Town of Chaplin

Planning and Zoning Commission Regular Meeting Minutes August 9, 2018 Chaplin Town Hall

The meeting was called to order at 7:05 p.m.

MEMBERS PRESENT: Chairman Doug Dubitsky, Alan Burdick, Dave Garceau, Helen Weingart

ALTERNATES SEATED: Ken Fortier for Peter Fiasconaro

<u>ALSO PRESENT</u>: Zoning Enforcement Officer (ZEO) Jay Gigliotti, Town Attorney O'Brien, Recording Clerk Elizabeth Marsden

<u>CITIZENS PRESENT</u>: Robert Mott, Ellen Mott, Dorcas Velasquez, Juan Velasquez

<u>APPROVAL OF MINUTES OF JUNE 14, 2018 REGULAR MEETING</u>: D. Garceau moved to approve the minutes, A. Burdick seconded the <u>motion</u>. H. Weingart and K. Fortier abstained. All others in favor, <u>motion</u> carried.

D. Garceau moved to place New Business before Old Business on the agenda in order to accommodate citizens in attendance with new business. A. Burdick seconded the <u>motion</u>, all in favor, <u>motion</u> carried.

<u>NEW BUSINESS</u>: ZP18-093 – Robert Mott, Owner/Applicant, Marcy Road, Assessor's Map 8-40, Application for Site Plan on lot located within the Flood Plain.

The ZEO introduced this item, the plan is for a Single Family Residence (SFR) on a lot of record with an accessory structure and an accessory apartment within the primary structure. The entire property is in the A-6 Flood Plain and requires a PZC site plan approval per regulation Section 8.12. On April 10, the Health District approved the design of the (septic) system for this SFR and in May the Inlands Wetlands Commission gave conditional approval of the plan. The applicant has paid all application fees and provided all application documents. The ZEO laid out the site plan for the Commission's review. The plan is for a 1,500 sf accessory building and 1,800 sf footprint (3,600 sf, 2-story structure) primary residence.

The ZEO explained that the regulations regarding the Flood Plain involve the impact that development would have on the flood zone, and that in this plan, the area of disturbance is slightly more than 25,000 sf.

The ZEO indicated on the site plan the required "compensatory mitigation" flood storage area --- a 250 cubic yard, 2 foot deep water holding area which is designed to offset the development's impact on the property's flood capacity (100 year floods). Other elements of the plan (placement of utilities/elevations) are said to be in accordance with Section 8.12, and the site plan was designed by a licensed engineer.

Mr. Mott pointed out features of the site plan and showed pictures of a 2018 flood event where the N Bear Hill Road bridge area flooded severely, compared to his proposed site where the water only encroached 5-6 feet. He said the accessory apt will be within the 3600 sf residence. Members discussed severe flooding they recalled in the area of the site. Mr. Mott stated the plan is designed for a 100-year flood and reiterated that the site plan was drawn by a licensed engineer, Jeff Dewey out of Griswold. Mr. Mott explained the design of the septic system as well.

The members discussed the fact that driveway sight lines are not shown on the plan; also, the ZEO stated that his deed research showed the lot is 3 acres, not 5 acres as Mr. Mott stated. The site plan being reviewed by the PZC at this meeting is for site development only, according to a note on the plan. The members agreed that the acreage discrepancy is an issue, and that a A-2 or Class B survey would be more accurate in terms of showing the actual acreage, river setback, and boundary lines. Also, although the PZC is at this meeting only reviewing the application for compliance with Flood Plain requirements, the ZEO stressed that the other elements of the final site plan would later affect the flood plain. If the driveway, for example, needed to be revised (sight line etc), that could affect the flood plain. The Inland Wetlands Commission required a 50 foot vegetative buffer off the river to prevent fertilizer, etc from entering the river, and that is not shown on th plan.

The ZEO received an email from an abutter, Barry Howard, who requested the PZC require an as-built plan as a condition of approval and that no loam, rock, or other materials be removed from the site and that the as-built plan match the Flood Plain site plan.

