

**PLANNING and ZONING COMMISSION
Monroe, Connecticut**

**MEETING MINUTES
December 17, 2015**

Meeting: Planning and Zoning Commission
Regular Meeting – 7:00 p.m.
7 Fan Hill Road, Monroe, Connecticut

Present: Chairman Patrick O'Hara
Vice-Chairman Porter
Secretary Jeremy Hayden
Commissioner David Townson
Commissioner Leon Ambrosey
Commissioner Cathleen Lindstrom (alternate)
Commissioner Paul Lisi (alternate)
Commissioner Michael O'Reilly (alternate)

Absent: Scott Schatzlein, P.E. *Land Use Group Director, Town Engineer*

Also Present: William Agresta, *Planning and Zoning Administrator*
David McCollum, *Recording Secretary*

OPENING of MEETING

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Chairman O'Hara called the meeting to order at 7:04 p.m., and invited those in attendance to join in the Pledge of Allegiance.

2. ROLL CALL AND SEATING OF ALTERNATES (if required)

Commissioners were seated on a roll call.

3. GENERAL PUBLIC PARTICIPATION

None

4. GENERAL APPOINTMENTS

None

PUBLIC HEARINGS

5. ZONING PETITIONS / SPECIAL EXCEPTION PERMITS

None

SITE PLAN REVIEW

6. SITE DEVELOPMENT PLANS

SDP-2015-05, File #117 440 Main Street – Building addition and handicap access, Thai Berry Kitchen

Chairman O’Hara polled the audience and asked if anyone was in attendance to speak on behalf of the application, to which no representative came forth.

Planner Agresta stated that an e-mail had been distributed to the members of the Commission, stating that neither the applicant nor any representing agent for the application would be in attendance, and that the applicant did not wish to withdraw their application. He added that the applicant requested the Commission conduct their review with the information that had been initially submitted.

Planner Agresta provided for the Commission an overview of the submitted material, which included the following:

- Application for Site Development Plan Approval;
- The review of the application by the Application Review Team (ART), and the comment reviews by each ART member, noting that copies of same were sent to the applicant;
- Applicant requested postponements;
- Land Use office staff communications (phone, email and personal meetings) with the applicant’s representative, Kerry Burke, and owner representative, George W. Ganim;
- A meeting between Planner Agresta and Mr. Ganim on Monday, December 14, 2015 to discuss the timeline, the near exhaustion of extension time, and the potential option to withdraw the application;
- The necessity for the Commission to make a decision to approve or deny the application;
- A review of the existing property with respect to its abutting properties, including existing parking conditions, previous application approvals from the Commission, and past variance for parking;
- A review of the existing building on the property and the proposed modifications;
- Inconsistencies between the current use of the buildings on the property and their approved usage, including space being used for apartments that had been previously approved for either office space use or not authorized for any use.

Secretary Hayden asked if Planner Agresta was speaking on behalf of the applicant, to which Planner Agresta replied that he was only providing an overview of the Application for the benefit of the Commission since there was not an applicant present. Chairman O’Hara commented that Planner Agresta should continue his overview so that the Public Record could indicate that the Commission was aware of what had since transpired. Planner Agresta added that the ART had also noticed the inconsistencies made evident from the application based on the existing and approved uses of building space.

Chairman O’Hara then gave a brief review of the items as stated by Planner Agresta and the contents within the application. He then asked Planner Agresta if the proposed deck enclosure would be classified as an intensification of the existing use, which Planner Agresta affirmed. Planner Agresta added that the enclosed deck would increase the restaurant square footage and thus potential affect required off-street parking.

Vice-Chairman Porter added that the Health Department was looking for information on cold storage, to which Planner Agresta replied it was his understanding that there are other interior modifications proposed affecting the interior layout of the existing restaurant.

Commissioner Lindstrom asked Planner Agresta if the e-mail from Kerry Burke was a fair representation. She stated her interpretation of the e-mail was that the applicant believed the proposed modifications were minor in nature. She commented that she was unsure if the e-mail should be taken at face-value, or if it should be dismissed. Planner Agresta stated that he was not speaking on behalf of the applicant or the application but did not concur with all that was indicated.

Chairman O'Hara stated that any evidence received by the Commission during the Site Development Plan approval process was up to the Commission member's to determine their relevance. He added that the applicant is being asked to do what every other prior applicant has been asked to do per the Zoning Regulations.

Planner Agresta listed application Exhibits 1 through 13 for the record.

