

5/25/23, 8:23 AM

Gaggle - Print Message

From: Giacomo Landi <giacomoplandi@gmail.com>
To: Police.Commission@newcanaanct.gov "DiFederico John" <john.diFederico@newcanaanct.gov>
Date: Sun 30 Apr 2023 07:59:35 PM -0400
Cc: BoSDistribution <BoSDistribution@newcanaanct.gov> TCDistribution <tcdistribution@newcanaanct.gov> "Rep. Denning Keith" <Keith.Denning@cga.ct.gov> "Sen. Fazio Ryan" <Ryan.Fazio@cga.ct.gov> zRepresentative Tom ODea <Tom.ODea@housegop.ct.gov> "Rep. Dathan Lucy" <Lucy.Dathan@cga.ct.gov> "Sen. Maher Ceci" <Ceci.Maher@cga.ct.gov> Board of Finance <BoFDistribution@newcanaanct.gov> conndcj@ct.gov "Carey Sarah" <Sarah.Carey@newcanaanct.gov>
Subject: Issues related to 313 Elm Street New Canaan CT associated with the easement related to the proposed redevelopment of 751 Weed Street

📎 April 25, 2023 - issues related to 313 Elm Street easement .pdf ((225 kb))

CAUTION: EXTERNAL EMAIL: This Email Originated from Outside of the Organization. DO NOT Click Links or Open Attachments unless you recognize the sender and know the content is safe.

Kindly find this attached document. We send this with such speed as we are genuinely concerned that unauthorized construction may begin imminently on our property.

We look forward to your assistant with regards to this matter and our request.

Thank you,

Giacomo Landi
313 Elm Street New Canaan CT

To: New Canaan Police Commission and New Canaan Chief of Police

Cc: New Canaan Board of Selectman, New Canaan Town Council, New Canaan Board of Finance, New Canaan Planning and Zoning Department, State elected officials covering New Canaan and Connecticut State's Attorney for the Judicial District of Stamford and Norwalk

Re: Potential trespassing and other issues at 313 Elm Street in New Canaan as it relates to the proposed rezoning and redevelopment of 751 Weed Street in New Canaan

As follow up to my email dated April 25, 2023 at 4:49pm, and prior to receipt of NCPD Report Case #23-4646 requested via FOIA on April 26, 2023. We are submitting this via email at this time as we believe that the situation may escalate with unauthorized construction or similar activities commencing on our property imminently.

A summary of the request based on the material below:

- 1) We request removal of the land survey markings placed on the 313 Elm Street property on April 25, 2023.
- 2) We request an investigation of the full circumstances and any relationships associated with the possible dispatching of an off-duty New Canaan Police Officer in conjunction with land survey activity undertaken on the property of 313 Elm Street at the apparent request of the owner/developer of 751 Weed Street in New Canaan on April 25, 2023. If after the investigation, trespassing or other infractions are deemed to have occurred, these should be addressed as appropriate.

Background: My wife and I own 313 Elm Street, which is a residential property, and is identified on town records as lot #946 and is reflected within the town GIS data <https://hosting.tighebond.com/NewCanaanCT/#/%23info-address>. This property has been surveyed by Mr. Lawrence R. Rizzo a State of Connecticut licensed #12060 (now retired) land surveyor. According to the survey map we have a copy of, this map has been filed with the New Canaan Town Clerk with map number 6892 and 6970.

My wife and I purchased our property on November 7, 2017. A title search was done in conjunction with the purchase and title insurance was also obtained at that time. Surveys since we moved here have also been conducted by our neighbors at 339 Elm Street (most recently last Fall), and 751 Weed Street (most recently on April 25, 2023 and is part of this issue). Both surveyed and marked perimeters of their properties (i.e. the North side of 339 Elm Street and the East side of 751 Weed Street) identified correlate with the surveyed maps identified above, town GIS data, our taxes paid to the Town of New Canaan, and our purchase agreement i.e. title search. In short, all parties perimeter property survey data (313 Elm, 339 Elm and 751 Weed Street) are generally in agreement and not subject to dispute. The survey map data for 313 Elm Street reflects a private easement related to 751 Weed Street on the south side of the property, as well as running south to Elm Street. This South-facing easement is approximately 20' wide and approximately 243' long and is set approximately 10' feet from our identified building setback

line on the south side of the 313 Elm Street property. The easement moving South to Elm Street is approximately 27' feet wide and runs approximately 158' long.

The reason I provide the detail above is because the New Canaan Police officer who questioned me on my front lawn on April 25th at approximately 11:10am for 10-15 minutes asked me to provide survey data to prove property lines as well as provide personal identification. I provided my Connecticut driver's license which he had in his possession for 5-10 minutes.

