

December 21, 2021

VIA E-MAIL AND HAND DELIVERY

Margarita T. Alban
Chairperson
Greenwich Planning & Zoning Commission
c/o K. DeLuca, AICP
Director of Planning & Zoning
101 Field Point Road
Greenwich, CT 06830
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**Re: Opposition of Rock Ridge Association, Inc.
PLPZ 2021 00394
Response to the 12/7/21 Hearing Record**

Dear Madame Chair and Members of the Planning and Zoning Commission:

I am writing to you today on behalf of the Rock Ridge Association (“RRA”) in furtherance of its objection to the requests submitted by the Chabad Lubavitch of Greenwich (the “Chabad”) for Final Site Plan and Special Permit Approval to permit a child day care use at 270 Lake Avenue, Greenwich, CT (the “Property”), located in the RA-2 Zone (the “Zone”).

The specific purpose of this letter to address and correct the misstatements and misleading comments made by Rabbi Deren at the conclusion of the public hearing. I was not permitted to correct the record that evening due to the late hour and wish to do so in writing now.

1. *Rabbi Deren stated that the RRA does not want Chabad on the Property. This is not true.*

As stated by several neighbors over the last several hearings, RRA welcomed the Chabad camp over twenty years ago. But the RAA maintains the Chabad does not have the right to purchase the Property. On June 16, 2021 Chabad was forced to file a Complaint for Declaratory Judgement of Right of First Refusal. The deeds to Rosemary Hall include a provision providing for a right of first refusal to the Association or members of the Association to repurchase such parcels upon the event of sale at the price offered. This covenant runs with the land and does not extend to Chabad. A copy of the Complaint was submitted on September 28, 2021 as Ex.19.

2. *Rabbi Deren stated that members of the RRA would not meet or speak with him. This is not true.*

This statement is untrue and demonstrates that Rabbi is not interested in being a “good neighbor”.

My clients submitted a history of its communications with the Chabad to the Commission in a letter dated 11/8/21 (Ex.20). In summary, RRA has attempted meaningful communication with the Chabad and its counsel on several occasions:

- February 2021:
 - February 5 & February 8, 2021: **RRA members first contact Carmel and Rabbi Darren to schedule a meeting. Chabad leadership did not follow up on scheduling a meeting until March 1st.**
 - February 23 & 24, 2021: RRA’s counsel, Peter Nolin, called Carmel Academy’s counsel, Attorney J. Marsh, where Attorney Nolin raised the right of first refusal and zoning use violations. Attorney Marsh refused to share the Chabad’s contact or counsel with Attorney Nolin on those calls. **Residential neighbors also engaged Chabad leadership to open channels of communication concerning Chabad’s intended use of the Property during this time.**

- March 2021:
 - March 1, 2021: **Chabad responds to RRA and agrees to a meeting, but does not commit to a date. RRA continued to contact Chabad.**
 - March 8, 2021: RRA shared with Attorney Nolin that Attorney Heagney had historically represented the Chabad, so on March 8, 2021, Attorney Nolin called Attorney Heagney and Attorney Heagney stated he represented the Chabad on zoning matters, but that Attorney Goldman of Goldman Gruder in Norwalk represented the Chabad on the purchase of the Property and directed Attorney Nolin to call Attorney Goldman.
 - March 11, 2021: Attorney Nolin called Attorney Goldman and they attempt to schedule a meeting.
 - **March 24, 2021: A zoom conference is held:**
 - Attorney Heagney assured RRA that Chabad would fully comply with Zoning requirements and that applications would be made for a preschool use, including providing notice to adjoining landowners and that a traffic study would be updated.
 - Timely application was not made. It was not made until the Zoning Office insisted it be filed in the summer of 2021.
 - The Rabbi stressed Chabad would be a good neighbor, but then listed many planned uses for the Property, including pied-a-terres and office rentals for non-profits (affiliated and unaffiliated with the Chabad), notwithstanding that none of those uses are currently permitted under zoning and none of those uses are consistent with deed restrictions. The