Chairman O'Hara added that the Commission should be clear in its understanding that the Town Planner's comments stated that the application indicated the potential for regulated wetland areas being present on the property. He asked Planner Agresta if any action had been taken to address this. Planner Agresta replied that it remained an open question and added that if regulated wetland areas are present, then an application to the Inland Wetlands Commission would have needed to precede the Site Development Plan application for review and report to the Commission. Planner Agresta further summarized that neither the confirmation of wetlands nor an application to the Inland Wetlands Commission had been completed.

Chairman O'Hara stated that Planner Agresta had also indicated a lack of detail that was required on the Application per the Zoning Regulations. He listed several example items and existing conditions that had not been detailed on the proposed Site Plans.

Chairman O'Hara asked the other members of the Commission if they had any more questions pertaining to the application, to which they replied that they had none. Polling the Commission hearing no objections, Chairman O'Hara closed discussion of this item.

DELIBERATIONS AND DETERMINATIONS

7. PERMIT AMENDMENTS / MODIFICATIONS / EXTENSIONS

Permit Amendments / Modifications

SDP-2015-01-A1, File #113 75 Main Street – Request to amend Site Development Plan Approval condition regarding restoration of disturbed area along Crescent Place, *ELRAC, LLC*.

David Bjorklund, a licensed Professional Engineer in the State of Connecticut from Spath-Bjorklund Engineering, LLC in Monroe, Connecticut, introduced himself to the Commission as representative of the applicant. He stated that the previously approved application had been submitted by Enterprise Rent-a-Car, LLC, who was a tenant of the property at 75 Main Street, owned by A&G Auto Parts, Inc. He stated that the Site Plan approval required the restoration of a disturbed area of the site along Crescent Place as identified in planning comments regarding the Site Plan. He stated that a neighbor residing on property across the street on Crescent Place was using a portion of the property to park their cars, which they had been doing since 1991. He stated that there was evidence of a pull-off that had been used to park vehicles when he conducted a site survey. Mr. Bjorklund stated that Planner Agresta had suggested that the disturbed area be seeded and loamed, with which the applicants agreed. He added that when his client went to make these changes, the client went to the neighboring property to address the changes to the neighbor. The neighbor then stated his

disproval with the changes, and commented that he would contact his lawyer, alluding that he would claim adverse possession.

Mr. Bjorklund stated that he had previously discussed the matter with Planner Agresta, as well as the neighbor from the abutting property, on separate occasions. Mr. Bjorklund stated that the amendment request before the Commission presently is for the removal of the condition that the area be restored. He added that the condition did not affect anything pertaining to the approval that had been granted by the Commission regarding Enterprise Rent-a-Car.

Chairman O'Hara asked Mr. Bjorklund if the neighbor on the abutting property should be using the applicant's property for their parking, to which Mr. Bjorklund replied that there was a requirement for "on-site" parking in the Zoning Regulations. Chairman O'Hara stated that the vehicular parking was also occurring within a Town right-of-way, as indicated on Town of Monroe GIS Map website software. Mr. Bjorklund stated that there probably was a 5 foot strip between the edge of pavement and the actual property line. Chairman O'Hara stated that the Town of Monroe GIS Map website software was not entirely accurate, and that the highest accuracy could only be provided by a site survey. Mr. Bjorklund replied that the area had been denoted and surveyed. Chairman O'Hara stated that either way, the neighbor was asking to park on Town of Monroe property and on property not owned by it.

Chairman O'Hara asked Mr. Bjorklund for his opinion if the neighbor elected to pursue an adverse possession claim against the Town. Mr. Bjorklund replied that adverse possession claims could not be used against municipal-owned property or State of Connecticut-owned property. He added that the other solution would inevitably lead to litigation.

Chairman O'Hara commented that the Commission could modify the permit to request that boulders be installed to prevent the use of the non-authorized parking. Mr. Bjorklund commented that he had previously discussed with the Deputy Director of Monroe Public Works about installing a guard rail fence, but that he was not agreeable to installing it.

Commissioner Lindstrom asked if there were any physical limitations on the neighbor's property for them not being able to use it for parking purposes. She also asked how many cars were currently being parked in the area. Mr. Bjorklund replied that there were two cars parked there, and that the driveway on the neighbor's property appears to not be in use. He stated that he believed the neighbors were using the area because it was more convenient than using their own driveway. He added there does not appear to be any physical limitations to the neighboring property owners to using their property for parking purposes.

Commissioner Lindstrom stated that she was concerned that if and when either property was sold, that there would be new owners that would have to deal with the situation, should it remain unresolved.

