Hearing dates be held in person in the Town of Weston.

Conclusion

We look forward to having the opportunity to present the relevant testimony and evidence at the Public Hearing.

Thank you.



Secor, Cassidy & McPartland, P.C.
By: James R. Strub

One Good Hill, LLC
Putnam's Landscaping LLC
1 Good Hill Road
Weston, CT 06883

September 9, 2025

Town of Weston
Zoning Board of Appeals (ZBA)
C/O Land Use Office
24 School Road
Weston, CT 06883-1007

Re: Formal Appeal Pursuant to Connecticut General Statutes section 8-7
Appeal of "Order to Cease and Desist Zoning Violations at 1 Good Hill Road"
Dated both August 13, 2025, and August 14, 2025
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Received via Certified Mail August ___, 2025 (the "Cease and Desist Order")
Order issued by Richelle Hodza, Land Use Director & Deputy Certified Zoning
Enforcement Officer

Dear Town of Weston Land Use Officials and ZBA:

The undersigned is a Member of both One Good Hill, LLC and Putnam's Landscaping LLC. One Good Hill, LLC is the owner of the property known as 1 Good Hill Road, Weston, CT 06883. Putnam's Landscaping LLC operates its business at 1 Good Hill Road, Weston, CT 06883. Both One Good Hill, LLC and Putnam's Landscaping LLC will be pursuing an appeal of the Cease and Desist Order to the Town of Weston Zoning Board of Appeals ("ZBA") (the "Appeal").

One Good Hill, LLC and Putnam's Landscaping LLC, hereby authorize the following individuals and their respective companies to appear before the ZBA and to submit relevant information to the ZBA, as needed, in support of the Appeal on their behalf.

Attorneys

James Strub
Connor McNamara
Secor, Cassidy & McPartland, P.C.
41 Church Street
Waterbury, CT 06702
203-757-9261
JRS@ctlawyers.com

One Good Hill, LLC
Putnam's Landscaping LLC

1 Good Hill Road
Weston, CT 06883

W. Glenn Major
Pullman & Comley
253 Post Road West
P.O. Box 3179
Westport, CT 06880-8180
203-330-2012
wgmajor@pullcom.com

Further, in addition to the continuing authority of the undersigned to act on behalf of One Good Hill, LLC and Putnam's Landscaping LLC, each of the forgoing LLCs hereby appoint James R. Strub as its attorney and agent to sign and submit Land Use Appeals and Applications on their respective behalf.

Thank you.

Sincerely,

One Good Hill, LLC



By: Grant Putnam, its Member

Putnam's Landscaping LLC



By: Grant Putnam, its Member



Grant Putnam, individually



TOWN OF WESTON
PLANNING & ZONING COMMISSION

Certified Mail, Return Receipt Requested
(Courtesy copies via US Mail and Email)

August 13, 2025

Mr. Grant W. Putnam, Principal
One Good Hill Road LLC / Putnam's Landscaping LLC
1 Good Hill Road
Weston, Connecticut 06883

**Re: ORDER TO CEASE AND DESIST
Zoning Violations at 1 Good Hill Road
Two Acre Residential and Farming District**

Dear Mr. Putnam, One Good Hill Road LLC, and Putnam's Landscaping LLC:

You are hereby ORDERED TO CEASE AND DESIST from all activities described below, which constitute violations of the Town of Weston Zoning Regulations.

COUNT I – NON-PERMITTED COMMERCIAL USE / EXPANSION OF NONCONFORMING USE

Upon investigation, the Town of Weston has determined that 1 Good Hill Road is being used as a commercial landscaping business and contractor's storage yard in the Two Acre Residential and Farming District (R-2A). This use is not permitted in the zone and, to the extent that any nonconforming use existed, it has been expanded beyond a retail nursery and garden center. Structures made of concrete interlocking blocks have been added without a zoning permit.

Section 321.1. Permitted principal uses in the R-2A District are limited to single-family dwellings and farming.

Section 320. Land and structures may be used only for uses expressly permitted.

