

MARK J. CAPECELATRO, LLC

ATTORNEY & COUNSELOR AT LAW

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P.O. BOX 1045

CANAAN, CONNECTICUT 06018-1045

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ORIGINAL

November 5, 2020

RECEIVED

MAR 1 2021

**LAND USE OFFICE
Salisbury, CT**

Dr. Michael Klemens, Chairman
Salisbury Planning and Zoning Commission
PO Box 548
Salisbury, Connecticut 06068

RE: Application for Special Permit-Salisbury Housing
Committee-Application # 2020-0100

Dear Dr. Klemens:

The undersigned represents RJS Holding LLC, a Connecticut limited liability company which is the owner of the property known as 20 Millerton Road, Lakeville, Connecticut. This property is contiguous to the property known as Bicentennial Park shown on tax map number 45 as lot number 2 and is the subject of the above stated Application for Special Permit.

The conversion of the proposed Special Permit Property to a use other than public parking will create a significant hardship for my client. The building at 20 Millerton Road was constructed in the 1800s and has no on-site parking. The building consists of two apartments and approximately 1,500 square feet of retail space. Under Salisbury Planning and Regulations Section 703.11 - Table of Parking Requirements, one parking space is required per unit for multifamily dwellings and one parking space is required for every 200 square feet of gross floor area for retail space. Therefore, in order for my client's building to conform to the parking requirements of the Planning and Zoning Regulations, it needs nine parking spaces - all of which are located on the property which is the subject of the Special Permit Application. In the event that the Special Permit is granted, my client's property would be made non-conforming as there is no adequate amount of satellite parking which my client's tenants could utilize. You will find attached hereto a copy of the Assessor's Field Data Card for 20 Millerton Road and a copy of the Assessor's Map with my client's property highlighted in yellow for your reference.

Section 500.2 of the Planning and Zoning Regulations says, in part, that it "... is the intent of these Regulations to reduce or eliminate non-conforming situations as quickly as possible." The creation of non-conforming uses or buildings is not permitted under the Planning Zoning Regulations.

Additionally the property owned by 6 of Diamonds, LLC (the Dino's Pizza building) located at 24 Millerton Road was the subject of a Special Permit Application which came before the Planning and Zoning Commission on October 27, 2006. On that date the Planning and Zoning Commission of the Town of Salisbury granted the property at 24 Millerton Road a Special Permit for a high turnover restaurant. You will find attached hereto a copy of my cover letter to Zoning Enforcement Officer Nancy Brusie, a copy of the Special Permit Application and its attached Site Plan which specifically shows allocated on-site parking spaces and the available satellite parking. The Planning and Zoning Commission approved the Special Permit Application subject to certain conditions. You will find attached hereto a copy of the Special Permit which was recorded in the Salisbury Land Records in Volume 213 at page 0070.

Condition number 1 of said Special Permit states in pertinent part "pursuant to Section 522 of the Regulations, all parking by employees of the Special Permittee shall use satellite parking facilities as provided in Section 526...". The satellite parking referenced in my cover letter to Ms. Brusie and as shown on the above Site Plan is the property which is the subject of the pending Special Permit Application. The elimination of the parking spaces in Bicentennial Park would thus result in a violation of an explicit condition of the Special Permit Application and could jeopardize the continuing use of 24 Millerton Road with the resulting loss of value of the property and the possible loss of a business and the jobs it provides in the community

Further, the property at 22 Millerton Road has no on-site parking and thus also relies on the Bicentennial Park satellite parking to conform to the parking requirements of the Planning and Zoning Regulations. The elimination of the satellite parking at Bicentennial Park would make the use of 22 Millerton Road property non-conforming as well.

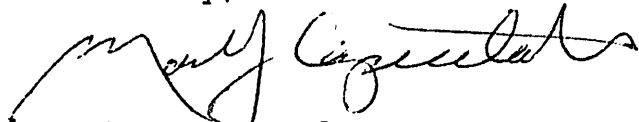
Article 100.2 of the Planning and Zoning Regulations states in part "these Zoning Regulations are adopted to help accomplish the following purposes: d. conserving the value of buildings and property and encouraging the most appropriate use of land throughout the town;". It is very clear that eliminating the satellite parking

opportunities by building on the property which is the subject of this Special Permit Application would, in fact, greatly diminish the value of the properties at 20, 22 and 24 Millerton Road, and create a violation of a specific Special Permit Condition for 24 Millerton Road and thus jeopardize its viability as a business and would thus not be consistent with the stated purposes of the Planning and Zoning Regulations.

