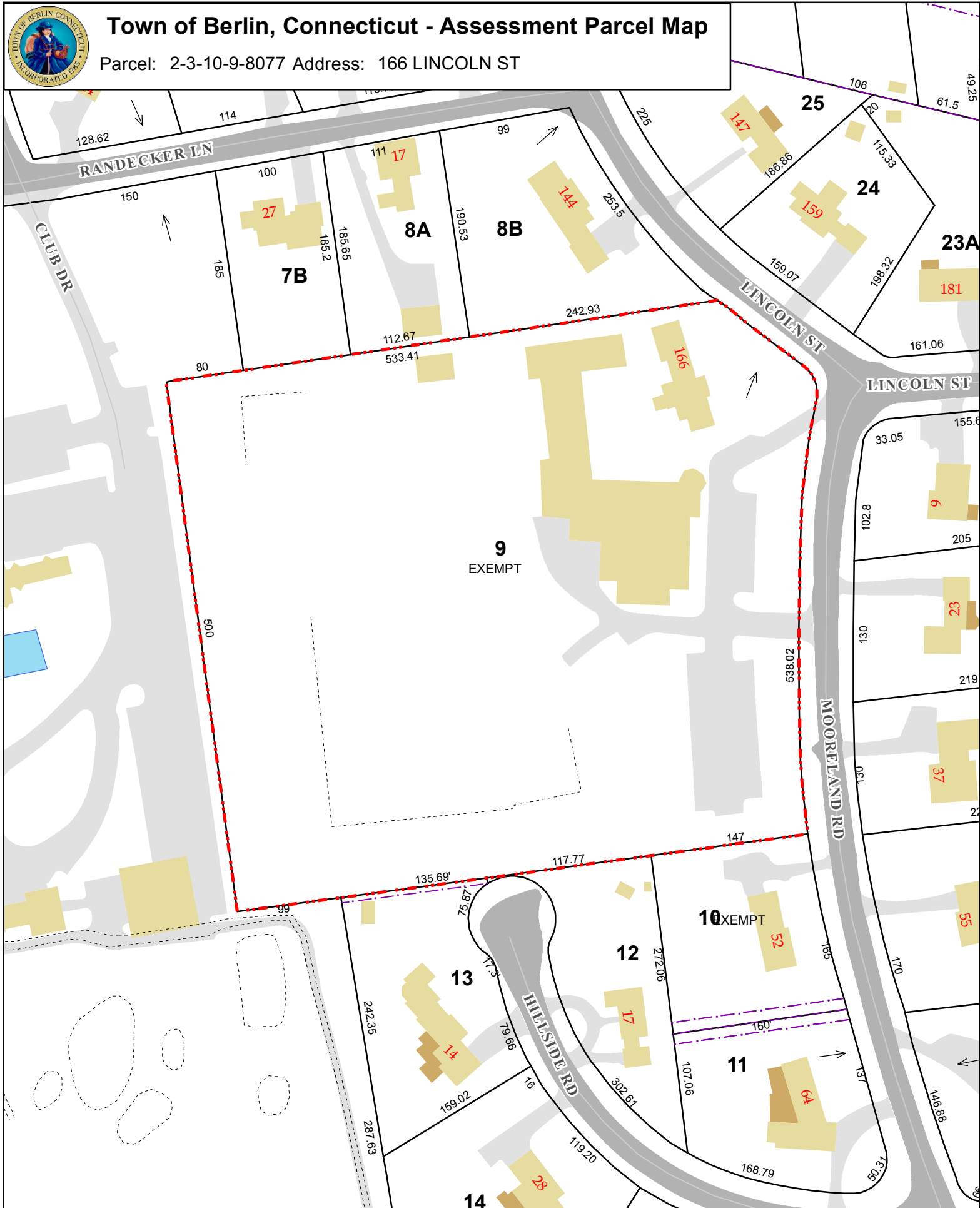


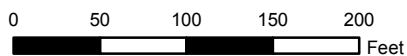


# Town of Berlin, Connecticut - Assessment Parcel Map

Parcel: 2-3-10-9-8077 Address: 166 LINCOLN ST



Approximate Scale: 1 inch = 111 feet



Map Produced: January 2021

Disclaimer: This map is for informational purposes only. All information is subject to verification by any user. The Town of Berlin and its mapping contractors assume no legal responsibility for the information contained herein.

