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ROCKLAND MUNICIPAL PLANNING FEDERATION

FALL 2025 CASE LAW UPDATE November 13, 2025

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LAND USE/ZONING

- Subdivision

Denisov v. DeChance, 236 A.D.3d 905 (2d Dep’t Mar. 19, 2025)

The Court upheld the Planning Board’s approval to subdivide a lot that was part of a prior subdivision subject to the restriction that “no lot shall be subdivided or its lot lines changed in any manner at any future date unless authorized by the” Planning Board, finding that this provision required further approval of the Planning Board but not categorical prohibition of future subdivisions. In reaching its conclusion, the Court also cited the evidence in the record, including reports from a certified appraiser and licensed contractor, the SEQRA review, and the conditions the Planning Board placed on the approval.

- Special Use Permit

853-855 McLean, LLC v. City of Yonkers 237 A.D.3d 1189 (2d Dep’t Apr. 30, 2025)

The Court overturned the Planning Board’s denial of a special use permit noting that the denial emphasized community opposition, which is not a basis for denial of a special permit as a special permit use “constitutes a recognition of a use which the ordinance permits under stated conditions” and “[o]nce an applicant shows that the contemplated use is in conformance with the conditions imposed, a special permit or exception must be granted unless there are reasonable grounds for denying it that are supported by substantial evidence.”

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McGinn v. Zoning Board of Appeals of Town of East Hampton, 241 A.D.3d 1340 (2d Dep’t Sept. 10, 2025)

The Court overturned the Zoning Board’s denial of a special permit to construct a deck on waterfront property as lacking a rational basis because the special permit application complied with the Town Code conditions on the use, including considering reasonable alternatives, which the property owner determined were not feasible because in the alternate location the water depth was too shallow at low tide for a boat to maneuver. The Court also recognized that “the burden of proof on the applicant seeking a special use permit is lighter than on an applicant seeking a [use] variance, the former only being required to show compliance with any legislatively imposed conditions on an otherwise permitted use, while the latter must show an undue hardship in complying with the ordinance.”

- **Area Variances**

Hamptons Residence, LLC v. Village of East Hampton, 241 A.D.3d 1467 (2d Dep’t Sept. 17, 2025)

The Court upheld the Zoning Board’s denial of area variances to construct an enclosed gazebo acknowledging the Zoning Board’s “broad discretion in considering variance applications” and that the Zoning Board “is not required to justify its determination with supporting evidence for each of the five statutory factors as long as its determination balancing the relevant considerations is rational.”

Williams v. Town of Lake Luzerne Zoning Board of Appeals, 240 A.D.3d 1134 (3d Dep’t July 31, 2025)

Even though the Zoning Board’s decision “may be disturbed only if it is arbitrary and capricious, irrational or wholly unsupported by the record,” the Court annulled the Zoning Board’s area variance denial and directed the variances be granted to construct a garage that exceeded the permitted height finding the Zoning Board “failed to properly apply the statutory balancing test.” The Court engaged in its own analysis of the area variance factors and found that even though there were feasible alternatives and the hardship was self-created, the garage was not incompatible with the neighborhood, there would be no adverse environmental impacts and the area variance was not substantial. One judge dissented noting that they would defer to the Zoning Board’s “exercise of its discretionary power” in weighing the requisite factors and uphold the denial.

- **Use Variances**

790 Holdings Corp. v. Board of Appeals of Town of Hempstead, 237 A.D.3d 924 (2d Dep’t Apr. 16, 2025)

The Court upheld the Zoning Board’s denial of a use variance to operate a used car salesroom and lot finding that because Petitioner “failed to show, based competent financial evidence, i.e. dollars and cents proof, that they cannot yield a reasonable rate of return absent the requested use variances,” the use variance could not be granted and the Court need not consider whether Petitioner satisfied the remaining use variance criteria that “(2) the hardship resulted from unique characteristics of the property, (3) the proposed use would not alter the character of the neighborhood, and (4) the alleged hardship was not self-created.”