The members discussed the town liability of the PZC approving this plan and the possibility of a flood, and the possibility of having the town engineer (Towne Engineering) review the site plan for a second opinion. The ZEO guessed that it would cost approximately \$1,600 or possibly more, and he can get a quote for that.

Mr. Mott suggested using a different engineer but the ZEO stated that Chaplin works with one engineering firm they know and have worked with over time, and that if Mr. Mott wanted to have a different company review the plan to satisfy the PZC, that company would have to present its credentials and the PZC would have to approve of the new company first.

H. Weingart moved to revise the agenda to allow the 153 Chewink Road issue discussed first under Old Business, D. Garceau seconded the *motion*, all in favor, *motion* carried.

OLD BUSINESS:

153 Chewink Road, open zoning enforcement action, accumulated scrap and junked vehicles

The owners of the property were present to speak to the PZC about their case. The ZEO reminded the members that in May, the PZC agreed to benchmarks for removal of the junk cars and auto parts to be completed by 9/30/2018. It is now clear that, despite owners Dorcas and Juan Velasquez working on their own consistently and making progress, they are unlikely to have all the scrap gone by the 9/30 deadline.

The Velasquezes stated that although they are working at it and have receipts for selling scrap to disposal facilities and are down to 4 vehicles, they are elderly and have medical issues and are doing this all on their own. They stated that dumpsters are expensive. The ZEO estimated that possibly 40 percent of scrap has been removed, 60 percent remaining. The ZEO also mentioned that the job could be completed in about a week's time if hired out to professionals.

The owners asked if the PZC could give them more time, it was suggested by the PZC that they could come to the September 13 PZC meeting with a status report at that time.

A. Burdick moved to place the Executive Session with Attorney O'Brien before the Old Business on the agenda, D. Garceau seconded the *motion*, all in favor, *motion* carried.

The Commission entered Executive Session at 8:23 p.m. to discuss an open zoning enforcement action at 36 Tower Hill Road.

The regular meeting resumed at 8:50 p.m.

OLD BUSINESS

A. Discussion of Legal Notice and Schedule for Revisions. The members and the ZEO discussed wording for the public notice for the public hearing scheduled September 13 regarding RC18-092, Proposed Regulations Revisions Application. The notice will be published in The Chronicle September 1 and September 8, 2018 and on the town's website.

A. Burdick moved to approve the wording for the September 13, 2018 public hearing notice, as amended, D. Garceau seconded the *motion*, all in favor, *motion* carried.

B. Discussion and Possible Action on Revision to the following sections of the Chaplin Zoning and Subdivision Regulations

Note: **The marked up text of the proposed changes to the following sections are made part of the minutes of this meeting and are thus available to view with the minutes**

The members discussed the following sections and voted as follows:

Sec. 1.1: A. Burdick moved to approve the proposed revisions, D. Garceau seconded the *motion*, all in favor, *motion* carried.

Sec. 1.2: H. Weingart moved to approve the proposed revisions, K. Fortier seconded the *motion*, all in favor, *motion* carried.

Sec. 2.1: A. Burdick moved to approve the proposed revisions, D. Garceau seconded the *motion*, all in favor, *motion* carried.

Sec. 2.2:

Home Occupation – D. Garceau moved to approve the proposed revisions, A. Burdick seconded the <u>motion</u>, all in favor, <u>motion</u> carried.

Industry -- A. Burdick moved to approve the proposed revisions, D. Garceau seconded the <u>motion</u>, all in favor, <u>motion</u> carried.

Junk -- H. Weingart moved to approve the proposed revisions, K. Fortier seconded the *motion*, all in favor, *motion* carried.

Use, Non-Conforming -- D. Garceau moved to approve the proposed revisions, A. Burdick seconded the *motion*, all in favor, *motion* carried.

- Sec. 3.1: Chairman Dubitsky explained that the proposed revisions to this section would give people an opportunity to comply with the law. H. Weingart moved to approve the proposed revisions, K. Fortier seconded the <u>motion</u>, all in favor, <u>motion</u> carried.
- D. Garceau moved to table the remaining sections on the agenda, H. Weingart seconded the <u>motion</u>, all in favor, <u>motion</u> carried.

