

Briscoe, Tracy

From: Steven Grushkin <sgrushkin@wrkk.com>
Sent: Friday, March 23, 2018 4:53 PM
To: William J. Hennessey Jr.; Leonard Braman; Blessing, Ralph
Cc: Lisa L. Feinberg; Minor, Jim; Mills, Tom; Briscoe, Tracy
Subject: RE: Application 217-01

Thanks Bill. Received it a few minutes ago

From: William J. Hennessey Jr. [mailto:WHennessey@carmodylaw.com]
Sent: Friday, March 23, 2018 4:31 PM
To: Leonard Braman <lbraman@wrkk.com>; Blessing, Ralph <RBlessing@StamfordCT.gov>
Cc: Lisa L. Feinberg <LFeinberg@carmodylaw.com>; Steven Grushkin <sgrushkin@wrkk.com>; Minor, Jim <JMinor@StamfordCT.gov>; Mills, Tom <TMills@StamfordCT.gov>; Briscoe, Tracy <TBriscoe@StamfordCT.gov>
Subject: RE: Application 217-01

Apologies for the late response. I do not expect my presentation to exceed the 20 min allotted. Bill
Separate topic, Len please let me know if you did not receive our booklet. If you did not receive it I will run it across the street now. Bill

William J. Hennessey Jr. | [Bio](#)
Carmody Torrance Sandak & Hennessey LLP
707 Summer St | Stamford, CT 06901-1026
Direct: [203-425-4200](tel:203-425-4200) | Fax: [203-325-8608](tel:203-325-8608)
WHennessey@carmodylaw.com | www.carmodylaw.com

From: Leonard Braman [mailto:lbraman@wrkk.com]
Sent: Friday, March 23, 2018 3:03 PM
To: Blessing, Ralph
Cc: William J. Hennessey Jr.; Lisa L. Feinberg; Steven Grushkin; Minor, Jim; Mills, Tom; Briscoe, Tracy
Subject: RE: Application 217-01

Mr. Blessing,

Thank you for your response. We are amenable to proceeding in the way you suggest, and will of course endeavor to be concise in our presentations. Please note that as of this afternoon, about a dozen members of the Sterling Lake Association have yielded their time to me and Attorney Grushkin, but several other members (including Sterling Lake's president Hank Cuthbertson) wish to speak themselves and plan to do so.

Best regards,
Lenny

From: Blessing, Ralph <RBlessing@StamfordCT.gov>
Sent: Friday, March 23, 2018 2:39 PM
To: Leonard Braman <lbraman@wrkk.com>
Cc: whennessey@carmodylaw.com; lfeinberg@carmodylaw.com; Steven Grushkin <sgrushkin@wrkk.com>; Minor, Jim <JMinor@StamfordCT.gov>; Mills, Tom <TMills@StamfordCT.gov>; Briscoe, Tracy <TBriscoe@StamfordCT.gov>
Subject: RE: Application 217-01

Dear Attorney Braman,

Thank you for your letter dated 3/22/2018 requesting to speak for more than the allotted three minute time limit.

Our Law Department advised us that it is appropriate for any board or commission to establish time limits for public comment, provided that speakers who were not able to fully make their argument during the allotted time are given the opportunity to do so at the end of the public hearing to assure both the orderly conduct of a hearing and that all relevant information is entered into the public record. You also stated in your letter that you represent several members of the Sterling Lake Homeowners Association and that they would yield their time to you.

I was wondering if you would be amenable – as a courtesy to the board and all other members of the public who also wish to speak on this matter – to limit your initial remarks to the same amount of time as the counsel for the applicant (20 minutes), with the understanding of course that you will have the opportunity for supplemental testimony (if necessary) at the end of the hearing. Because we do expect a lot of testimony I would hope that both the applicant and you will present their arguments in a concise manner as quantity oftentimes does not equal quality.

Thank you for your consideration.

