

# Zoning Board of Appeals

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## Minutes

(meeting recorded)

Regular meeting: Thursday, November 21, 2024

The meeting was called to order at 6:34 p.m. in the aldermanic chambers of City Hall.

1. Call to Order - The meeting was called to order at 6:34 p.m. in the aldermanic chambers of City Hall.
2. Pledge of Allegiance
3. Roll Call

Sam Pollastro Jr.	present
John Kowarik	excused
Earl Robinson	present
Jeffrey Bell	present
Ray Bowers	present
David Reed (alternate)	present
Rita Pelaggi (alternate)	present - voting member for absent member

Also present: Zoning Enforcement Officer Kevin White (on ZOOM), Corporation Counsel Brian Lema (arriving at 6:40 pm) and Town Clerk Marc Garofalo served as host for ZOOM.

4. Additions or deletions and acceptance of the agenda.

**Motion** made by Earl Robinson and second by Jeffrey Bell. Move to accept the agenda, with the deletion of #13-15 Roseann and Robert Haakerud, 5 Jeanetti Drive and #19-21 The Hops Company, 77 Sodom Lane as they have asked to table the matters until the December meeting. Motion carried unanimously.

5. Public Portion

No public came forward.

**Motion** by Rita Pelaggi and second by Jeffrey Bell. Move to close public portion. Motion carried unanimously.

6. Approval of minutes – July 18, 2024 and October 17, 2024

**Motion** by Rita Pelaggi and second by Earl Robinson. Move to table approval of minutes. Motion carried unanimously.

7. Applicant: Dennis Zack, 31 Sentinel Hill Rd., Derby, CT 06418 Location of affected premises: Same. Appealing the Derby Zoning Regulations 195-11E (7b) for a side yard variance from 16 ft. to 2 ft. for the construction of a storage shed.

Mr. Zack was present this evening. He stated that his property is sloped and he felt that the proposed spot is the best location. The 12ft by 12ft shed would be outside of the existing fencing and this area would require less grading and the view from the street would be more favorable. The fence was existing when he purchased the parcel and understood that it was likely constructed to contain the dogs the previous owners had. Members asked if there was an area that the shed could be located that would not require the variance. Mr. Zack again stated that the chosen location was better as it would need less grading. There is no flat area, the entire parcel has some sloping.

8. Public portion for application

No public came forward.

**Motion** by Earl Robinson and second by Jeffrey Bell. Move to close public portion. Motion carried unanimously.

#### 9. Action on application

**Motion** by Sam Pollastro Jr. and second by Jeffrey Bell. Move to **DENY** Applicant: Dennis Zack, 31 Sentinel Hill Rd., Derby, CT 06418 Location of affected premises: Same. Appealing the Derby Zoning Regulations 195-11E (7b) for a side yard variance from 16 ft. to 2 ft. for the construction of a storage shed as the hardship is not demonstrated. Motion carried unanimously.

10. Applicant: Emerson Dos Santos, 166 Old Field Ave., Trumbull, Ct 06611 Location of affected premises: New Haven Ave. Lot 4-3 29 Appealing the Derby Zoning Regulations 195-13 E(2) of 624 sq. ft. to fulfill the bulk requirement for lot area to build a two-family house.

Mr. Dos Santos was present this evening. He indicated that he purchased the lot on 4/4/2024 and understood that the lot is 9,377 sq. ft. and he is seeking to build a duplex. The bulk requirement for the lot in the R5 zone would be 10,000 sq. ft. for a duplex. R5 zone allows for a single family house with a bulk requirement of 7,500 sq. ft. or a two family house at 10,000 sq. ft. He felt that the duplex design would blend well with the neighborhood.

#### 11. Public portion for application

Barbara Barry, 458 New Haven Ave. and has lived there for 73 years. In July the clearing of the lot began. She stated that a two-family house was not appropriate for the neighborhood. There are no two-family houses on this block. She indicated that a single family house would be sufficient for this parcel. She also noted that in the rear of the lot there was an in-ground pool that may not have been completely filled in. She doesn't mind the one-family house.

