



Land Use Academy

Center for Land Use Education and Research

Welcome!



Sponsored by :

Northwest Hills Council of Governments



www.northwesthillscog.org



Center for Land Use Education & Research

CLEAR provides information, education and assistance to land use decision makers on how better to protect natural resources while accommodating economic growth.



Resources Available to you:

- **people in the room today!**
- **www.clear.uconn.edu/lua/index.htm**
- **www.northwesthillscog.org**
- **Call Jocelyn! 860-868-7341**





Land Use Academy

University of Connecticut's Center for Land Use Education and Research

[Home](#)
[About](#)
[Basic Training](#)
[Advanced Training](#)
[Online Academy](#)
[Resources](#)
[Contact](#)
[CLEAR](#)
[UConn](#)
[Welcome Video](#)
[Roles & Responsibilities of Local Commissioners](#)
[Map Reading for Site Plan Review](#)

Online Academy

Supplemental course materials are provided in this section for:

Roles and Responsibilities of Local Commissions

The videos in this section survey the basics of serving on a land use commission. Organized by commission, the videos cover the enabling legislation that permits land use commissions to exist, the requirements, roles and responsibilities of each commission and how municipal commissions interact with one another.

[Get Materials](#)

Map Reading Skills for Site Plan Review

The videos in this section provide critical tips and basic guidance for reading maps and site plans typically presented to land use commissions. Video instruction includes basic skills such as measuring distances and slope and understanding the uses of scale and topography.

[Get Materials](#)

Links

[Home](#)
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[UConn Extension](#)
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Contact

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Northwest Connecticut's Regional Planning Organization

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Useful Links

The links below will take you to websites that offer additional information and resources on the following topics

Below there is a brief description of some of the valuable resources that can be found on the following websites. If there is any topic you are interested in that you can't find resources on below, please contact us!

— Town Websites

BARKHAMSTED
CANAAN
COLEBROOK
CORNWALL
GOSHEN

HARTLAND
HARWINTON
KENT
LITCHFIELD
MORRIS

NEW HARTFORD
NORFOLK
NORTH CANAAN
ROXBURY
SALISBURY

SHARON
TORRINGTON
WARREN
WASHINGTON
WINCHESTER

+ Affordable Housing

+ Planning

Your Name (required)

