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LAND USE LAW
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Chapters 1–24

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§ 2:2 Definitions; land use concepts

Research References

West's Key Number Digest, Zoning and Planning ⇨371, 382.1, 481
C.J.S., Zoning and Land Planning §§ 191, 197, 199, 203, 228 to 232

Special Permit—A use which zoning regulations expressly permit under conditions specified in the regulations.¹ Special permits are also called special exceptions, and these are interchangeable terms. The agency is governed by existing provisions of its own regulations.² Its function is to determine whether (1) the applicant's proposed use of the property is expressly permitted under the commission's regulation; (2) whether the standards and the relevant zoning regulations are satisfied; and (3) whether conditions necessary to protect public health, safety, convenience and property values, as provided by C.G.S.A. § 8-2, can be established.³ A special permit allows a use which is generally compatible with the zoning district but requires special attention as to its location and method of operation in order to keep it consistent with uses permitted as of right in the district.⁴ A special permit application which conforms with the existing regulations must be approved and cannot be required to meet

²C.G.S.A. § 7-326.

³C.G.S.A. § 7-326.; *Deer Island Association, Inc. v. Morris Zoning Board of Appeals*, 5 Conn.Super.Ct.Rpts. 803, 805, 1990 WL 290076 (1990).

⁴*Watertown v. Watertown Fire District*, 28 Conn.Sup. 413, 265 A.2d 496 (1968).

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¹*W A T R, Inc. v. Zoning Board of Appeals of Bethany*, 158 Conn. 196, 200, 257 A.2d 818, 821 (1969); C.G.S.A. § 8-2.

²*A. P. & W. Holding Corporation v. Planning and Zoning Board of Milford*, 167 Conn. 182, 186, 355 A.2d 91, 94 (1974).

³*Housatonic Terminal Corporation v. Planning and Zoning Board of Milford*, 168 Conn. 304, 307, 362 A.2d 1375, 1377 (1975); *A. P. & W. Holding Corporation v. Planning and Zoning Board*, 167 Conn. at 185, 355 A.2d at 93.

⁴*Barberino Realty & Development Corp. v. Planning and Zoning Commission of Farmington*, 222 Conn. 607, 612, 610 A.2d 1205, 1208 (1992).

standards not contained in the regulations themselves⁵, and the agency cannot impose a condition on a special permit unless authorized by its own regulations,⁶ or necessary to protect the public interest.

Site Plans—A plan filed with a zoning commission or other municipal agency or official to determine the conformity of a proposed building, use or structure with specific provisions of the zoning regulations.⁷ It is a physical plan showing the layout and design of a proposed use, including structures, parking areas and open space and their relation to adjacent uses and roads, and containing the information required by the zoning regulations for that use.⁸ The agency has no independent discretion beyond determining whether the plan complies with the site plan regulations and applicable zoning regulations incorporated by reference.⁹ "A site plan may be modified or denied only if it fails to comply with requirements already set forth in the regulations."¹⁰

⁵*DeMaria v. Enfield Planning and Zoning Commission*, 159 Conn. 534, 540, 541, 271 A.2d 105, 108, 109 (1970).

⁶*Beckish v. Planning and Zoning Commission of Columbia*, 162 Conn. 11, 17, 291 A.2d 208, 212 (1971); *Barberino Realty & Development Corp. v. Planning and Zoning Commission of Farmington*, 25 Conn.App. 392, 397, 594 A.2d 1025, 1027 (1991), reversed on other grounds 222 Conn. 607, 610 A.2d 1205 (1992).

⁷C.G.S.A. § 8-3(g). *SSM Associates Limited Partnership v. Plan and Zoning Commission of Fairfield*, 15 Conn.App. 561, 566, 545 A.2d 602, 604 (1988), affirmed 211 Conn. 331, 559 A.2d 196 (1989).

⁸*Barberino Realty & Development Co. v. Planning and Zoning Commission of Farmington*, 222 Conn. at 613, 614, 610 A.2d at 1209; *SSM Associates Limited Partnership v. Plan and Zoning Commission of Fairfield*,

15 Conn.App. 561, 566, 567, 545 A.2d 602, 604, 605 (1988), affirmed 211 Conn. 331, 559 A.2d 196 (1989).

⁹*Allied Plywood Inc. v. Planning and Zoning Commission of South Windsor*, 2 Conn.App. 506, 512, 480 A.2d 584, 587 (1984), cert. denied 194 Conn. 808, 483 A.2d 612 (1984).

¹⁰C.G.S.A. § 8-3(g).

¹¹C.G.S.A. § 8-18; *McCran v. Town Plan and Zoning Commission of Bloomfield*, 161 Conn. 65, 70, 282 A.2d 900, 903 (1971).

¹²See § 10:9 and *Lione v. Clinton Planning and Zoning Commission*, #43452, Superior Court at Middletown, October 7, 1986.

¹³*RK Development Corporation v. Norwalk*, 156 Conn. at 377, 242 A.2d at 785; *Beach v. Planning and Zoning Commission of Milford*, 141 Conn. 79, 85, 103 A.2d 814, 817 (1954); *Reed v. Planning and Zoning Commission of Chester*, 12 Conn.App. 153, 156, 529 A.2d 1338, 1340 (1987), affirmed 208