January 27, 2021

VIA FEDEX

Ms. Maureen Giusti  
Planning and Zoning Department  
Town of Berlin  
240 Kensington Road  
Berlin, CT 06037

**Town of Berlin  
Received**

**JAN 28 2021**

Planning & Zoning Department  
Berlin, Connecticut

Re: Certificate of Zoning Compliance – 166 Lincoln Street, Kensington, Connecticut  
(the “Property”)

Dear Ms. Giusti:

Following up on our prior discussion, enclosed is an application for a Certificate of Zoning Compliance on behalf of our client, Prism Autism Education & Consultation LLC (“Prism”), as the applicant together with the owner of the Property and co-applicant, Mooreland Hill School (“Owner”), which is represented by Michael Carrier of Weber, Carrier, Boiczek & Chace, LLP. Enclosed herewith is a letter from Attorney Carrier confirming that the Owner joins in the application as co-applicant.

We note that the application has not been signed by the Tax Collector’s office as indicated. As you may know, the Property was exempt from property taxes due to its status as a non-profit school, however, it was assessed for property taxes last year based on the cessation of the school’s operations. The Owner disagrees with the rationale for the change in tax status and has appealed the tax assessment, which appeal is pending in the Superior Court. Michael Carrier has spoken to Joseph Ferraro, the Berlin Tax Assessor, who indicated that the application should be processed without regard to the resolution of the current property tax situation.

As you suggested, I have not included payment of the fee for the certificate of zoning compliance, which we will submit upon confirmation that the certificate of zoning compliance is the appropriate process for our request.

As indicated in the enclosed application, the Property received a special permit for school use and the proposed use by Prism is consistent with that special permit. As previously discussed with you, we are aware that Section XII(E)(1) of the Berlin Zoning Regulations purports to require that a special permit expire if the permitted use ceases for more than six months. We note that the Owner ceased the operation of its school in September 2019. However, we believe that the expiration regulation is inconsistent with Connecticut law and that, accordingly, the Property continues to be legally entitled to

Ms. Maureen Giusti  
Planning and Zoning Department  
Town of Berlin  
January 27, 2021  
Page 2

the special permit. We note that the Connecticut Superior Court has held “when a special permit is issued by the zoning commission it remains valid indefinitely, since the use allowed under it is a permitted use, subject to conditions in the regulations.” *International Investors v. Fairfield Town Planning and Zoning Commission*, 2019 WL 1453075, at \*7 (Conn. Super. Ct. Feb. 14, 2019) (ellipses omitted). The *International Investors* court held that “[n]o provision of the General Statutes allows a municipal zoning commission to revoke, or to place a time limit upon, a valid special permit, which has become effective pursuant to Section 8-3d of the General Statutes.” *Id.* at \*8. As an administrative agency, a municipal planning and zoning commissions can only exercise those powers which have been validly conferred upon it by the General Assembly. *Buttermilk Farms, LLC v. Planning and Zoning Commission*, 292 Conn. 317, 329 (2009). Accordingly, we believe that the previously granted special permit for the Property remains valid and in effect. We are happy to provide a more detailed analysis upon request or to discuss further with the Town’s counsel.

We are happy to provide any additional information that is required in connection with this application. We look forward to your response and to Prism being able to provide its critically important services for children in the Town of Berlin.

Very Truly Yours,



Gregg T. Burton

Encl.

cc: Michael Carrier (via email)





# Town of Berlin

## Planning and Zoning Department

240 Kensington Road  
Berlin, Connecticut 06037  
www.town.berlin.ct.us

### CERTIFICATE OF ZONING COMPLIANCE FOR NEW or RELOCATED BUSINESS

In accordance with Connecticut General Statutes:


Notice is hereby given to the applicant that under CGS 8-3(f) "No building permit or occupancy shall be issued for a building, use or structure subject to the zoning regulations of a municipality without certification in writing by the official charged with the enforcement of such regulations that such building, use or structure is in conformity with such regulations or is a valid nonconforming use under such regulations. Such official shall inform the applicant for any such certification that such applicant may provide notice of such certification by either (1) publication in a newspaper having substantial circulation in such municipality stating that the certification has been issued, or (2) any other method provided for by local ordinance. Any such notice shall contain (A) a description of the building, use or structure, (B) the location of the building, use or structure, (C) the identity of the applicant, and (D) a statement that an aggrieved person may appeal to the zoning board of appeals in accordance with the provisions of section 8-7."

