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VIA E-MAIL

(c/o Tammy Rill, trill@washingtonct.org and Shelley White, swhite@washingtonct.org)

Nicholas Solley, Chairman
Washington Zoning Commission
2 Bryan Plaza
Washington Depot, CT 06794

Re: Application of MFSPA2013 LLC for a Special Permit for 116 Woodbury Road (the “Property”) dated November 15, 2021 (the “Application”)

Dear Chairman Solley and Members of the Commission:

This law firm represents Vincent Casey and Robert Duke, who reside near the subject property. We are writing to express our opposition to the Application which requests a new special permit for the establishment of an “Event Tent [sic] for weddings, corporate meetings, and similar events.”

At the outset, we would like to make the Commission aware of the proceedings before the Washington Zoning Board of Appeals in docket ZBA-1128. The Zoning Enforcement Officer previously issued an Order citing the Applicant with the following zoning violations occurring at the Property:

- 1) The Appellant is conducting a Special Permit use without a proper Special Permit or Zoning Permit authorizing the same in violation of Section 2.3 of the Regulations.
- 2) The Appellant is in violation of Section 13.1.C.2 of the Regulations because the location, type, character, size, scale, proportion, and intensity of the current unapproved use is not in harmony with and does not conform to the appropriate and orderly development of the Town and the neighborhood and hinders and discourages the appropriate use of adjacent property and substantially impairs the value thereof.
- 3) The Appellant is in violation Section 13.1.C of the Regulations requires, *inter alia*, that “the proposed use and any building or other structure in connection therewith

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will not create a nuisance such as noise, fumes, odors, bright lights, glare, visual obstructions, vibrations, or other nuisance conditions at or beyond the property line.”

- 4) The Appellant is in violation of Section 13.1.B.1 because the Special Permit Application failed to identify the proper owner of the subject property.

Rather than comply with the Order, the Applicant appealed it to the ZBA and continued to hold illegal events. After a hearing, the ZBA voted unanimously to uphold the Order. Enclosed is a copy of the minutes from the hearing. Even after the Order was upheld by the ZBA, the Applicant continued to hold events in violation of the Order and the Washington Zoning Regulations. We raise this issue because it is extremely important that the Application is strictly scrutinized, as the Applicant has made it clear that they have no respect for their neighbors, the Zoning Regulations, or the officials of the town. The Applicant has also made it clear that they are not acting in good faith as a “good neighbor” in Washington, given that, as documented in the ZBA proceeding, they continually misrepresented their intentions for events throughout the summer of 2021 leading up to the issuance of the Order.

Against this backdrop, we now turn to the merits of the Application and why it must be denied.

The Application seeks an “Event Tent [sic] for weddings, corporate meetings and similar events” under Sections 4.4.1, 13.1.C, and 14 of the Zoning Regulations.

First, an “Event Tent [sic] for weddings, corporate meetings and similar events” is not a permitted use by Special Permit under Section 4.4 of the Zoning Regulations. The Property is located in the R-1 District (Farming and Residential District). Section 4.4.1 allows “Inns or Tourist homes” but makes no reference to “event tents” for outdoor events.

Second, in order to obtain a Special Permit under 4.4.1 (assuming that “Inns or Tourist homes” somehow means that commercial event tents are allowed in the Farming and Residential District), the Applicant must also meet all of the required conditions of Sections 13 and Section 14 of the Regulations. The Application does not comply with at least Sections 13.1.C.1, 13.1.C.2, 13.1.C.4, 13.1.C.8, and 14.

Section 13.1.C.1 requires that “the proposed use and any building or other structure in connection therewith are consistent with the objectives of the Plan of Conservation and Development for the Town of Washington (the “POCD”), and the intent and requirements of the Zoning Regulations as such documents may be amended.” The Application proposes to include a commercial event tent, which is wholly inconsistent with the residential character of the R-1 District. As set forth in the POCD, the R-1 District comprises 21,420 acres or 88.7% of the total land area in the Town. POCD at p. 59. This district’s use encompasses on “single-family homes” as well as “accessory agricultural uses.” POCD at p. 63. Moreover, the POCD emphasizes that, given the significant use limitations in the R-1 District, undeveloped land is generally zoned R-1 “and is available for future residential development or open space preservation.” POCD at p. 64 (emphasis added). The POCD, as well as Section 4 of the

Regulations applicable to the R-1 District, demonstrate that the objective of this district is to limit the use of land to uses that are compatible with low-intensity residential and farming uses. The Application, which proposes a commercial outdoor event tent to host frequent corporate events and weddings, is wholly inconsistent with those objectives.

Section 13.1.C.2 provides that “the location, type, character, size, scale, proportion, appearance, and intensity of the proposed use and any building or other structure in connection therewith shall be in harmony with and conform to the appropriate and orderly development of the Town and the neighborhood and will not hinder or discourage the appropriate development and use of adjacent property or substantially or permanently impair the value thereof.” The Application does not satisfy this requirement either. The commercial event tent is inconsistent with the residential character of the neighborhood. Moreover, it would impair the use and value of adjacent properties by allowing loud outdoor events to occur until late into the night. The proposal is highly disruptive and inconsistent with the low-intensity residential uses in the neighborhood.

Section 13.1.C.4 requires that the Applicant establish that there is “no undue hazard to traffic or undue traffic congestion is created; and that adequate off-street parking and loading facilities are available.” The Applicant represents in the narrative to the Application that the tent would host “up to 150 guests” plus 15-20 employees. The Applicant has offered no analysis of the traffic that will be generated by this intensified use, and because the Applicant has offered no site plan, there is no way for the Commission to evaluate the parking proposed at the site.

Section 13.1.C.8 provides that “the proposed use and any building or other structure in connection therewith **will not create a nuisance such as noise, fumes, odors, bright lights, glare, visual obstructions, vibrations, or other nuisance conditions at or beyond the property line.**” (Emphasis added.) The Applicant has not, and cannot, meet this standard. As set forth more fully in the report of Acoustical Technologies, Inc. (a copy of which is enclosed), the proposed commercial event tent will result in significant decibel levels as high as 65 dBA. ATI Report at p. 13. Acoustical Technologies, Inc. also concludes that the planned noise mitigation “does not meet the State of Connecticut airborne noise requirements at the closest nearby properties in the R-1 Residential Zone.” ATI Report at p. 13. The nuisance is also demonstrated by the Applicant’s use of the Property last summer and the high noise levels emanating from the event tent. Mr. Casey and Mr. Duke recorded decibel levels at their property (about 900 feet away) in the 75-85dB range on the following dates: June 9, 2021, June 10, 2021, July 10, 2021, July 17, 2021, July 18, 2021, July 22, 2021, August 7, 2021, August 14, 2021, August 27, 2021, September 4, 2021, September 12, 2021, and September 18, 2021.

Section 14 requires that the Applicant file a site plan in connection with the Application. The Applicant has failed to file the required site plan.

Finally, the Application is also incomplete because it purports to locate noise generating equipment (i.e., loudspeakers). Section 12.14.4 requires that if an application to the ZBA is required for any request to locate any noise generating equipment other than the equipment

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specified in Sections 12.14.1 and 12.14.2. Loudspeakers are not listed in those sections, and therefore, an application to the ZBA is required. In that application, the Applicant would need to “demonstrate to the satisfaction of the ZBA that the sound level at the nearest property line will be no higher than 50 dB.” As demonstrated by the report from Acoustical Technologies, Inc., the Applicant cannot meet this standard even if it were to file the appropriate application with the ZBA.

For the foregoing reasons, we respectfully request that the Commission deny the Application.

Very truly yours,



Philip C. Pires

Enclosures