

SEYMOUR PLANNING & ZONING COMMISSION

Regular Meeting Minutes
March 10, 2016
Norma Drummer Room, Town Hall

Members Present: J. Ziehl, W. Birdsell, T. Lavranchuk, J. Holly
Member Absent: G. Vasas
Others Present: Bill Paecht, ZEO, Brian Nesteriak, Town Engineer,
Atty. V. Marino

The meeting was called to order at 7:30 p.m. by Chairman, J. Ziehl.

1. Public Comment

Kim Dulka, 174 South Benham Road stated that she was speaking on behalf of J. Luciano, a disabled Seymour resident regarding the project at 38 Columbus Street. She stated that the project is in violation of zoning regulations. The parking for this project was reduced based on the fact that it was going to be operated by the Seymour Housing Authority. The Housing Authority has nothing to do with this project and therefore the parking requirements should be increased. There is also no ADA accessibility to the parking lot that can be used for parking by the residents. She stated that the project should be terminated immediately and she could not understand why the project is being able to go forward with the existing violations.

Bailey Cooke, 40 Patton Avenue stated that he was commenting on the same project. He stated that the new building is being constructed on the same property that had been used as a parking lot and the project is in violation of zoning regulations. He also noted that it is not being owned or operated by the Housing Authority.

2. Rolling Hills Estates Subdivision (Mylar Endorsement)

Mr. Ziehl noted that the mylar was not available for signature.

MOTION: W. Birdsell/T. Lavranchuk to table to the next meeting.
Motion Carried 4-0.

3. Subdivision Application, Regional Water Authority.

John Triana, Real Estate Manager for Regional Water Authority was present. He stated that this is a subdivision for a residential houses that they own. He stated that the Company purchased land in the past for watershed protection and some parcels included buildings. He stated that they received an amendment allowing them to sell these parcels of land which are classified as either Class 1 or Class 2 land. He stated that they submitted an application in January and it was tabled at the February meeting. He stated that they submitted revised drawings and a letter from their soil scientist and a draft easement.

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Mr. Nesteriak stated that he reviewed the plans and all issues have been addressed. He stated that before the mylar is filed they should obtain approval from the Health Department.

MOTION: T. Lavranchuk/W. Birdsell to approve the application.
Motion Carried 4-0.

4. Site Plan Amendment, Allen Industrial Park, 94-98 Silvermine Road

Mr. Ziehl stated that a letter was received from John Fanotto, engineer for the project requesting that the application be tabled to the next meeting.

MOTION: J. Holly/W. Birdsell to table to the next meeting.
Motion Carried 4-0.

5. Site Plan, 600 Derby Avenue, Sale of Landscaping, Garden and Stone Supplies.

Mr. Nesteriak stated that he received revised plans but there are still some items missing. He stated that no drainage calculations have been received. He stated that he needs clarification on the intent to remove the vegetated border which cannot be done in this zone. Mr. Birdsell stated that he spoke with Mr. Looker and he advised that the item should be tabled. Mr. Nesteriak stated that there are not any major issues but he would like to have the drainage calculations and some clarifications on the grading plans.

MOTION: T. Lavrandhuk/W. Birdsell to table to the next meeting.
Motion Carried 4-0.

6. Chatfield Farms Subdivision.

Mr. Birdsell stated that the road is a mess and people are complaining about the condition. He felt that the developer should be at the next meeting to discuss this matter. He stated that he spoke with Mr. Looker about this matter and Mr. Looker stated that he has been trying to get in touch with the developer but has not been able to. It was decided that a certified letter be sent to the developer requesting that he be present at the April meeting to address this matter. Mr. Paecht stated that he will ask the town attorney to also look into the matter.

7. Zoning Enforcement

Mr. Paecht stated that he has been receiving a lot of inquiries from homeowners who want to add a garage to their property.

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Atty. Marino presented copies of a proposed text amendment for solar panels. He stated that there are different alternatives in handling these. He stated that he will get copies to the members of alternatives for review. He will also review the proposal from Mr. Looker.

8. Appointment of Representative, CNVCOG

Mr. Ziehl stated that a representative from this Commission needs to be appointed to be appointed to the CNVCOG Board. Mr. Paecht stated that he is a representative on the board and the member from this Commission will be an alternate. The meetings are held in the evening in Waterbury.

MOTION: T. Lavranchuk/W. Birdsell to table to the next meeting.
Motion Carried 4-0.

9. Minutes –Regular Meeting – February 11, 2016

MOTION: W. Birdsell/T. Lavranchuk to approve the minutes of the February 11, 2016 regular meeting.
Motion carried 4-0

10. Public Comments

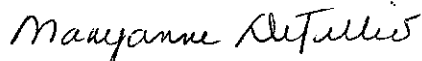
Cynthia Zukas, 270 Pearl Street stated that she heard that there was going to be an application filed for apartments on Spring Street and was concerned about this development.

Kim Dulka, 174 South Benham Road stated that she spoke with the First Selectman about the project at 38 Columbus Street and there are concerns that the town may be sued if the project is stopped. She questioned whether this was a reasonable concern.