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L K Y Q

Roles and Responsibilities of Planning and Zoning Commissions



March 31, 2014



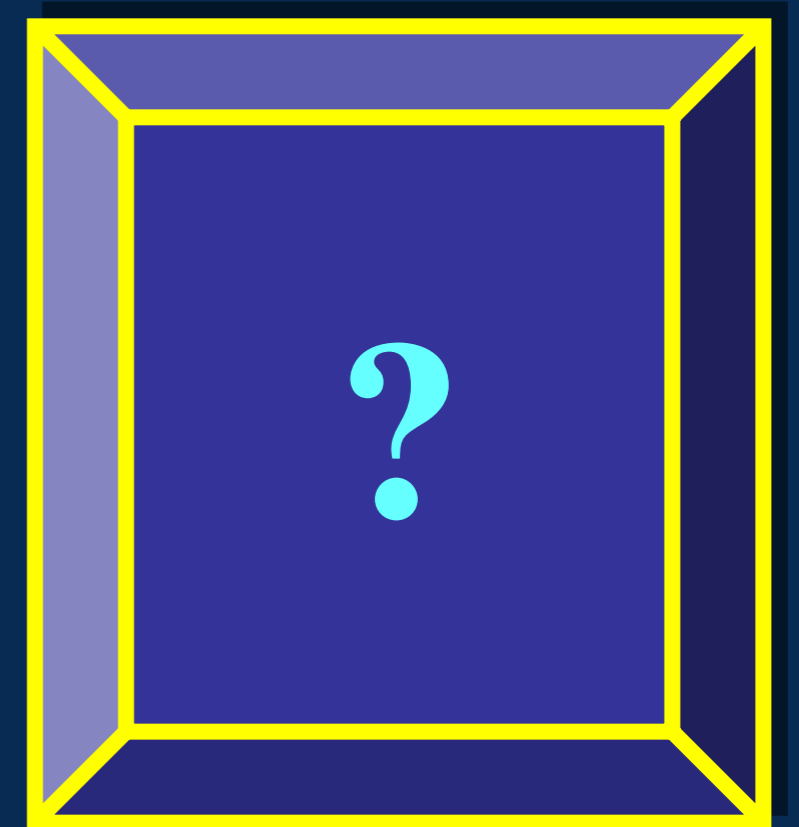
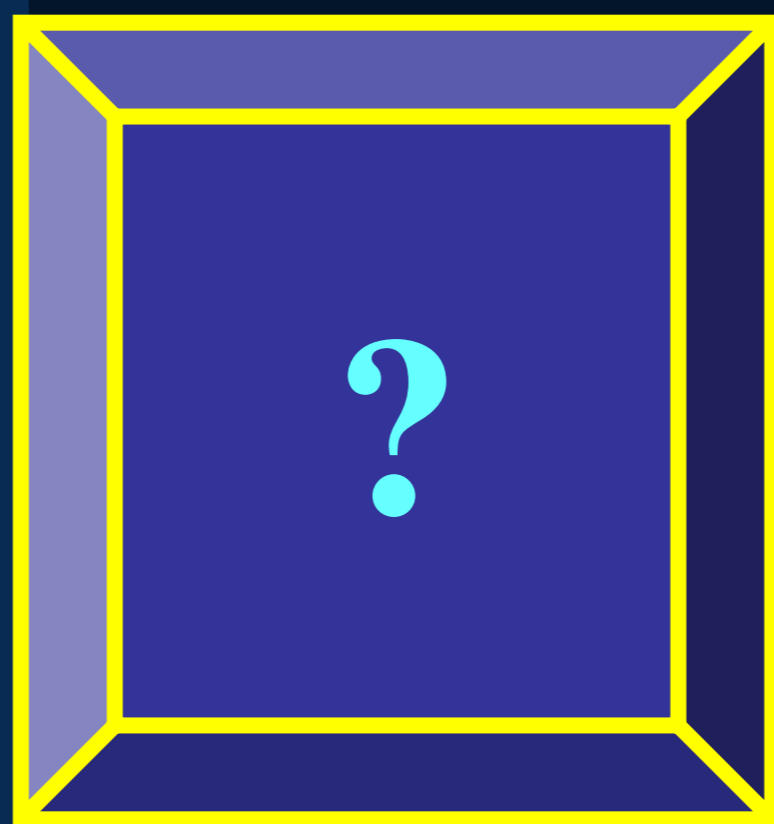
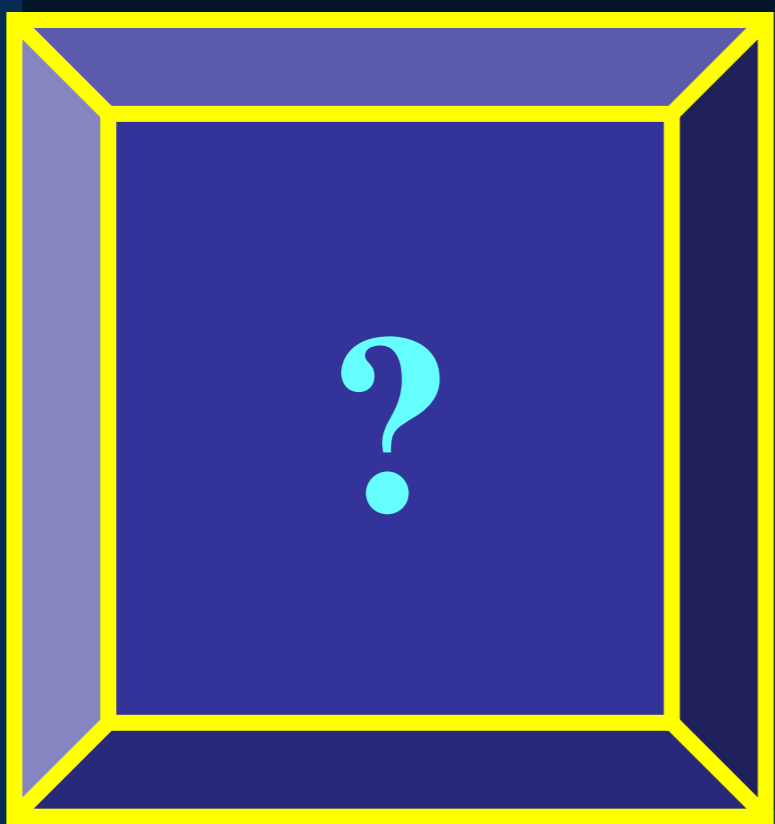
Jocelyn Ayer
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Legal Basis for Local Land Use Regulations