80 Woodland Ave, LLC v. Village of Catskill, 240 A.D.3d 1102 (3d Dep’t July 24, 2025)

The Court upheld the Zoning Board’s denial of a use variance to allow a vacant property previously used as a school to be converted to 43 apartments where the applicant failed to satisfy the third and fourth factors for a use variance as: (i) the applicant could not demonstrate there would not be an adverse impact on the neighborhood where there would be greater traffic impacts than when the school was operational and (ii) the hardship was self-created as when the applicant acquired the building it had been vacant for several years, the applicant was aware of the zoning restrictions and “although the purchase may now be viewed as a poor investment, courts are not responsible for guaranteeing the investments of careless land buyers.” The Court also rejected Petitioner’s argument that he was prejudiced by one member of the Zoning Board not voting on the application where a majority of the entire Board (three members) voted to deny the application, and therefore the other member voting would not have changed the outcome.

Franklin Square Realty Assocs. v. Board of Appeals of the Town of Hempstead, 237 A.D.3d 814 (2d Dep’t Apr. 9, 2025)

The Court upheld the Zoning Board’s denial of a use variance to operate a self-storage facility and parking lot in a residential district finding the Zoning Board had the authority to revisit a 1959 use variance granted for the property and determine the 1959 Zoning Board exceeded its jurisdiction in granting said use variance; and even if it had not exceeded its jurisdiction, the 1959 use variance was limited to a specific nonconforming use and did not rezone the parcel such that a different unpermitted use (the self-storage facility) would be allowed.

Freepoint Solar LLC v. Town of Athens Zoning Board of Appeals, 234 A.D.3d 127 (3d Dep’t Dec. 19, 2024)

The Court overturned the Zoning Board’s denial of a use variance to construct a new solar generation facility as use variances for public utilities, like solar energy, “are subject to the ‘public necessity’ use variance test, which sets a lower burden for establishing the applicant’s right to an approved variance” and requires a showing that “siting a new facility or modification of an existing facility is a public necessity in that it is required to render safe and adequate service, and that there are compelling reasons, economic or otherwise, which make it more feasible to grant a use variance than to use alternative sources of power as may be provided by other facilities and that where the intrusion or burden on the community is minimal, the showing required by the utility should be correspondingly reduced.”

- Interpretation/Legal, Nonconforming Uses

Tiekert v. Board of Appeals of Vill. of Mamaroneck, 236 A.D.3d 803 (2d Dep’t Mar. 12, 2025)

The Court overturned the Zoning Board’s interpretation the property owner was improperly renting out a separate dwelling unit as this was a matter of pure legal statutory interpretation not entitled to deference and a “zoning ordinance must be strictly construed in favor of the property owner and against the municipality which adopted and seeks to enforce it” with any ambiguities having to be resolved in favor of the property owner. Where the zoning code stated a dwelling unit “may not share enclosed spaces” and these dwelling units shared a stairwell, the Court found it was one dwelling unit in accordance with the plain language of the code.

Smith v. Town of Thompson Planning Board, 233 A.D.3d 1107 (3d Dep’t Dec. 5, 2024)

The Court overturned the Planning Board’s site plan and special permit approval of a 560,000 square foot facility where there was a “genuine question” as to whether the facility was a permitted use and as “[p]lanning boards are without power to interpret the local zoning law, as that power is vested exclusively in local code enforcement officials and the zoning board of appeals,” the Planning Board should have referred this matter for a zoning code interpretation before it could consider the land use applications.