Section 372.1 & 373.1. Nonconforming uses* may not be enlarged, increased, or extended.

Section 374. No changes can be made on any nonconforming structure that results in its increase, including height.

Section 410. No new use may commence without a zoning permit.

*ARTICLE VI: DEFINITIONS. **Non-conforming Use:** A use of a building or of land which does not conform with the use regulations of the district in which it is situated, but which use existed at the time of adoption or amendment substantively affecting such use, of these regulations and complied with the Zoning Regulations at the time it was established. (Amended 6/3/13)

PENALTIES FOR NON-COMPLIANCE

Failure to comply may result in enforcement under CGS § 8-12, including:

- Civil penalties of up to \$100 per day for each day of violation;
- If willful and upon conviction, fines of up to \$250 per day and/or imprisonment for up to 10 days per day of violation;
- A civil penalty of up to \$2,500 for violations continuing more than 10 days;
- Recovery by the Town of all costs of enforcement, including reasonable attorney's fees.

RECORDING

This Order will be recorded in the Weston Land Records. A Notice of Satisfaction will be recorded when the violations have been fully corrected and verified.

Sincerely,



Richelle Hodza,
Land Use Director
& Deputy Certified Zoning Enforcement Officer
Town of Weston, Connecticut
rhodza@westonct.gov
(203) 222 - 2530