Kathleen Ducharme, 6 Shelton St. stated that she is located behind this lot. She indicated that she has grown up in this neighborhood with her grandparents having a home there and she herself built her house in the neighborhood in 1991. The neighborhood is single family homes. She indicated that traffic is a concern so adding density of a two-family was not favored. There is no hardship present as the owner can still build a single-family residence.

Tammy DiCenso, 29 Homestead Ave. stated she is adjacent to this lot. She is totally against a two-family house. A single family would be fine. The lot is small. Traffic is a concern. She was in agreement with the comments made by the previous residents.

Kelly DiCenso, 29 Homestead Ave. stated he has lived there for 34 years and he did not think there was a hardship situation. A single family house would fit fine there, it is a family neighborhood.

Eric Lazowski, 28 Homestead Ave. stated he has young children and he is concerned with the current traffic, adding more density will only heighten the problem.

Andy Quinn, 30 Homestead Ave. stated he did not receive a letter although he felt he was within the requirement of the regulations. He has lived there for 34 years. This is a family neighborhood and a duplex rental would be out of place. He did not hear the hardship stated in requesting the variance. He agreed with the sentiments expressed by his neighbors.

Mr. Dos Santos felt he was able to build the two-family dwelling.

ZEO White stated that the requested variance is needed because his parcel does not meet the bulk requirement of 10,000 sq. ft. for two-family dwelling. He is within the right to build a single family home. The stated request is for two unit townhouse that would each be sold separately. The applicant was told that the variance was needed to move forward with that plan.

Mr. Dos Santos indicated that he was not told that originally but if that is the case and with the neighbors expressing their concerns then he felt that he would hear the decision but felt he might not have submitted the application in the first place.

**Motion** by Ray Bowers and second by Rita Pelaggi. Move to close public portion. Motion carried unanimously.

12. Action on application

Members discussed the application. The hardship was unclear and it was noted that it should be consistent with the City's Plan of Conservation and Development. The neighborhood consists of single family residences as represented by the public comment.

**Motion** by Sam Pollastro Jr. and second by Jeffrey Bell. Move to **DENY** Applicant: Emerson Dos Santos, 166 Old Field Ave., Trumbull, Ct 06611 Location of affected premises: New Haven Ave. Lot 4-3 29 Appealing the Derby Zoning Regulations 195-13 E(2) of 624 sq. ft. to fulfill the bulk requirement for lot area to build a two-family house as the hardship is not demonstrated. Motion carried unanimously.

~~13. Applicant: Roseann and Robert Haakerud, 5 Jeanetti Dr., Derby, CT 06418 Location of affected premises: Same. Appealing the Derby Zoning Regulations 195-26 (O) that existing hedges need to be removed or cut along the property line to less than six feet.~~

~~14. Public portion for application~~

~~15. Action on application~~

16. Applicant: Nitoo and Dharaamdeo Nuckched, 6 Singer Village Dr., Derby, CT 06418 Location of affected premises: Same. Appealing the Derby Zoning Regulations 195-11 E(7)b for an 11 foot variance to install a greenhouse.

Both Nitoo and Dharaamdeo Nuckched were present this evening. The explained that they would like to build a greenhouse to be able to grow fresh vegetables for their dietary lifestyle for their family of four as well as flowers. The size is because they would like to grow a variety of vegetables that would sustain their family through the winter months. They stated that the lot is unique, it is sort of a panhandle. The area, that the green house would be located, has been overgrown with invasive plantings and they have labored to clear the area. There is Japanese Knotweed growing that could be controlled if the green house was built over that area. The lot is odd shaped and hilly and they felt the proposed location for the 30 ft. by 40 ft. greenhouse is the most suitable location.