- **Zoning/Legislative Acts**

PF Development Group, LLC v. Town of Brunswick, 237 N.Y.S.3d 783 (3d Dep’t June 18, 2025)

The Court found the Town Board’s adoption of a local law putting additional restrictions on the multi-family housing special permit use in a single-family residential zoning district while Petitioner’s multi-family development application was pending was not impermissible reverse spot zoning (zoning one parcel more restrictively than neighboring parcels) because, even though there was an issue of fact as to whether the local law was site specific, there was no dispute the local law was consistent with the Town’s comprehensive plan – both factors of which are necessary for a reverse spot zoning claim. However, the Court determined upholding the validity of the local law was premature as there was alleged long-term bias and impropriety by the Planning Board chair (who lived nearby and ultimately recused himself from the application) and a factual investigation was necessary to determine whether the alleged bias affected the Planning Board’s recommendation to the Town Board on the local law and the Town Board’s adoption of the local law.

- **Code Enforcement**

McWhinney v. Rockland Cider Works, LLC, 233 A.D.3d 667 (2d Dep’t Dec. 4, 2024)

The Court refused to dismiss the litigation commenced by 13 resident taxpayers under Town Law § 268 to prohibit and enjoin the operation of a cider manufacturing and bar service business on neighboring property that allegedly violated the zoning code as the resident taxpayers satisfied the condition precedent of establishing “the Town’s official lassitude or nonfeasance in the enforcement of zoning laws.”

- **Eminent Domain**

JHK Development, LLC v. Town of Salina, 233 A.D.3d 1496 (4th Dep’t Dec. 20, 2024)

The Court upheld the Town’s eminent domain of .5 acre of property to create a new access road in connection with the private redevelopment of a long-vacant factory where this was a legislative act entitled to considerable deference and the Petitioner challenging the taking did not satisfy its burden of establishing the action was “without foundation and baseless” where the access road would serve a public use, benefit or purpose by allowing the redevelopment of the dilapidated factory, alleviate traffic and provide emergency access to the proposed sports facility. The Court further disregarded Petitioner’s argument that the developer was working closely with the Town as “unremarkable” where the Town had an interest in fostering redevelopment for urban renewal purposes. The fact that the land to be taken was already the subject of a drainage easement did not

violate the prior public use doctrine where the construction of the access road would not interfere with the easement's operation and related infrastructure.

THRESHOLD LITIGATION ISSUES

- Notice

Socha v. Town of Starkey, 239 A.D.3d 1298 (4th Dep't June 6, 2025)

The Court upheld the Zoning Board's denial of an area variance in 2022 even though the variance had already been approved in 2021 and a building permit issued based upon that approval where the 2021 variance application was not properly noticed as (i) the applicant did not include the property address or location and misstated the tax identification number and (ii) the Zoning Board mailed the notices to properties within 1,000 feet of the applicant's mailing address, which was different than the property sought to be developed. Once the application was properly noticed and reheard in 2022, there were numerous concerns raised by neighboring property owners regarding access and drainage, which the Court found justified the Zoning Board's denial. The Court also rejected that Petitioner had vested rights in the building permit issued based upon the 2021 variance because "failure to properly notice nearby property owners deprived the ZBA of jurisdiction to act and rendered the 2021 variance and subsequent building permit void ab initio."

- General Municipal Law § 239-m Referrals

Cardella v. Zoning Board of Appeals of Town of Ramapo, 235 A.D.3d 974 (2d Dep't Feb. 26, 2025)

The Court rejected Petitioner's challenge of the Zoning Board granting certain area variances for failure to comply with the GML § 239-m referral requirements, finding that the record showed the Zoning Board responded to each comment provided by the Rockland County Planning Department and Petitioner failed to establish any of the responses were insufficient.

Johnson v. Zoning Board of Appeals of Village of Brockport, 240 A.D.3d 1243 (4th Dep't July 25, 2025)

The Court held the Zoning Board's variance grant was invalid because the application was not first referred to the County Planning Agency pursuant to GML § 239-m. While the County Planning Agency can enter into agreements with municipalities such that certain actions are determined to be of local concern and are not subject to referral, and in this instance there was such an agreement, the actions identified as not being subject to referral did not cover the variance application before the Zoning Board. Failure to refer the application to the County Planning Agency was a jurisdictional defect and therefore the 30-day statute of limitations to challenge the Zoning Board's approval never started to run. The Court rejected the argument that the application was for a use variance (which would have been covered by the agreement) instead of an area variance where the applicant referred to it as an area variance application and the Zoning Board considered the area variance criteria in approving the application.