Chairman O'Hara asked Mr. Bjorklund if the use of the area involved backing out onto Crescent Place, to which Mr. Bjorklund replied that they generally back into the area from the street.

Vice-Chairman Porter stated that he had seen three vehicles backed into the area on the morning of December 17th, 2015. Chairman O'Hara asked Mr. Bjorklund if at some point, the vehicles were backing on a Town road, which Mr. Bjorklund affirmed.

Secretary Hayden asked Mr. Bjorklund if the applicant was seeking to use the Town as leverage, to which Mr. Bjorklund replied that his client was trying to solve the problem without having to go to court. Secretary Hayden asked if a demand letter had been sent, or if any litigation had been threatened to Mr. Bjorklund's client. Mr. Bjorklund replied that initially recognizing the problem was the first step, with the second coming back to the Commission. Secretary Hayden commented that the Commission's ruling, whether it would be to approve or deny the proposed amendment modification, could also draw the Town into litigation, to which

Mr. Bjorklund agreed. Chairman O’Hara commented that the amendment modification was subject to a vote by the Commission.

Commissioner Lisi commented that he believed that the Commission should not be concerned about personal issues between two neighbors, and that the Commission should do what is appropriate for the Town of Monroe.

Commissioner Ambrose asked how the decision that was made by the Commission would affect the property. Chairman O’Hara replied that a parking area for a residential property would be located on a commercial property. Chairman O’Hara asked Planner Agresta if a paved parking lot would be classified as a structure, to which Planner Agresta replied that it would be an accessory use. Chairman O’Hara added that there would be another accessory use on the property that does not pay any taxes or exist in documentation. Commissioner Ambrose was concerned about the neighboring property owner continuing to use the area for parking ever if the area was seeded and loamed. Commissioner Lisi commented that that should not be the Commission’s concern. Planner Agresta stated that the Town could enforce the Site Plan approval requirements through issuance of a zoning violation should the applicant not take any action.

OWNER J + J Enterprises LLC

APPLICANT John Petrie c/o Enterprise Rent A Car – ELRAC LLC

MOTION: Porter – To deny SDP-2015-01-A1 permit modification seeking relief from the Site Development Plan approval condition requiring restoration of an existing disturbed area located along Crescent Drive street frontage.

SECOND: Townson

VOTE: 5-0-0 – Denied

Ayes O’Hara, Porter, Hayden, Townson, Ambrosey

Nays None

Abstain None

SDP-2015-04, File #116 448 Pepper Street – Request to amend Site Development Approval Plan condition restricting retail sale to permit “accessory seasonal warehouse sales” consistent with §4.3.8(D)

Chairman O’Hara referred to a previous Commission approval on the property that included an expansion phased plan for “Really Good Stuff,” the business using the building on the property. He added that one of the conditions of the approval was that no retail sales would be conducted on site. He recalled that Really Good Stuff had in the past seasonal warehouse sales, and asked that the representative of the amendment modification amendment application elaborate on this matter.

Kevin Solli, a licensed Professional Engineer in the State of Connecticut of Solli Engineering, LLC in Monroe, Connecticut, introduced himself to the Commission as a speaker on behalf of the applicant. He reviewed an overview of the following items with the Commission:

- The three-phased office expansion as previously approved by the Commission;
- The request of the applicant to have the “no retail sales” removed from the stated condition of approval to permit seasonal warehouse sales as an accessory use;

The Commission discussed the following items with Mr. Solli:

- If the applicant was currently conducting retail sales on the property. Mr. Solli replied that the applicant infrequently held warehouse sales. Chairman O’Hara commented that he recalled seeing posted signs regarding warehouse sales about once or twice per year;

- The Commission asked what would be sold. Mr. Solli stated they sell school classroom supplies, and that the materials were generally available in large quantities;
- The Commission revisited why the prohibition was placed on the recent approval. Chairman O’Hara recalled that there had been a general retail discussion during the initial application hearing. Mr. Solli stated that there was not a retail store on-site, and that a neither a retail presence would be established nor any portion of the building be solely designated for retail use;
- If the amendment modification would have any bearing on the application approval from the Inland Wetlands Commission. Mr. Solli stated that it would not; and
- The finalizing of the approval from ConnDOT with regards to the thresholds for parking spaces, and the applicant’s request to amend the plans to be consistent with a total number of approved parking spaces being 331 parking spaces.

OWNER SB Real Estate LLC

APPLICANT SB Real Estate LLC (Really Good Stuff)

MOTION: Porter – To approve SDP-2015-04-A1 permit modification granting Site Development Plan amendment approval removing the condition prohibiting accessory retail warehouse sales and clarifying total approved parking at 331 spaces.