If this Special Permit is granted, it would create two non-conforming properties and result in a third property violating a specific condition of its own Special Permit. Further, the value of these three (3) properties would be irreparably damaged and could result in the loss of the businesses operating in these buildings and the jobs those businesses have created.

For these reasons my client strenuously objects to the granting of the Special Permit.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark J. Capecelatro". The signature is written in dark ink and is positioned above the printed name.

Mark J. Capecelatro

MJC/tc
Attachments

Property Location: 20 MILLERTON ROAD
 Parcel ID: 1053

Account #98101089

MAP ID: 451/031/

Bldg #: 1 of 1

Bldg Name:
 Sec #: 1 of 1 Card 1 of 1

State Use: 2-1
 Print Date: 02/08/2019 15:35

CURRENT OWNER	TOPO	UTILITIES	STRT/ROAD	LOCATION	DESCRIPTION	Code	Appraised Value	Assessed Value		
KALIMNI EQUITIES LLC HARRY FOTIADIS PARK AVENUE CHESTER, NY 10709 Additional Owners:		3 Sewer			COMM	2-1	125,500	87,900		
					2-2	2-2	167,900	117,500		
SUPPLEMENTAL DATA					Total				293,400	205,400

6122
 SALISBURY, CT
VISION

RECORD OF OWNERSHIP	BK	VOL/PAGE	SALE DATE	Q	I	VI	SALE PRICE	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value		
KALIMNI EQUITIES LLC LILLYVIEW INC		208/1120	12/14/2005	Q	I		341,000	2015	2-1	87,900	2010	2-1	87,900		
		131/205	05/29/1984	U	V		130,000	2015	2-2	117,500	2010	2-2	116,600		
Total:										205,400	Total:		204,500	Total:	204,500

EXEMPTIONS			OTHER ASSESSMENTS				
Year	Type	Description	Amount	Code	Description	Number	Amount
Total:							

This signature acknowledges a visit by a Data Collector or Assessor

APPRAISED VALUE SUMMARY	
Appraised Bldg. Value (Card)	167,900
Appraised XF (B) Value (Bldg)	0
Appraised OB (L) Value (Bldg)	0
Appraised Land Value (Bldg)	125,500
Special Land Value	0
Total Appraised Parcel Value	293,400
Valuation Method:	C
Adjustment:	0
Net Total Appraised Parcel Value	293,400

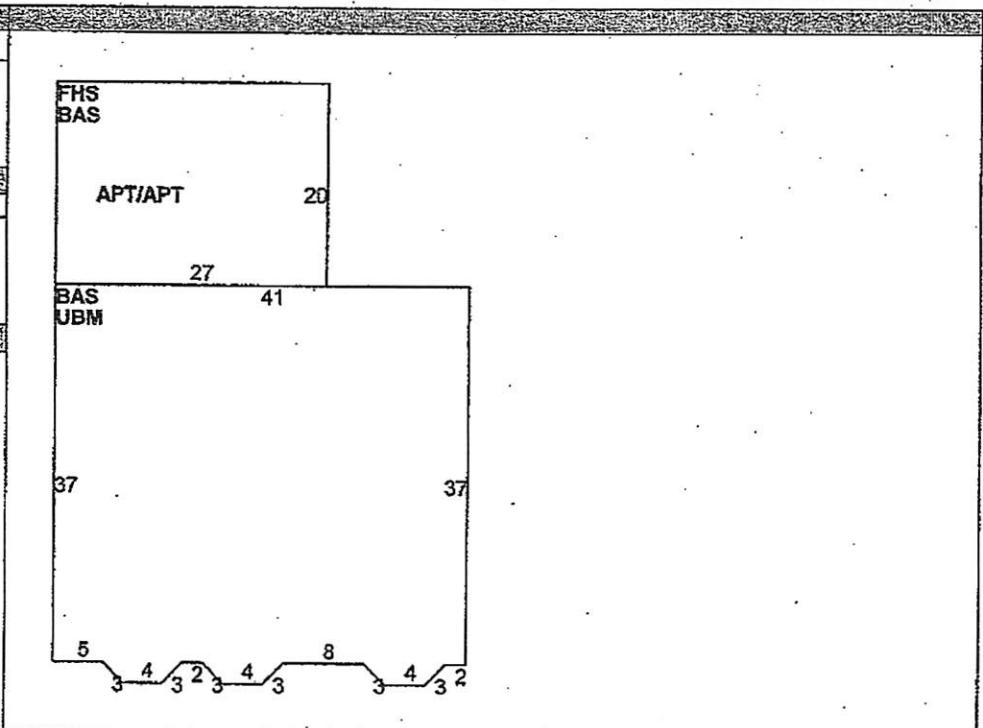
ASSESSING NEIGHBORHOOD				
NBHD/SUB	NBHD NAME	STREET INDEX NAME	TRACING	BATCH
5/A				

