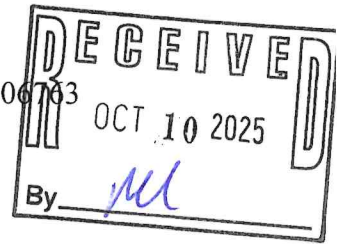


MORRIS PLANNING & ZONING COMMISSION
COMMUNITY HALL • 3 EAST STREET • MORRIS, CONNECTICUT 06763



Regular Meeting Morris Town Hall and Live on Zoom

October 15th, 2025 at 7:00 pm

Call in # 1-929-205-6099

<https://us02web.zoom.us/j/89978564674?pwd=B26n07TCJtMtDcZASxLpbiEH5olsHG.1>

Meeting ID: 899 7856 4674

Passcode: 433590

Barbara Bongolotti

Helen White

Veronica Florio

Douglas Barnes (Secretary)

David Wiig Chairman

Dylan Hovey

William Ayles Jr. (Vice-Chairman)

Marc Petzold

Kim Dore

Staff: ZEO Tony Adili

Planner: Janell Mullen

Alternates:

Noah Butler

Geoff Paletsky

Erika Leone

Agenda

1. Call to Order

2. Agenda Review

3. New Business

4. Old Business

a. Bantam Lake Waterfront Overlay District as well as improve use of Low Impact Sustainable Development

b. Consider updates to Subdivision regulations that will include identifying archaeological, historical, or cultural resources that require a license professional to assess the impacts of development. Also restricting development on land with slopes of greater than 20 percent

5. Communications and Bills

a. Steve Byrne Bills

b. Delorenzo Court Decision

6. Adjourn

DOCKET NO: LLI-CV24-6037822-S

: SUPERIOR COURT

JUDITH M. DELORENZO & JAMES N.
DELORENZO

: J.D. OF LITCHFIELD

V.

: J.D. OF LITCHFIELD

THE PLANNING AND ZONING COMMISSION
OF THE TOWN OF MORRIS & ROSANNE M.
MICCI

: J.D. OF LITCHFIELD

OFFICE OF THE CLERK
SUPERIOR COURT
JUDICIAL DISTRICT OF
LITCHFIELD
STATE OF CONNECTICUT
OCT - 8 12:32
OCTOBER 8, 2025

MEMORANDUM OF DECISION

INTRODUCTION

This appeal was commenced by the plaintiffs, Judith M. Delorenzo and James N. Delorenzo (plaintiffs), claiming that the defendant, the Planning and Zoning Commission of the Town of Morris (Commission) improperly removed a provision entitled Farms from Section Eight of the Zoning Regulations of the Town of Morris (Regulations)¹. The plaintiffs ask the court to order the Commission to restore Section Eight in the Regulations. In addition, the plaintiffs request that the court order the other defendant, Rosanne Micci, to comply with the requirements for Section Eight regarding a horse barn on her property. The Commission's vote on the new Regulations, which removed Section Eight from the Regulations, occurred on January 18, 2023. As this appeal was not filed within one year of said date, the plaintiffs' appeal is untimely and must be dismissed.

¹ Throughout the briefs and the hearing, both parties refer to the Farms subsection of Section Eight as Section Eight. Hence, any reference to Section Eight is only relating to the Farms subsection. Section Eight in its entirety was not deleted, only the Farms provision was. See Docket Entry No. 114, p. 221.

8/8/25

• JANO sent

• Copy mailed to SRP Rosanne Micci at address of record

PROCEDURAL HISTORY

The plaintiffs filed their complaint on September 12, 2024. (Docket Entry No. 100.30.) On November 15, 2024, the Commission filed its answer and special defense. (Docket Entry No. 101.) Similarly, on December 4, 2024, Micci filed her answer and special defense. (Docket Entry No. 102.) The plaintiffs replied to both defenses on January 9, 2025. (Docket Entry Nos. 104 and 105.) Both parties submitted briefs the plaintiffs' brief was filed on April 29, 2025, and the Commission's brief was filed on June 30, 2025. (Docket Entry Nos. 126 and 127.) The plaintiffs replied to the Commission's brief on July 31, 2025. (Docket Entry No. 129.) Micci did not file a brief. The court heard the matter on September 10, 2025.

FACTUAL BACKGROUND

The plaintiffs allege the following facts in their complaint filed on September 12, 2024. (Docket Entry No. 100.30.)

