

## **ZONING BOARD OF REVIEW MINUTES**

**Tuesday, May 26 , 2020 Meeting 7:00 pm**

**VIRTUAL - Convened at 7:00 PM via the ZOOM Remote Meeting Platform**

Present: Richard Land, Chairman; Christopher Mulhearn, Vice-Chairman; Melody Alger, Ashley Cullion, Jody Sceery, David Collier (Alternate) and Barry Golden (Alternate).

Staff: Lea Anthony Hitchen, Assistant Town Planner, Carole Malaga, stenographer, and Peter Skwirz, Legal Counsel.

Mr. Land, Chair of the Board, called the meeting to order at 7:00 PM and introduced the members and staff present. He then read the Board's procedures into the record. Each person addressing the Board will first state his or her name and address for the record. The applicant and his or her legal representative will present the case and witnesses may be called to testify. Such testimony must be relevant to the application. Expert witnesses will be sworn in and there will be no prejudgment as to the expertise of any witness. Pictures, diagrams and other documents given to the Board as evidence will be appropriately marked as exhibits and will be retained by the Board for the record. Upon completion of the applicant's presentation all other persons wishing to offer evidence in favor of the application may then do so one at a time. Following that all persons wishing to offer evidence against the application may then do so one at a time. It is asked that comments are confined to the zoning matter being heard and that repetitive remarks are avoided. Cross examination or rebuttal may be allowed if the Board feels it would be appropriate and useful. All questions from the floor will be directed through the Chair only. After all relevant facts have been heard the Chair will call for a motion; the Board will then discuss the motion and the Chair will call for a vote. During the discussion among voting Board members, the Board will not accept any new and further testimony unless it is specifically requested by a Board member. The Board

will make every attempt this evening to render a decision. The written decision will be recorded in the Town Clerk's Office as soon as possible following the approval of the minutes of the meeting.

### **Zoning Board of Review Hearings - 7:00 PM**

1. **J.P. MORGAN CHASE** for property owned by **EAST GREENWICH SQUARE, E&A, LLC** located at 1050 Division Street; Map 81 A.P. 10 Lot 6 (Zoned Commercial Highway - CH). The Applicant is proposing a re-development of the former Ruby Tuesday's restaurant into a 3,500 s.f. full service bank with drive-up ATM in the northwest corner of the parcel. The Applicant requires a Dimensional Variance from Chapter 260 of the Town Code, Zoning Ordinance, Table 1 - Table of Permitted Uses by Zone, Note 8(C). The request is to allow the drive-through facility where two already exist in a shopping center with greater than 100,000 s.f. of gross floor area.

Attorney Thomas Cronin represented the application; he explained J.P. Morgan Chase will be demolishing the former Ruby Tuesdays restaurant located within the East Greenwich Square Plaza and constructing a smaller 3,500 s.f. Chase Bank branch with a remote drive-up ATM.

Mr. Alan Roscoe, Senior Project Manager with Core States Group, represented the project for Chase Bank, being located at 1050 Division Street which is the northwest corner of the shopping plaza off by itself. He explained Chase Bank is proposing to construct a full-service bank with a remote ATM with a reserve area for the intent of a second ATM in the future. In Mr. Roscoe's opinion he felt the project was a benign use as it is located in a Commercial Highway zoning district and already in a retail and commercial shopping plaza and meets all of the tests to be allowed except for the fact that there are two existing uses that have a drive-thru in this plaza. He asserted the new building will be half the size as

was the Ruby Tuesday restaurant with the remaining area to be landscaped islands to distinguish the parking for Chase Bank customers/employees versus the remainder of the shopping plaza. He added in this design the drive-thru will be separate from the main building. Mr. Roscoe described the drive-thru lane to extend in a clockwise fashion around the perimeter of the plaza's parking area and there will be plenty of signage to clarify the layout.

Mr. Roscoe advised the proposed project is a benign use compared to the former restaurant; it is a smaller building in square footage, there will be additional landscaping to the site, and additional attributes include reduced wastewater generation, reduced traffic trips, and a general aesthetic compatibility with the shopping center.

Mr. Roscoe explained how the proposed bank meets the Zoning Board's standards for relief. He affirmed the plaza already has two drive-up facilities and the proposed drive-up would create a third - given that people rely on and need to have a drive-thru which is beneficial to any service use especially given today's climate he believes there is a strong case to allow a benign third use a drive-up service. Mr. Roscoe noted if there were no other drive-thrus at this plaza this request would be allowed by right. Additionally there are only positive impacts which will result from granting the relief and the relief to be granted is the least relief necessary. Furthermore, if the relief is not granted the hardship will be more than a mere inconvenience as the expectation is all banks these days have drive-thrus and ATM machines. Mr. Roscoe emphasized he was able to position the drive-thru in the most acceptable position as it did not interfere with traffic into or off of the plaza; it is off by itself away from the main shopping plaza, it is appropriately signed and will operate effectively.

