

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Robert Walpuck,

Complainant

against

Docket # FIC 2017-0561

Chairman, Zoning Board of
Appeals, Town of Weston;
Zoning Board of Appeals, Town
of Weston; and Town of Weston,

Respondents

July 11, 2018

The above-captioned matter was heard as a contested case on January 31, 2018, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. By letter of complaint filed with the Commission on September 14, 2017, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to file with the Weston Town Clerk a copy of a Zoning Board of Appeals (“ZBA”) decision made at its public hearing of August 22, 2017 (“August 22nd public hearing”) and the minutes for such hearing.¹ By letter dated September 25, 2017, the complainant supplemented his complaint with additional facts pertaining to the August 22nd public hearing. Subsequently, at the hearing in this matter, the complainant clarified that the “ZBA decision” to which he referred in his complaint was the “vote” taken at the August 22nd public hearing. The complainant also requested that the Commission impose civil penalties against the respondents, and order FOI training.
3. It is found that the ZBA held a public hearing on August 22, 2017, at which time the

¹ In his complaint, the complainant also raised an issue concerning the Town of Weston Planning & Zoning Commission’s compliance with the FOI Act with respect to an April 3, 2017 meeting. At the hearing in this matter, however, the complainant did not pursue such issue, and therefore it shall not be further addressed herein.

ZBA denied an appeal taken of a Planning & Zoning Commission decision of April 3, 2017, to issue zoning permits for lot development for single-family houses on two parcels of land.

4. It is found that between August 22, 2017, and September 7, 2017, the complainant requested from the ZBA, via telephone and, in person, at its place of business, copies of the votes and minutes for the August 22nd public hearing. It is found that the ZBA Clerk informed him that such information was not yet available for release as she was awaiting the signature of the ZBA Chairman. It is found that the complainant also contacted the Town Clerk's Office and was informed that copies of the votes and minutes for the August 22nd public hearing were not filed with such office.

5. It is found that the ZBA has a regular office or place of business at the Town Hall Annex in Weston, and is opened Monday through Thursday, from 9 a.m. to 4:30 p.m.

6. It is found that, prior to the hearing in this matter, the respondents provided the complainant with copies of the resolution of decision, motion, actual vote count and draft minutes for the August 22nd public hearing.

7. Section 1-225(a), G.S., provides that:

The meetings of all public agencies, except executive sessions.... shall be open to the public. The votes of each member of any such public agency upon any issue before such public agency shall be reduced to writing and made available for public inspection within forty-eight hours and shall also be recorded in the minutes of the session at which taken. Not later than seven days after the date of the session to which such minutes refer, such minutes shall be available for public inspection and posted on such public agency's Internet web site, if available, except that no public agency of a political subdivision of the state shall be required to post such minutes on an Internet website. Each public agency shall make, keep and maintain a record of the proceedings of its meetings.

8. Section 1-210(a), G.S., provides in relevant part that:

...Each [public] agency shall keep and maintain all public records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the public records pertaining to such agency shall be kept in the office of the clerk of the political subdivision in which such public agency is located....

9. Although §1-225(a), G.S., does not specify the location where the minutes and votes of meetings are to be made available, §1-210(a), G.S., requires a public agency to keep and maintain all of its public records in its custody at its regular office or place of business, if the agency has such office or place of business. It is concluded that a public agency that maintains a

regular office or place of business is required to make the record of the votes and minutes of its meetings available at such office or place of business within the specified time frames, and that the law does not require such public agency to make such votes and minutes available in the office of the town clerk.

10. It is further concluded that the respondents, who have a regular office or place of business, are not required to make the votes and minutes of its meetings available at the Town Clerk's Office.

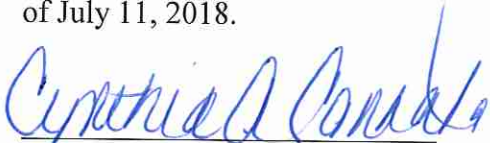
11. Based upon the foregoing, it is concluded that the respondents did not violate the FOI Act, as alleged in the complaint.

12. Although not fairly raised in the complainant's complaint, the Commission notes that the respondents did not make the votes and minutes of the August 22nd public hearing timely available at the ZBA's regular office or place of business as required by §§1-210(a) and 1-225(a), G.S.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 11, 2018.



Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

ROBERT WALPUCK, Three K's LLC, 27 Rogues Ridge Road, Weston, CT 06886

CHAIRMAN, ZONING BOARD OF APPEALS, TOWN OF WESTON; ZONING BOARD OF APPEALS, TOWN OF WESTON; AND TOWN OF WESTON, c/o Attorney Patricia C. Sullivan, Cohen and Wolf, P.C., 1115 Broad Street, Bridgeport, CT 06604



Cynthia A. Cannata
Acting Clerk of the Commission