3 RENOV
 RETAIL/2 APTS

BUILDING PERMIT RECORD								VISIT/CHANGE HISTORY						
Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Date Comp.	Comments	Date	Type	IS	ID	Cd	Purpose/Result
	02/06/2008		elec	6,000		0			10/15/2003			BB	01	MEASURED
	02/11/2003		RENOV INTER	5,000		0								

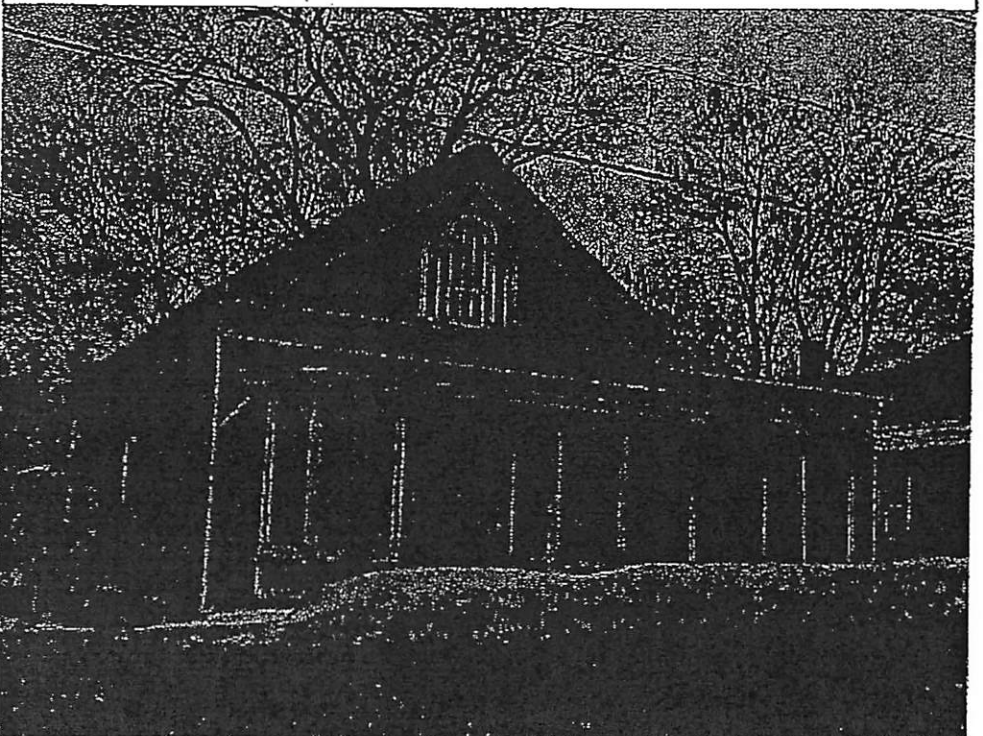
LANDLINE DATA/LOCATION SECTION																		
Use Code	Use Description	Zone	Frontage	Depth	Units	Unit Price	L Factor	S A	Acre Disc	C Factor	ST. Idx	S.I. Adj.	Notes- Adj	Rec Y/N	CU Cond	Special Pricing	Adj. Unit Price	Land Value
2-1C	COMMLAND MDL-94	CG20			0.17	AC	113,760.00	3.8161	5	1.0000	1.00	6	1.70		N	1.000		125,500
Total Card Land Units:					0.17	AC	Parcel Total Land Area:					0.17	AC	Total Land Value:			125,500	