Prior to September 6, 2023, Section Eight in the Regulations stated in relevant part:

"Farms: Farms, including truck gardens, and the keeping of horses or ponies, shall conform to the following additional standards and conditions:

1. Farms shall not include or permit commercial slaughtering, fertilizer manufacturing, or any commercial reduction of animal matter. This prohibition does not include the sale of manure.
2. Any building in which a horse (for the purpose of this Regulation 'horse' shall include a pony or donkey) is kept *shall not extend within less than 50 feet of any property line or street line*. The minimum land area required for the keeping of horses shall be as follows:
 - 1.5 acres for one horse,
 - 1.5 acres, plus $\frac{3}{4}$ acre for each additional horse over one and up to a total of ten,
 - 8.5 acres for 10 horses,

For more than 10 horses, the applicant shall provide additional land over the minimum

required based upon the relationship of the proposed location to surrounding land uses and the suitability of the site's topography and soils to support the number of horses proposed and in consideration of the report on the proposal by the Torrington Area Health Department.

3. It is highly recommended that farms implement Low Impact Sustainable Development practices specified in Section 4.6 of the Town of Morris Low Impact Sustainable Development Manual to improve the water quality of the runoff from farm and agricultural operations.” (Emphasis added.)

On September 6, 2023, the Commission published the Regulations without Section Eight. The plaintiffs argue that the Commission failed to provide notice that a hearing would be held to delete Section Eight, failed to hold a noticed hearing at which the public could provide input on the potential deletion of Section Eight, and failed to provide adequate notice of the action purportedly taken to delete Section Eight. The plaintiffs argue further that the Commission never voted on the deletion of Section Eight, and the deletion, as well as the lack of reasoning on the record was in violation of General Statutes § 8-3.

In addition, the plaintiffs argue that Micci violated Section Eight. Micci is an individual who owns 1.91 acres of property at 64 Platt Farm Road, Morris, Connecticut (Micci's Property). The plaintiffs reside and own real property, known as 60 Platt Farm Road, Morris, Connecticut (the plaintiffs' property), that abuts Micci's Property. Micci filed a building permit² to erect a forty foot by thirty-eight foot barn with four horse stalls. Her site plan indicates that the horse barn is located approximately forty feet from the boundary line which abuts the plaintiffs' property. This is in violation of the previous version of Section Eight, which required a fifty foot set back from a property line, and is over the horse limit for the number of acres. Additional facts will be discussed below as needed.

² This occurred on August 26, 2024. (Docket Entry No. 126.)

DISCUSSION

MICCI IS A PROPER PARTY

Although she filed no brief nor raised the issue in her answer, at the hearing, Micci, through counsel, stated that the court lacked subject matter jurisdiction over any claims against her. Counsel's argument seemed to be that an individual could not be named a defendant in another person's appeal from a zoning decision. Counsel asserted that the court had no subject matter jurisdiction over Micci. "Any party, or the court itself, can raise the issue of subject matter jurisdiction at any time. It matters not how or by whom the question of jurisdiction is raised. . . . Because subject matter jurisdiction cannot be conferred by waiver or consent . . . the court must address the question, suo motu if necessary, even in the absence of a motion." (Citations omitted.) *Manning v. Feltman*, 149 Conn. App. 224, 236, 91 A.3d 466 (2014).

Without citation of any case law, statute or rule, counsel for Micci argues that this court has no subject matter jurisdiction over any claims against Micci because an individual party cannot be named in a zoning appeal. This argument is without any merit.

In *Warner v. Planning & Zoning Commission of Town of Salisbury*, 120 Conn. App. 50, 990 A.2d 1243, cert. denied, 297 Conn. 901, 994 A.2d 1289 (2010), the plaintiff, an abutting landowner, challenged a decision from the planning and zoning commission granting the plaintiff's neighbor permission to divide her property without obtaining subdivision approval. The subdividing neighbor was named as a party. The Appellate Court decided the appeal without dismissing the claim against the individual property owner. Had the subdividing neighbor been an

improper party, over which the court lacked jurisdiction, such claims would have been dismissed.³ See also *Horace v. Zoning Board of Appeals*, 85 Conn. App. 162, 855 A.2d 1044 (2004) (naming an individual homeowner in addition to the zoning board of appeals in an action brought by the homeowner's neighbor challenging the granting of a variance).

In the present case, Micci is named in addition to the Commission regarding the deletion of Section Eight. The plaintiffs claim that they are aggrieved because they abut Micci's property and Micci has built a barn that does not comply with the old Section Eight requirements. Micci's argument that this court lacks subject matter jurisdiction over any claims against her because an individual can never be named as a party defendant in a zoning appeal is without merit.