cc: Chair, Planning & Zoning Commission
Weston Land Use Attorney



Town of Weston, Connecticut - Parcel Map

Parcel: 31 4 6

Address: 1 GOODHILL ROAD

3.25 Ac.
4 #

4
3 Ac.
7 #

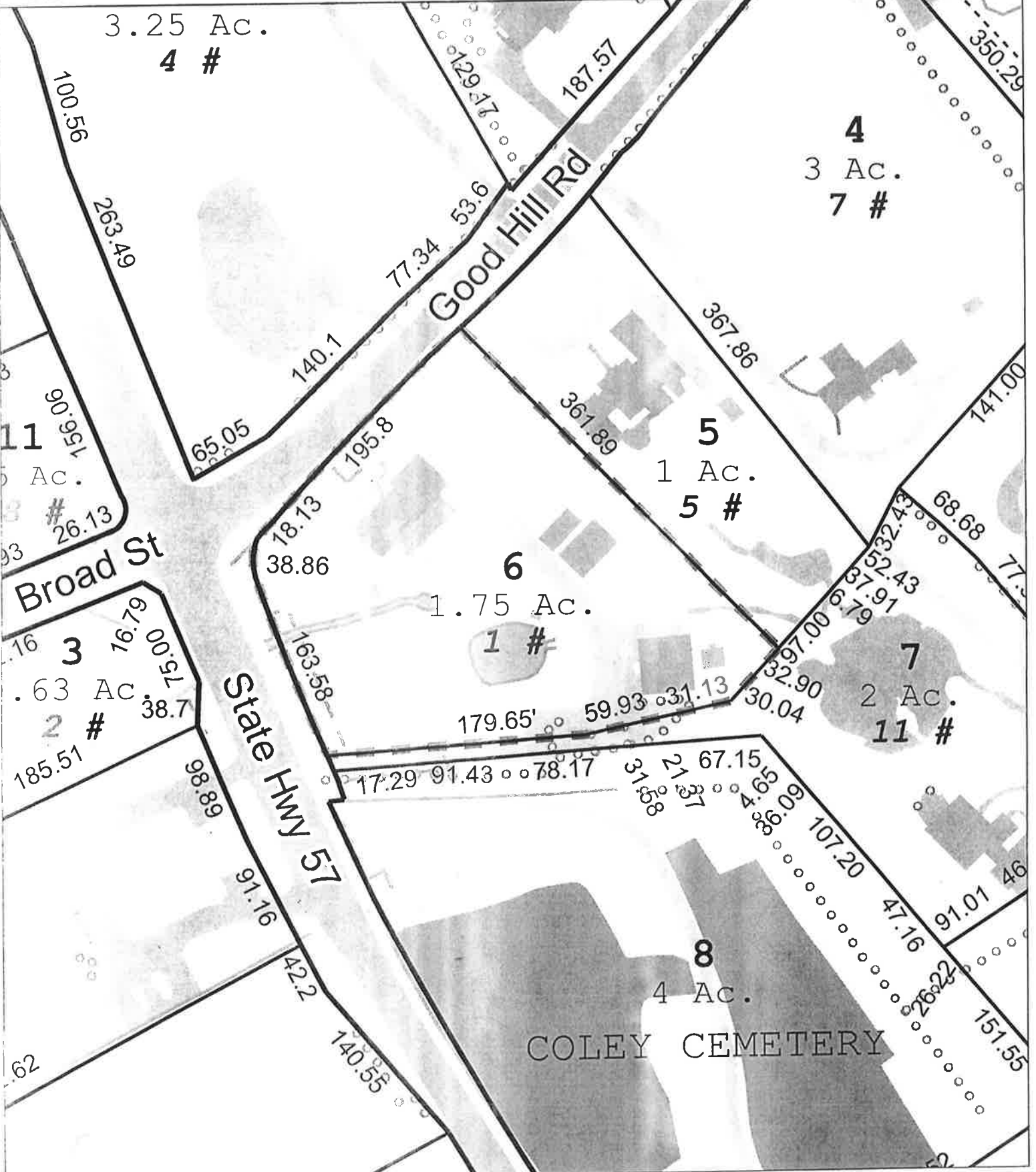
5
1 Ac.
5 #

6
1.75 Ac.
1 #

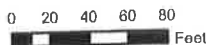
7
2 Ac.
11 #

8
4 Ac.

COLEY CEMETERY



Approximate Scale:



Disclaimer: This map is for informational purposes only.
All information is subject to verification by any user.
The Town of Weston and its mapping contractors
assume no legal responsibility for the information contained herein.

Map Produced
February 2025



W. Glenn Major
253 Post Road West
P.O. Box 3179
Westport, CT 06880-8180
p 203 330 2012
f 203 574 5070
wgmajor@pullcom.com
www.pullcom.com

July 29, 2025

Re: Notice of Violation at 1 Good Hill Road, Weston, CT

Dear Planning and Zoning Members,

I represent One Good Hill, LLC (“Good Hill”), the owner of the above-referenced premises at 1 Good Hill Road, Weston, Connecticut. On June 23, 2025, my client received a Notice of Violation from Weston’s Zoning Enforcement Officer, alleging that the pre-existing non-conforming use of 1 Good Hill Road had been modified without proper approval. We disagree with the allegations set forth in that Notice and request that the Commission allow my client to continue operating his business, which has been and continues to be a legal, nonconforming nursery garden and landscaping service operation.

1 Good Hill Road Property History

As I understand it, a garden center and landscaping business located at 1 Good Hill Road was established in the early 1930s and has continued to operate uninterrupted since its inception. This use pre-existed any zoning regulation that would disallow such use. In the mid-1950s Sal and Micheal Gilbertie purchased the property and relocated their landscaping business from their father’s garage in Westport to that site. Mike operated the landscaping business and garden center until his retirement when Debbie and Craig Smith (Michael’s daughter and then son-in-law) took over the business. They continued to operate both the retail garden center and landscaping business continuously until they sold the business and property to the current owner. This is evidenced by the numerous posts on social media and advertisements run throughout their operation. My client purchased Weston Gardens in 2022 and has continuously operated the business as a garden center, with a both a retail and landscaping component.

The Town of Weston’s Planning and Zoning Commission (“P&Z Commission”) confirmed that such use on the subject premises was a legal nonconforming use by reference in the minutes of its October 21, 1971, meeting. Again, in 2021, pursuant to the then-owners, Craig Smith and Debbie Gianelli’s request, the P&Z Commission re-confirmed the active and grandfathered “Garden Center” use of the property.

