

April 30, 2021

Dear Anthony:

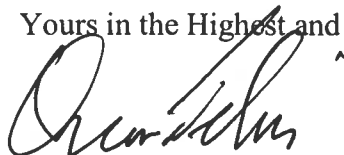
This letter serves as **only an instructional response** for your request to apply for zoning approval of 31 North Street Rose Haven adaptive reuse. As confirmed by both the Chair and Vice-Chair of the Litchfield Planning and Zoning Commission and as policy since my tenure, informal applications are not entertained or processed during the Commission meetings. Therefore, your letter will be received as correspondence at the next meeting – May 17th. As policy within correspondence, there will be no Commission discussion/review or comment accepted by the public.

Although, you may submit a formal application to the Commission for that date. You state on page 4 of your letter that you “...favor a plan that...would follow the provisions of Litchfield’s code and state law which support the pre-existing pattern of use for the property. In effect, a modification or continuation of a long-existing non-conforming use.” Furthermore (page 4), you mention: “In December 2002, the current owner was granted approval for a Special Exception – Expansion of the non-conforming use as a convalescent home.”

Since you are stating there is a non-conforming use and a Special Exception approval, I suggest you apply for a modification to the Special Exception approval for the fee of \$160 payable to the Town of Litchfield. Due to the complex legal issues (as described in your letter) this application impacts a significant portion of the HR-30 and HTC districts which have no zoning definition for a hotel; I am also estimating an additional application fee of \$3,500 for the Planning and Zoning Commission Attorney. This estimate was determined after discussion with the Commission Attorney. You can submit the fee (under separate check payable to the Town of Litchfield) along with your standard application and fee. At the meeting of May 17th, I will then ask for motion from the Commission for legal review fee of the amount of \$3,500 legal review of the pre-existing nonconforming status and Commission Attorney attendance at a June Planning and Zoning Commission meeting. Any monies not utilized for legal review will be refunded to you.

The above outlined application process is proposed to facilitate the question you mentioned in your letter. I have attached a modified Special Exception application and section of pre-existing regulation section and the HR-30 district. A newspaper article is also included to illustrate the current use of the property. In order to appear at the meeting the May 17th meeting make sure to have your application submitted by Tuesday, May 11th – both hard copy and electronic are required due to COVID ZOOM meetings. Due to the extended time review granted by the Special Exception process, a site plan may be submitted once you have obtained the legal applicability of your application; as well as the scheduling of a public hearing.

Yours in the Highest and Best Use of the Land,



Dennis Tobin, PhD



Town of Litchfield

Planning and Zoning Commission

Site Plan/Special Exception Application

Name and <u>mailing</u> address of Applicant: _____ _____ _____ Phone: () Email address: _____	Location of Property: _____ _____ _____
Name and address of Owner _____ _____	Zone _____ non-conforming? _____ Map _____ Block _____ Lot _____

Description of Existing Use/Property

Existing Use(s)	
Size of property	
Buildings	
Parking	
Signage(# of signs & square feet)	
other important features	

Description of Proposed Use

Proposed Use(s)	
Buildings	
Parking	
Signage(# of signs & square feet)	
Number of Employees	

Where applicable, number of:

Hotel/Motel Rooms		Convalescent Home	
Hospital/Clinic Beds		Occupants of Assembly Hall	
Water & Sewer provided by			
Professional Engineer/Surveyor name/address: _____ _____ _____	Date Submitted	Date Rec'd by PZC	PH Date
Phone: ()	Project Number:		Fee:
Signature of Applicant	Date	Signature of Owner	Date

