

# ***Planning and Zoning Commission City of Derby***

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

Richard A. Stankye

Albert Misiewicz

Glenn H. Stevens

Raul Sanchez

Anthony Szewczyk, Alt.

Maryanne DeTullio, Clerk

The Planning and Zoning Commission of the City of Derby held a regular meeting on Tuesday, January 20, 2015 at 7:00 p.m. at City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:05 p.m. by Vice Chairman Steve Jalowiec. Present were Glenn Stevens, Albert Misiewicz, Steven Jalowiec, Raul Sanchez, Richard Stankye and Anthony Szewczyk. Also present were Peter Georgetti, City Engineer and Maryanne DeTullio, Clerk.

## Additions, Deletions, Corrections to Agenda

Atty. Francis Teodosio stated that it is the intention of the City of Derby, if approved by the Board of Aldermen to purchase a piece of property known as 4-8 Caroline Street and First Street. The property is owned by Derby Real Estate LLC and the reason for the purchase is the resolution of a lawsuit with the property owner and resolution of outstanding taxes. The Tax Board is also taking this matter up at their meeting this evening. Atty. Teodosio asked that it be added to the agenda as a procedural issue. He stated that no action has to be taken by the Commission this evening. He stated that it may be a Section 8-24 referral or may be referred to the Commission as a courtesy.

Atty. Dominick Thomas stated that he is representing the owner of the property and has briefly discussed this with the Commission's counsel. He stated that the property is located in the "redevelopment area" and it would be appropriate to come before this Commission.

Mr. Stankye moved to add to the agendas as Item 10b City of Derby purchase of 4-8 Caroline Street and First Street. The motion was seconded by Mr. Stevens and carried unanimously.

Representatives from Jordan Energy were in attendance and asked to have their application accepted and placed on the agenda. The application was not on the City of Derby Planning & Zoning Commission form. They were advised to file the proper application with the Building Department and it will be accepted and placed on the agenda for the February meeting.

## Correspondence

Mr. Jalowiec stated that there was no new correspondence.

## Public Portion

There was no one from the public wishing to speak.

Approval of Minutes

Mr. Jalowiec stated that there were no minutes from the December 16, 2014 meeting. He also stated that the approval of the November minutes was tabled at the December meeting.

Acceptance of Applications

Mr. Jalowiec noted that there are no new applications to accept.

Public Hearing

(a) Application from Buckingham Estates LLC for zone text change for the purpose of removing the confusing definition and interpretation of lot width and replacing it with a minimum square on a lot which will better insure a lot configuration of a reasonable square or rectangular shape.

Mr. Jalowiec read into the record a letter from Atty. Marjorie Shansky (copy attached) regarding this matter. Atty. Dominick Thomas, present for the applicant, stated that he has spoken with Atty. Shansky about this. He explained the changes and stated that he will amend his proposed zone text changes in accordance with Atty. Shansky's letter. He stated that they are requesting the proposed changes to make the regulation easier to follow. He also stated that he will send in another extension request to the Commission. Mr. Szewczyk moved to continue the public hearing to next month and have it re-advertise with the amended changes. The motion was seconded by Mr. Stankye and carried unanimously.

New Business

(a) Discussion and possible action - Application from Buckingham Estates LLC for zone text change for the purpose of removing the confusing definition and interpretation of lot width and replacing it with a minimum square on a lot which will better insure a lot configuration of a reasonable square or rectangular shape.

Mr. Jalowiec stated that the public hearing on this application has been continued to the next meeting.

(b) Discussion and possible action - City of Derby – Purchase of 4-8 Caroline Street and First Street.

Atty. Francis Teodosio stated that the contract that the City of Derby has to purchase the property has a contingency that the Planning & Zoning Commission needs to act on this matter. The Commission can act on it or can defer that this does not apply to them. He stated that they do not need to take any action this evening and it can be discussed and acted upon at the next meeting.

Atty. Dominick Thomas stated that because of the location of the property in the "redevelopment area" and a broad reading of Section 8-24 it is appropriate to come before this Commission. Mr. Stevens moved that the matter be referred to counsel for review and it be placed on the agenda for the February meeting. The motion was seconded by Mr. Stankye and carried unanimously.

Old Business - None

Executive Session

(a) Update on Enforcement issues; discussion of pending litigation.

There was no need for an Executive Session.