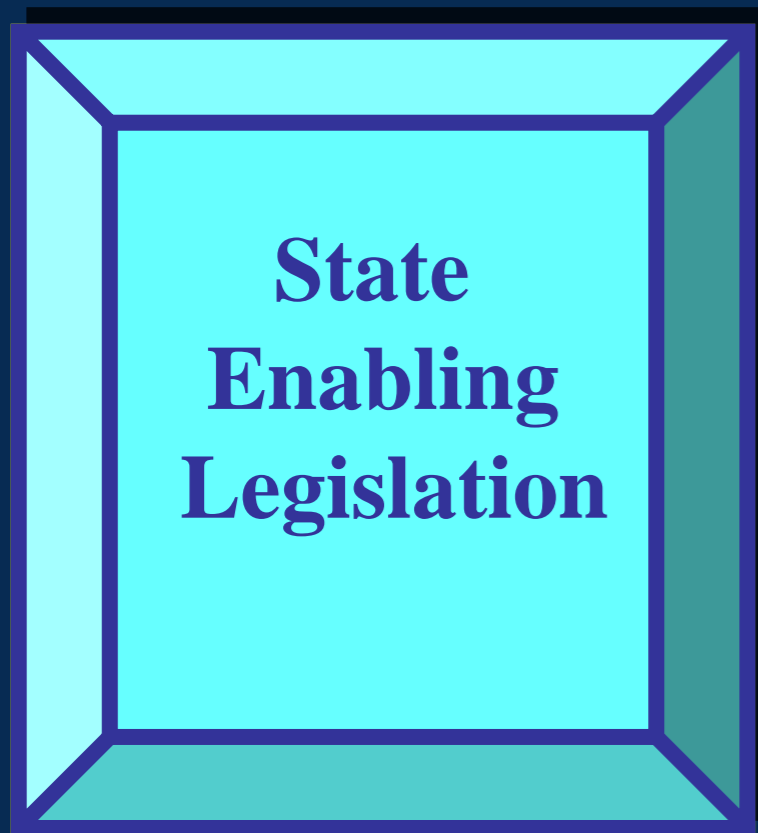
Which of the following provides the legal basis for a local commission's land use authority?

- A. Legislation through state statutes**
- B. A vote of the City Council/Board of Selectmen**
- C. Court decisions**
- D. Duly adopted local regulations**
- E. Public opinion**

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Legal Basis for Local Land Use Regulations



State Enabling Legislation Provides the Foundation and Limits of Power



The STATE will let you.....



State Government

Police Power = The right or need of government to protect the public health, safety and welfare



Basis of all land use regulation and all sections of the regulations must achieve this end

