Zoning Board of Appeals

Minutes

(meeting recorded)

Monthly meeting: Thursday, September 18, 2025

1. Call to Order - The meeting was called to order at 6:32 p.m. in the aldermanic chambers of City Hall.
2. Pledge of Allegiance
3. Roll Call

Sam Pollastro Jr.	present
John Kowarik	present
Earl Robinson	present
Jeffrey Bell	present
Ray Bowers	present
David Reed (alternate)	present
Rita Pelaggi (alternate)	present

Also present: Zoning Enforcement Officer Kevin White (on ZOOM) and Town Clerk Marc Garofalo served as host for ZOOM.

4. Public Portion

Kevin White noted that upon logging into Zoom for this meeting there is a message stating that this recording is being taped and is being used for AI generation. He questioned whether that means that the user is giving permission for AI to use our image and voice. Mr. Garofalo responded that it is a function of recording the meeting but the images does not get shared to AI. Its purpose is to speak to transcription. Mr. White asked that the matter be explored further. No other public came forward.

Motion by John Kowarik and second by Ray Bowers. Move to close the public portion. **Motion** carried unanimously.

5. Approval of minutes –May 15, 2025

Motion by John Kowarik and second by Jeffrey Bell. Move to table approval of the minutes. **Motion** carried unanimously.

6. Applicant: Sub-Tenant Chase Bank for Basser-Kaufman of Derby, LLC., 151 Irving Place, Woodmere New York 11598., Location of affected premises: 552 New Haven Avenue, Derby, CT 06418. Appealing the Derby Zoning Regulations 195-15 E(6) for a side yard variance to allow a one foot side yard setback where the required setback is twenty feet for the purpose of replacing the current structure (formerly Starbucks) with a new structure (Chase Bank) that will be reoriented on the parcel.

Atty. John Knuff of 135 Broad St., Milford, CT was present this evening representing Basser-Kaufman of Derby, LLC. He explained that there are actually three parcels that comprise the shopping center. The former Starbucks location which is being discussed for this application includes parking spaces that are shared with the other two parcels. The intent is to better integrate the parcels and modify curb cuts along Rte. 34 and close curb cuts on Sodom Lane to create a better traffic flow on this corner. To do so requires shifting the structure closer to Sodom Lane and that is the purpose of the request for variance. With these modifications, the three parcels will still be compliant for required parking spaces. The variance is seeking to reduce the side yard setback to one foot. Because the parcel is so narrow and has a drop in grade with the other two parcels, which are hardships; the design was developed shifting the

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building toward the Sodom Lane side where the reduction is being sought. The changes will allow for better drive aisles within the parcels as well as beautification with additional landscaping. Overall, it will result in an improved site and improved traffic condition and just better overall for the center.

Professional Engineer Rod Szwelicki of VHB was also present to answer any questions. He reviewed the site as explained noting that Starbucks was non-conforming and this construction will enhance the conditions of the parcels. Entrance and exit will be better designed for improved traffic flow. The access to the bus stop will be maintained. Whereas Starbucks was isolated from the other parcels due to the grade change, the design addresses and improves the conditions within the shared lots. The existing building is 1800 sq. ft. and the proposed structure will be 3000 sq. ft. One existing parking space is lost but the required spaces will still be satisfied with the utilization of the overall parcel and extension of parking that is shared within the entire plaza.

Mr. Robinson asked if the building could be shifted away from the corner, utilizing the space towards the abutting property where Wendy's is located. Mr. Szwelicki indicated that the proposed traffic flow would be negatively impacted.

VARIANCE APPLICATION OF BASSER-KAUFMAN OF DERBY, LLC

A. Introduction

The Applicant, Basser-Kaufman of Derby, LLC, is the long-time tenant of the property located at 552 New Haven Avenue (the "Property"). The Property is currently improved with a Starbucks coffee shop. The Starbucks is nonconforming as to the same side yard setback that is the subject of the requested variance.

The Applicant is also the owner of the abutting parcel located at 600 New Haven Avenue, and the adjacent parcel located at Sodom Lane (the "B-K Parcels"). The B-K Parcels are currently improved with an Edge Fitness Club, a Big Lots retail store (vacant due to tenant bankruptcy), and an optician. While the Property is its own parcel, it is functionally a part of the overall retail center located on the Property and the B-K Parcels. Indeed, a large portion of the Property supplies required parking for the retail center. The Property and the B-K Parcels are all located in the Business 1 (B-1) zone.

The Applicant seeks a variance as to the side yard setback along the lot line between the Property and the B-K Parcels for the construction of an attractive Chase Bank. A setback of 1' is proposed where 20' is required. The location of the building 1' from the lot line between the Property and the B-K Parcels will be impossible to discern because the three properties will continue to act as a unified whole under the complete control of the Applicant.