Applicable Law

A mere increase in the amount of business done pursuant to a nonconforming use is not an illegal expansion of the original use. *Helicopter Associates, Inc. v. City of Stamford*, 201 Conn. 700,

716 (1986). “There must be a change in the character of the existing use in order to bring it within the prohibition of the zoning ordinance.” *Zachs v. Zoning Bd. of Appeals of Town of Avon*, 218 Conn. 324, 332 (1991), citing *Salerni v. Scheuy*, 140 Conn. 566, 571, 102 A.2d 528 1954.

In defining existing use, “neither the extent nor the quantity nor the quality of the use” which is permitted to continue “is prescribed by those words.” *DiBlasi v. Zoning Bd. of Appeals of Town of Litchfield*, 224 Conn. 823, 831 (1993). This means that the utilization of property at the adoption of zoning regulations is not frozen. *Id.* at 833. In fact, modernizing a nonconforming use is permitted as long as the improvements are used to pursue the original use. *Zachs*, 218 Conn. at 356 (finding that the installation of a generator and extra antennae and transmitters for a radio communications tower was within the scope of the property’s original use).

In deciding whether the activity in question is within the scope of a nonconforming use, consideration should be given to “(1) the extent to which the current use reflects the nature and purpose of the original use; (2) any differences in the character, nature and kind of use involved; and (3) any substantial difference in effect upon the neighborhood resulting from differences in the activities conducted on the property.” *Id.* at 332.

This analysis is a fact-specific inquiry and there is considerable overlap in the first and second factor. *Sugar Hill, LLC v. Newtown Zoning Bd. of Appeals*, No. LND CV136060634S, 2016 WL 4497643, at *4 (Conn. Super. Ct. June 29, 2016). In *Zachs v. Zoning Bd. of Appeals of Town of Avon*, the installation of additional equipment to the radio tower reflected the nature and purpose of the original use, as the property continued to be used for radio communications systems. *Id.* at 332. For the second factor, such changes did not reflect a difference in character, but rather, an increase in the volume of business within the scope of the original use. *Id.* at 332-33; see *DiBlasi v. Zoning Bd. Of Appeals of Town of Litchfield*, 224 Conn. 823, 830-32 (1993)(differences in hours of operation, an increase in the number of visitors, and the fact that the parcel was used as a medical and not a business office, did not illegally expand the scope of the nonconforming use).

Where the change of use does not involve the addition of a new structure, courts have found permissible intensifications of the use, as long as the character of the use remains unchanged. *Shell Oil Co. v. Planning & Zoning Comm'n of Westport*, No. CV 0327130S, 1997 WL 15428, at *5 (Conn. Super. Ct. Jan. 10, 1997), citing *DiBlasi* 224 Conn. At 833. In *Shell Oil*, the plaintiff sought to build an additional gas pump island that was specifically prohibited under Westport’s zoning ordinances. *Id.* at 3-4. The court rejected the plaintiff’s reliance on *Zachs*, since the nature of a generator as a structure in *Zachs*, is not similar to the construction of a gas pump island in *Shell Oil*. *Id.*

For the third factor, a complaint from a neighbor, without more, does not constitute a substantial difference in the effect upon the neighborhood. *Zachs*, 218 Conn. at 333. This was demonstrated in *Zachs*, where a neighbor’s complaint about noise from a generator was not an adverse effect upon the neighborhood sufficient to warrant a finding that the nonconforming use had been

expanded beyond its original scope. *Id.* at 333. However, a change that violates a Connecticut statute constitutes a substantial difference in the effect upon the neighborhood. *Raymond v. Zoning Bd. of Appeals of City of Norwalk*, 76 Conn. App. 222, 259 *cert. denied*, 264 Conn. 906 (2003). For instance, in *Raymond v. Zoning Bd. of Appeals of City of Norwalk*, a change from parallel to diagonal parking on the street, which was prohibited by statute, produced a substantial difference in the effect on the neighborhood. 76 Conn. App. 222, 259 *cert. denied*, 264 Conn. 906 (2003). This resulted in an impermissible intensification of a non-conforming use. *Id.*

Discussion

Since purchasing the business at 1 Good Hill Road, my client has continued to utilize the property within the scope of its original nonconforming use. The nature and character of the use continues to reflect the multifaceted character of the business since 1933. Specifically, the business operates as a nursery and garden center that sells plants and offers landscaping services.

