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Dennis Buckley  
Zoning Administrator  
Zoning Department  
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Delivered via email to: [Dennis.buckley@bridgeportct.gov](mailto:Dennis.buckley@bridgeportct.gov)

Dear Mr. Buckley,

Earlier this month, Attorney Liskov was asked whether the property at 238 Jewett Avenue could be used for "educational purposes." He answered that it could.

This office now has been asked for an expedited opinion on a different question, specifically whether a "college" is a specially permitted use or permitted as of right in a Residence A zone. We conclude that the subject property cannot be so used under its current zoning.

The subject property is in a Residence A zone and has been since at least the early 1960's. The regulatory history of the property, based on the records of the zoning department and my conversations with Mr. Buckley, is included in the following footnote.<sup>1</sup> Most noteworthy

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<sup>1</sup>In 1963, the Bridgeport Roman Catholic Diocese Corporation made an application for the Notre Dame High School. The application was granted as of right pursuant to Chapter 4 § 2 of the Zoning Regulations of the City of Bridgeport, Connecticut, Revision of 1960. Section 2e of those regulations provided that among the permitted uses in a Residence A zone were: "Public or parochial schools and colleges or universities, including such buildings and uses are clearly incident to the conduct of a college or university when located within a distance of three city blocks of any building used for classroom purposes. Except as the same shall be permitted by the Zoning Board of Appeals as a special exception, this provision shall not, however, extend to or permit the construction of any athletic field, sports stadium, or gymnasium, or the maintenance of any parking facility except on a lot upon which there exists a major building devoted to college or university." On March 10, 1966, the Bridgeport Roman Catholic

is that in years past the property was used by Notre Dame High School. This was a use permitted as of right in a Residence A zone under chapter 4 § 2(e) of the Zoning Regulations of the City of Bridgeport, Revision of 1960, as amended.<sup>2</sup> An existing building on the site is now used for administrative offices by the Bridgeport Roman Catholic Diocese (hereafter “the Diocese”).

On December 29, 2021, the Diocese submitted an application for a special permit and site plan approval for a “school use to be located within the existing building in a Residence zone” The proposed use is for a Bellamine College where an Associate’s Degree will be offered. The petitioner Diocese anticipates that at full capacity total enrollment will not exceed 200 students. The school intends to serve students from low income and other historically underrepresented backgrounds, primarily in the Bridgeport region. Students will hopefully graduate on-time with a two-year Associates Degree and prepared to transition to a four-year college.

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Diocesan Corporation (hereafter the Diocese) made an application for a 60 x 118 foot gymnasium addition. The application for a variance was granted by the zoning board of appeals on June 11, 1964.

On May 12, 1977 an application was granted for a special permit to establish an eleemosynary institution in the nature of the administrative office of the Diocese in the existing building formerly occupied as a Catholic High School, subject to two condition: (1) “Activities of any kind not related to the administrative functions of the petitioner (i.e. sporting events, dances, drum corps., etc.), shall not be permitted on the premises,” and (2) “The special exception granted hereby shall pertain only to that building presented for approval at the public hearing.”

On August 14, 1978, an application by the Diocese to permit a convent to be used as a spiritual center and not permit the use of the multi-purpose auditorium for religious connected activities was denied for the reasons that “1. The proposed use is not consistent with the original grant by the Zoning Bord of Appeals on May 12, 1977 which was for the establishment of the administrative office use of the Bridgeport Roman Catholic Diocesan Corporation,” and “2. The exception of activities on the subject property to include weekends would result in a nuisance to the residential neighborhood.”

On February 25, 1980 the Board granted the Diocese “a special exception to the use requirements in an A RESIDENCE ZONE to permit the establishment of a school of religion & spirituality in the existing building.” The application was granted subject to three conditions: 1. The use of the former Notre Dame High School Convent Building shall be conducted as specified in the prepared statement read into the record by the Most Reverend Walter W. Curtis at the hearing of the Board on the application, 2. The maximum number of students per class in connection with the proposed parochial school of religion and spirituality shall be 50 or less, 3. No classes shall be conducted after 10 P.M., and 4. there shall be a curriculum established for each class or course of instruction.

On February 25, 1980, a concurrent application to permit the use of the existing auditorium in connection with the proposed school of religion and spirituality at 396 Jewett Avenue was also granted subject to conditions.

On December 10, 1984 the board granted an application by the Diocese for a modification of the plan of development approved by the board on May 12, 1977 for a permit for the installation of a satellite television antenna dish for the reception of educational and religious programs. Subject to the following conditions: “1. The development of the subject property shall be substantially in accord with the plans submitted and held on file in the Zoning Dept. 2. The petitioner shall file plans and applications for the issuance of a certificate of Zoning Compliance and a Building Permit. 3. All construction shall conform with the requirements of the Basic Building Code of the State of Conn. 4. Evergreen planting shall be placed in a manner which shall screen the antenna structure from public view.”

<sup>2</sup>It is noteworthy that “colleges or universities” were also permitted as of right in a Residence A zone under chapter 4 § 2(e) of the 1960 zoning regulations.



A special permit or special exception “allows a property owner to use his [or her] property in a manner expressly permitted by the local zoning regulations.... The proposed use, however, must satisfy standards set forth in the zoning regulations themselves as well as the conditions necessary to protect the public health, safety, convenience and property values.” *Heithaus v. Planning & Zoning Commission*, 258 Conn. 205, 215–16 (2000).