- **Statute of Limitations**

Coden v. Town of Huntington, 235 A.D.3d 744 (2d Dep’t Feb. 13, 2025)

The Court rejected a neighboring property owner’s challenge in 2020 to variances and a special permit granted in 2013 on the grounds that the proceeding must have been commenced “within thirty days after the filing of a decision of the board in the office of the town clerk.” The Court further rejected the neighbor’s attempt to circumvent the statute of limitations by claiming the Zoning Board’s action was jurisdictionally defective such that it is “ultra vires” and thus “not subject to the 30-day limitations period applicable to review of the site plan, special permit, or other land use determination.” Although the neighbor also brought a declaratory judgment claim subject to a six-year statute of limitations, the Court explained that because the relief sought was in the nature of the Article 78 proceeding challenging the 2013 approval, the 30-day statute of limitations still applied.

Camarda v. Ubert, 238 A.D.3d 1030 (2d Dep’t May 21, 2025)

The Court held Petitioner’s challenge of the Zoning Board’s denial of certain area variances was not barred by the statute of limitations. Petitioner had obtained variances to replace an existing garage at an increased height and larger floor area in April 2021, which approval was conditioned upon Petitioner complying with the plans presented to the Zoning Board. In November 2021, after receiving a violation for exceeding the scope of the approved plans, Petitioner appealed to the Zoning Board and was denied in January 2022. The Court found that because Petitioner was presenting new plans, the statute of limitations commenced with the January 2022 denial, not the April 2021 conditional approval. The Court did not opine on the substance of the appeal and remanded the matter to the lower court for further review.

-**Ripeness**

10 Street NY, LLC v. New York City Department of Buildings, 239 A.D.3d 637 (2d Dep’t June 4, 2025)

The Court held Petitioner’s claims were not ripe for judicial review where the Department of Buildings advised they would issue a stop work order in 15 days if Petitioner did not provide sufficient information to establish the approval and permits should not be revoked, but instead of providing the information or making an application for the required special permit, which could have prevented or significantly ameliorated Petitioner’s alleged harm, Petitioner went straight to Court. Because there was no final determination by the administrative agency and Petitioner failed to exhaust its administrative remedies, Petitioner’s claims were not ripe. The Court found the exceptions to the exhaustion doctrine did not apply because seeking administrative remedies would not be futile or cause irreparable injury; and although Petitioner did claim constitutional violations, those are factual claims that must be based upon the administrative record, which did not exist here because Petitioner did not make an application.

- **Mootness**

Katz v. Town of Hempstead, 235 A.D.3d 639 (2d Dep’t Feb. 5, 2025)

The Court held Petitioner’s challenge to area variances granted by the Zoning Board to permit a neighboring property to construct a new residence was moot, which is where “a change in circumstances prevents a court from rendering a decision that would effectively determine an actual controversy,” as the work had been completed. The Court looked at the applicable factors, including, whether (i) Petitioner had sought injunctive relief, (ii) the work was undertaken without authority or in bad faith, (iii) the work was substantially complete and (iv) the work could be undone without undue hardship. Even though the Petitioner had sought injunctive relief before the trial court, when that motion was denied Petitioner did not seek intervention from the appellate court to maintain the status quo. Therefore, the challenge was moot.

- **Necessary Parties**

Supinsky v. Town of Huntington, 234 A.D.3d 855 (2d Dep’t Jan. 22, 2025)

The Court held the Petitioner’s challenge to the Zoning Board granting area variances to construct an assisted living facility should not have been dismissed even though (i) Petitioner failed to name the owners of the assisted living facility – who were necessary parties – and (ii) the statute of limitations had expired, because “[w]hen a necessary party has not been made a party and is subject to the jurisdiction of the court, the proper remedy is not dismissal of the complaint or the petition, but rather for the court to direct that the necessary party be summoned.”