Connecticut General Statutes – Land Use

Zoning Title 8, Chapter 124, Sections 8-1 through 8-13

Planning Title 8, Chapter 126, Sections 8-18 to 8-30

Wetlands Title 22a, Chapter 440, Sections 22a-36 to 22a-45



Legal Basis for Local Land Use Regulations

**State
Enabling
Legislation**

**Court
Decisions**

**Local
Regulations**

Court Decisions

Provide legal review and interpretation



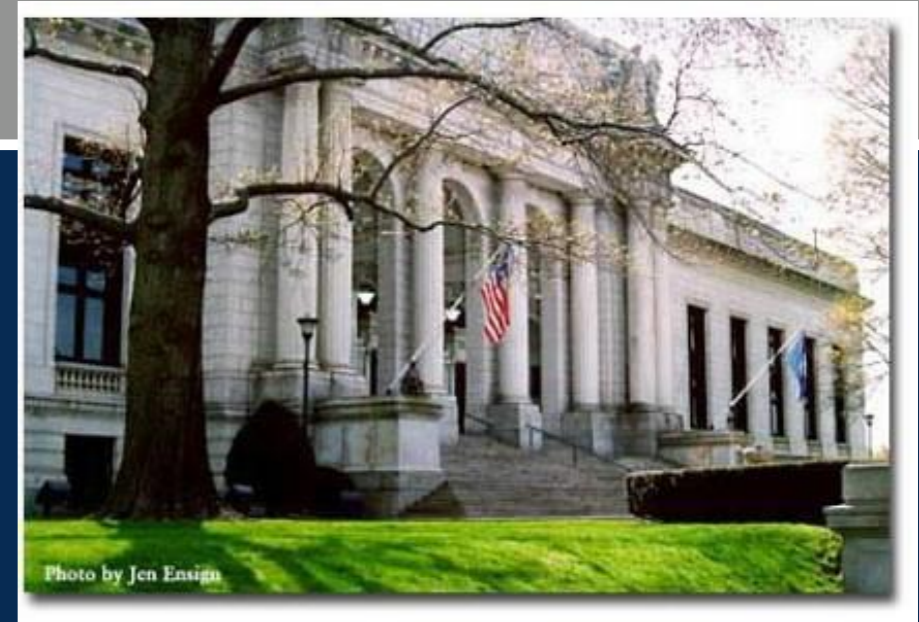
Federal Level

Constitutional foundation for all American zoning was established in a 1926 Supreme Court decision that upheld a zoning ordinance enacted by the Village of Euclid, Ohio

VILLAGE OF EUCLID, OHIO vs. AMBLER REALTY

Court Decisions

State Level



- Courts provide local land use officials wide & liberal discretion
- Feel local officials best suited to make local land use decisions
- Courts will not interfere in local matters unless commissions act illegally.

Court Decisions

Illegal commission acts:

1. Failure to follow procedures set forth in the State Statutes
2. “Clear breach of duty” – acting in an arbitrary or capricious manner

