

LAW OFFICES
BYRNE & BYRNE, LLC
2-B FARMINGTON COMMONS
790 FARMINGTON AVENUE
FARMINGTON, CONNECTICUT 06032

STEVEN E. BYRNE
THOMAS P. BYRNE, OF COUNSEL

TELEPHONE
(860) 677-7355
FAX (860) 677-5262

June 7, 2021

Ms. Carol Bramley, Chairman
Litchfield Planning & Zoning Commission
Land Use Office
80 Doyle Road
Bantam CT 06750

Re: Champalimaud – 31 North Street
Conflict of Interest

Dear Chairman Bramley:

You have requested that I provide an opinion on whether you have a conflict of interest regarding this pending application. Presently before the PZC is an application to reuse the former convalescent home, Rose Haven, as a hotel. The concern about a conflict of interest is based upon your position as a director of the Greater Litchfield Preservation Trust. Presently, the Trust has 9 directors as well as 4 officers. The Trust presently has an ownership interest in the former courthouse building at 15 West Street. The Trust commissioned a courthouse reuse study which stated that one of the possible reuses would be as a hotel and restaurant. Presumably, the pending application could either conflict with or benefit the Trust's plans regarding the court house.

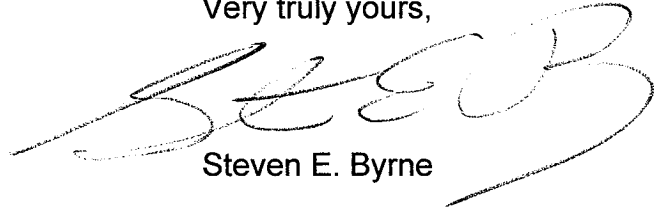
The rules regarding whether a conflict of interest exists for a member of a municipal planning and zoning commission are well established. Our State Supreme Court has held that General Statutes § 8-11 provides that zoning officials "decline to participate in situations which might reasonably conflict with private, personal or financial interest. The public official must not be permitted to place himself in the position in which personal interest may conflict with his public duty." (Internal quotation marks omitted.) *Thorne v. Zoning Commission*, 178 Conn. 198, 203 (1979).

Onto this statute, our state courts have grafted some guiding language to put it into a proper perspective. "[T]here is a presumption ... that administrative board members acting in an adjudicative capacity are not biased." *O & G Industries, Inc. v. Planning & Zoning Commission*, 232 Conn. 419 (1995). "[L]ocal governments would ... be seriously handicapped if any conceivable interest, no matter how remote and speculative, would

require the disqualification of a zoning official ..." "[W]hether a particular interest justifies disqualification is necessarily a factual question, for not every interest, no matter how remote and infinitesimal, may be said to possess the likely capacity to tempt the public official to depart from his sworn duty" *Gaynor-Stafford Industries, Inc. v. Water Pollution Control Authority*, 192 Conn. 638 (1984).

In my opinion, your apparent conflict comes within the ambit of being remote and infinitesimal and to find a conflict under these circumstances would pose a serious handicap to not just you, but all commissioners as they would face constant demands for their recusal due to alleged conflicts of interest.

Very truly yours,

A handwritten signature in black ink, appearing to read 'SEB', with a long, sweeping horizontal line extending to the right.

Steven E. Byrne