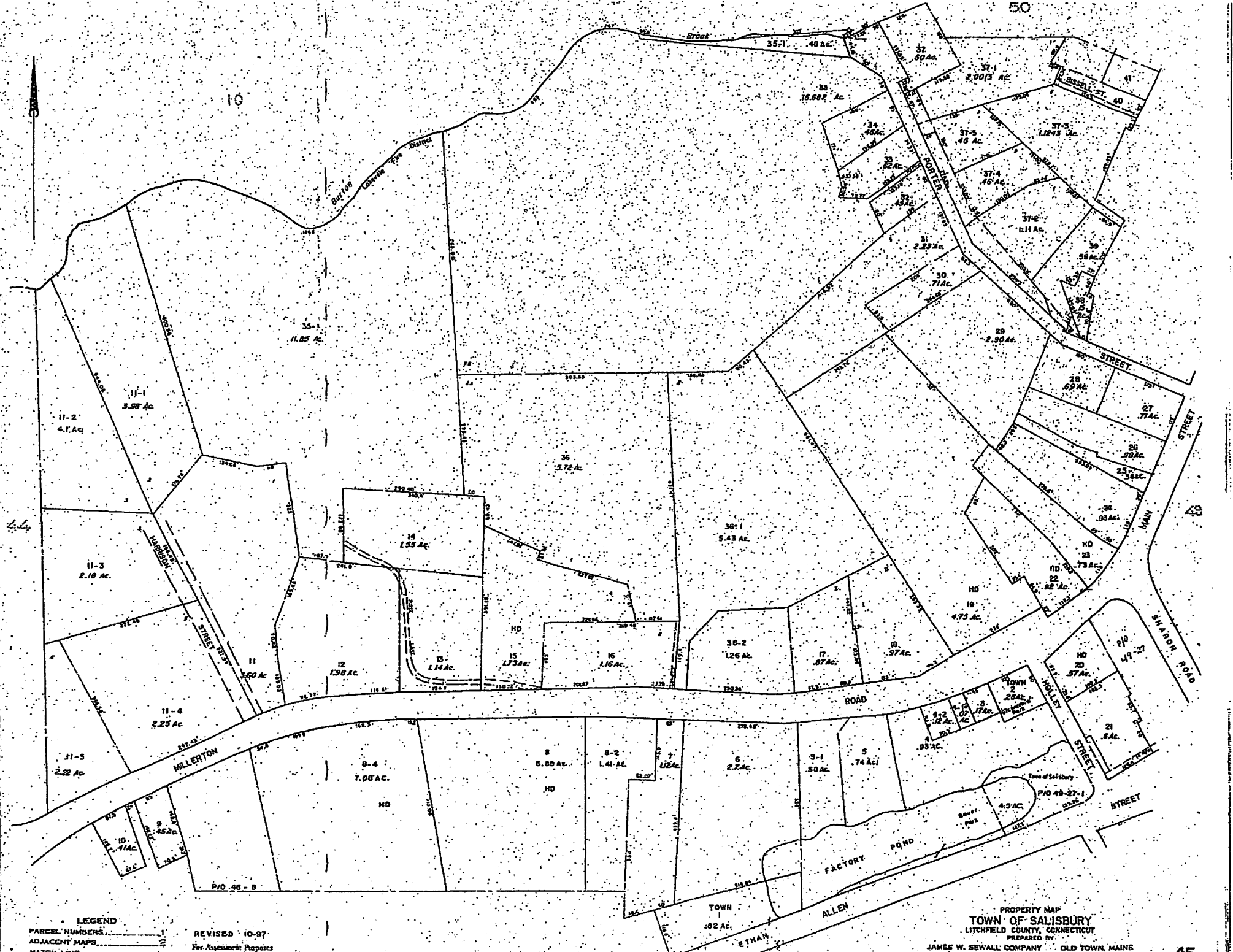
CONSTRUCTION DETAIL				CONSTRUCTION DETAIL (CONTINUED)			
Element	Cd.	Ch.	Description	Element	Cd.	Ch.	Description
Style	90		MIXED USE				
Model	94		Comm/Ind				
Grade	09		B				
Stories	1						
Occupancy	5						
Exterior Wall 1	01		clapboard				
Exterior Wall 2							
Roof Structure	03		Gable				
Roof Cover	03		Asphalt Shingl				
Interior Wall 1	01		average				
Interior Wall 2							
Interior Floor 1	01		average				
Interior Floor 2							
Heating Fuel	02		Oil				
Heating Type	04		Forced Air-Duc				
AC Type	03		None				
Bldg Use	2-1C		COMM LAND MDL-94				
Total Rooms							
Heat/AC	02		HEAT/AC SPLIT				
Frame Type	02		WOOD FRAME				
Baths/Plumbing	03		ABOVE AVERAGE				
Ceiling/Wall	06		CEIL & WALLS				
Rooms/Prtns	03		ABOVE AVERAGE				
Wall Height	8						
% Comm Wall							