arbitrary = at random, unreasonable

capricious = acting impulsively



Legal Basis for Local Land Use Regulations

**State
Enabling
Legislation**

**Court
Decisions**

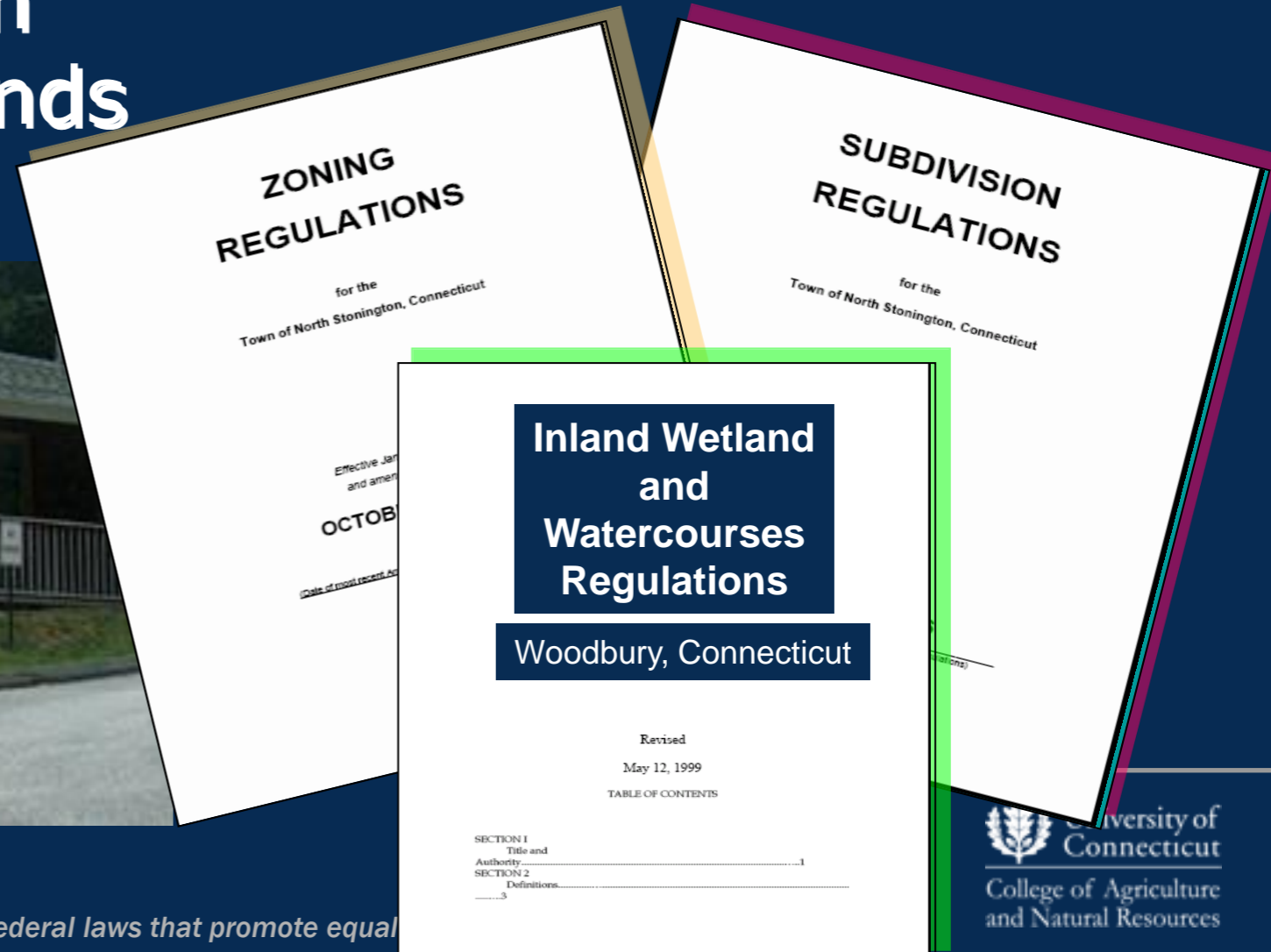
**Local
Regulations**

Local Regulations

Ultimate Source of Land Use Control

Basic set of local land use regulations:

1. Zoning
2. Subdivision
3. Inland Wetlands



Types of Power-Legislative

When writing regulations a commission is acting in a legislative capacity

- **Courts allow wide discretion**
- **Must be consistent with legislative purposes set forth in CGS**



Types of Power-Administrative

When reviewing development applications a commission is acting in an administrative capacity

- **Discretion is more limited**
- **Must employ appropriate standards**



Types of Local Commissions

Regulatory

- **Planning**
- **Zoning**
- **Zoning Board of Appeals**
- **Inland Wetlands and Watercourses**
- **Historic District**
- **Aquifer Protection Agency**

Non-regulatory

- **Conservation**
- **Economic Development**
- **Design Review**
- **Agricultural Commission**



Which of the following does the State of CT REQUIRE a municipality to have?

- A. Planning Commission
- B. Zoning Commission
- C. Zoning Board of Appeals
- D. Inland Wetland and Watercourses Agency
- E. Conservation Commission
- F. Everything BUT a Conservation Commission

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Planning Commission

Key Powers and Duties

- 1. Prepare/adopt/amend the POCD**
 - Must be reviewed every 10 years
 - Incorporate principles in State C&D Policies Plan
- 2. Establish, change or repeal Subdivision Regulations**
- 3. Hear, consider and decide applications for subdivision approval**
- 4. Review all proposed municipal improvements Sec. 8-24**



Zoning Commission

Key Powers and Duties

1. Zoning Regulations and Districts

- Establish, change or repeal regulations and districts
- Hear, consider and decide upon petitions for changes to regulations and districts

2. Zoning Administration

- Provide for the manner that regulations are enforced and take appropriate actions
- Certify that a building, structure or use is in conformance (ZEO)
- Require, when appropriate, that a site plan be filed to determine conformity (ZEO)
- Hear, consider and decide on application for special permits/exceptions



Zoning Board of Appeals

Key Powers and Duties

- **Hear and decide appeals from decisions made by the Zoning Enforcement Officer (ZEO)**
- **To grant variances from the strict application of the zoning regulations**
- **To hear and decide any matters that the zoning regulations specify them to consider.**



Zoning Board of Appeals

Hear appeals based on decisions of the ZEO

If ZEO finds zoning permit application does not comply with regulations, he/she **MUST** deny the application.

Applicant can then:

- 1. Petition for a zone change**
- 2. Apply to the ZBA for a variance**
- 3. Contest the decision to the ZBA**