MOTION: T. Lavranchuk/J. Holly to adjourn the meeting.
Motion carried 4-0.

The meeting was adjourned at 8:10 p.m.

Respectfully submitted,



Maryanne DeTullio, Recording Secretary

Friday, March 04, 2016

TO: **Rory Burke**, Adm. Asst., Town of Seymour; First Selectman **Kurt Miller**
RBurke@SeymourCT.org, kmiller@seymourct.org

CC: ADA coordinator Deidre Caruso dcaruso@seymourct.org
(these are ADA/disability rights matters)

From: Joseph A. Luciano *Disability Rights Action Group of Connecticut*
DRAGconnecticut@yahoo.com 33 DeForest street, Seymour CT 06483 203/463-8323

SUBJECT: **PUBLIC COMMENT** for entry into Minutes of (1) the next meeting of the Seymour BOARD OF SELECTMAN and (2) the next meeting of the Seymour PLANNING & ZONING Commission:

► **FIRST:**

IMMEDIATELY Construction activity at 38 Columbus Street Senior Housing Project must cease immediately. This project is in direct violation of Seymour Town Zoning Ordinance 14.7 CBD-1 Exemption, which states:

- *The Planning and Zoning Commission may reduce the parking requirements for apartments for the elderly either owned or managed by the Seymour Housing Authority in the CBD-1 District to one space per apartment unit.*
- *"Existing or new buildings within 300 ft. of a municipal lot may include available space in such lots in meeting parking requirements with the approval of the Planning and Zoning Commission.*

This project is **not owned or managed by Seymour Housing Authority**, as mandated by Section 14.7 CBD-1 Exemption.

Therefore: the parking regulations must be increased to **76 spaces** (2 spaces per unit)—immediately.

Also, this project is **not within 300 ft. of a municipal lot**. Therefore: parking in The Strand Theater Lot may not be used to meet this project's parking requirements. Even though over **\$15,000** was used out of our town's grant budget to create **5 additional spaces** in the Strand Lot to meet the 38 Columbus Street requirements (*15 on-site, 23 available/rented by the town in municipal Strand Lot within 300 ft. away*), this municipal lot may not be used to meet those requirements. (In a 2014 BOS meeting FS Kurt Miller suggested that at a cost of \$10,000-15,000 the Strand lot could be expanded by 15 spaces.)

- There is no **ADA-required access route** to the Strand lot. Therefore it cannot be deemed within **300 feet**. Even if a sidewalk was created to reach the end of Columbus Street (which Joe Migani told his tenants that he has to now pay for out of his own pocket), there is no sidewalk adjoining Highway 67 and Tony's Diner for access to the strand lot. The senior/disabled would be in harm's way by traveling in the gutter of Highway 67 or by traveling between Tony's customer vehicles and highway 67 moving traffic.
- By verbal (not written) notice, Seymour PD has "ordered" tenants not to walk in the gutter adjoining Tony's Diner. As a consequence, a hardship has been imposed on our Columbus Street elderly disabled neighbors; they are forced to walk along Columbus, then along Bank Street, and then Main Street to reach the Strand lot.

- The distance to The Strand Lot is more than 300 ft. other parking lot options (train station, Trestle Tavern, Fishway) are up to or over 1,000 feet away.
- **76 spaces are not within 300 ft.** of the current 12 handicapped senior tenants as well as the future 26 handicapped senior tenants of 38 Bank Street.

This illegal project must be **terminated immediately**. If it is not, **legal action** against the town and all parties responsible for this project may occur in full force. Furthermore, if any town or grant money is used to add additional parking downtown on First Street, Columbus Street, or any other area that would be considered 300 feet of this project, legal action may be taken to unmask the true reason of adding parking downtown. And that is to benefit one individual, and to cover-up the noncompliance to 14.7 CBD-1 Exemption, not under the charade that more business parking needs to be added. Also, the knocking down of any building to create more parking within 300 ft. will be viewed as a direct result of benefitting this project and legal action may be taken.

BACKGROUND:

- In 2009, Planning & Zoning amended Section 14.7 CBD-1 and created an Exemption. (This was created specifically for 38 Columbus Street).
- It stated that *"The Planning and Zoning Commission may reduce the parking requirements for apartments for the elderly either owned or managed by the Seymour Housing Authority in the CBD-1 District to one space per apartment unit"*. There are usually 2 spaces per unit.
- It also states that *"Existing or new buildings within 300 ft. of a municipal lot may include available space in such lots in meeting parking requirements with the approval of the Planning and Zoning Commission."*(Specifically in this case The Strand Theater Lot).