6. **Special Exceptions.** Those uses specified in each district as requiring a Special Exception require the review and approval of a Special Exception prior to their establishment or re-establishment on a lot. The Commission shall have the authority to approve, deny, or approve with conditions all applications for Special Exceptions.
- a. **General Standards of Review:** All determinations of the Commission of Special Exceptions shall be made in accordance with the objectives of these regulations and in harmony with the purpose and intent expressed herein and upon a finding that in each case that the proposed building or structure or the proposed use of the land:
 - i. Will not aggravate a traffic hazard, fire hazard, or panic hazard;
 - ii. Will not block or hamper the town pattern of highway circulation;
 - iii. Will not tend to depreciate the value of property in the neighborhood or be otherwise detrimental to the neighborhood or its residents or alter the neighborhood's essential characteristics.
 - b. **Additional Standards of Review:** Uses identified in these regulations as Special Exceptions possess such special characteristics that each must be considered a special case. The following standards apply to all applications for a Special Exception and are to be considered in addition to the general standards of review set forth above.
 - i. **Compatibility.** Is the proposal in harmony with the neighborhood, accomplishes a transition in character between areas of unlike character, protects property values, preserves and enhances the appearance and beauty of the community, and provides a harmonious relationship between existing and proposed buildings in the vicinity, specifically with regard to the visual relationship in terms of scale, proportions and particularly, the historic significance of the existing buildings.
 - ii. **Location.** The location of the proposed Special Exception use is such that the proximity of the proposed Special Exception use will not have a detrimental effect upon any church, school, library, public playground or similar facility or use; and the number of similar existing Special Exception uses in the vicinity is such that the granting of the proposed Special Exception will not be detrimental to the public health, safety and welfare.
 - iii. **Traffic.** Vehicular and pedestrian traffic projected as a result of the use, including traffic to and from and in the vicinity of the use, will not be hazardous or detrimental to the character of the district or the neighborhood. In making its determination with respect to this criterion, the Commission shall consider the proposed location, the size and layout of the Special Exception use, its nature and the intensity of operations involved, and its relation to local streets providing access to the site and the adequacy of proposed traffic flow controls and emergency access. The commission shall give due consideration to any recommendation by the Town Engineer regarding the adequacy of any town road proposed to be used for access.
 - iv. **Parking.** The number, location and arrangement of off-street parking and loading spaces shall meet the requirements of these regulations and shall be adequate for the proposed use and shall consider the impact of parking location and design on adjoining properties.
 - v. **Impact on Public Facilities.** The commission shall be satisfied that the applicant has shown the adequacy of:
 - (a) proposed methods for disposal of wastes and provision for
 - (b) volume and quality of water supply,
 - (c) proposed measures for control of storm water run-off,
 - (d) proposed methods to foster an energy efficient layout and landscape plan,
 - (e) existing fire and police protection, transportation, water and sewer facilities, schools or other public facilities to meet the needs of the proposed use.
 - (f) the existing power service to the site to provide for the power needs of the proposed use. Where a development application involves changes or upgrading of power service to the site the Commission may require that the applicant provide a letter from the power company or power distribution company that the existing power infrastructure in Litchfield is adequate to meet the new power demand.
 - vi. **Environmental Impacts:** The Commission shall be satisfied that the applicant has shown the adequacy of proposed measures for prevention of pollution of surface water supplies and drinking water supplies. The

one inch equals 40 feet and shall be certified correct by a Registered Land Surveyor licensed to practice in Connecticut. Where the site plan proposed changes in grading or construction of site improvements, including but not limited to drainage or storm water structures, parking lot or driveway improvements, the site plan shall be certified by an engineer licensed to practice in Connecticut.