REPORT OF THE ZONING OFFICER: The ZEO presented current enforcement actions and correspondence, and the members discussed them. The report is available for inspection at town hall. The Commission's discussion resulted in a directive for the following open zoning case:

- 3 & 11 Lynch Road (Road Dawgs Property) Robert Mott, property owner. At the May PZC meeting, the PZC voted to assess a deadline of 7/25/18 for the remaining stockpile to be relocated and the area graded and stabilized in accordance with the approval for the concession stand. The stockpile still exists in violation of the deadline, which was issued per the enforcement ordinance. The fine is \$30 per day. The ZEO previously sent the property owner a letter notifying him that the fines would begin if compliance was not met.
- H. Weingart moved to authorize the ZEO to send the property owner (Robert Mott) a letter indicating that the fines started on the day indicated on his previous letter, K. Fortier seconded the <u>motion</u>, all in favor, <u>motion</u> carried.

ITEMS PRO RE NATA: None

<u>ADJOURNMENT</u>: D. Garceau moved to adjourn the meeting, H. Weingart seconded the <u>motion</u>, all in favor, <u>motion</u> carried. The meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Elizabeth Marsden, Recording Clerk

ZONING REGULATIONS - TOWN OF CHAPLIN, CONNECTICUT

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ARTICLE I - GENERAL

1.1 Purpose

In accordance with Title 8, chapter 124, of the Connecticut General Statutes, as amended, it is the purpose of these Zoning Regulations for the Town of Chaplin, CT, to carry out the provisions of the Connecticut General Statutes in conformity with Section 8.2 for the purpose of promoting the public health, safety, general welfare, and regulating all uses of land and the uses of buildings. These Regulations are written and amended as necessary by the Chaplin PZC in accordance with the 1989 Town Comprehensive 2010 Chaplin Plan of Conservation & Development.

1.2

Conformity with Regulations Required

Except as hereinafterherein provided, it shall be unlawful to use any land, building or structure, or to erect, construct, reconstruct, or structurally alter, enlarge, or rebuild any building or structure or any part thereof, or to move any building or structure onto any lot unless in conformity with these Regulations.

all in turn, carried

1.3 Restriction

Whenever the requirements of these regulations are in variance with any other lawfully adopted rules, regulations, or ordinances, the most restrictive shall govern.

1.4 Temporary & Limited Moratorium [Added, Effective September 1, 2010, Amended, Effective June 1, 2011] DELETED

A. Temperary and limited moratorium on applications for zoning map amendments, zoning regulation amendments, and also on applications for Special Permits, Zoning Permits and Site Plan Review for new developments located in the Resite 6 Business corridor.

1. Statement of Purpose

This section has been adopted to provide the Commission with the time necessary to complete the process of revising and/or creating zoning district boundaries, zoning district use regulations, and design review guidelines for the Route 6 corridor in accordance with the goals and recommendations prescribed by Chaplin's 2010 Plan of Conservation and Development.

This temporary and limited term moratorium is proposed for adoption so that no new applications proposing zoning map amendments, zoning regulation amendments or development projects within the Route 6 Business Corridor that are contrary to or inconsistent with the goals and recommendations of the 2010 Plan of Conservation & Development may be approved in the interim, to thereby protect and promote the health, safety and general welfare of the public, and to appropriately address the unique physical characteristics of the area subject to this moratorium.

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2. Applienbility

During this temporary and limited term moratorium, no applications for zoning map amendment, voning regulation amendment, or for Special Permits, Zoning Permits and Site Plan Review for development projects located within the Route 6 Business corridor shall be received by the Commission for review and action.