SECOND: Hayden

VOTE: 5-0-0 – Approved

Ayes O’Hara, Porter, Hayden, Townson, Ambrosey

Nays None

Abstain None

13-8-SEP, File #1527A 1430 Monroe Turnpike – Request to amend Special Exception Permit Approval conditions regarding improvements to driveway entrance relative to ConnDOT

Kevin Solli, a licensed Professional Engineer in the State of Connecticut of Solli Engineering, LLC in Monroe, Connecticut, introduced himself to the Commission as a speaker on behalf of the applicany. He reviewed an overview of the following items with the Commission:

- Construction of a 28-bedroom Convent for the Sisters of the Holy Family of Nazareth on the property that was previously approved by the Commission, to replace an existing Convent that will be demolished upon construction completion;
- Discussion had during the public hearing proceedings regarding the degree to which alterations of the driveway intersection with Monroe Turnpike (State Route 111) would be required limited to minor changes only as raised by the Town Engineer and wherein if the State was to require more than these minor changes that the applicant would not need to alter the driveway;
- Review by CTDOT calling for more than minor changes;
- Description of the current driveway alignment and how it has served the site uses;
- The proposed amendment modification to remove the re-alignment condition from the granted approval;

The Commission then discussed the following items with Mr. Solli:

- The Applicant’s desire to leave the driveway undisturbed, as-is;
- If the driveway alignment modification would impact the convent project. Mr. Solli replied that it did not.
- If any future applications would require the alignment modifications. Further development of the property would likely involve a new access road or driveway;

- If the Fire Department, or any other Emergency Response Agency had concerns with the current driveway alignment. Mr. Solli indicated he was not aware of any concerns;
- If the amendment modification would impact the Inland Wetlands Permit for the convent project. Mr. Solli stated it would not.

OWNER Sisters of the Holy Family of Nazareth USA Inc.
APPLICANT Sisters of the Holy Family of Nazareth USA Inc.
MOTION: Hayden – To approve 13-8-SEP-A1 permit modification granting Special Exception Permit amendment approval removing the condition requiring that certain driveway improvements be completed to the existing driveway at its intersection with Monroe Turnpike (Route 111).
SECOND: Porter
VOTE: 5-0-0 – Approved
Ayes O’Hara, Porter, Hayden, Townson, Ambrosey
Nays None
Abstain None

SEP-2015-16, File #1567A 482-484 Pepper Street – Request to amend Special Exception Permit Approval conditions regarding off-street parking reduction as approved at 22% to permit a reduction of 25% due to a higher than previously identified number of parking spaces being required.

Kevin Solli, a licensed Professional Engineer in the State of Connecticut of Solli Engineering, LLC in Monroe, Connecticut, introduced himself to the Commission as a speaker on behalf of the applicant. He reviewed the following with the Commission:

- Overview of the existing property and its current uses;
- Overview of the uses as approved by the Commission;
- Identification of an error in measurement of the total square footage of the existing building, leading to the required higher number of off-street parking spaces than previously;
- Modification request desired to permit a further parking reduction noting that the maximum allowance is 30% (25% up from 22% is now requested), and how the increased parking reduction would not impact or alter the existing uses of the site;
- That the modification would not have any impact on wetlands.

OWNER Pepper Street Partners LLC
APPLICANT Pepper Street Partners LLC
MOTION: Hayden – To approve SEP-2015-16-A1 permit modification granting Special Exception Permit amendment approval to allow a 25% parking space reduction in-lieu of 22% as previously granted.
SECOND: Porter
VOTE: 5-0-0 – Approved
Ayes O’Hara, Porter, Hayden, Townson, Ambrosey
Nays None
Abstain None

Permit Extensions

13-12-SEP, File #1532A– 2 Victoria Drive (Assessor Map 12, Lot 47-02)

OWNER Kimball Development LLC & Kimball Land Holdings LLC
APPLICANT Kimball Development LLC & Kimball Land Holdings LLC
MOTION: Porter – To approve 90 day extension to address conditions of Special Exception Permit Approval and file Final Plans.
SECOND: Hayden
VOTE: 5-0-0 – Approved
 Ayes O’Hara, Porter, Hayden, Townson, Ambrosey
 Nays None
 Abstain None