The Notice of Violation indicates that the use went from “a retail garden nursery” to the operation of a “landscaping business/contractors storage yard.” However, the business at 1 Good Hill Road has always offered landscaping services. The property is not a contractor’s yard nor is it intended to be such. My client stores and sells to retail customers and contractors garden and landscaping materials and supplies.

Similar to the increase in the number of visitors in *DiBlasi* and the installation of additional equipment in *Zachs*, Good Hill’s reconfiguration of use is permissible as the business evolves yet continues to sell plants and offer landscaping services.

As an aside, the erection of the concrete block storage areas do not fall within the definition of a structure. Under Weston’s Zoning Ordinance § 240-74, a structure is anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Accordingly, these concrete blocks are not a structure in the same way that the generator in *Zachs* was not a structure. The concrete blocks and generator in *Zachs* are moveable, and unlike the gas island pump in *Shell Oil*, they are not attached to the ground or “constructed.”

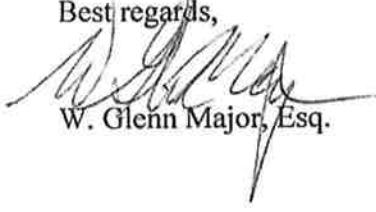
Lastly, these changes have no adverse impact on the neighborhood sufficient to find an illegal expansion of the property’s nonconforming use. Notwithstanding this fact, my client has voluntarily implemented a series of practices and procedures so as to minimize the noise impact of the business operation on the surrounding neighbors including, but not limited to, reconfiguring the flow of traffic to eliminate whenever possible the backup bell on the trucks; eliminate the use of gas blowers, and curtail deliveries on weekends.

Page 4

Conclusion

For these reasons, the Planning and Zoning Commission should find that Weston Gardens at 1 Good Hill Road continues to operate as a legal pre-existing non-conforming use.

Best regards,


W. Glenn Major, Esq.

Weston Gardens marks 25th year

WESTON - "Put pansies out. We had a frost last night. If you'd put in yesterday everything you wanted to put in, you would have lost it all."

The speaker was Mike Gilbert, co-partner with his brother Sal in Weston Gardens at Goodhill and Weston Roads. They're celebrating their 25th Anniversary this month. One of the secrets of their success is that they tell the customers

exactly what to do and when. Trying to interview them on a busy Spring day is not as easy task. Little old ladies in tennis shoes, young mothers in dungarees and small tots clinging from the top of a tree - "Look at me mommy!" all serve to distract the attention.

Mike has an easy manner. A big man, with black hair and eyes, he was wearing a houndstooth deer stalker's cap with a red feather

and a Black Watch plaid shirt. He gave his undivided attention to a young woman looking at rhododendron bushes. He was giving her explicit instructions as the care and feeding thereof.

When Sal came up with two young couples who were seeking information on ground planting, he patiently listened to their problems, made suggestions and promised to deliver and plant their choices during the next week.

Mike and Sal started their landscape gardening business "in our father's garage down in Saugaubuck, 25 years ago," said Sal. He, too, is a big man, with a weather-beaten face, and had on a nondescript hat and a rust suede vest.

They moved to Weston 17 years ago, and the business has grown with each succeeding year. The Gilberte brothers now have a team of young men who lift the bales of peat moss, fertilizer, buck-wheat hulls, while they give advice about the care of plants and flowers to new customers and old. Hanging baskets of salmon begonias, bright red geraniums, pansies in yellows, lavender and browns, candy tuft and mountain pink all vied with each other in a riot of color.

A cluster of burlap bagged magnolia trees stood by a pond in front of the greenhouse. A natural wood arbor stretched over masses of evergreens, laurel in flower and the rhododendrum occupying a lady.