And

CGS 8-7 ".....An Appeal may be taken to the zoning board of appeals by any person aggrieved or by any officer, department, board or bureau of any municipality aggrieved and shall be taken within such time as is prescribed by a rule adopted by said board, or, if no such rule is adopted by the board, within thirty days, by filing with the zoning commission or the officer from whom the appeal has been taken and with said board a notice of appeal specifying the grounds thereof. Such appeal period shall commence for an aggrieved person at the earliest of the following: (1) Upon receipt of the order, requirement or decision from which such person may appeal, (2) upon the publication of a notice in accordance with subsection (f) of section 8-3, or (3) upon actual or constructive notice of such order, requirement or decision....."

Project Name: Prism Academy  
Property Owner(s): Mooreland Hill School Incorporated  
Project Address\*: 166 Lincoln Street, Kensington, Connecticut  
Map: 2-3 Block: 10-9 Lot: 8077 Zone(s): R-21 Lot Area: 6.63 acres

#### Applicant Information

Name: Prism Autism Education & Consultation LLC Firm Name: Carmody Torrance Sandak & Hennessey LLP  
Street Address: 195 Church Street City: New Haven ST: CT Zip: 06510  
Email: gburton@carmodylaw.com Phone: 203-784-3173  
Signature:  Date: December 23, 2020

#### Property Owner(s) Information (If Not the Applicant)

Name: Mooreland Hill School Incorporated (co-applicant) Principal: Michael Carrier, its counsel  
Street Address: 166 Lincoln Street City: Kensington ST: CT Zip: 06037  
Email: mcarrier@webercarrier.com Phone: 860-225-9463

\*Letter of Authorization Required

**\*Any town official and/or employee that the town deems necessary may enter the property to verify information submitted with this application.**

**Previous Occupant of the Space:**

Business Name: Mooreland Hill School Use: School

**Proposed Occupant of the Space:**

Business Name: Prism Academy Use: Education Center for Children with Autism  
Street Address: 160 Farmington Ave. City: Farmington ST: CT Zip: 06032  
Email: rcoburn@prismautism.com Phone: (860) 495-0126

Has Planning & Zoning Commission approval been obtained for this application? (Y) N Date: 1/25/1996

Is this a multi-tenant property? No other tenants currently

List other tenants: Not applicable

**Description of Project/Use:** The Autism Center will provide half and full day programs to children with autism that are unable to access traditional school environments, including comprehensive learning and developmental programs and related support services.

1. Will you be making any changes to the building or space that will require Building Permits?  
No Yes Explain No.
2. Are licenses or approvals from other agencies\*\* (CCHD, State of CT, IWWCC,...) required for your use? No Yes EXPLAIN: No.

**\*\*It is applicant's responsibility to contact & obtain necessary approvals from other departments and agencies.**

**SITE PLAN ZONING STATISTICS**

	<u>REQUIRED</u>	<u>EXISTING</u>	<u>PROPOSED</u>
Square footage for this use	N/A	37,575 sf	3,845 sf
Total building square footage	N/A	37,575 sf	37,575 sf
Parking for previous occupant	38	38	N/A
Parking for this use	38	38	20
Total parking on site	38	38	38

Building Frontage for This Tenant: Width: 128'\* Height: 33'\*

*\*No specific area of building frontage designated for tenant*

All municipal property taxes are paid in full at this location in accordance with Article 5, §4-40 local ordinance of the Town of Berlin.

Collector of Revenue

Date

**To be completed by P&Z staff only:**

Fee Paid \$ \_\_\_\_\_ (Refer to current Fee Schedule)

Received by: \_\_\_\_\_

***This use is approved in conformance with Berlin Zoning Regulations § \_\_\_\_\_***

**NOTES:**

**Town of Berlin Zoning Official:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Permit Number: \_\_\_\_\_

VOL. 378 PAGE 0887



**TOWN OF BERLIN**  
**Planning and Zoning Commission**  
**TOWN HALL • BERLIN, CT 06037**

January 29, 1996

**NOTICE OF DECISION**

**BERLIN PLANNING AND ZONING COMMISSION**

Application: Special Permit Use - #96-2-SP

Applicant: Mooreland Hill School

Location: Lot 9, Block 10 - Lincoln Street

At its Regular Meeting of January 25, 1996, the Berlin Planning and Zoning Commission voted unanimously to approve the request for a Special Permit Use and Site Plan for Mooreland Hill School for expansion of the existing facility and a parking lot. This approval is conditioned upon the following:

1. Landscaping within the buffer area between the proposed parking lot and the street to be consistent with the zoning regulations.
2. Receipt of a bond to be set by staff.

