

# Yorktown ZBA Backs Inspector in Ruling on Sober Home

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The Yorktown Zoning Board of Appeals Thursday night supported a written opinion by Building Inspector John Winter that a proposed facility for recovering alcohol and substance abuse addicts on Underhill Avenue falls under the definition of a “convalescent home.”

Three of the four sitting ZBA members denied an appeal from neighbors Linda Girona and Al French that the sober home proposed by Compass Westchester does not fit the criteria of either a convalescent home or a nursing home, which are treated the same in the town’s Zoning Code and, therefore, it should not be allowed to be considered for a three-year special permit by the Town Board.

“It is undisputed that the proposed residence meets all the Zoning Code criteria for a ‘convalescent home,’” the ZBA stated in its decision. “The Board rejects Appellants’ arguments that a ‘smell’ test applies requiring the Board to look beyond the Zoning Code definition of ‘convalescent home’ because such use may have been traditionally associated with on-site nursing or other patient/resident care. The Board finds to supplement and substantially disregard the unambiguous definition of ‘convalescent home’ in this way would result in a flawed and irrational interpretation of the Zoning Code.”

Attorneys for Compass Westchester, Al Capellini and Robert Davis, maintained during public hearings Winter was correct in identifying the sober home residence with a convalescent home since it meets the criteria of having three or more people who suffer from any disease, affirmity or ailment and are habitually kept or bordered.

“We’re elated. It was the right decision,” Capellini said of the ZBA’s much anticipated ruling. “They accepted our position in total. For us it’s really a great night. It’s a great night for the Town of Yorktown. This leads the way for a project such as this becoming a reality.”

French said he was not surprised by the ZBA’s determination based on comments they had made last month and expressed hope the Town Board would more carefully consider the neighbor’s arguments when deliberating over the special permit.

Some neighbors also mentioned an Article 78 proceeding may be filed against the ZBA.

“This is far from over,” one opponent of the sober home maintained.

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