

(C) Substantial justice is done

Since a variance was granted for lot B-10 in 1988 the property has changed hands three times. It was sold to New Spartan Properties LLC in February of 2003, sold again to Quinn Trust, Thomas M. on February 14, 2018 and then sold a third time to Quinn Properties LLC, on February 14, 2018.

When Quinn Properties LLC purchased lot B-10 in 2018 to use the property for a nonconforming use, the town's zoning ordinance restricting the height of structures in the industrial district to 45 feet had been in place for almost 37 years. At the time of purchase, it was possible to search public records and archives on-line to determine that the town had, in fact, put the ordinance in place, including the height restriction, as a means of retaining Wilton's character, insuring safe traffic flow, preventing undesirable industry, protecting Wilton water sources and encouraging desirable industry - not because of the capacity of the town's fire equipment, as asserted in Quinn Property LLC's 6/21/19 application.

When Quinn Properties LLC references the fact that a variance to the height restriction was granted in 1988 as evidence that it would do substantial justice to grant it again, it seems that they are suggesting that if a variance is granted and then abandoned it naturally follows that it should be granted at any future time that a property owner decides it is convenient to have that variance. The possible implications of this assumption are concerning. If that were the case then there would be no reason for unexercised variances to expire. It would also mean that property owners would be wise to proactively seek all sorts of variances for their properties so that at any time in the future, when an owner of that property might want to have that variance on the property, it would simply be a matter of re-applying and reminding the board that it was granted once before.

As to the past and current owners of lot B-10, Quinn Brother's Corp. had over a decade after they abandoned the variance for lot B-10 to petition the

town to amend the zoning ordinance by a vote at a town meeting. New Spartan Properties LLC had over 15 years and Quinn Properties LLC has had over a year to do the same. This course of action was, in fact, suggested to Quinn Brother's Corp. by Thomas Mitchell and Arlene Laurenitis at Wilton's December 28, 1988 ZBA hearing. It is quite possible to have the zoning ordinances amended in Wilton, as evidenced by the fact that since 1981 the town has amended the zoning ordinance that governs the industrial district no less than seven times. It is interesting to note that in each of these instances the town left the height restriction in place, thus re-affirming their commitment to it.

It is neither just nor reasonable to expect the residents of Wilton to grant waivers to their zoning laws each time a property owner decides, after they purchase, that they shouldn't need to to adhere to the zoning restrictions that they knew existed on their property at the time of purchase. It is also not just or reasonable to ask the residents of Wilton to grant variances whenever a property owner decides, after they purchase, that conditions known to them at the time of purchase make it unsuitable for their needs, or make it harder for them to operate a more lucrative business on the property. If this were the case then it would be difficult to enforce *any* of our zoning ordinances. In addition, having a variance that expired almost 30 years ago does not justify the granting of one now and the past three owners of lot B-10 have had ample opportunity to avail themselves of the the process open to everyone to ask the town to amend the town's zoning laws, but they have failed to do so.

For these reasons it is not likely that justice will be served by granting Quinn Properties LLC a variance in this case.