SUB-2014-03, File #1255C – 36 Timothy Hill Road – Assessor Map 114, Lot 6

OWNER New England Materials LLC
APPLICANT New England Materials LLC
MOTION: Hayden – To approve 90 day extension to address conditions of Subdivision Approval and file Final Plans.
SECOND: Porter
VOTE: 5-0-0 – Approved
 Ayes O’Hara, Porter, Hayden, Townson, Ambrosey
 Nays None
 Abstain None

SEP-2014-13, File #1549A – 462, 464, 466, 470 Main Street – Assessor Map 46, Lot 11, 10, 9 and 8,

OWNER JV462 Main Street LLC, JV464 Main Street LLC, and JV470 Main Street LLC
APPLICANT JV462 Main Street LLC
MOTION: Porter – To approve 90 day extension to address conditions of Special Exception Permit Approval and file Final Plans.
SECOND: Hayden
DISCUSSION: Vice-Chairman Porter asked Planner Agresta to provide input regarding the extension request. Secretary Hayden asked if the permit extensions were provided as a matter of right. Planner Agresta replied that the applicant was working on the Review of Approval, as well as resolving the issues of approval regarding the approved plans, to which he added that the applicant was having some internal difficulties to accomplish.
VOTE: 5-0-0 – Approved
 Ayes O’Hara, Porter, Hayden, Townson, Ambrosey
 Nays None
 Abstain None

8. Bond Releases or Reductions

None

9. MEETING MINUTES

November 19, 2015 Minutes

MOTION: Porter – To approve the meeting minutes for November 19, 2015 as drafted.

SECOND: Townson

VOTE: 4-0-1 – Approved

Ayes O’Hara, Porter, Townson, Hayden

Nays None

Abstain Ambrosey

December 3, 2015 Minutes

MOTION: Porter – To approve the meeting minutes for December 3, 2015 as drafted.

SECOND: Hayden

VOTE: 5-0-0 – Approved

Ayes O’Hara, Porter, Townson, Hayden, Ambrosey

Nays None

Abstain None

10. APPLICATION DELIBERATIONS / DETERMINATIONS

SDP-2015-05, File #117 440 Main Street – Building addition and handicap access, Thai Berry Kitchen

Chairman O’Hara reviewed the following with respect to the Application:

- The absence of representation from the applicant;
- The absence of required submissions to the Commission;
- The inability of the applicant to explain the apartments present in the second story of the existing building;
- Watershed notifications were completed; and
- The absence of a response or application regarding potential regulated wetlands.

Planner Agresta stated that if the Commission were of the mind to deny the application, that he had drafted a Site Development Plan Denial Resolution for the Commission’s consideration. A copy was circulated to the Commission and the Commission took the time to review the draft.

OWNER Stepney LLC

APPLICANT Kerry Burke / Ganim, Ganim & Ganim PC

MOTION: Hayden – To deny SDP-2015-05 as set forth in the Draft Denial Resolution as drafted dated December 17, 2015.

SECOND: Porter

VOTE: 5-0-0 – Denied

Ayes O’Hara, Porter, Hayden, Townson, Ambrosey

Nays None

Abstain None

OTHER BUSINESS

11. REGULATIONS REVIEW / AMENDMENT WORKSESSION

Chairman O'Hara stated that the Regulation Subcommittee would restart in January, and that he has appointed Vice-Chairman Porter, Secretary Hayden, and himself as the current subcommittee members. He commented that he asked Staff to bring their concerns. He also asked the rest of the Commission members to bring their concerns regarding the existing Regulations to Planner Agresta. He discussed the role of the Regulations Subcommittee, and the regulations review process.

12. CORRESPONDENCE / OTHER RECEIVED

None

13. COMMISSION REPORTS

Chairman's Report

Chairman O'Hara reported that Meineke Car Center was anticipated to open very soon as well as the new Convent on Monroe Turnpike, while Carrubba and Goddard School structures had commenced land clearing activities. The Goodwill and Axel Plastic sites were having their steel structures erected.

Commissioner's Report

The Commission briefly discussed an annual meeting with the Economic Development Commission, indicating that should the Economic Development Commission want to meet with the Commission that they should provide a draft agenda for such a meeting.

Commissioner Lindstrom noted for the Commission that the Zoning Regulations §9.4.3(B) requires that the ZEO "shall periodically report to the Commission regarding the issuance and status of pending zoning violation orders and notices," again stressing her desire for such report by the ZEO to the Commission.

Land Use Staff Reports

A copy of the meeting schedule for 2016 was provided to each Commissioner.

14. MEETING ADJOURNMENT

Polling the Commission hearing no objections, Chairman O'Hara adjourned the meeting at 8:29 p.m.

Respectfully Submitted,
David McCollum, *Recording Secretary*