- Rabbi suggested that Zoning would authorize such uses and made no assurance that applications to request same would be filed.
- His position surprised and shocked RRA since Chabad clearly indicated it planned to expand the use directly after saying it would comply with zoning and the deed restrictions.
 - It was noted that Chabad was recording the call and RRA representatives asked for a copy of recording. Rabbi assured it would be provided, and it was not provided until October 27, 2021, only after RAA made several requests.
 - A copy of the recording was emailed to the Planning & Zoning Department and is included as Ex. 21 to RRA’s opposition compendium.
- April 2021:
 - **Attorney Nolin spoke with Attorney Heagney again and Attorney Heagney sought to find out what uses would be acceptable to RRA. Attorney Nolin advised that uses consistent with the deed restrictions and zoning conditions. Attorney Heagney said Chabad’s primary asks were for Camp Gan, the preschool/day care, continued use as a Day school, perhaps working with other (new) schools on the Property, High Holiday religious services and “special events” tied to school uses.** He did not elaborate on “special events” or subtenants or other schools the Chabad had considered. **Attorney Nolin advised it was highly unlikely that RRA would allow uses that violated deed restrictions and that any desired use required zoning approval.**
 - April 9, 2021: Richard Potocki, president of RRA, notified Town Planning & Zoning staff of various unpermitted activities actively occurring on the Property, including outdoor religious holiday ceremonies, private and community celebrations and events, and outdoor activities utilizing amplified music and vocal presentations. No special requests or permit applications had been made requesting same to the Greenwich P&Z Commission or Office to authorize such events. To the best of RAA’s knowledge and belief, no enforcement action was taken.
 - May 2021:
 - On behalf of RRA, **Attorney Nolin summarized the issues again by letter to the Chabad and its counsel.** (See Attached, Ex. 22). **No response was provided.**
 - June 2021: **RRA filed a complaint in Superior Court to compel Carmel to abide by deed restrictions, and requested Declaratory Judgment of Rights of First refusal to purchase the Property** (see Tab 19 of the September 28, 2021 compendium). This litigation is currently pending.

- July 2021:
 - The Chabad filed a pre-application request with no further outreach before or after to RRA.
 - Additional complaint emails are filed with Town of Greenwich from RAA.

- August-September 2021:
 - A formal application was filed and revised. Notice of a public hearing was sent to abutting neighbors. No personal outreach from Chabad to RRA.
 - Additional complaint emails are filed with Town of Greenwich from RAA.

- September 28, 2021:
 - RAA filed Opposition Compendium with Planning & Zoning Commission which includes its position and evidence supporting denial of the Special Permit and Site Plan Application.
 - **Attorney Kaufman emailed Attorney Heagney with courtesy copies of opposition papers and invited further discussion post-hearing. No response provided.**
 - During the hearing, RRA and Planning & Zoning Commissioners asked if Chabad had a Master Plan for future uses of the Property. Attorney Heagney provided no response, despite the details shared with RRA during recorded March 24 zoom conference (note illegal uses had already been documented by RRA to Town Land Use staff on April 9, 2021, and again thereafter).

- October 19, 2021: **Attorney Heagney filed revised materials with P&Z staff and sent form letter notice to abutters. No personal outreach was provided to RRA or its representatives.**

- October 21, 2021: **Attorney Kaufman emailed Attorney Heagney and requested a copy of the modified application. No response provided.**

- November 4/5, 2021: Attorney Heagney filed response papers to the P&Z file, including an outline of Master Plan use goals for the Chabad and the Property and does not provide courtesy copy to the RAA, despite the fact that this document has been requested for several months. **It was not provided directly to RAA or Attorney Kaufman, despite requests.**

- 3. *Rabbi Deren stated he did not threaten to put a Lis Pendens on each of the RRA properties. This is untrue.*

My client maintains that Rabbi Deren has threatened this and it is confirmed in writing by Carmel's counsel (Chabad's landlord) in a letter dated July 29, 2021 (attached hereto).

4. *Rabbi Deren observed adult voices were only heard on the Purim video.*

RRA has submitted several videos capturing noisy events, most of which include adult voices. Please refer to these videos for information and do not rely on Rabbi's statement.

5. *Rabbi Deren suggested the Police did not come to the Property or were not called to the Property in the summer in response to noise complaints.*

Please refer to the lengthy police report records for noise complaints and response action and do not rely on Rabbi's statement.

The purpose of this information is to set the record straight, further demonstrate why neighbor relations are strained, and serves as evidence as to why the Chabad is undeserving of a P&Z approval without changes to its programming or more stringent, enforceable conditions attached to any approval:

a) the Chabad's statement on 9/28/21 and 12/7/21 about the history of communication between RRA and Chabad was inaccurate and intentionally misleading to the P&Z Commission;

b) the Chabad's consistent response is to avoid contact with RRA and withhold critical information from RRA instead of discussing constructive solutions in an open and neighborly manner;

c) the Chabad is not interested in solving problems with RAA;

d) in the rare instance where RRA or its representatives did connect with the Chabad and its representatives, there was no meaningful dialog about the impact Chabad's use or intended use would have on the neighborhood or opportunity to negotiate and on all occasions Chabad denied the title history, deed restrictions and displayed disregard to the zoning conditions (until forced by the Town to bring the application); and

e) that the Chabad has not been a respectful neighbor and does not appear to respect the requirements of the zoning code or title history when it comes to its desired uses on the Property. It is our conclusion that the Chabad is unlikely to honor future zoning conditions placed upon it.

Thank you for the opportunity to correct the record. Please contact me with any questions.

Sincerely,


Jacqueline O. Kaufman

cc: Rock Ridge Association, Inc.
T. Heagney, Esq.