OB-ON BUILDING & YARD ITEMS (L) / EXT-BUILDING EXTRA FEATURES (B)													
Code	Description	Sub	Sub Descript	L/B	Units	Unit Price	Yr	Gde	Dp	Rt	Cnd	%Cnd	Appr Value

BUILDING SUB-AREA SUMMARY SCHEDULE						
Code	Description	Living Area	Gross Area	Eff. Area	Unit Cost	Undeprec. Value
BAS	First Floor	2,093	2,093			196,149
FHS	Half Story, Finished	270	540			25,304
UBM	Basement	0	1,553			29,146
Tot Gross Livable Area		2,363	4,186			250,599





10

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LEGEND
 PARCEL NUMBERS
 ADJACENT MAPS

REVISED 10-97
 For Kyeichochi Purposes

PROPERTY MAP
TOWN OF SALISBURY
 LITCHFIELD COUNTY, CONNECTICUT
 PREPARED BY
JAMES W. SEWALL COMPANY OLD TOWN, MAINE

MARK J. CAPECELATRO

LLC

ATTORNEY & COUNSELLOR AT LAW
117 MAIN STREET
P.O. BOX 1045
CANAAAN, CONNECTICUT 06018-1045

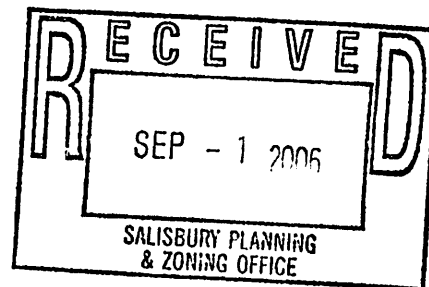
TELEPHONE: 860-824-5146

EMAIL: mark@capecelatro.com

FACSIMILE: 860-824-9869

September 1, 2006

Nancy Bruise
Zoning Administrator
Town of Salisbury
P.O. Box 548
Salisbury, CT 06068



Re: Special Permit Application
24 Millerton Road, Lakeville, CT
6 of Diamonds, LLC - Dean Diamond Sole Member

Dear Nancy:

You will find enclosed herewith an Application for Special Permit which I have signed as Attorney for 6 of Diamonds, LLC, Dean Diamond, Sole Member, requesting a Special Permit for the change of use of 600 square feet of the first floor of the existing structure located at 24 Millerton Road, Lakeville, Connecticut from retail sales to restaurant - high turnover which is allowed as a special permit use under Salisbury Planning and Zoning Regulations Section 412 F 5.

You will find attached to such Application the written Statement of Purpose and four copies of a Site Plan.

The site is currently improved with a building which was constructed long prior to the enactment of Planning and Zoning Regulations in the Town of Salisbury. No external changes are planned for the building whose footprint and external appearance will remain unchanged. On behalf of my client I would ask for a waiver of the formal components of site plans set forth in Article VI Sections 600 to 614, inclusive, of the Planning and Zoning Regulations.