On the matter of the town's opinion that requiring handicapped seniors to walk 300 feet is "reasonable":

The BOS should be aware that requiring disabled seniors to walk 300 feet is not acceptable by ADA standards. Connecticut law uses the federal criteria for defining limitation in ability to walk (23 CFR § 1235.2). It is important to note that these criteria can involve physician-certified limitations that are not outwardly visible. Specifically, under these criteria, someone qualifies if a physician determines that he:

1. cannot walk 200 feet without stopping to rest;
2. cannot walk without the use of, or assistance from, a cane, brace, crutch, another person, prosthetic device, wheelchair, or other assistive device;
3. is restricted by lung disease to such an extent that his forced respiratory volume or arterial oxygen tension is below certain limits;
4. uses portable oxygen;
5. has a cardiac condition that creates functional limitations falling within the American Heart Association's Class III or IV criteria; or
6. is "severely limited" in walking ability due to an arthritic, neurological, or orthopedic condition.

Here is the Notice for publication in newspapers in 2009:

SEYMOUR PLANNING AND ZONING COMMISSION PUBLIC HEARING NOTICE

PLEASE PUBLISH THE FOLLOWING LEGAL NOTICE TWO TIMES. PUBLISH ON SEPTEMBER 23 AND ON SEPTEMBER 30, 2009.

The Seymour Planning and Zoning Commission will hold a public hearing on October 8, 2009 starting at 7: 15 PM in the Norma Drummer Room, Seymour Town Hall. This hearing will be on proposed changes to Sections 6.0 and 14.7, Seymour Zoning Regulations. The proposed changes to Section 6.0 pertain to the CBD-1 district. These changes would eliminate the current 10 ft. front setback requirement, eliminate the current 50% lot coverage requirement and increase the permitted building height from the current 50 ft. to 65 ft. The proposed change to Section 14.7 would permit a reduction in required parking for elderly housing in the CBD-1 district either **owned or managed by the Seymour Housing Authority** to one space per unit. A copy of the proposed amendments is on file with the Town Clerk.

Text underlined below represents what was going to be added and amended.

14.7 CBD-1 Exemption The replacement of an existing use in an existing building in the CBD-1 Zoning District with another use having the same or a lesser parking requirement is exempt from providing new parking. Existing or new buildings within 300 ft. of a municipal lot may include available space in such lots in meeting parking requirements with the approval of the Planning and Zoning Commission. The Planning and Zoning Commission may reduce the parking requirements for apartments for the elderly either owned or managed by the Seymour Housing Authority in the CBD-1 District to one space per apartment unit.

Seymour Planning and Zoning Commission Regular Meeting Minutes Thursday November 12, 2009, 7:30pm Norma Drummer Room - Town Hall

Zone Text Changes, CBD-1 District.

- Bob Looker states that the changes requested seem to be reflecting what is there already.
- Present requirement front setback is 10 feet, proposal to reduce back to no requirement.
- Present lot coverage requirement is 50%; proposal is to reduce to no requirement.
- Increase the required building height from 50feet to 65feet.
- Add sentence to CBD-1 extension which would state the parking requirements for elderly apartments, *as required by the Seymour Housing Authority*, would be reduced to one space per apartment unit.

MOTION: to have Town Planner draft an approval motion with the proposed changes to the District CBD-1 to be acted on at the next regular meeting. Bill Paecht/Dan Della Volpe Vote: Yes-5 No-0 Abstain-0 Absent-0

SEYMOUR PLANNING & ZONING COMMISSION

Public Hearing Minutes December 10, 2009

- Zone Text Change, CBD-1 District. MOTION: Paecht/Yagovane - Resolved that the Seymour Planning & Zoning Commission hereby approves the following amendments to the zoning regulations of the Town of Seymour. Section 6.0 Table of Dimensional Requirements
- The present 10 ft. front yard requirement in the CBD-1 District to be changed to NR - No Requirement.

- The present 50% lot coverage requirement in the CBD-1 District to be changed to NR - No Requirement.
- The maximum building height in the CBD-1 District to be increased from 50 ft. to 65 ft.
- Section 14.7 CBD-1 Exemption The following sentence to be added: "The Planning and Zoning Commission may reduce the parking requirements for apartments for the elderly **either owned or managed by the Seymour Housing Authority** to one space per apartment unit."
- The approved amendments are to become effective January 1, 2010. A copy of Sections 6.0 and 14.7 as revised is on file with the Town Clerk. Motion Carried 4-0. SEYMOUR PLANNING

► **SECOND:**

A substantial number of citizens and I object to the fact that the stipulation in 14.7, namely, "owned or managed by the Seymour Housing Authority," is omitted in our state municodes Website. The Town of Seymour, in effect, has provided information to state municodes that is legally **not a true copy** of its zone changes.

- We want to know why; and
- Who wanted to conceal that information?

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Joseph A. Luciano

Joseph A. Luciano, 33 DeForest Street A24, Seymour CT 06483-2894
Home 203/463-8323

*Independent Advocate for Elderly, Persons with Disabilities, Universal Design,
& Livable Communities through Full ADA compliance & Enforcement*

FOUNDER: **Disability Rights Action Group of Connecticut** DRAGconnecticut@yahoo.com
<http://www.nhregister.com/opinion/20140928/editorial-still-a-tough-road-for-americans-with-disabilities>
<http://www.rep-am.com/news/local/931134.txt>