"We will plant anything," said Sal, "plan the landscaping for a home, build terrace walls. We make terraces, too."



VIDEO SERVICES COMPANY

45 Saugatuck Avenue
Westport

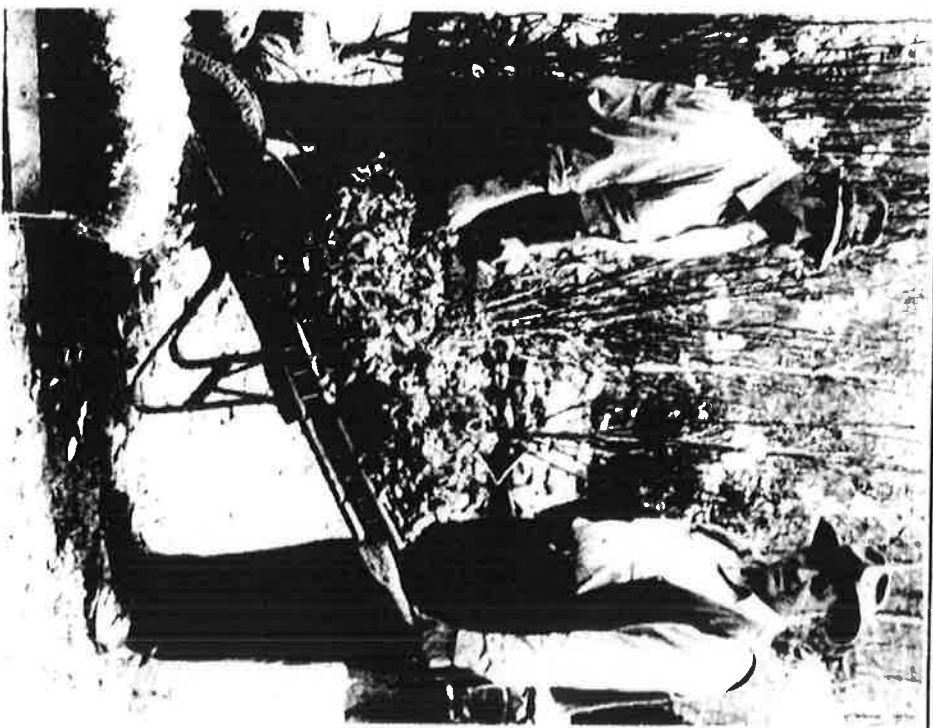
Truly Competent
Color T.V.
Specialists

All makes

PICK UP AND DELIVERY ON CONSOLES

OVER 20 YEARS EXPERIENCE

227-5655



BROTHERS OF SOIL: After a quarter century of tending nature, the Gilberte brothers, Mike (left) and Sal (right), are still making things grow green, lush and beautiful, at the Weston Gardens Nursery, Goodhill and Weston Roads.

(Westport News photo by Billingham)

Sikorsky award

And to a young woman who wanted to put in some tomato plants, "not yet," said Sal. "It'll be safe by this weekend." Caution, integrity, a real love of flowers, trees and shrubs combined with the patience to listen to their customers - that's what has produced the successful Weston gardens.

Igor I. Sikorsky, founder of Sikorsky Aircraft, was named the first recipient of the Connecticut Patent Law Association's Eli Whitney Award "in recognition of his pioneering efforts and as one of Connecticut's most famous inventors."

© Connecticut Patent Law Association



Substantial support for heart research is made possible by memorial gifts to the Heart Association

WESTON

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Sunday, April 26, 1964



PREPARING THE FIELD for yesterday's scheduled Little League opener were workers from the Weston Garden Landscaping Firm. From left to right are Charles Pierce, Andy Fekete and Mike Gilbertie. Working on the dugout in the background is Ralph Anderson.