THE PLAINTIFFS WERE AGGRIEVED

General Statutes § 8-8 (1) provides in relevant part: "Aggrieved person' means a person aggrieved by a decision of a board and includes any officer, department, board or bureau of the municipality charged with enforcement of any order, requirement or decision of the board. In the case of a decision by a . . . combined planning and zoning commission . . . 'aggrieved person' includes any person owning land in this state that abuts or is within a radius of one hundred feet of any portion of the land involved in the decision of the board."

The plaintiffs live within one hundred feet of Micci's Property. The Commission granted Micci a permit to build a barn that violates the language of Section Eight which was deleted. The court finds that the plaintiffs are aggrieved.

³ It is well settled that the Appellate Court is required to raise lack of subject matter jurisdiction sua sponte. *Marciniszyn v. Board. of Education of the Town of Southington*, 230 Conn. App. 592, 599–600, 330 A.3d 883 (2025).

THIS APPEAL MUST BE DISMISSED IN ITS ENTIRETY AS IT IS UNTIMELY

LEGAL STANDARD

Both the plaintiffs and the defendants concede that the seminal issue before the court is whether any action occurred.

Appeals to the courts from a zoning commission “exist only under statutory authority. . . . Appellate jurisdiction is derived from the . . . statutory provisions by which it is created, and *can be acquired and exercised only in the manner prescribed*. . . . A statutory right to appeal may be taken advantage of only by strict compliance with the statutory provisions by which it is created. . . . [S]tatutory appeal provisions are mandatory and jurisdictional in nature, and, if not complied with, the appeal is subject to dismissal. Our Supreme Court has uniformly held that failure to file a zoning appeal within the statutory time period deprives the trial court of jurisdiction over the appeal. *H-K Properties, LLC v. Town of Mansfield Planning and Zoning Commission*, 165 Conn. App. 488, 139 A.3d 787 (2016).

Here, the plaintiffs argue that there was no action taken by the Commission to delete Section Eight. Specifically, the plaintiffs state that no public hearing on the deletion of Section Eight was held as required by General Statutes § 8-3 (a). Said statute states in relevant part, “No such [zoning] regulation or boundary shall become effective or be established or changed until after a public hearing held in relation thereto.” Contrary to the plaintiffs’ argument, the record before the court shows multiple public hearings about the deletion of Section Eight were held.

Indeed, the agenda for the January 19, 2022, planning/workshop meeting included a discussion on the agri-tourism amendment to the Regulations. (Docket Entry No. 110, Return of Record 13, p. 38.) There was also an outline created by the Town Planner, Janell Mullen, that made note of where the Regulations mentioned agriculture and its related uses. (Docket Entry No. 110,

Return of Record 14, p. 42-44). Section Eight was specifically mentioned under the agriculture use section of the outline. Id. The agenda for the May 18, 2022, meeting also included discussion on the agri-tourism amendment. (Docket Entry No. 111, Return of Record 20, p. 21). Significantly, there was an attachment to the agenda of the May 18, 2022, Commission meeting that had Section Eight crossed out. (Docket Entry No. 111, Return of Record 20, p. 35.).

Similarly, during the July 20, 2022, Commission meeting, the Commission members, the Town Planner, and the Zoning Enforcement Officer specifically discussed the changes to Section Eight, specifically the changing requirements for farms. (Docket Entry No. 121, Return of Record 26, pp. 34-47.)

Ms. Florio [a Commission member] specifically stated, “As—as part of this, *can we change the thing about the farm being 3 acres?* Remember, we were going to change that? Ms Mullen [Town Planner]: We —We-were—Ms. Florio: Can we do that? Ms. Mullen: We changed it. It’s changed. Mr. Adili [Zoning Enforcement Officer] I think-- Ms. Florio: Did we change it? Mr. Adili We—it’s changed. Yes. Ms. Florio: *Took it out, right?* Ms. Mullen *Yep. . . .* Mr. Adili: *Yeah. I mentioned the horse acres too. I don’t know if we took that out, but*—Ms. Mullen: *Yep. Yep.* Mr. Wiig [Commission chair]: I think that’s what we’re going to. . . . Ms. Mullen: There was a really helpful—and I can resend this out. But on January 19th, there was a handout of every page that agriculture/farm touched in the current regulations. [Docket Entry No. 110, Return of Record pp. 42-44] And we went through every case that we were changing. So on the second page of that handout, *we are removing the reference to at least 3 acres from the definition of farm. And we cleaned up the definition of farm so that it’s our statutory language. And then we also got rid of the size requirements where we were referring to—it was on Page 42, referring to the*

keeping of horses, donkeys or ponies. (Emphasis added). (Docket Entry No. 121, Return of Record 26, pp. 42-45)

In the December 21, 2022, Commission meeting the Commission members stated that the farm language contained within Section Eight was going to be deleted. (Docket Entry No. 131, Return of Record 27, pp. 10, 14.) Commission member Ms. Florio stated “*So the stuff’s that changing up the top , so page 12, Reference to Farms, this whole farm section, how much acres for horses. all that stuff will come out?* Ms. Mullen: In - - agreed. *Yes.*”(Emphasis added). Id.