3. Effective Date/Form

This temporary and limited term moratorium shall become effective on June 1, 2011, or uponsubsequent publication of the notice of adoption and shall remain in effect until November 30; 2011, or for a period of 6 months. Revisions to the term of the moratorium may be made for good cause through a similar public hearing process as set forth in this section. Formatted: Justified, Indent: Hanging: 0.31", Tab stops: Not at 0.39" + 0.5" + 0.78" + 1.17" + 1.56" + 1.94" + 2.33" + 2.72" + 3.11" + 3.5" + 3.89" + 4.28" + 4.67"

ARTICLE II - DEFINITIONS

2.1 Definitions and Construction of Language For the purpose of these Regulations the terms, phrases and words below shall have the meaning given therein: A "person" includes an individual, a corporation, a partnership, or an unincorporated association; "shall" is always mandatory; "building" includes a "structure" or part thereof, "use", "used" or "occupied" as applied to any land or building shall be construed to include words "intended, arranged or designed to be used or occupied."

Motion Bound ok Obaviers for carried.

2.2 Definitions

+Accepted Street. An Approved Street which has become public by virtue of dedication to and formal acceptance by the Town of Chaplin.

Accessory Building. A supplemental building, the use of which is clearly incidental or subordinate to the principal building and use, located on the same lot with such principal building or use. An accessory building attached to a principal building shall be considered to be part of the principal building in applying the <u>Bulk Regulations</u> to such building.

Accessory Use. A land use located on the same lot which is incidental and subordinate to that of the principal use.

- *Adult Uses (including Adult Entertainment). For the purposes of these regulations, Adult Uses shall be defined as follows:
- a. <u>Adult Arcade</u>: An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, television screens, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
- b. Adult Bookstore: An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of

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<u>Club or Lodge</u>. An incorporated organization of persons which is the occupant of an establishment catering only to its members or guests accompanying them for social, recreation or benevolent purposes, but not for pecuniary gain. A member is a person admitted in agreement with the bylaws of the club, who maintains membership by payment of annual dues in accordance with said bylaws and whose name and address are entered in the membership roster.

Commission. The Planning and Zoning Commission of Chaplin, Connecticut.

<u>Dog Boarding and Training</u> - A business use which is strictly limited to the temporary boarding and/or training of dogs. [Added, Effective July 1, 2010]

<u>Dump or Sanitary Land Fill</u>. Land use primarily for the disposal of garbage, trash, refuse, junk or waste material.

Dwelling. A building used or designed as the living quarters for one or more families.

Dwelling Unit. A building, or part thereof, containing complete housekeeping facilities for one family.

Earth Excavation. The removal from land of earth, sand, stone, gravel, soil, minerals, loam, fill, elay, peat moss, and other similar substances Earth Products.

Earth Products. SandEarth, sand, stone, gravel, soil, minerals, loam, fill, clay, peat and similar natural substances, including rock.

Earth Product Processing. Screening, sifting, washing, crushing or other forms of processing of Earth Products.

Family. One or more persons living together as a single non-profit housekeeping unit, including domestic servants and gratuitous guests, but excluding roomers, fraternities and sororities.

Farm: A parcel, or parcels, of land, cumulatively of 3 or more acres under single ownership, leasehold and/or management including woodland, wetland, wasteland and associated dwellings, improvements and structures constituting a farm unit and used in whole or in part for agriculture.

Farm Animal: See "Livestock."

Farm Stand: A structure of no more than 1,000 square feet used by a farm business for the sale of raw and/or processed agricultural products, commodities, and related products, services and activities.

Farming: See definition of "Agriculture,"

Generally Accepted Agricultural Practices: Agricultural practices that are generally accepted in the farming community of the State of Connecticut as humane and appropriate for the location and circumstances. Inspection and approval of the agricultural or farming operation, place, establishment or facility by the State Commissioner of Agriculture or his/her designee shall be prima facie evidence that such operation follows Generally Accepted Agricultural Practices.

+Hazardous Waste. Any waste material that is potentially dangerous to life, health, or the environment including but not limited to explosives, radioactive substances and toxic, caustic, corrosive, abrasive or otherwise injurious substances.