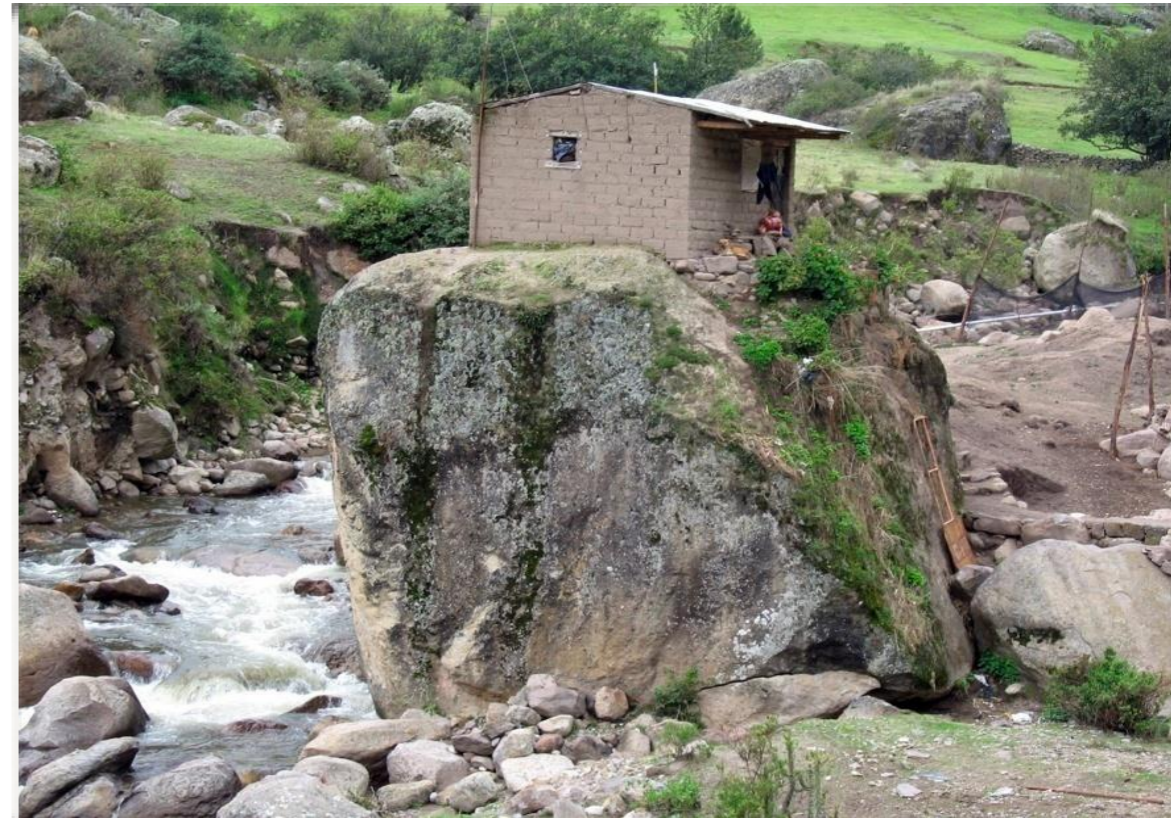
Upon appeal, the ZBA may reverse or affirm, wholly or in part, the decision of the ZEO.



Zoning Board of Appeals

Variances

- **A relaxation of the zoning requirements**
- **Two types:**
 1. Dimensional- setback, area, frontage, etc.
 2. Use
- **Must demonstrate an “unusual hardship”**



Inland Wetlands and Watercourses Agency

Key Powers and Duties

1. Regulations and Boundaries

- Establish, change or repeal IWW regulations and boundaries
- Hear, consider, decide on petitions for changes in IWW regulations

2. Administration of Regulations

- Hear, consider and decide upon applications for regulated activities involving IWW and to determine whether activities are exempt from regulations
- Enforce IWW regulations
- Hear appeals from any decisions of the IWW agent

3. Advise other commissions on wetlands protection



Conservation Commission

Key Powers and Duties

SHALL:

- Conduct research into utilization or possible utilization of land
- Keep an index of open areas, public or private.
- Keep records of its meetings and activities

MAY:

- Make recommendations to zoning, planning, IWWA or others on proposed land use changes
- Inventory natural resources
- Propose a greenway plan for inclusion in POCD



Agricultural Councils

Key Powers and Duties

Public Act No. 11-188 AN ACT AUTHORIZING LOCAL AND REGIONAL AGRICULTURAL COUNCILS AND CONCERNING CONSIDERATION OF AGRICULTURE IN LOCAL PLANS OF CONSERVATION AND DEVELOPMENT AND ZONING REGULATIONS

By vote of the legislative body, a municipality may create a “Agricultural Council” to:

- (1) Provide information and education to local farmers and to municipal officials about laws and benefits related to agriculture**
- (2) identify grant sources for farmers and municipalities;**
- (3) provide guidance about zoning issues relating to agriculture;**
- (4) support local, regional and state vocational agricultural programs concerning agricultural matters;**
- (5) create a climate that supports the economic viability of agriculture in the municipality.**
- (6) Two or more towns can vote to form a regional council**



Which of the following are methods of implementing the POCD

- A. Zoning Regulations**
- B. Subdivision Regulations**
- C. Design Review Guidelines**
- D. Capital Improvement Program**
- E. Building Code**
- F. All of the above**

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An Awesome Responsibility

Land Use Commissions make decisions that affect a community's quality of life for generations, where investment takes place and an individual's or business's financial well being.