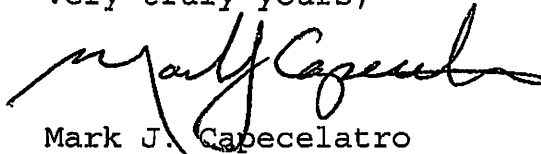
The current use of the property is for a single apartment, one professional office and will include a 600 square foot restaurant - high turnover for a total of 5 parking spaces required. Four such spaces are located on the subject property and a fifth is located on the shoulder of Millerton Road in front of the subject property. Additionally, satellite parking owned by the Town of Salisbury is located approximately 100 feet away from the principal entry door to the subject premises which would provide satellite parking pursuant to the provisions of Planning and Zoning Regulations Sections 526 and 527.

The property is currently served by public water and public sewer and the only change being required by the Salisbury WPCA and Torrington Area Health District is the installation of a grease trap on the premises. There is more than adequate room to install a grease trap meeting all of the specifications of the WPCA and Torrington Area Health District. Letters from the Salisbury WPCA and Torrington Area Health District will be delivered prior to the public hearing. Attached hereto are copies of letters of notification to Judith Singelis and Peter K. Oliver, adjoining property owners which are being sent this date Certified Mail Return Receipt Requested.

Finally, you will find enclosed my check in payment of the Application Fee.

Would you kindly bring this Application to the Commission's attention. I look forward to presenting this Application formally at a public hearing in October. Thank you for your cooperation.

Very truly yours,



Mark J. Capecelatro

MJC/tc

Enclosures

cc: Dean Diamond



TOWN OF SALISBURY
PLANNING AND ZONING COMMISSION

Number _____

APPLICATION FOR SPECIAL PERMIT

Owner of Record: 6 of Diamonds, LLC, Dean Diamond sole member
Address of Owner: 24 Moore Road, Lakeville, Connecticut 06039
Property Location: Tax Map # 45 Lot# 4-2 Land Records: Vol. 211 Page 1127
Property Address: 24 Millerton Road, Lakeville, Connecticut
Acreage: .12 acre Zone: LI-20
Bounded generally on the North by: Millerton Road
(Full name of owner of record. East by: Judith Singelis
Attach additional pages if needed) South by: Peter K. Oliver
West by: Peter K. Oliver
Special Permit Use Requested: Restaurant - high turnover
Section 412 F (5) of the Salisbury Zoning Regulations.
Written statement of Proposed Use (4 copies): see attached
Site Plan - 4 copies (See attached sheet)
Soil Erosion and Sediment Control Plan: N/A - no construction required
Approval from TAHD, WPCA, or BHC regarding sewer and water: public water & sewer *
Historic District Commission, if applicable: N/A
Conservation District Commission, if applicable: N/A
Preliminary Architectural Plans for Proposed structures & signs (2 copies) see below
Estimated Site Improvement Costs (other than buildings): none
Written Assurance of Bond or Letter of Credit: N/A
Additional Remarks: No exterior changes to be made to building. Sign not yet designed - will conform to all requirements of Section 924 of Planning & Zoning Regs.
Owner's Signature: _____ Date: 9/1/06
Applicant's Signature and Title: [Signature] Attorney for Owner
Applicant's Address and phone number: P.O. Box 1045, Canaan, CT 06018 (860) 824-5146

Filed at the Planning and Zoning Commission Office this _____ day of _____, 20____

Fee Paid: _____ Received By: _____
Title: _____

NOTE: One copy of the written statement of proposed use SHALL be sent to all abutting landowners by certified mail. This is the responsibility of the owner/applicant. The signed return receipts shall be submitted with this application.

*currently serve premises - letters from WPCA and TAHD will be provided at public hearing

SITE PLAN - GENERAL REQUIREMENTS

The site plan shall be accurately drawn to a scale not to exceed 1" = 100' on sheets not to exceed 24" X 36" .

Site plans shall be certified correct to A-2 Survey Standards by a Connecticut Registered Land Surveyor (R.L.S.) Where it determines that A-2 level of accuracy is not necessary to determine compliance with these regulations the Commission may upon request of the applicant allow a less degree of accuracy for the location of certain improvements or certain property lines.