Under the regulations in effect at the time of the applicant’s application, a “school” was a specially permitted use in a Residence A zone. The issue before the commission is whether a two-year college such as is contemplated in the application is a “school” within the meaning of the regulations.

“The question as to the meaning of the word ‘school’ as used in the ordinance is a matter of its construction and therefore one of law.” *Langbein v. Board of Zoning Appeals*, 135 Conn. 575, 579 (1949). “[Z]oning regulations are local legislative enactments . . . and, therefore, their interpretation is governed by the same principles that apply to the construction of statutes. . . . Thus, in construing [zoning] regulations, our function is to determine the expressed legislative intent. . . . Moreover, [zoning] regulations must be interpreted in accordance with the principle that a reasonable and rational result was intended. . . and the words employed therein are to be given their commonly approved meaning.” *Town of Enfield v. Enfield Shade Tobacco, LLC*, 265 Conn. 376, 380–81 (2003).

Connecticut case law has long wrestled with what constitutes a “school” at common law, that is, absent a statutory definition. See *Langbein v. Board of Zoning Appeals*, 135 Conn. 575, 581 (1949); *Clark v. Planning & Zoning Comm’n of Town of Westport*, 152 Conn. 559, 561 (1965). Absent a statutory definition, the word has been found to be ambiguous. See *DeSisto Coll., Inc. v. Town of Howey-in-the-Hills*, 706 F. Supp. 1479, 1496 (M.D. Fla. 1989), (“The Court finds that the term ‘school’ is an ambiguous term.”), *aff’d*, 888 F.2d 766 (11th Cir. 1989); *Drake v. Snider*, 608 S.E.2d 191, 196 (W. Va. 2004); *Lingnaw v. Lumpkin*, 474 P.3d 274, 282 (Idaho 2020) (same).

Here, however, Article 2-2 of the applicable zoning regulations<sup>3</sup> (effective August 15, 2018) containing the definitional section of the zoning regulations, refers the reader to page 18 to Table 6 for the definition of “School.” Table 6 at § 6.4.6 provides that the word “Schools” means “Facilities that provide a curriculum of elementary and secondary academic instruction, including public and private kindergartens, elementary schools, junior high schools and high schools, including, without limitation, interdistrict magnet school programs as defined in C.G.S. [Connecticut General Statutes §] 10-2641.”

“When legislation contains a specific definition, the courts are bound to accept that definition.” *Int’l Bus. Machines Corp. v. Brown*, 167 Conn. 123, 134 (1974). Under the definition of “school” contained in the regulations applicable at the time of the filing of the application for a special permit, a two-year college does not qualify as a “school.”

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<sup>3</sup>The subject application was stamped as received by the zoning department on December 30, 2021 and is therefore governed by the zoning regulations adopted November 30, 2009. Those regulations were amended to July 30, 2018 and effective as of August 15, 2018.

We observe that “Colleges and Universities” are defined elsewhere in the regulations, in § 6.4.1. While this underscores that “colleges and universities” were not intended to be included within the term “schools,” it also creates a possible anomaly for the reason that while these institutions are defined in the regulations they are nowhere permitted in the regulations, either as of right or by special permit. However, there are several other uses that are specially permitted in a Residence A zone by the regulations and we believe a court would therefore invoke the rule that “[u]nless there is evidence to the contrary, statutory itemization indicates that the legislature intended the list to be exclusive.” *Bridgeport Hospital v. Commission on Human Rights & Opportunities*, 232 Conn. 91, 101 (1995). “Courts cannot, by construction, read into legislation provisions not clearly stated.” *Thornton Real Estate, Inc. v. Lobdell*, 184 Conn. 228, 230 (1981). A court would be particularly unlikely to remedy this anomaly in the regulations applicable to this application because those regulations have been superseded by new regulations effective January 1, 2022 which provides for college and universities in other districts. See footnote 4.

We understand that the applicant has also argued that a college use is permitted as of right at this time in a Residence A zone because Notre Dame High School was situated on this property between 1963 and 1972 and the 1960 regulations permitted a college use as of right. (Notre Dame High School ceased to operate on this parcel decades ago.) That a college use was permitted as of right under an earlier version of the regulations is of no moment. While zoning permits such as special permits and variances run with the land; *Int'l Inv'rs v. Town Plan & Zoning Comm'n of the Town of Fairfield*, 202 Conn. App. 582, 600 (2021) (special permit); *Anatra v. Zoning Bd. of Appeals of Town of Madison*, 307 Conn. 728, 736 (2013) (variance); superseded zoning regulations do not. It is axiomatic that absent a special status, such as a nonconforming use, all uses of property and applications for uses must comply with *existing* regulations under which they were filed.<sup>4</sup>

Very truly yours,



R. Christopher Meyer  
City Attorney

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<sup>4</sup>Under the new zoning regulations effective January 1, 2022, colleges and universities are referred to in § 4.60.3 as a “Civic, Campus” use. Such uses are permitted in several zones. See Chart 3.140.9 on page 3-106 allowing colleges and universities also permitted in zones DX2, MX1, MX2, RX1,<sup>4</sup> CX, NX3 and NX4. See also Chart in § 3.140, page 3-106 and chart for § 3.50 on page 3-34 of the regulations.