- c. **Submission Requirements:** The following are required to be submitted with an application for either type of site plan review; provided, however that the Commission or Zoning Enforcement Officer, as the case may be, may waive certain requirements where it determines that such information is not necessary to determine compliance with these regulations.
- i. A plan showing location and size of lot, location of building and buildings facilities, signs, parking and restricted areas; number of dwelling units proposed, where applicable; all statistical data to show that the requirements of the regulations have been carried out; and all the land in the lot together with such detail of adjacent properties as will relate the proposed development to the neighborhood and to the street pattern within 500 feet.
 - ii. Proper and adequate provision for vehicular traffic, service roads, control of entrances and exits to highways, parking and loading.
 - iii. Proper and adequate provision for a safe water supply, disposal of storm water, and proposed contours at intervals of two feet or less.
 - iv. The relation of proposed buildings to the existing and estimated future development of the district.
 - v. Proper provision for the protection of existing residences and districts through the use of landscaping, fencing or buffering, and planting and landscaping around buildings and in parking areas.
 - vi. Floor plans of proposed apartments and recreation buildings, showing square feet of habitable floor area within each room, and the location of all recreation facilities, where applicable.
 - vii. Illustrations, elevations, and renderings of the proposed buildings and project area sufficient to clearly show the proposed development.
 - viii. Adequate sewage disposal provided through connection with a public sewer or through use of a private facility. Such private facility shall have been deemed adequate by the Torrington Area Health District when a site plan of the lot is approved. The plan shall show the location of the building or buildings, location of the well (if provided), extent of the existing sewage disposal facilities and extent of the enlarged and/or new facilities. Plans of underground utilities, electricity, telephone, private or public sewer and public water shall be submitted to the Commission and the WPCA.
 - ix. Underground utilities (electric, telephone, private or public sewer, and public water) if required. All utilities in the MF district shall be underground. If the building(s) are to be connected to the public sewer, the site plans must be approved by the Litchfield WPCA.
 - x. Proper provision for facilities required in order to prevent pollution of surface and groundwater as a result of activities on the lot, including refuse collection facilities, oil and grease traps where required, and appropriate sumps and points for sampling.
 - xi. Location of wetlands, private and public drinking water supplies, and where appropriate, the boundary of the Wellfield Protection Zone and the boundaries of the aquifer/recharge areas as identified by Town maps.
- d. **Expiration of Site Plan Approval.** All work in connection with either type of site plan shall be completed within the period provided for in the Connecticut General Statutes. Either type of site plan shall include an approval block which shall state the date on which such period expires in accordance with the requirement of the Connecticut General Statutes. Failure to complete all work within such period shall result in automatic expiration of the approval of any such site plan. "Work" for the purpose of this requirement means all physical improvements required by the approved plan.
- e. **Prior Installation.** All site development work and auxiliary facilities, sewer, parking area, landscaping and planting, and recreation areas and related facilities must be installed prior to the issuance of a Certificate of Zoning

H. NON-CONFORMING USES, BUILDINGS/STRUCTURES, LOTS

1. Purpose. As required by Section 8-2 of the Connecticut General Statutes, these regulations do not prohibit the continuance of any non-conforming use, lot, building or structure legally existing at the time of the adoption of these regulations or any relevant amendment thereto. It is the public policy of the Town, and the intent of these regulations, that the degree of non-conformity in any non-conforming situations be eliminated, as quickly as justice allows.
2. General Rule Concerning Change of Non-conforming Situation to Conform. Once a non-conforming situation, or any portion thereof, has been changed so that it conforms to these regulations, that situation or portion thereof shall not revert to or again become non-conforming.
3. Change of Non-conforming Use. The Commission shall determine whether a non-conforming use has changed such that its status is altered from a non-conforming use to an unlawful use. In determining whether an activity represents such a change in non-conforming use, consideration shall be given to the following three factors:
 - i. The extent to which the new use reflects the nature and purpose of the original non-conforming use;
 - ii. Any difference in the character, nature and kind of use involved;
 - iii. Any substantial difference in effect upon the surrounding area resulting from the differences in the activities conducted on the lot.
4. Enlargement of Buildings Containing a Non-conforming Use. A building containing a non-conforming use in a residence district shall not be enlarged in total floor area or volume, except as approved by the Commission in accordance the following standards and requirements:
 - i. The Commission shall find that the proposed enlargement will not have significant additional adverse impact upon the surrounding land uses and the neighborhood
 - ii. The applicant shall provide a statement from the assessor or copies of the assessor's records documenting that the building has not been expanded since the date it became non-conforming. Where the building was previously expanded the applicant shall document that the expansion was approved by the Town and the total floor area of the expansion does not exceed 25% of the total floor area of the building which is devoted to the non-conforming use.
 - iii. The total floor area of the enlargement shall not exceed 25% of the total habitable floor area legally dedicated to the non-conforming use at the time it became non-conforming (including any previously granted approval for expansion).
 - iv. Enlargements shall be allowed only to an existing building containing a non-conforming use. No new building or structure containing a non-conforming use shall be permitted.
 - v. The total maximum building coverage of the lot with the enlargement shall not exceed 25% of the total lot area.
 - vi. Only portions of the building or structure that meet the yard and set back and other dimensional requirements of these regulations shall be eligible for a variance and the location and dimensions of the enlargement shall conform to the requirements herein.
 - vii. Off-street parking spaces meeting the requirements of these regulations shall be provided on the lot.
5. Enlargement or Additions. No non-conforming building or structure shall be altered, enlarged or extended in any way that increases the area or space of that portion of the building or structure which is non-conforming. This prohibition includes but is not limited to second-story additions or similar additions to the height or bulk of that portion of a building which is non-conforming.
6. Change to a Non-conforming Sign. A non-conforming sign is a sign existing prior to the effective date of these regulations (or pertinent amendment thereto) which does not meet the size, height, location, lighting or other requirements of these