Home Occupation. A small-scale commercial or light industrial use conducted upon a

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residentialresidentially-zoned property which contains a residence. The occupation shalls be carried on wholly within completely enclosed buildings, either within the residence or within an accessory building located upon the property which meets the required yard/setback(s) for the district; be limited to a maximum of 7501000 square feet; be conducted by the record-owner of the residence or the occupant of the residence with written permission of the owner of the residence-property; and not employ more than one outside person. No display or advertising shall be exhibited except for a professional name plate of not more than 144 square inches. Only services or articles made on the premises shall be rendered or sold on the premises. Home occupation loom occupations shall not include animal hospital, automotive repair service, barber shop or beauty shop of more than one sink and hair cutting chair, restaurant, tavern, or uses the Commission deems the will be detrimental to a residential the neighborhood; in which the property is situated. The Commission and/or its designated agent reserve the right to limit hours of operation.

[Amended, Effective February 1, 2011]

Hotel, Motel, Motor Hotel. A building providing lodging for ten (10) or more persons containing living and sleeping accommodations and which has a common entrance.

Industry, Light. Manufacturing, fabricating, assembling, finishing, packaging, processing or research.

*Junk. Any article which is worn out or discarded, which is ready for destruction, or had been collected for salvage. More than one unregistered, inoperative motor vehicle stored outdoors for more than six months except as otherwise permitted herein.

Junk Yard. Any area for the storage, keeping or abandonment of junk.

Kennel. The keeping of four or more dogs.

Limited Farm; A parcel, or adjoining parcels of land cumulatively of less than 3 acres under single ownership, leasehold and/or management including woodland, wedland, wasteland and associated dwellings, improvements and structures constituting a farm unit and used in whole or in part for agriculture.

Livable Area. Any permanent, soundly constructed enclosed portion of a dwelling with a height from floor to ceiling of 7 feet or more: excluding cellar, basement, porch, garage, utility room, furnace room outside vestibules, or areas in accessory buildings. Measurements shall be made on the outside of the building.

Livestock. Animals that are customarily housed outside of the home in a barn, stable, pasture, paddock, barnyard and/or stable yard, which include but not be limited to cattle, horses, ponies, mules, donkeys, other hooved animals, sheep, goats, swine, llamas, alpaca, other camelids, poultry, fowl, ratites and mutations or hybrids thereof. Livestock includes "livestock" set forth in Conn. Gen. Stat. Sec. 22-279 and "poultry" set forth in Conn. Gen. Stat. Sec. 22-326s(5) as amended. Livestock animals are distinguished from household pets, which include but are not limited to domestic dogs, domestic cats, domestic tropical birds and pet rodents, which are customarily kept for personal enjoyment within the home.

+Logging. Removal of standing timber or logs, including tops, from a site or for sale or trade.

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does it include the installation on the property of accessory buildings, such as garages or sheds not 🧼 occupied as dwelling units or not part of the main structure.

Story. That part of a building between the surface of a floor (whether or not counted for purposes of computing livable area) and the ceiling immediately above it.

♠ Substantial improvement means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value (as determined by the Cost approach to value method) of the structure. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

Summer Occupancy. The living in and use of a dwelling from June 1 to November 1, and including such use for not more than 30 days between November 1, and June 1.

+Toxic Substance. Substances which have proven to be harmful to plant or animal life; such substances may cause chronic (long-term) toxicity in which a harmful level of the substance accumulates over time causing adverse effects, or may cause acute toxicity with immediate harmful effects. Harm may include but is not limited to a statistically significant increase in cancers, mutations, birth defects, damage to the central nervous system, the respiratory system, or other physiological systems, or loss or impairment of growth and reproductive capability.

Trailer, Trailer Coach, Camper, Mobile Home. A vehicle used as a dwelling, which may be mounted on wheels, self-propelled or capable of being transported.

Wall Sign: Any painted sign or poster on any surface or plane that may be affixed to the front, rear or side wall of any building, or any sign painted directly on any such wall. [Added, effective April 6, 2003]

Yard. Open and unobstructed ground area as specified on close Regulations, not occupied by a building on the same lot as the principal building.

Yard, Front. A required yard extending along the full length of the front lot line between two side lot lines.