- **Standing**

Kopland v. Town of Highlands, 241 A.D.3d 1567 (2d Dep’t Sept. 24, 2025)

The Court held that Petitioner did not have standing to challenge the Town’s contract with Orange & Rockland Utilities to purchase 167 street light fixtures to upgrade existing street lights for failure to comply with SEQRA because Petitioner could not demonstrate “(1) an environmental injury that is in some way different from that of the public at large, and (2) that the alleged injury falls within the zone of interests sought to be protected or promoted by SEQRA.” The Court found Petitioner’s claim that the lights are bright and she often walks at night was not an adverse effect different from the general public; Petitioner did not provide proof of her alleged electromagnetic sensitivity; and the alleged environmentally-related injuries were too speculative and conjectural to demonstrate actual and specific injury-in-fact.

Fruehauf v. Chateau Homeowners for a Clean Environment, Inc., 240 A.D.3d 1420 (4th Dep’t July 25, 2025)

The Court held Petitioners had standing to challenge the redevelopment of two parcels because Petitioners were “adjacent property owners concerned over increased traffic and noise, the safety of the neighborhood residents, and whether the new development is compatible with a residential neighborhood, and that their concerns fall squarely within the zone of interests to be protected by” SEQRA. The Court held to the extent Petitioners were challenging whether the existing structures should be preserved, that issue was moot because they had already been demolished. The Court held the Planning Board was not required to re-refer an application to the County Planning

Department after changes were made to the project “as the particulars of the amendment were embraced within the original referral.” Petitioners could not raise a violation of the Town’s Historic Preservation Law before the Court because they did not raise it at the municipal level and therefore failed to exhaust their administrative remedies.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)

Vojta v. Town Board of Town of Huntington, 2025 WL 2845443 (2d Dep’t Oct. 8, 2025)

The Court upheld the Town Board’s negative declaration determining not to require the preparation of an environmental impact statement where the Town Board complied with SEQRA’s procedural requirements and substantive requirements. The Court rejected Petitioner’s procedural arguments that the Town Board was required to hold more than one public hearing and that the Town Board was precluded from accepting supplemental information before taking action. The Court rejected Petitioner’s substantive arguments as the Town Board adopted a resolution setting forth a “reasoned elaboration” for its decision and the Court disagreed with Petitioner that the Town Board was required to investigate every conceivable environmental problem, stating the Town Board may, “within reasonable limits, use its discretion in selecting which ones are relevant.”

Clean Air Action Network of Glen Falls, Inc. v. Town of Moreau Planning Board, 235 A.D.3d 1124 (3d Dep’t Feb. 20, 2025)

The Court overturned the Planning Board’s negative declaration with respect to the proposed development of a biosolids remediation and fertilizing processing facility. Even though the project was determined to be an Unlisted action (instead of a Type I action), once the Board determined that the 96,232 tons of carbon dioxide and 12.7 tons of designated hazardous air pollutants anticipated to be generated by the facility had the potential to have a moderate to large impact on the air quality, the Board should have issued a positive declaration mandating an environmental impact statement be prepared because the Planning Board did not take a hard look at the potential air impacts. The Court found the record was devoid of evidence that the impacts on air were “thoroughly analyzed” prior to issuing the negative declaration and while the Planning Board could rely upon the Department of Environmental Conservation’s standards in its analysis, the Planning Board could not rely solely on the fact that DEC permitting would be required to determine there would not be any adverse impacts.

Caci v. Board of Education of Cornwall Central School District, 241 A.D.3d 820 (2d Dep’t Aug. 20, 2025)

The Court held that Petitioners could not challenge the School Board’s March 14, 2022 negative declaration related to the construction of a sports field because Petitioners did not initiate the litigation within four months of the negative declaration being issued as required by CPLR 217 (as this is a school district and not a land use board, the 30-day statute of limitations did not apply). Instead, Petitioners brought the claim on July 21, 2023 – within four months of the May 22, 2023 approval resolutions – but the Court found that insufficient because “the Board’s negative declaration constitutes the final determination in this case for purposes of CPLR 217” because “the negative declaration concerned, among other things, the construction of the sports field,” “the

Board did extensive research into the artificial turfs and ... the toxicology and overall safety of the materials were discussed.”