There was a draft version of the Regulations, which was discussed and voted on during the January 18, 2023, Commission meeting that had Section Eight crossed out. (Docket Entry No. 114, Return of Record 21, pp. 5, 21.) The Commission voted on the agri-tourism amendment which included the deletion of Section Eight⁴. (Docket Entry No. 122, Return of Record 28, pp. 30-32.) The record indicates that the Commission “took action” by voting on the agri-tourism amendment that included the deletion of Section Eight.⁵

This matter commenced over one year after the January 18, 2023, Commission meeting. It is untimely under General Statutes § 8-8 (r) and must be dismissed.

General Statutes section 8-8 (r) provides that: “In any case in which a board fails to comply with a requirement of a general or special law, ordinance or regulation governing the content, giving, mailing, publishing, filing or recording of any notice either of a hearing or of an action taken by the board, any appeal or action by an aggrieved person to set aside the decision or action

⁴ Again, for clarity, only the Farms subsection of Section Eight was deleted.

⁵ The plaintiffs noted that Section Eight was included in the December 7, 2022, Regulations. This is immaterial because the vote for the deletion of Section Eight did not occur until January 18, 2023.

taken by the board on the grounds of such noncompliance shall be taken not more than one year after the date of that decision or action.”

“The plain language of § 8-8 (r) means what it says—any appeal or action by an aggrieved person to set aside the decision or action taken by the [commission] on the grounds of such noncompliance *shall* be taken not more than one year after the date of that decision or action. . . . (Emphasis added.) General Statutes § 8-8 (r). Thus, the statute prohibits an appeal from an action of the commission claimed to have been made without proper notice beyond one year from the date of the action.” *Warner v. Planning & Zoning Commission of the Town of Salisbury*, supra, 120 Conn. App. 60-61. The date of the action is the date the Commission makes its decision. *Balikci v. Greenwich Planning & Zoning Commission*, Superior Court, judicial district of Fairfield, Docket No. CV-03-4012864-S (March 17, 2006, *Owens, J.T.R.*).

The Appellate court considered a case analogous to the one at bar in *Warner v. Planning & Zoning Commission of Town of Salisbury*, supra, 120 Conn. App. 58. In *Warner*, the plaintiff claimed that the planning and zoning commission failed to comply with statutory notice requirements in connection with a zone change in 2000. The plaintiff claimed that as a result he was precluded from objecting to the zone change. The plaintiff argued that the zone change was void ab initio and could not be relied upon by the commission in 2005. The plaintiff claimed that “he was not required to take action within one year of the 2000 decision but could collaterally attack it as null and void when the 2000 decision came to light years later, directly affecting his interests. [The Appellate court rejected this argument stating] [o]n the basis of our interpretation of § 8-8(r) and its application to the facts of this case, we are not persuaded by the plaintiff’s arguments.” *Id.*, 58. The Appellate Court affirmed the trial court’s dismissal of the plaintiff’s appeal stating that because the plaintiff was “in essence, challenging the commission’s 2000 zone

boundary adjustment decision, § 8-8(r) bars the plaintiff's claims. . . . The commission's zone boundary adjustment decision was made on July 21, 2000. It follows that because the plaintiff did not appeal or file an alternative action to set aside this zone boundary adjustment until 2005, § 8-8(r) bars the plaintiff from doing so approximately five years later." Id.,62-63.

The plaintiffs argue that the deletion of Section Eight was not properly noticed. Assuming arguendo that the deletion of Section Eight was not properly noticed, under § 8-8 (r) the plaintiffs had one year to appeal from the date action was taken, which is when the Commission voted to delete Section Eight on January 18, 2023. (Docket Entry No. 122, Return of Record 28, pp. 30-32.) The plaintiffs filed this appeal on September 12, 2024. (Docket Entry No. 100.30.) The plaintiffs' appeal is untimely under § 8-8 (r) and accordingly, this court dismisses the plaintiffs appeal in its entirety.

CONCLUSION

The Commission voted to delete the Farms Subsection of Section Eight on January 18, 2023. Because the plaintiffs did not bring this matter within one year of the Commission's action, under General Statutes § 8-8 (r), the plaintiffs' appeal is untimely and is therefore dismissed.



Lynch, J.