Yard, Rear. A required yard extending along the full length of the rear lot line between two side lot lines.

notion & Gardelle Burdielle +Unit. See Dwelling Unit. Use. Purpose for which buildings or other structures or land may be occupied, arranged, designed, intended or maintained; or any activity carried on in a building or on a tract of land. +Use, Non-Conforming. A use of a building or land or both, which does not conform to an applicable and permitted use pursuant to these Regulations, and which use must have been was in existence at the time these regulations were originally enacted or amended to make the use nonconforming.

Yard. Side. A required yard extending from the required front yard to the required rear yard.

Zone. A geographic area, whether or not indicated on a map, designated in the Zoning Regulations in which are set forth requirements for uses which may or may not be conducted within the area. Also called Use District in these Regulations.

▼Zoning Location Survey. A Zoning Location Survey is a type of survey which depicts or notes the position of existing or proposed improvements with respect to applicable municipal setback requirements. The purpose of this type of survey is to enable determination of compliance with said requirements. Only those portions of the property pertinent to the issues being addressed must be depicted. No other improvements or features need be depicted.

- * Definitions revised effective 9 October 1981.
- + Definitions revised effective 6 September 1990.
- ♦ Definitions added effective 8 April 1991.
- . Definitions revised effective 15 July 1995.
- Definition added effective 6 September 1997.
- ♥ Definitions added or modified effective 8 January 1998
- ▶ Definitions added or modified effective 27 July, 1999.

ARTICLE III - NON-CONFORMING BUILDINGS AND USES

Non-Conforming Use Regulations

Any lawful building or the lawful use of any building or premises or any part thereof existing, and in bona fide operation at the time of, or within one year prior to, the adoption of these regulations or any amendments thereto, which does not conform to these regulations, shall be considered subject to the following regulations.

- A. Any existing non-conforming building may be restored to its prior condition without a zoning permit, if damaged by fire, flood, storm, accident or other Act of God, provided the commencement of such restoration is undertaken within one year of time of damage. Such restoration may be undertaken beyond the one-year period with a zoning permit, special permit or variance as may be applicable.
- B. No non-conforming structure or non-conforming portion of a structure shall be enlarged except by Special Permit.
- C. No non-conforming use shall be changed to another non-conforming use substantially different in character, nor to any use not permitted in any district by these regulations in the district in which the property is located, except by Special Permit.
- No non-conforming use shall be extended except into a space already occupied by a nonconforming use, except by Special Permit.

E. The Commission shall have the power to grant a Special Permit to restore, enlarge, change and/or extend a non-conforming use, building or structure provided such proposed restoration, enlargement,

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change and/or extension does not result in a use, building or structure in substantially less conformity to these Regulations than the original nonconforming use, building or structure.

3.2 Building on Lots of Record

The crection of a dwelling shall be permitted on a lot which is smaller than required or otherwise does not conform to these regulations if such non-conforming lot was a lot of record in the office of the Town Clerk prior to the effective date of these regulations; which lot is smaller than required or otherwise does not conform to these regulations provided that or any amendment hereto which made the owner of any such lot did not own adjoining land on the effective date of these regulations, or has not acquired any adjoining land since the effective date of these regulations while such was alot non-conforming lot, to enable such owner to conform with these regulations, or to conform therewith to a greater degree.

ARTICLE IV - USE DISTRICTS

4.1 Use Districts

A. For the purposes described in Section 8-2 of Chapter 124 of the Connecticut General Statutes previously referred to, The Town of Chaplin, Connecticut is hereby divided into the following use districts:

RA - Rural Agricultural Residence District
B - Business District
L - Light - Industry District
AZ - Aquifer Protection District
MR - Multifamily Residential District

4.2 Boundaries of Use Districts

- A. The boundaries of use districts are established as shown on the Zoning Map, Town of Chaplin, Connecticut dated February 26, 1968 as revised, and filed in the office of the Town Clerk of Chaplin, Connecticut, which is hereby declared to be a part of these regulations.
- B. Where boundaries are street or other rights of way, the boundary of the use district is the centerline of the right of way.

ARTICLE V - USE DISTRICT REGULATIONS

5.1 Basic Requirements

A. All uses not specifically permitted are prohibited.

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