

COMMENTS

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Compass Westchester sues Yorktown; additional civil rights lawsuit being prepared
BY BRIAN MARSCHHAUSER

Compass Westchester has served the Town of Yorktown with the first of what could be multiple lawsuits regarding the Town Board's failure to approve the proposed home for recovering addicts at 482 Underhill Ave.

On Tuesday, Jan. 20, the Town Board rejected a special use permit that would have allowed Compass Westchester to operate in a residential zone. Supervisor Michael Grace and Councilwoman Susan Siegel voted in favor of the facility, but because three votes are required, Councilman Vishnu Patel's lone dissenting vote was enough to deny the application.

Bob Davis, attorney for Compass Westchester, hand-delivered an Article 78 lawsuit to Deputy Town Clerk Diana Quast Tuesday afternoon, seeking to open the home and nullify the Town Board's Jan. 20 decision. A New York State court will now review the issue.

"We've asked that the (state) court direct the board to issue the permit without conditions or alternatively direct that the sober living residence can operate under the definition of 'family' in the Zoning Code," Davis told Yorktown News.

Family is currently defined in Yorktown's code as: "One or more persons occupying a dwelling unit and living as a single housekeeping unit with kitchen facilities and other rooms used in common."

Because there was only one vote against the permit, there has also been debate about whether or not the board's Jan. 20 vote qualifies as a denial or an inaction.

"Some court cases say it's a denial. Some say no action," Davis said. "We're saying regardless of how you characterize it, we want the court to direct the issuance of the permit. Or, as an alternative of that, direct that we may operate as a single-family residence."

Davis said Tom McCrossan and Mark McGoldrick, the owners of the proposed sober home, have also consulted with civil rights attorneys on a second lawsuit.

"That would seek damages under the Fair Housing Act and the Americans with Disabilities Act," Davis said. "They're consulting with counsel that's experienced in that field that's done those types of cases."

Another pending Article 78, filed by neighbors, is seeking to overturn the Zoning Board's ruling in July 2014 that Compass Westchester correctly applied for a special use permit to operate a "Convalescent Home" in the Town Code. The neighbors argued that "Convalescent Home" was not the proper term to review the facility.