Events Prior to April 25, 2023: As is generally known by visitors and residents in New Canaan, the proposed redevelopment of 751 Weed Street is subject to considerable dispute. Access to New Canaan town water and sewer via an extension of the New Canaan Town sewer and water system to 751 Weed Street along Elm Street was denied by the New Canaan Water Pollution Control Board, and that Board, and as such the Town of New Canaan, have been sued by the developer of 751 Weed Street and that case has gone to court. In an apparent effort to obtain access via alternate means to the Town of New Canaan water and sewer system for the 102 units proposed at 751 Weed Street, the owner/developer of 751 Weed Street appears to be endeavoring to utilize a private easement traversing 313 Elm Street. This is all well publicized public information (see New Canaan Water Pollution Control Board and New Canaan Planning and Zoning Commission minutes / material). This use of a private easement for this purpose has not been agreed to by 313 Elm Street.

Reference my email on April 4, 2023 to the Police Commission and various relevant New Canaan Government parties we had an unidentified, unannounced adult male without permission to be on our lawn and in between trees at approximately 1:50pm that day. I would note for the record we have 10 children (between the age of approximately 2 and 16) that live in the 4 houses abutting 751 Weed Street. Of those children, 4 attend Elementary School at West and 1 attends Middle School at Saxe, and these children get off the bus after school and walk to their homes passing the area this unannounced and lacking permission person was moving around in.

That individual immediately left when I asked what he was doing there (he indicated he was from a construction company) and drove to 751 Weed Street entering via the Weed Street driveway to that property. (I know that because I saw him drive there as I was behind him on my way to pick up my 5-year-old son at the West School PreK 2pm dismissal).

Events of April 25, 2023: As has been previously noted – see my email to the New Canaan Police Commission and various other New Canaan parties at 9:35am April 25th - we noticed out our home kitchen window that 5 individuals and 1 police officer were unannounced on our property apparently entering over the lawn originating at 751 Weed Street. According to our neighbor at 339 Elm Street, who talked with the police officer accompanying the group (2 people from the owner/developer and 3 from a survey company plus the New Canaan police officer), the police officer indicated that this was authorized access. This group proceeded to survey the property and leave survey markers in the ground, tag trees, and generally walk around as they saw fit. I did not engage with the group on my land as I had presumed that the police officer in full New Canaan Police officer uniform including firearms was working on behalf of the town. I was not

aware at that time that the Police Officer may have been engaged in off-duty work paid for by that private group.

At approximately 11:10 am, I walked out my front door as I noticed that the group of people was now also leaving stakes in our front lawn approximately 18 – 24 inches high where my three boys, their friends, our family, my wife and I play / use a lawn like all other families who have 3 boys aged 9, 7 and 5 do. My question to the survey person who was placing stakes in the ground was who was assuming liability (and as such who owned) the stakes when somebody gets hurt by falling on these stakes. He had no answer for me and said he would talk with the accompanying police officer. At approximately that same time a second New Canaan Police Officer (a Sergeant) came over to me (followed shortly by the original New Canaan Police Officer accompanying the original group of 5) and started a discussion including asking for my identification and names of our lawyers.

The Police Officer(s) and I had a discussion about the stakes and that no permission was granted (and continued to not be granted) for any of these people to be on the property. The officer made some comments about locations where kids normally play, i.e. what would be an appropriate place to play baseball. (I am not sure how that is relevant to the issue at hand – if my kids want to play whatever they want to play or do on our property we encourage that and we are not aware this is a matter of Police or government purview). The Police Officer asked multiple times if I wanted to talk with the owner/developer of 751 Weed Street (the owner/developer was always referred to by the officer with the prefix of Mr.), and I was also asked multiple times if I knew who the owner/developer was who was on our property at that time. I declined this offer multiple times, as I highlighted to the officer this issue is to subject to significant legal dispute. The officer also asked me if I would have given permission for the party to be on my property if they had called the night before. I was so surprised by the line of questioning, as I am not sure how this is a relevant to the issue, but I believe that I reiterated that people were on my property without permission. The officer asked for survey maps from me. I said we had them in the house. He asked when I got the property surveyed (I am not accustomed to needing to have this information on-hand at all times). Ironically, as 3 of the people on our property at that time were from a survey company, the precise location of where people were and how that relates to property lines should never had been in much doubt.