regulations. A non-conforming sign may be continued or repaired provided such repair does not result in an increase in the area of such sign or otherwise increase its non-conforming condition. Once a non-conforming sign is removed it shall not be reestablished. Where the commission approves a change from one non-conforming use to another non-conforming use the new use may continue to utilize the existing sign space. A change in the location of sign space may be permitted by the Zoning Board of Appeals only where there is a reduction of the existing sign area and where, in the opinion of the Zoning Board of Appeals, the proposed signage will be more suitable for the lot and for the surrounding neighborhood.

7. Improvements and Repair. A non-conforming building or structure may be improved, repaired or reconstructed as made necessary by wear and tear or deterioration, however substantial improvements to buildings or manufactured homes in the FP-O district shall be subject to the requirements of the district.
8. Casualty. Any non-conforming building or structure which has been damaged or destroyed by fire, flood, explosion, act of nature or public enemy may be restored and used in the manner in which it exists and was used prior to such damage. Any such restoration within the FP-O district shall meet the standards and conditions for said district.
9. Changes While Permit is Open. Nothing in this section shall require any change in the plans, construction, or designated use of a building for which a building permit has been issued in accordance with these regulations, provided construction commences prior to the adoption of these regulations or any relevant amendment thereto, and is completed within one year of adoption of same.
10. Abandonment of a Non-conforming Use. The continuance of any non-conforming use, building or structure existing at the time of the adoption of such regulations shall not be prohibited. A non-conforming use shall not be terminated solely as a result of nonuse for a specified period of time without regard to the intent of the lot owner to maintain that use. Whenever a non-conforming use of land, building or structure or any portion thereof, has been abandoned, such non-conforming use shall not thereafter be reestablished and all future use shall be in conformity with these regulations.

HR-30

1. Lot Dimensions (Minimum):

Lot Width 140 feet

Building Placement (Minimum):

Side Setback 30 feet each; 60 feet aggregate

Green Space 30%

3. Building Dimensions (Maximum):

Building Height 35 feet

6. Additional Setback Regulations:

Street/Side Distance/Feet

North Street - West Side 121'

North Street - East Side 106'

South Street - West Side 106'

South Street - East Side 81'

Prospect Street - North Side 130'

Prospect Street - South Side 199'

Meadow Street - East Side 125'

Tallmadge Avenue - South Side 139'

Wolcott Street - South Side 70'

b. Front Yard Setbacks: A building erected on a lot in the HR-30 district, other than on an interior lot, must be located such that the distance between each side of the new building or an addition to a building and the nearest side on an existing principal building equals or exceeds that block's

Effective 1/15/2019

"average distance" between two adjacent principal buildings. The "average distance" is to be determined separately for each side of each block within the HR-30 district, and is measured by the length of a line extending between the nearest points of any two adjacent principal buildings existing on the effective date of this regulation, which line runs as parallel as is possible to the street from which the principal buildings measure their front/rear setback.