Members questioned why the location was chosen rather than placing it in an area closer to their house and without the need for the variance. Mr. Nuckched noted that there are wetlands to be considered and mature evergreen trees on their parcel. The slope of the land would make it be more noticeable if it was moved closer to their house.

17. Public portion for application

Letters from residents were read into the record.

From: Pat Hatton <prhatton@sbcglobal.net>  
Sent: Monday, November 18, 2024 7:40 PM  
To: Lisa Narowski  
Subject: Greenhouse 6 Singer Village Dr.

:  
Hello Lisa Narowski,

We live on I Singer Village Drive directly across from Nitoo and Dharamdeo Nuckched. My husband and I have no reason not to support their desire to install a greenhouse.

Regards  
Patricia and Roger Hatton

From: Lynne Petti <designsattorch@gmail.com>  
Sent: Thursday, November 14, 2024 12:54 PM  
To: Lisa Narowski <lnarowski@derbyct.gov>  
Subject: Re: FW: Xerox Scan

To Whom it may concern,  
On November 21, 2024, at the Zoning Board of Appeals Meeting an Application Appealing Zoning Regulations 195-11 E (7)b for an 11ft variance Is being presented for your review.

This letter is to confirm that I am opposed to a Variance Application Submitted by Nitoo and Dharamdeo Nuckched of 6 Singer Village Drive Derby, Ct 06418 a property adjacent to mine. The application is requesting a variance of 11ft to install a greenhouse of 30' x 40' by 14' high. A structure placed approximately 5' from my property line directly behind my home, in full view from my home. Their property being only 40' wide directly behind me, when there are plenty of larger spots of land directly behind their home. They themselves don't wish to look at it apparently.

In reference to the letter I received at my home (see attached) claims that the top of the greenhouse may be visible for some of the neighbors (no one will be able to see it but me) and no evergreens that they say they can plant will cover it or not grow onto my property.

As for the clearing of their land, they do not have a current survey with property markers and have pushed the debris onto my land thinking it is theirs. As for the comment that it can be beneficial to the community I don't understand how. There are no utilities run for water or power at this time and to do so would also have to access my property.

Regards,  
Rochelle V Petti

Mr. Nuckched replied that no materials have been pushed onto their property.

There were no one else seeking to speak.

**Motion** by Earl Robinson and second by Rita Pelaggi. Move to close public portion. Motion carried unanimously.

#### 18. Action on application

Members discussed the application. It was asked if there would be a need for electricity. Mr. Nuckched replied that there is no need for power at this time. If he wanted to enhance ventilation, he might add solar panels for a fan. Mr. White noted that if there will be no electricity, then it will be unlikely to function sufficiently in the winter. The alternative could be simply a garden during the growing season.

Members discussed what could be considered for the hardship. Atty. Lema indicated that the members need to determine whether the parcel's unique shape and topography was sufficient to be a hardship. Is this request consistent with the Plan of Conservation and Development. Is the variance needed to allow reasonable use of the parcel. Members questioned whether there is a viable alternative location.

**Motion** by Sam Pollastro and second by Ray Bowers. Move to table a decision on this application at 6 Singer Village Dr., Derby, CT 06418, appealing the Derby Zoning Regulations 195-11 E(7)b for an 11 foot variance to install a greenhouse until next month. Motion carried unanimously.

~~19. Applicant: THC The Hops Company LLC, 77 Sodom Lane, Derby, CT 06418 Location of affected premises: Same. Appealing the Derby Zoning Regulations 195-80 regarding the Cease and Desist Order for the expansion of a deck allowing for additional seating.~~

~~20. Public portion for application~~

~~21. Action on application~~

## 22. ADJOURNMENT

**MOTION** was made by Earl Robinson and second by Rita Pelaggi. Move to adjourn the meeting at 8:11 p.m. Motion carried unanimously.

Respectfully prepared,

*Karen Kemmesies*

Karen Kemmesies, secretary

*These minutes are subject to Board approval at their next scheduled meeting.*