Conflict of Interest

Different kinds of conflicts:

- **Personal**
- **Financial**
- **Perceived or potential conflicts**



Quiz:

A planning commission member may represent his neighbor at a zoning commission hearing so long as he declares that he is a member of the planning commission but is not acting in that capacity.

- A. True**
- B. False**

Sec. 8-21. Disqualification of members in matters before planning or zoning commissions or zoning board of appeals

No member of any planning commission and no member of any municipal agency exercising the powers of any planning commission, whether existing under the general statutes or under any special act, shall appear for or represent any person, firm or corporation or other entity in any matter pending before the planning or zoning commission or zoning board of appeals or agency exercising the powers of any such commission or board in the same municipality, whether or not he is a member of the commission hearing such matter.

What the State Statutes say

- **CGS 8-11 Disqualification of members of Zoning Commission and Zoning Board of Appeals**
- **CGS 8-21 Disqualification of members in matters before planning commissions**
- **CGS 22a-42(c) Municipal regulation of wetlands and watercourses**
- **CGS 7-148t. Conflict of interest for members of land use and purchasing commissions and boards**

CT Planner

“I have seen two ZBA decisions set aside and new public hearing required because in one case a Commissioner recues themselves and testified and the other case the Commissioner recused himself and sat next to his brother in the audience who testified about the application and the court found just his presence next to his brother raise the specter of undue influence over the remaining members of the ZBA.”

Avoid the Appearance of Bias

- **The Commission members must not create an atmosphere of hostility**
- **Be careful how your statements may be interpreted**
- **If you allow prejudice to flare at a public hearing, you are inviting the overturn of your decision and, even worse, money damages against your town**

Avoid the Appearance of Bias

Especially critical where the flashpoint is a civil right issue all its own: religion, free speech (adult book stores or other entertainment uses or political signs), ethnic background, race, disability. (RLUIPA)

Examples:

- **Applications involving a Church, Synagogue, Mosque**
- **Affordable housing application**
- **“Half-way” house for juveniles transitioning out of prison or disabled persons recovering from alcohol or drug addiction**
- **“Half-way” house for Treatment facility for persons suffering from Alzheimer’s Disease**
- **Residential facility for people who are developmentally disabled**



Predetermination

- **Must not publicly take a position on granting or denial of an application before the application has been formally heard and considered**
- **Keep an open mind**



Bias vs. Predetermination

- **“Bias” generally refers to a personal feeling of either favoritism or antipathy toward a particular person or position**
- **“Predetermination” or “prejudgment” is a predilection to vote for or against a particular application**
- **In certain cases bias and predetermination may both exist**

Definitions from *What is Legally Required* by Michael Zizka



Recusal

- **Who decides if a member should recuse himself?**
- **What is the basis for recusal?**
 - Financial interest in outcome
 - Bias or predetermination
 - Know application personally- grey area (disclose potential conflict)



4 things your staff wants you to know...

- 1) Always bring your tools (regulations) with you.**
- 2) Take time to read the POCB and your regulations.**
- 3) Be thoughtful and courteous during a meetings. Remember your role.**
- 4) Be prepared.**



Sometimes there will be tough decisions...



Hypothetical Case Study

Town of Gilgamesh, CT



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RESEARCH OUTREACH EDUCATION IMAGERY & DATA TOOLS

Research
Project Guide

Imagery & Data
Data Guide

Education
Program Guide

- NEMO Program
- National NEMO Network
- Land Use Academy
- Forestry
- Green Valley Institute
- Geospatial Technology Program
- Land Use Planning Program

TRAINING & EVENTS

WEBINAR - May 26 - Register Now!
Connecticut's Changing Landscape Project: A User's Guide & Cook's Tour

- basics of the project's remote sensing-based methods
- a brief description of the differences between...

Geospatial Training

- Intro to GPS 5/13 - 5/14
- Making Good Maps 6/12
- Intro to GPS 6/25 - 6/26

Click here for more information on the geospatial trainings.

Website: clear.uconn.edu