In addition to the new bank, the Applicant proposes a number of other improvements to both the Property and the overall retail center:

- Create internal site driveways between the Property and the B-K parcels to create a more-integrated plaza and reduce vehicular traffic on the street;
- Close the existing curb cut on Sodom Lane, which is located in close proximity to New Haven Avenue, to create a safer and more efficient traffic pattern for those turning into Sodom Lane from New Haven Avenue;
- Modify the curb cut from New Haven Avenue into the Property to be a better defined right-in only;
- Replace large areas of pavement along both New Haven Avenue and Sodom Lane with landscaping to create a far more attractive streetscape.

The result will be to (1) bring a much-need financial institution to the City of Derby, and (2) create a far more attractive, safer, and better-integrated retail center on the highly-traveled main corridor into the heart of the City of Derby.

B. Responses to Variance Application Questions

VI. The Property is currently improved with a Starbucks coffee shop, and a Chase Bank is proposed to replace it. Both restaurants and banks are permitted uses within the B-1 zone. The Starbucks building is nonconforming as to the side yard setback because it is located 14.3' from the lot line where 20' is required. The proposed bank will be located 1' away from the same lot line.

VII. The strict application of the Regulations will result in unusual difficulty or unreasonable hardship because the lot is nonconforming as to lot width in that it is only 115' wide where 200' is required. As a result, after applying the front and side yard setbacks of 20' each, only an extremely small building can be located on the Property together with the required parking, as evidenced by the existing nonconforming building.

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VIII. The circumstances concerning the Property are peculiar to it and not applicable to the area as a whole because it is part of a retail center that operates as a whole. The requested side yard setback only impacts the Applicant as the owner of the abutting parcel, and no other property owner. The granting of the variance will result in a far more efficient, safe, and attractive development.

IX. As noted, the requested variance applies only to a property line where the Applicant is the long-term leaseholder of one property and is the owner of the other. The addition of the bank will also require site plan approval from the Planning & Zoning Commission which will approve all site improvements to ensure that the retail center operates as a whole.

X. The requested variance will be in harmony with the general purpose and intent of the Ordinance as found in Section 195-2 in that it:

- Will facilitate efficient provision of public services;
- Will provide assurance of necessary site for commerce;
- Will not impact privacy for families in any way;
- Will facilitate the reduction in traffic congestion and promotes efficient circulation of vehicles;
- Will enhance the appearance of the City of Derby on an important corridor;
- Is consistent with the goal of flexibility in the design and development of land.

The Chair asked if there has been contact with the State regarding the curb cuts on Rte. 34 or to authorities in the City. It was mentioned that this will be going before the Planning and Zoning Commission for a site plan review. Discussions with the applicant and the authorities have not happened as of yet but the closing of the problematic turn into the site on Sodom Lane and the modifications on Rte. 34 were felt to be a positive improvement to the parcels. It was stated by the applicant's representative that there is no drive-thru on this application. Members discussed and reviewed the traffic flow proposals and how it impacts the variance and the responsibilities of this Board for the welfare of the general public. The applicant's representatives indicated that they have been in conversation with the City planners and staff. It was noted that the variance request seeks the reduction of the setback requirements to the back of the existing parcel and as such only affects the abutting parcel to the rear also owned by the applicant.

7. Public portion for application

No one came forward to speak. The chairman asked three times if there was anyone wishing to speak. There was no public in the room or on ZOOM to come forward.

Motion by John Kowarik and second by Jeffrey Bell. Move to close the public portion. **Motion** carried unanimously.

8. Action on application

Motion by Ray Bowers and second by John Kowarik. Move to **grant** the variance for Applicant: Sub-Tenant Chase Bank for Basser-Kaufman of Derby, LLC., 151 Irving Place, Woodmere New York 11598., Location of affected premises: 552 New Haven Avenue, Derby, CT 06418. Appealing the Derby Zoning Regulations 195-15 E(6) for a side yard variance to allow a one foot side yard setback where the required setback is twenty feet for the purpose of replacing the current structure (formerly Starbucks) with a new structure (Chase Bank) that will be reoriented on the parcel. The reasons for the approval are based on the hardships stated in the application numbers 6,7,8 and 9 and the proposal is consistent with Derby's Plan of Conservation and Development. **Motion** carried unanimously.

16. ADJOURNMENT

Motion was made by John Kowarik and second by Earl Robinson. Move to adjourn the meeting at 7:10 p.m. **Motion** carried unanimously.

Respectfully prepared,

Karen Kemmesies

Karen Kemmesies, secretary

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