Ralph Blessing

Land Use Bureau Chief
City of Stamford
Government Center
888 Washington Blvd, 7th fl.
Stamford CT, 06904-2152

Ph.: (203) 977 4714
Email: rblessing@stamfordct.gov
www.stamfordct.gov

From: Leonard Braman [<mailto:lbraman@wrkk.com>]
Sent: Thursday, March 22, 2018 12:38 PM
To: Mills, Tom; Briscoe, Tracy
Cc: whennessey@carmodylaw.com; lfeinberg@carmodylaw.com; Steven Grushkin; Blessing, Ralph; Minor, Jim
Subject: Application 217-01

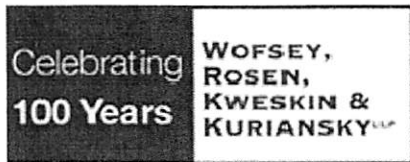
Dear Chairman Mills,

Please see the attached correspondence regarding the above application.

Respectfully,
Lenny Braman

Leonard M. Braman
Wofsey Rosen Kweskin & Kuriansky, LLP
600 Summer Street

Stamford, Connecticut 06901-1490
lbraman@wrkk.com
203-327-2300, ext. 208
203-967-9273 fax
wrkk.com



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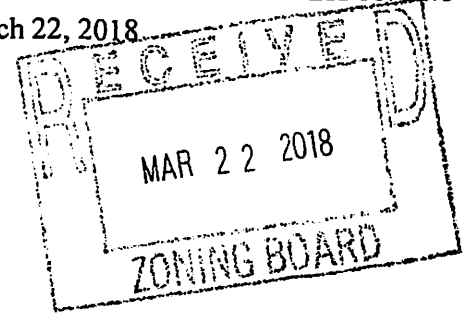
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NEW CANAAN OFFICE:
70 PINE STREET
NEW CANAAN, CT 06840
TEL 203-972-1700

600 SUMMER STREET • STAMFORD, CT 06901-1490 • www.wrkk.com • 203-327-2300
• FAX 203-967-9273

March 22, 2018



Via First-Class Mail and E-Mail
(TMills@StamfordCT.gov and
TBriscoe@StamfordCT.gov)

Thomas Mills, Chair
Stamford Zoning Board
888 Washington Boulevard
7th Floor
Stamford, CT 06901

Re: Application # 217-01, Lifetime Fitness

Dear Mr. Mills:

My office represents Paul and Nan Gordon and other members of the Sterling Lake Homeowners Association, who own property adjacent to that affected by the above-referenced proposed text change. The Lifetime Fitness text change is set to be on the agenda at the Zoning Board's (the "Board") March 26, 2018 public hearing. The agenda for the March 26 hearing states that "Applicants will have 20 minutes to make their presentation; Speakers will have 3 minutes each to speak...." As you are aware, the Lifetime Fitness application is one of significant public concern on which many members of the public have expressed opinions, some of which cannot be adequately presented in only three minutes. Indeed, the leading treatise on Connecticut land use law, Robert Fuller, *Land Use Law & Practice*, § 20:4 (4th ed.), states that "*[i]t is improper in most situations for the agency to impose strict time limits on speakers at a public hearing*" (emphasis added). Our clients have invested significant time and resources in having members of our firm present argument and evidence to the Board on their behalf at the upcoming hearing, as we did at public meetings of the Planning Board on this application. For these reasons, and to enhance the public perception of a fair and open process and result, I am writing to ask that the Board relax the strict three-minute time limit for speakers at the March 26 hearing, and allow myself and Attorney Steven Grushkin of my firm to speak for a combined total of approximately 30 minutes.¹

¹ We have no objection to the applicant's speakers being permitted to speak for longer than a combined total of 20 minutes, so long as members of the public are not limited to 3 minutes.