Both New Canaan Police Officers appeared to be wearing body cameras so what took place should all be on those cameras and related film / data and be subject to limited or no dispute. No activity by the non-authorized people on our property stopped during my discussions with the New Canaan Police Officers at the scene. Through these actions it was clear to me that the New Canaan Police Officers were not going to have these unauthorized people leave our property and I went inside my home. I expect the unauthorized people left our property around 12:30pm.

The Sergeant (i.e. second New Canaan Police Officer at the scene) called my cell phone at approximately 12:30pm to advise that New Canaan Planning and Zoning had authorized access at any time for maintenance or replacement of the line. I followed up by email with New Canaan Planning and Zoning department at 12:46pm (with a copy to the New Canaan Board of

Selectman). The reply I received did not corroborate the information that I had just received from the Police Officer, and further indicated that the Police should have told me that I have a right to ask people leave my property (this they did not indicate that I can remember). I understand further discussion took place between the Chief of Police, Town Attorney, and New Canaan Planning and Zoning – I am not aware of the outcome of this.

At approximately 2:30pm that same day, the owner/developer of 751 Weed Street drove up the shared driveway for 313, 315 and 317 Elm Street, got out, spraypainted the driveway in three spots, got back in the car he was driving and left. I sent pictures of the event to the Police Commission and various New Canaan parties that afternoon. After going over to take pictures of what was spraypainted, I noticed that 2 metal spikes were now in our recently repaved driveway. I am not sure if this was done by the survey team or the owner/developer of 751 Weed Street – the New Canaan Police Department can easily clear that up by asking those parties.

How did it come that a New Canaan Police Officer accompanied a survey team and the owner/developer of 751 Weed Street onto our property on April 25th – a property which is generally known as an area of significant litigation and legal issues within town? The best that I can piece together is it appears like this police officer was hired as an off-duty police officer. The New Canaan Police Department appears to have a procedure for this <http://newcanaanpolice.org/request-for-extra-duty-police-officer/>. The scope of off-duty work according to this link appears to be related to having an officer “assist in the traffic control and security for an event or affair.” This line of work does not appear to cover what in fact was taking place on the morning of April 25th, and I understand that the officer dispatched had expected to do traffic work that morning. I understand when the officer arrived for availability that morning, he was assigned this task. I am not aware of the details, but this would be easy to clear up by asking the officer who performed the off-duty work, the officer who assigned the work, and the officer who runs that program the circumstances regarding this work.

On further investigation (and feedback from multiple credible neighbors) it appears like the officer who runs this off-duty police work program is the New Canaan Police Officer who resided at the 751 Weed Street residence at some point(s) recently (meaning over the last 12 month). It has not been possible for me to verify this through normal internet searches, and as such it is unclear if that is in fact the case or what is the nature of any contractual rental/residing relationship between that police officer and the owner/developer of 751 Weed Street. If a close or economic relationship exists between the owner/developer of 751 Weed Street and the officer running the off-duty program is beyond a normal landlord tenant contractual relationship, that is of course a concern with regards to assignment of such apparently abnormal (i.e. the definition of off-duty work in the policy) off-duty work on this contested issue (i.e. the proposed redevelopment of 751 Weed Street).

Further, we have just this week (and subsequent to the events of April 25th) been provided the Superior Court Citation of 751 Weed Street v. New Canaan Planning and Zoning Commission dated April 18, 2023 where point 68 reflects that a “New Canaan Police Lieutenant testified that there are, under present existing conditions, “no known safety issues” at the intersection of Elm

and Weed". It is unclear from searches of town documents of the 751 Weed Street case which of the 4 New Canaan Police Lieutenants (one of the 4 New Canaan Police Lieutenants runs the off-duty officer program) made that statement, the context and where that statement is located (i.e. time place on video or written material submitted).

It should be noted that the now Chief of Police in New Canaan testified regarding this issue on July 13, 2022 to the New Canaan Planning and Zoning Commission <https://newcanaantownct.documents-on-demand.com/?l=36ae5b8c8979e911a2cd000c29a59557&r=4346F9E1188D267593A70400E4CE49B9&d=b61589548f12ed11a386000c29a59557> and his testimony is similar to all other residents in that area and does not back up a statement cited in point 68 of the lawsuit against the Town of New Canaan of "no known safety issues" at that intersection. I would also note within the last 45 days there appears to have been a traffic accident of some material nature which the New Canaan Police Department Responded (on Elm Street) very close to the Elm Street driveway of 751 Weed Street. A police report should exist and have the details for that. This is in addition to a not infrequent issue of traffic not stopping for stopped school busses on Elm Street. This has also been reported to the New Canaan Board of Education. The reason this is important is traffic is a particular highlighted issue associated with 8-30g applications, and the proposed development at 751 Weed Street is a 8-30g case.