PLANNING & ZONING COMMISSION

October 7, 1971

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Present: Robert Turner, chairman, Dr. Michael Burnham, Ellie Milmore, Frank Jackson, Frank Wilson and Tom Van Winkle. *John Cunningham*

MINUTES OF SEPTEMBER 30th: The minutes were corrected to include Frank Jackson as being present at this meeting and under Aspetuck Valley Country Club subdivision the reference to Mrs. Milmore was deleted because of inaccuracy. Motion was made, seconded and passed to approve the minutes as corrected.

SALVATORE GILBERTIE RE: PROPERTY CORNER ROUTE 57 & GOODHILL RD:

Mr. Gilbertie attended this meeting in response to a request by the Planning & Zoning Commission to explain the use of his property. Mr. Turner pointed out that it appeared the dwelling on the property is occupied by two non-owners. Mr. Gilbertie said that he bought the place seventeen years ago and he had an attorney when he purchased it and there were no restrictions when he bought it and he was allowed to open his business. He said that he lived on the property up to six years ago. Mr. Turner referred to the regulation regarding roomers and boarders and the fact that in order to have roomers and boarders the dwelling had to be owner occupied. It was pointed out that this is a case of two tenants rather than roomers and boarders. Mr. Turner said that it would appear that this is a case of multiple tenants and in order to have an apartment it would necessitate at least the residence of an owner occupant. Mr. Gilbertie was asked how long he has rented the house and the answer was, "ever since I moved out, going on six years." Mr. Krelle owned the property before Mr. Gilbertie and Mr. Gilbertie said that when Mr. Krelle owned the property he had both apartments rented, that Mr. Krelle wasn't living there. Mr. Davidson and some other people lived in the place, and when Mr. Davidson left there he rented part of it. Michael Gilbertie and Salvatore Gilbertie owned this house together and each had an apartment. One apartment was on one side of the house and the other apartment on the other side with a workshop in between. Mr. Gilbertie said that Weston Garden business started in 1933. The owner had the business then and rented to Mr. Davidson and also rented to another. Mr. Turner said that the nursery is non-conforming in sense of the present regulations but it is the dwelling being occupied by other than the owner and the rental of two apartments which in effect makes it a multiple dwelling which would be a violation. The conditions of our regulations are either owner occupied with boarders or a dwelling with a special permit for an apartment. Mr. Gilbertie said that he runs his business there fourteen hours a day. He said he and his brother bought the house in 1955 but didn't move in until 1956. Mr. Davidson moved out in 1954. In 1965 Mr. Gilbertie moved out to High Acre Road. At that time they rented one apartment and about two years ago they rented the other. They have rented to two separate people and there are two separate apartments, but he said the apartments were there when they bought the place. Mr. Davidson had one apartment and another apartment was rented by Mr. Krelle. He said there was no time when only one family lived there. Mr. Gilbertie said that his brother moved in 1956. It was about six years ago when they actually rented an apartment to other than family. The property is still in the name of the two Gilbertie brothers. He said that the apartments have no common

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rooms. They are completely separate units and have their own kitchens and baths. Mr. Gilbertie's brother now lives in Westport and moved about a year before Mr. Salvatore Gilbertie. Mr. Gilbertie lived there alone after the brother moved out. Mr. Turner thanked Mr. Gilbertie for coming and stated that if the Commission has a position it wishes to take they will let Mr. Gilbertie know.*

NOV. TRAIL EXTENSION: Miss Lockwood attended the meeting stating that the open space land that she had just deeded to the town she would like to refer to as Andrews Ridge Park. Motion was made and seconded and passed that the commission endorse this name for this parcel that has been accepted by the town.

SEPTEMBER LANE EXTENSION: Miss Lockwood stated that in view of all the trouble of the strike in the GL&P Co the underground utility lines have not been laid and suggested that it made common sense to allow poles above ground since there are poles in the subdivisions on either side. She stated that there is 900 feet involved and mentioned that two existing houses would have to have transformers installed if the lines are underground and would be compelled to hook into the underground utility which would be an expense of 300 to 400 dollars to each of these existing residents. It would also necessitate tearing up the shoulders which are presently partially constructed. Mr. Turner told Miss Lockwood that the provisions of 43.2 does not give the commission any discretion to waive. Miss Lockwood also requested an extension of time for completion of her road or delivery of bond to November 1st. She said that the paving is suppose to be started on Monday, the gravel is all but not graded off for asphalt. The drainage is all in. She stated that there is a good half of the road finished. Mr. Turner will check with the engineer as to the status of the road.