7. **Permitted Uses:** The following uses are permitted in the HR:

- Single Family Dwelling – ZP
- Construction Trailers – ZP
- Farm – ZP
- Public Administrative Facility – SP

- Public Safety Facility – SP

8. **Special Exceptions:** The following uses are Special Exceptions in the HR:

- Accessory Apartment
- Affordable Housing
- Club
- Farm Stand (Temporary)
- Farm Winery
- Philanthropic, Instructional and Educational Institutions
- Two-Family Dwelling (Duplex)
- Worship Place

9. **Accessory Structures:** Allowed subject to Zoning Permit.

HR-20

The HR-20 district is characterized by medium-to-large sized homes on lots smaller than those in the HR-30 district, and the regulations in this district are established to protect its single-family residential character, unique development pattern, spacing of buildings, and its historic streetscape. Lots in HR-20 are subject to the additional requirements of the Litchfield Historic District Commission.

1. **Lot Dimensions (Minimum):**

- Lot Area.....20,000 square feet
Lot Width 100 feet
Additional requirements in Subdivision Regulations

2. **Building Placement (Minimum):**

- Front Setback50 feet
Side Setback20 feet each; 40 foot aggregate
Rear Setback.....60 feet
Green Space 10%
Maintenance Shed..... 10 feet from rear or side lot line (not permitted in front yard)

3. **Building Dimensions (Maximum):**

- Building Coverage 12%
Building Height35 feet

4. **Signs:** One sign is allowed up to two square feet in area giving the name of the land or buildings on which

displayed, or of the owner or lessees thereof, and of their profession or activity.

5. **Off-Street Parking:** A driveway is required.

6. **Permitted Uses:** The following uses are permitted in the HR:

- Construction Trailers – ZP
- Single Family Dwelling – ZP
- Farm – ZP
- Public Administrative Services – SP
- Public Safety Facility – SP
- Farm Stand (Temporary) – SP

7. **Special Exceptions:** The following uses are Special Exceptions in the HR:

- Accessory Apartment
- Affordable Housing
- Bed & Breakfast
- Cemetery
- Club

State OKs Rose Haven closure

Parent company cites financial losses as reason to shutter facility

BY JOHN MCKENNA
REPUBLICAN-AMERICAN

LITCHFIELD — The state Department of Social Services has approved a request by Apple Rehab to close Rose Haven rest home and nursing facility on North Street due to heavy financial losses.

DOSS granted approval Thursday, Apple Rehab Vice President Karen Donorfio said in a statement Tuesday.

"We are saddened by the decision to close, however,

the cost to maintain, staff and operate a multi-licensed facility coupled with the current reimbursement system has not made it sustainable," Donorfio said.

Apple Rehab thanked the staff for creating a community of caring and delivering the highest quality of care to those living or being treated at Rose Haven, Donorfio added.

Rose Haven has been a Litchfield landmark since



JOHN MCKENNA REPUBLICAN-AMERICAN

Rose Haven, a rest home and skilled nursing facility for 29 patients on North Street in Litchfield, has the state's permission to close for financial reasons. The closure date has not been announced yet.

CLOSE: Lost over \$800,000

Continued from 1B

1946. Most of its 29 patients are long-term care residents, and Apple Rehab has committed to helping them find new homes.

Donorfio provided no timetable for the closure.

Apple Rehab, citing operational losses at Rose Haven of \$442,000 in 2016, \$286,000 in 2017 and a projected \$100,000 in 2018, sought DOSS approval to close the facility, one of 22 it owns in the state.

The approval to close came two weeks after a hearing at Rose Haven, where residents and staff, as well as some Litchfield residents, opposed the closure plan.

Managing and maintaining Rose Haven's separate residential and skilled nursing departments, along with declining Medicare and insurance reimbursements, has made it difficult for the business to remain financially viable, according to Apple Rehab.