Haunted Forest LLC v. Town of Wilson, 240 A.D.3d 1340 (4th Dep’t July 25, 2025)

The Court held that the applicant’s challenge to the Town’s issuance of a positive declaration requiring the preparation of an environmental impact statement was not ripe for review because it is not a final determination and “[t]o permit judicial review under the circumstances of this case would have the inevitable result of rendering every positive declaration ripe for review merely because the preparation of a DEIS by its nature carries financial costs that generally cannot be recouped, regardless of the outcome of the SEQRA process and the ultimate determination on...” the land use applications.

WIRELESS TELECOMMUNICATIONS

New Cingular Wireless PCS, LLC v. Incorporated Village of Muttontown, 2025 WL 2467044 (E.D.N.Y. Aug. 27, 2025)

The Court granted New Cingular’s motion to amend its pleading challenging the Zoning Board’s denial of variances for the proposed construction of a new cell service tower finding that New Cingular adequately pled causes of action under the federal Telecommunications Act (“TCA”) for (i) prohibition of services and (ii) lack of substantial evidence. The Court found New Cingular’s prohibition of services claim was sufficient as it alleged specific facts that “a significant gap exists in wireless coverage and that its proposed facility is the least intrusive means to close the gap.” The amended complaint alleged there was a 2.7 mile stretch of road where New Cingular cannot provide reliable coverage and also demonstrated that it considered numerous alternatives that would not be less intrusive. For the substantial evidence claim, the Court found New Cingular sufficiently pled that there was a gap in service and the proposed tower was “more feasible” than other options (a less stringent standard than the “least intrusive” standard for prohibition of services claims). “Substantial evidence” is considered “less than a preponderance, but more than a scintilla of evidence.” While the substantial evidence claim is based upon what was reviewed by the Zoning Board in making its determination (like in an Article 78 proceeding), a prohibition on services claim explores whether the municipality exceeded its limited authority under the TCA (state and local regulations are limited to the “placement, construction and modification of personal wireless service facilities”) and, therefore, in a prohibition of services claim the Court can review evidence outside the municipal record and make its own decision without consideration of the Zoning Board’s determination.

Weis Towers LLC v. Kootenai County, Idaho, 2025 WL 2549838 (D. Idaho Sept. 4, 2025)

The Court held the County’s denial of Weis’ special permit application to construct a telecommunications tower was not supported by substantial evidence in the record based upon the County’s Land Use and Development Code. There was significant general public opposition to the project, which the County acknowledged was insufficient to justify denial. As for the justifications the County did present to the Court, the Court found they did not constitute substantial evidence for a denial: (i) speculative impacts on rural way of life and “nimbyism” (not in my backyard); (ii) aesthetic concerns with cell towers generally and not this specific tower

where Weis conducted a “balloon test” to show the height of the tower that demonstrated the tower would be screened and hardly visible due to tree cover; (iii) fire risk as the county Fire and Rescue District reviewed and approved the application; and (iv) decreased property values where the TCA precludes denying a wireless tower “because of direct or indirect concerns about the health effect of radio frequency emissions” and there was no applicable, relevant and non-speculative data provided to justify that proximity to this cell tower would result in decreased property values. The Court also found the County’s denial constituted a prohibition on services where (i) Weis presented expert and documentary evidence that there was a 12-mile gap in its coverage and (ii) Weis demonstrated this was the least intrusive means of covering the gap by conducting “a meaningful comparison of alternative sites to identify the best solution for the community” – which requires the site be “feasible,” meaning available for use, physically accessible, served by necessary utilities, and not unreasonably costly to construct upon – and the County did not identify any other feasible alternatives. The Court concluded by issuing injunctive relief ordering the County to issue the necessary permits in an expedited fashion – as opposed to sending the application back to the County for further consideration.