Payment of Bills

Mr. Jalowiec stated that there were no bills for approval.

A motion to adjourn was made by Mr. Szewczyk, seconded by Mr. Stevens and carried unanimously. The meeting was adjourned at 7:40 p.m.

Respectfully submitted,



Maryanne DeTullio, Clerk

*These minutes are subject to the Commission's approval at their next scheduled meeting.*

Marjorie Shansky

Attorney At Law  
61 East Grand Avenue  
New Haven, Connecticut 06513  
203 469-3004  
Fax 469-9194

January 19, 2015

VIA FACSIMILE: [testwan@novusllc.com](mailto:testwan@novusllc.com)

Ted Estwan, Chair  
DERBY PLANNING AND ZONING COMMISSION  
CITY OF DERBY  
One Elizabeth Street  
Derby, Connecticut 06418

Re: Application of Buckingham Estates, LLC – Zone Text Change  
File Number: D-224

Dear Ted:

By Application dated June 3, 2014, Buckingham Estates, LLC, filed a proposed text change to the Derby Zoning Regulations relating to the definition of "Lot Width" by deleting the existing definition<sup>1</sup> and adding in its stead "Lot Square – The minimum dimension for the square on a lot." Thereafter, the Application proposes the respective minimum lot square in addition to the existing minimum square feet in each of the R-1, R-2, R-3, R-4, R-5, RM, B-1, B-2, I-1, P, and H/C zoning districts.

This Application was reviewed by Michael Looney, AICP, then Associate/Principal Planner at Milone and MacBroom, who shared the following comments with the Commission:

- "1) The definition for lot width in Derby's regs is a bit confusing. By saying that lot width is measured along a straight "at right angles to its depth" it assumes that every lot will have a set of parallel lines that form right angles with the front lot line. If you have a lot that is not a perfect square or rectangle (at least at the point where the front setback is located), it will not be possible to form right angles with a line going from one side lot line to the other. Perfect example is a triangular lot; if you draw a line from one side of a triangle to another, at least one (and most likely both) of the angles formed by that line will not equal 90 degrees.
- 2) This all seems to stem from a discussion back in 2012. I checked the minutes of the PZC and during the late summer and fall of 2012, Buckingham Estates came before the commission and there was great consternation by all in

---

<sup>1</sup> "Lot Width – The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum building setback line. (See Figure 18)."

trying to figure out how to interpret the lot width definition for the lots in question. This property is located along the Seymour town line and apparently the portion in Seymour did not meet the regulations there and was going to require variances in that town. See September-November 2012 minutes of the commission for detailed discussion.

- 3) Replacing lot width with buildable square is not something you typically see. Often, you have **both** a minimum lot width **and** a buildable square, which makes a lot of sense, particularly in residential zones to ensure someone isn't trying to squeeze in a lot that is really unbuildable despite meeting the lot width minimum. It's an extra layer of protection. And although I have seen some regs with buildable squares in non-residential zones, it's fairly rare.
- 4) This proposed text change seems rather drastic. I think the easier solution would be to just modify the current definition for lot width to remove mention of right angles, or replace the definition altogether with a better one. I don't see the need to eliminate lot widths for every zone in the City."

Subsequent conversations with the Applicant's representative, Attorney Thomas, have established their willingness to reduce the scope of their request, eliminating the addition of buildable square and focusing, as Planner Looney observed, on the elimination of the "right angle" requirement in the existing definition. In addition, however, to the extent the proposed minimum square in the R-1 Zoning District would have been 150 feet and the existing lot width requirement in the R-1 Zone is 175 feet, Attorney Thomas is now considering amending the pending request to include that proposed reduction in the R-1 zoning district. New/additional language will be required for the Commission's consideration.

The ancillary problem associated with narrowing the amendment and altering its scope relates to the issue of notice – the change now proposed is not properly represented in the notices that gave rise to the pending Application and hearing, and a new or amended Application should be properly noticed once proposed language is finalized and submitted. Notwithstanding the review and assistance the Commission receives on these issues, the determination and assessment of the appropriateness and desirability of a proposed amendment of course remains with the Commission.

I believe Attorney Thomas will be providing additional language and a new public notice will be required prior to continuation of the public hearing. Please let me know if you have any questions. By way of reminder and with apologies, I will not be at the Commission's meeting on January 20, 2015 but look forward to seeing you soon.

Very truly yours,



Marjorie Shansky