*February 8 1996*  
RECEIVED  
AT 1 HR 30 MIN P.M.  
AND RECORDED IN  
BERLIN LAND RECORDS  
VOL. 378 PAGE 887  
*James B. Warr*  
TOWN CLERK

06037  
100000

WEBER, CARRIER, BOICZYK & CHACE LLP

ATTORNEYS AND COUNSELLORS AT LAW

[www.webercarrier.com](http://www.webercarrier.com)

(860) 225-9463

ROBERT F. WEBER, JR.  
MICHAEL A. CARRIER  
MICHAEL P. BOICZYK  
DIANE E. CHACE

OF COUNSEL  
WILLIAM W. WEBER

24 CEDAR STREET  
NEW BRITAIN, CT 06052

191 MAIN STREET  
OLD SAYBROOK, CT 06475

January 27, 2021

Town of Berlin  
Planning and Zoning Department  
240 Kensington Road  
Berlin, CT 06037

Re: Mooreland Hill School – 166 Lincoln Street  
Certificate of Zoning Compliance for Prism Autism Center

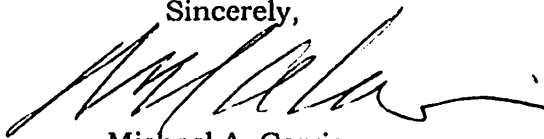
To whom it may concern:

Please be advised that this office represents Mooreland Hill School, Incorporated in its efforts to lease, and eventually sell, the former Mooreland Hill School property at 166 Lincoln Street to Prism Autism Center.

This letter shall serve as the Property Owner's authorization for Prism Autism Center to submit the Application for a Certificate of Zoning Compliance. Furthermore, while there is no space on the Application for a Co-Applicant, Mooreland Hill School, Incorporated, would like to join Prism Autism Center as a Co-Applicant of the Application for a Certificate of Zoning Compliance as its interests will be directly affected by the decision to grant the Certificate of Zoning Compliance.

If you have any questions or comments in regard to this authorization and request, please do not hesitate to contact me. Thank you.

Sincerely,



Michael A. Carrier

**mgjusti**

---

**From:** Arosha Jayawickrema  
**Sent:** Tuesday, February 2, 2021 4:22 PM  
**To:** mgjusti  
**Cc:** Deborah Swan; Joseph Ferraro  
**Subject:** RE: Mooreland School, Taxes. 166 Lincoln Street.

Maureen,

You (and I believe Joe) mentioned this to me, but I have not heard anything from anyone else.

I am comfortable with you moving forward with the zoning approval process for Prism Autism Education while Mooreland Hill is appealing their tax status.

I am allowing the permitting process to move forward because the entity seeking zoning approval is a separate independent organization that is not affiliated with Mooreland Hill and if they are able to use the former Mooreland Hill School premises at some point in the future, it will benefit the Town in the long run.

Thanks,

Arosha

---

**From:** mgjusti <mgjusti@town.berlin.ct.us>  
**Sent:** Tuesday, February 2, 2021 11:53 AM  
**To:** Arosha Jayawickrema <ajayawickrema@town.berlin.ct.us>  
**Subject:** Mooreland School, Taxes. 166 Lincoln Street.

Arosha,

Prism Autism Education, a school for autistic children, is seeking zoning approval to locate in the former Mooreland Hill School property at 166 Lincoln Street.

Taxes are due. I understand this matter may have been called to your attention by Mooreland Hill School – Michael Carrier and/or Rick Pentore and/or Gregg Burton for Prism Autism Education. The tax status/assessment was changed when the property became vacant and I understand they are appealing that decision.

As you know, by ordinance taxes are required to be up to date in order to obtain permits from Town departments unless otherwise authorized by the Town Manager.

Please let me know if you need more information and if Zoning approval should be stalled, or may proceed despite tax issues.

FYI - From the Zoning standpoint we are currently working on a determination if the use will require a new Special Permit from the PZC or may locate under the Special Permit obtained for Mooreland Hill School. However they are anxious to take over the property asap.

Thank you,  
Maureen

Maureen K. Giusti, AICP  
Acting Town Planner / ZEO  
Town of Berlin, CT