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First, Fuller's well-respected treatise and the case law cited therein confirms that it is not consistent with fundamental principles of procedural due process to cut speakers off at an absolute three-minute time limit. After noting that it is generally improper to impose strict time limits at a public hearing, Fuller stresses that:

The agency is supposed to be objective and has a responsibility to hear evidence from anyone who wants to present it on the application. Concepts of procedural due process apply at administrative hearings. Supporters and opponents of the proposal before the agency are entitled to make their views known and to present relevant evidence on the application. While the cases do not specifically discuss the subject, it would be improper for the agency to cut off discussion and evidence which a speaker wants to offer and which is relevant to the application before the agency. An attempt by the agency to do so would result in a reversal of its decision on appeal where the appellant could show some prejudice from restrictions imposed on offering evidence. Like a court trial, both sides must be given a reasonable opportunity to present their case. If the agency has set an hour to end the public hearing, it must be continued to another date. Moreover, in the event of an appeal to the superior court, it reviews the agency's decision for the most part on the record before the agency. Both sides are entitled to build a suitable record for purposes of an appeal, and the agency cannot restrict their attempts to do so.

(Emphasis added.) As Fuller notes, both applicants and opponents of an application are required to make a record at the public hearing of any issues they might wish to raise in an appeal, and it is not possible to make an adequate record in only three minutes. At a minimum, any time limit should be imposed only on *initial* remarks, and after everyone who wishes to speak regarding the application has had a chance to make initial comments, members of my firm and the public should be permitted to make additional comments for as long as they wish, within reason, so long as their remarks are germane to the application and not duplicative of what has been previously stated. *See id.* Anything less would not comport with legal requirements.

Second, the applicant's current iteration of its application and proposed text change, dated March 8, 2018, is substantially modified from the various versions that were submitted to the Planning Board, and substantially differs even from the version

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that the Planning Board denied by a vote of 5-0 on February 20, 2018. Accordingly, neither our firm nor the community has yet had a chance to present their arguments publicly on this new application. The Board will benefit from the public's perspective, and the public should be allowed to express that perspective to the Board without the strictures of a three-minute time limit.

Third, this application is clearly a matter of great public importance and public concern. At the August 8, 2017 and February 6 and 20, 2018 meetings before the Planning Board, scores of members of the public were in attendance, sometimes on short notice, and the meetings also attracted media attention. Members of the public spoke passionately in opposition to the application. Allowing members of the public to speak freely on the application will enhance public confidence in the Board's decision on this important matter.

Lastly, I note that at least 6 property owners in Sterling Lake, who are adjacent to the applicant's property and who would have the right to speak at the hearing, have confirmed in writing that they wish my firm to speak on their behalf and would like to yield their three minutes to myself and Attorney Grushkin. Were these individuals to speak at the hearing, they would be entitled to a total of at least 18 minutes.

For the foregoing reasons, I respectfully request that the strict three-minute time limits for members of the public be relaxed for the public hearing on the Lifetime Fitness application. I ask for the opportunity for members of my firm to speak for a combined total of 30 minutes on behalf of our clients Paul and Nan Gordon and other members of the Sterling Lake Homeowners' Association. Kindly advise me of the Board's response by close of business on Friday, March 23, so that we may plan our presentation accordingly. Thank you for your service to the City and for your attention to this matter.

Sincerely,
Wofsey, Rosen, Kweskin & Kuriansky, LLP

By: 
Leonard M. Braman

cc: Steven D. Grushkin, Esq.
Paul and Nan Gordon
Hank Cuthbertson

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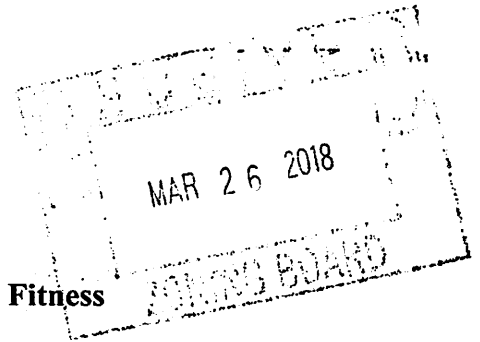
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March 22, 2018

Via First-Class Mail and E-Mail
(TMills@StamfordCT.gov and
TBriscoe@StamfordCT.gov)

Thomas Mills, Chair
Stamford Zoning Board
888 Washington Boulevard
7th Floor
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*WILLIAM M. CARELLO

Re: **Application # 217-01, Lifetime Fitness**

Dear Mr. Mills:

*EDMUND M. REMONDINO
COUNSEL

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GESSI GIARRATANA
SARAH GLEASON
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