The design, layout and computations relating to the construction of facilities for storm drainage or improvements such as a new accessway, parking areas, etc. shall be prepared by a Connecticut registered engineer or where qualified to do so by a Connecticut registered landscape architect. where the regulations require a landscape buffer or such is required as a condition of approval of a Special Permit the landscape plan shall be prepared by a professional landscape architect or landscape designer.

A site plan shall contain the following information as applicable, as determined by the Commission or its authorized agent:

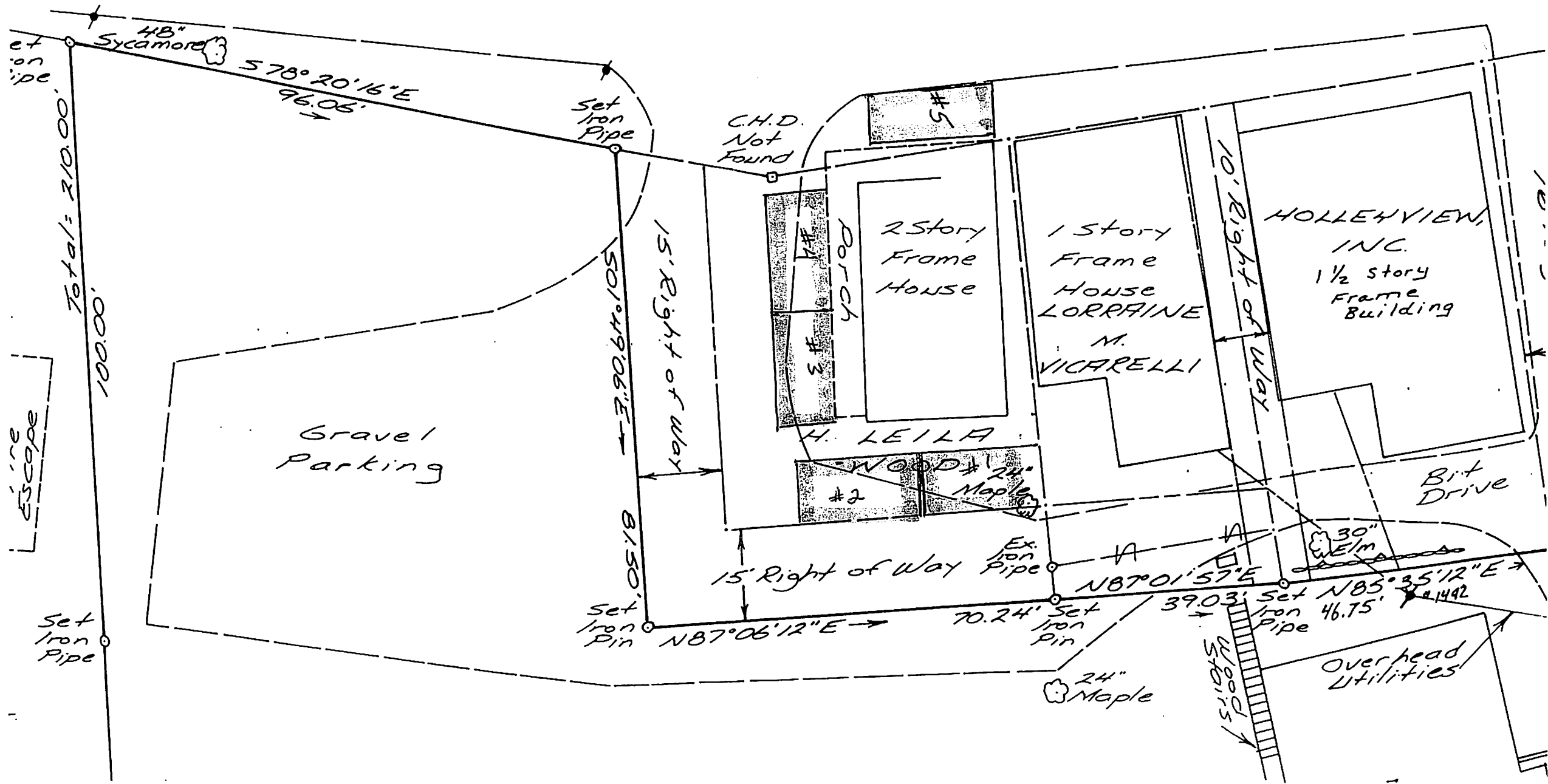
- a. Name of applicant and owner of property.
- b. Scale and North arrow.
- c. Property boundary, dimensions, angles, area, zoning classification, and zoning setback lines.
- d. Names of record owners of abutting properties.
- e. Locations and dimensions of all existing and proposed buildings, driveways, parking and loading areas, storage areas, drainage features. Location of fences and walls, natural and artificial water features, wetlands and exposed ledge rock. All statistical data to show that the requirements of the regulations have been met; adjacent properties, and how they relate to the proposed development and the neighborhood and, to the street pattern within 500 feet.
- f. Proposed signs showing locations, dimensions, and means of illumination and all other exterior listing fixtures.
- g. Locations and methods of water supply and sewage disposal facilities.
- h. Illustrations, elevations, and renderings of the proposed buildings and project area sufficient to show clearly what is proposed, as required by the Commission. A landscaping plan shall be submitted which shows existing and proposed landscaping, buffering and plantings including a table of sizes, types, and amounts of proposed materials.
- i. Certification, on the plan or separately, by the Health Officer concerning satisfactory conditions for sewage disposal, consistent with the State Health Code.
- j. Where grading is required, existing and proposed contours at two-foot intervals, based upon field survey.
- k. Existing and post construction surface drainage patterns. The Planning and Zoning Commission may modify the submission requirements of any site plan, if in the opinion of the Commission, the scope and circumstances of such a proposed development are such that certain information is not necessary to complete a review of the proposed project.

