

Via Electronic Mail to bianca.dygert@greenwichct.org

October 13, 2022

Planning and Zoning Commission
Town of Greenwich
101 Field Point Road
Greenwich, CT 06803

**Re: Applications by 18 Armstrong Lane, LLC: PLPZ 2022 00394; PLPZ 2022 00430;
and PLPZ 2022 00431 (the “Applications”)**

Dear Chair Alban and Members of the Commission:

This firm represents Kimberly and Ian Treibick (“Treibick”) of 17 Gilliam Lane, and Albert and Kate Laverge (“Laverge”) of 8 Armstrong Lane. Approximately 4 hours before the start of this evening’s proceeding, the applicant, 18 Armstrong Lane, LLC (the “Applicant”), has submitted what is called an “amendment package” for the above-referenced applications.¹ The materials include (a) “Application for Review of Coastal Site Plan” for the subdivision application; (b) Letter from Matthew J. Popp regarding the Connecticut Coastal Management Act; and (c) Letter with exhibit from Anthony D’Andrea. Put simply, the Applicant should not have waited until the 11th hour to submit these new materials which, according to the Applicant, were submitted to amend its applications.

The Commission cannot do anything *except to deny* the applications this evening as a result of the Applicant’s late submissions. More than 2 months after submitting its subdivision application, the Applicant now – for the first time – submit an Application for Review of Coastal Site Plan” and a report of an environmental consultant. These materials should have been submitted months ago. Submitting them now – and just hours before the Commission is to resume its review of the subdivision application demonstrates that the subdivision application was incomplete as originally filed and must be either withdrawn and resubmitted by the

¹ See email from Attorney John Heagney to Bianca Dygert, Town Planner, dated October 13, 2022, 11:47 A.M.

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Applicant or denied by the Commission. See BZR Section 6-14.1 (noting that complete site plan applications must be submitted in order to be received and then considered by the Commission).

If the Commission does not deny the applications this evening, it has no choice but to continue this matter yet again due to the Applicant's unreasonably late submission. If the Commission acts on these applications this evening, Treibick, Laverge, and all members of the public will have been denied their right to a fundamentally fair proceeding because they do not have time to adequately respond to this new evidence. To be clear, the Applicant has created this problem and forced the Commission into this position. The Applicant should have submitted this new evidence months ago.

"As our Supreme Court has explained, the procedural right involved in administrative proceedings properly is described as the right to fundamental fairness, as distinguished from the due process right involved in judicial proceedings. *Grimes v. Conservation Comm'n*, 243 Conn. 266, 273 n.11 (1997). While proceedings before [land use agencies] are informal and are conducted without regard to the strict rules of evidence ... they cannot be so conducted as to violate the fundamental rules of natural justice.... Fundamentals of natural justice require that there must be due notice of the hearing, and at the hearing no one may be deprived of the right to produce relevant evidence or to cross-examine witnesses produced by his adversary ... [T]he parties involved [must] have an opportunity to know the facts on which the commission is asked to act ... and to offer rebuttal evidence.... In short, [t]he conduct of the hearing must be fundamentally fair." *Purnell v. Inland Wetlands & Watercourses Comm'n*, 209 Conn. App. 688, 708-709 (internal quotations and citation omitted).

For these reasons and others already discussed, the applications must be denied. At the very least, the Commission must continue this proceeding to another meeting.

Sincerely,

/s/ Ryan D. Hoyler

Ryan D. Hoyler

RDH