I would like to specifically site and appreciate the email from the New Canaan Police Chief on April 26th where it was indicated that "Going forward, no officer will be working extra duty assignments at 751 Weed or surrounding properties unless it is directly related to traffic control or some other specific safety need which will be determined by PD command staff."

Rights to the easement: There appears to be a misunderstanding by the owner/developer of 751 Weed Street, and perhaps others, with regards to access rights to the 313 Elm Street property in conjunction with the private easement. While the easement has not yet entered litigation (and it very likely soon will) the easement terms indicate access associated with "use, maintenance, repair or replacement." At no time has the developer of 751 Weed Street indicated that the existing piping has any problems with its existing use, needs to be maintained for its existing use, needs repair for its existing use, or needs to be replaced for its existing use. Since that need has not been demonstrated to the owner of the property seeking to be traversed and disturbed and constructed on, or to the town of New Canaan with regards to piping problems, there is no need to do any work (survey or otherwise).

A voluntary decision by a developer or property owner to enter a neighbor's property to perform unnecessary work to perhaps facilitate the construction of a multi-family structure, that has not been approved by any municipal or state authority, perhaps because the existing piping is not large enough to handle the proposed flow, would not appear to justify trespassing on the property. We would also expect that it is not appropriate to construct on a property or allow a property to deteriorate to the point of collapse, and cause damage to infrastructure (such as underground piping) with the intention or perhaps subsequent benefit expanding infrastructure

to cater to a possible new enlarged unapproved development. As there is no documented issue with the existing piping it should be left alone and undisturbed.

Survey Marks need to be removed: As this was an unauthorized entry essentially allowed by the New Canaan Police due to both the accompaniment in the initial group entry to the property and not having the group leave when informed by me as the homeowner for lack of permission, we seek the assistance from the New Canaan Police Department in obtaining the removal of the survey markers that were put down (and remain), which have become a safety hazard to our children and other visitors to our property, as well as inhibit the quiet enjoyment of our property. In addition, trees were marked with red danger tape and these markers as they are in some manner creating a liability by claiming danger when in fact, I believe they have been marked actually for felling by the owner/developer of 751 Weed Street to gain access to the subterranean piping. I was advised that we could be subject to a fine of \$475 or more plus other penalties for removing such stakes / markings – it is unclear how that can be applied if the stakes and taping we not put down in a legal manner. To ensure we are on the right side of the law we are not touching these stakes and have informed our lawn crew and children of the same and will keep our visitors away from them.

We believe that the developer of 751 Weed Street may be intending to start digging on our property imminently: We understand that a call may have been placed into a state agency about digging within the easement territory. The program could be <https://portal.ct.gov/PURA/Gas-Pipeline-Safety/Call-Before-You-Dig/CBYD> and if a call has in fact been placed into that program, or similar, that can easily be confirmed by the New Canaan Police by talking with state agencies who receive such requests and New Canaan Town bodies (Public Works) who would be informed about such requests. Due to this possible imminent activity, we bring the issues associated with this forward in a more rapid manner than what normally might be the case.

Retaliation: I bring this information to you in good faith and if anything I said is incorrect I am more than willing to address those issues, and if needed to correct any statements made. As much, if not all, of what is being discussed took place with body cameras present and surveyors on-site the facts of the case should be pretty easy to establish, and I am asking the Police Department to determine those facts. (As is known by the New Canaan Police Department, a senior elected Town Official witnessed much of what I have discussed above). It is also very easy to ask the people involved about the other issues raised and we expect that this will be done as part of a full and complete investigation about what transpired.

I recognize that due to the serious economic and job-related interested associated, as well as a prominence of the parties involved, that I could run the risk of retaliation. I will note that my neighbor advised me that on Wednesday morning, April 26th at approximately 10:22am a New Canaan Police vehicle did a slow drive down the shared driveway of 313, 315, and 317 Elm and turned into our home driveway. We rarely have Police on our private driveway so perhaps it is a coincidence, perhaps an investigation of the activities of the day before, or perhaps something else.

I have purposefully kept names out of this document as everyone is afforded presumption of innocence in America, and nobody should have a reputation besmirched. That being said, I or my family - including my 3 children - should not be subject to any form of retaliation or intimidation by bringing forward this information or merely living in our home. Protection from retaliation appears to be well established in various whistleblower statutes in Connecticut and in the Town of New Canaan. As I am not a lawyer, I am not aware if this document is covered by the specific whistleblower statutes – irrespective I do not want to see what may be generally understood as retaliatory behavior against me or my family.

Thank you for your service,

Giacomo Landi
313 Elm Street