STATEMENT OF PROPOSED USE

6 of Diamonds, LLC proposes to change the use of approximately 600 square feet of the first floor of the commercial building located at 24 Millerton Road, Lakeville, Connecticut in the LI-20 Zone from retail sales to restaurant – high turnover which is permitted under Planning and Zoning Regulations Section 412 F 5 as a special permit use.

Satellite Parking Location

ROUTE 44 - MILLERTON ROAD



TOWN OF SALISBURY
GRANT OF VARIANCE, SPECIAL PERMIT, SPECIAL EXCEPTION

On the application of **6 of Diamonds LLC**, the Planning and Zoning Commission of the Town of Salisbury, Connecticut did grant a:

SPECIAL PERMIT

Effective on the **27th** day of **October, 2006** in relation to the following property:

24 Millerton Road, Lakeville CT.

Located on the Northerly side of Millerton Road, and being bounded:

NORTHERLY by:	Millerton Road
EASTERLY by:	Judith Singelis
WESTERLY by:	Peter K. Oliver
SOUTHERLY by:	Peter K. Oliver

Owner of Record: **6 of Diamonds, LLC/Dean Diamond**


Volume **211** Page **1127** of the Salisbury Land Records. This Grant is made in accordance with the provisions of Section **413 F(5)** of the regulations of the Commission. The applicant was granted the right to:

Have a High-Turnover Restaurant with the following conditions:

- 1. Pursuant to Section 522 of the Regulations, all parking by employees of the Special Permittee shall use satellite parking facilities as provided in Section 526, except that one (1) delivery vehicle may use an on premises parking space for not more than 30 minutes of each hour of business operation;**
- 2. The Special Permittee may not pave the parking area on the premises unless the Special Permittee complies in all respects to Section 607 K of the Regulations;**
- 3. The Special Permittee shall comply with Section 703.8(d) of the Regulations with specific reference to odor; and**
- 4. As provided in Section 708 of the Regulations, the Special Permittee's compliance with the foregoing three conditions shall be reviewed annually by the Commission or its Zoning Enforcement Officer.**

Certified this **27th** day of **October, 2006**.

PLANNING & ZONING COMMISSION OF THE
TOWN OF SALISBURY

By: 
Zoning Administrator

1055 Special Permit

Received Oct. 27. 2006 At 11:00 A.M.

RECORDED IN

SALISBURY LAND RECORDS

Vol. 213 Page 0070

PHW

Town Clerk

[Faint, mostly illegible text from the document body]