RELIGIOUS USES

Sumana Forest Retreat v. County of San Diego, 2025 WL 126696, Case No. 24-cv-1196 (S.D.Ca. May 5, 2025)

The Court dismissed Plaintiff’s substantial burden and equal terms claims pursuant to the Religious Land Use and Institutionalized Persons Act (“RLUIPA”) where Plaintiff had commenced operating a Buddhist meditation retreat and installed ten yurts for the retreatants – without obtaining the required permits and approvals. The Court rejected Plaintiff’s claim that the County’s enforcement of the building and fire codes as it related to the yurts violated RLUIPA as Plaintiff could not demonstrate that building and fire codes were “land use regulations...that limits or restricts a claimant’s use or development of land;” and in doing so distinguished the Second Circuit decision in *Fortress Bible Church v. Feiner*, 694 F.3d 208, which address the application of SEQRA in the context of RLUIPA. The Court further held Plaintiff’s claims related to the County’s requirement to obtain a permit for the meditation retreat use were not ripe because as Plaintiff had not finished the permitting process, there was no finality in the outcome or lack of possibility of another outcome; and in doing so the Court addressed the U.S. Supreme Court decision in *Pakdel v. City & Cty. of San Francisco*, 594 U.S. 474 (2021).

Miller v. City of Burien, 2025 WL 371874, Case No. 2:24-cv-1301 (W.D. Wa. Feb. 3, 2025)

The Court denied Plaintiff’s RLUIPA claim alleging that the City requiring an existing Methodist Church to obtain a temporary use permit to operate an encampment for 100 unhoused individuals in its parking lot for three months was a substantial burden on its religious exercise. The City did not challenge the encampment was a religious use and the record demonstrated that the City was willing to accommodate the Church in processing the application, including waiving the permit fees, and it was a relatively simple process of completing a two-page application. However, Plaintiff refused to make the application arguing that just having to make the permit application was a substantial burden on its religious exercise. The Court rejected this and cited to other cases, including *Westchester Day School v. Vill of Mamaroneck*, 417 F. Supp. 2d 477 (S.D.N.Y. 2006), to support that “requiring a church to comply with land-use regulations, in of itself, does not run

afoul of RLUIPA.” The Court did acknowledge the decision may be different if the Church had applied for the permit and been denied, but that was not the case here.

Be the Bush Recovery Ministries v. Coffee County, Tennessee, 2025 WL 2806783, 24-5538 (6th Cir. Oct. 2, 2025)

The Court found that the County’s zoning ordinance did not constitute a substantial burden on Be the Bush’s (“BTB’s”) proposed faith-based residential rehabilitation facility by considering whether (i) the burden is more than a mere inconvenience, (ii) the organization has been prevented from carrying out its core religious functions, (iii) there is a suitable and readily available alternative property and (iv) the organization suffered from a substantial delay, uncertainty, or expense in waiting for the zoning. While BTB was currently operating its rehabilitation facility out of three locations and wanted to consolidate into one location, that was a “mere inconvenience”, not a substantial burden on carrying out its core religious mission. While the new property would have allowed BTB to increase the number of occupants from 18 to 30, and the Court acknowledges inability to expand could be a substantial burden, the evidence showed BTB was not even at the current 18-bed capacity. While BTB preferred to be in a residential district (away from gas stations and liquor stores that sold goods counterproductive to its rehabilitation mission), BTB still had a success rate of 95% and 3.5 years without a failed drug test. BTB was able to purchase a property four miles away, but in a different county, which the Court found to be a matter of preference as donors and community ties were in Coffee County, rather than a religious need. Lastly, even though the zoning amendment process was lengthy (and BTB presented several different proposals), it never had to suspend operations and was able to find an alternate location. The Court acknowledged BTB’s preferred parcel would have been easier for BTB to operate, but that is mere inconvenience, not a substantial burden on religious exercise.