In regard to the use of poles instead of underground cable Dr. Burnham moved that Miss Lockwood put the cable underground. This motion was seconded and unanimously passed.

Motion was made, seconded and passed to grant an extension on this road to November 1st.

*Motion was made seconded and passed to give the information on the possible Gilbertie violation to Town Counsel and seek his opinion as to whether or not the Gilbertie's have pre-existing vested rights.

October 28th meeting was cancelled in order for the members to attend a zoning meeting in Hartford.

SIGNS MIDDLE SCHOOL: Drawing of two 16 square foot signs with names of Middle School, architects and contractors was submitted to the commission for approval. These signs are beyond the size allowable by the zoning regulations and Mr. Turner is to write Mr. Lorentzen to this effect, stating that the proposed

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Present: Robert Turner, chairman, Dr. Michael Burnham, Frank Wilson, Thomas Van Winkle and Mr. Risolo attended the meeting:

ASPETUCK VALLEY COUNTRY CLUB SUBDIVISION: Mr. Risolo attended the meeting in response to having been told to cease removing earth material. He stated that the earth removal involves in the vicinity of 3,500 to 5,000 cubic yards in order to construct the road in accordance with the filed subdivision plan and approved road profiles. The material is not being removed from the lots, he said, but being removed from the right of way for the road in order to accomplish the 4% and 6% grade approved by the commission. Mr. Risolo exhibited the road profiles that had been approved and stated that he needed 4 foot of fill on Steep Hill Road. This was a request of the Aspetuck Valley Health District in order to get a septic permit for the lot on Steep Hill Road. Mr. Turner requested that Mr. Cartelli look at the fill on Steep Hill Road and suggested that the fill should have the approval of the Aspetuck Valley Health District. Mr. Risolo said that the purpose of the fill was not to pass the waste from the septic system but rather that since the front portion of the lot is wet that without some fill there could be some odor. Mr. Risolo also feels that putting fill on this lot will make the lot more attractive.

The commission reviewed Section 348, specifically 348.5 and 348.6 and in seeking approval of the subdivision the requirements were automatically met. Mr. Risolo stated that he had understood that when the completed plan of subdivision with road profiles were approved that automatically he had permission to remove soil.

Dr. Burnham moved that the earth be removed without a permit. Motion was seconded and passed. Mr. Risolo is to be forewarned, however, that he is not to use Davis Hill Bridge for transportation of the soil.

The clerk was requested to jot down the particular regulations where there has been difficulty in interpretation.

Mr. Turner feels that we should discuss removal of soil under Section 348 in connection with an approved subdivision with Mr. Ray Cartelli and feels that he should be concerned with how the removal is conducted.

MINUTES of 10/14/71: A small correction was made in the last paragraph on page 1 and motion was made, seconded and passed to approve these minutes as corrected.

REPORTS FROM ENGINEER: These were reviewed by Mr. Turner.

REPORT FOR FISCAL YEAR ENDING 71: Mr. Turner submitted a rough draft of this report. A few minor changes were made and the clerk was instructed to submit the report to the Office of the Selectmen.

It was agreed that there would be a meeting on the 4th of November and on the 11th of November. There will be no meeting on November 18th.

It was agreed that Planning items would not again be reviewed until after election.

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GILBERTIE: The earlier regulations were reviewed and it would appear that the two apartments pre-existed any regulation that would disallow this. Before writing a letter to Mr. Gilbertie town counsel is to be consulted.

5 YEAR CAPITAL PLAN: Mr. Turner stated that he would draft a letter to all beards to direct the establishment of a five year forecast.

Motion was made, seconded and passed to adjourn the meeting.

Respectfully submitted,

Gertrude Walker

Clerk