Mr. Land questioned the reasoning for not connecting the drive-thru use to the building. Mr. Roscoe explained that it merely is to provide options to the customer as some locations have building mounted ATMs/drive-thrus while others have remote drive-thrus; in

this case where Chase Bank has a ground lease and pad ready site the bank would like to keep the drive-up and walk-in customers separate for safety reasons and there will be no areas where a customer will have to cross traffic.

Mr. Land opened the hearing for public comments. No public comments.

With no further questions from the Board or the public Mr. Land asked for a motion.

Mr. Mulhearn motioned to approve the application as submitted. Seconded by Ms. Cullion.

Ms. Cullion commented the project is a great location for a drive-thru if there were ever to be a third drive-thru in this plaza as this is the least used corner of the shopping plaza. She commended Mr. Roscoe for his design and making it as discreet as possible.

Mr. Land also appreciated the well thought design in terms of safety keeping the drive-thru separate and apart from the walk-in customers. Mr. Land commented he had reviewed the extensive packet of materials including the additional material that was electronically submitted today explaining how the project meets the relevant standards, those being:

The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and not the general characteristics of the surrounding area.

The hardship is not the result of any prior action by the applicant and does not result primarily from the desire for greater financial gain.

Granting the request will not alter the general character of the surrounding area or impair the purpose or intent of the Zoning Ordinance or Comprehensive Plan.

The relief to be granted is the least relief necessary.

The hardship suffered by the owner if the variance is not granted shall amount to more than a mere inconvenience.

Roll Call Vote: Ms. Alger: Yes, Ms. Cullion: Yes, Ms. Sceery: Yes, Mr. Mulhearn: Yes, Mr. Land: Yes **(VOTE 5 - 0)** in favor of the motion.

2. **1485 Holdings, LLC** for property located at 1485 South County Trail; Map 71 A.P. 12 Lot 18 (Zoned Light Industry/Office, LI/O). The Applicant seeks a Dimensional Variance from Chapter 260 of the Town Code; Zoning Ordinance, Article VII Signs, Section 27(A) Definition of a Monument Sign. The petition seeks to install a 120 s.f. sign where 50 s.f. of sign area is allowed; the height of the proposed sign will be 14'-6" where 8' is allowed and the sign will not meet the minimum 10' setback from the front property line. **(Continued from the April 28, 2020 ZBR meeting.)**

(Chairman Rick Land recused himself from the application. Ms. Alger stepped in as Acting-Chair for the hearing.)

Attorney Thomas J. Cronin of Nolan, Brunero, Cronin & Ferrara, Ltd. with offices located at 1070 Main Street represented Mr. John Rocchio of 1485 Holdings, LLC. Atty. Cronin summarized the project as being recently renovated buildings with limited frontage with great depth with a total of twenty-five (25) total tenants with many whom cannot be seen from the street. He recapped at the April ZBR meeting the proposal included a monument sign with a height of approximately fifteen feet (15') tall and just over ten feet (10') wide which received skepticism from the Board members as it was also going to be located with the ten foot front setback from South County Trail.

Atty. Cronin has conferred with his client and Mr. Fortin, the sign expert who testified at last month's hearing, and has since obtained agreement from them to move the sign out of the 10' setback. Atty. Cronin submitted a depiction indicating a 10' setback.

Additionally, Atty. Cronin pointed out the Board had concerns to the amount of relief required for a monument sign at the location; as an alternative to the monument sign he submitted a directory/freestanding sign which requires less relief and is 15' in height and 120 square feet in size. He explained the directory sign is essentially taking the two directory signs that his client is allowed by right and merging them together into one sign. A main visual difference between the two signs is the directory sign has "legs" versus the monument sign which has a full base at the bottom.

Ms. Cullion clarified that each building is allowed 60 square feet in area of signage per building in which there are two buildings on the property.

Ms. Alger opened the hearing for public comments. No public comments.

With no further questions from the Board or the public Ms. Alger asked for a motion.

Ms. Cullion motioned to approve the application as submitted. Seconded by Ms. Sceery.

Mr. Golden was of the opinion the revised sign is still rather large and could set precedent going forward. Additionally he thought the sign was large in comparison to other signs located on South County Trail.

Ms. Alger still had concerns regarding the size of the sign but did appreciate the fact the Applicant went back to the drawing board to modify the application to reflect the Board's concerns in that there is no further request for front setback relief. She commented the

sign will still require 70 square feet of relief for sign area and 6'-6" of height relief as presented. In her opinion she thought the request was a lot but did recognize it is located in an industrial area with both office and medical uses. Ms. Sceery agreed noting the signage has to be large in scale as it is comforting to be driving on South County Trail to visually see and know where you are driving to.

Ms. Cullion appreciated that the sign was repositioned to be 10' back from the front property line as that was one of her major issues she had at the last hearing. She still believes the sign is large in size but can understand the unique characteristics of the buildings and the site and why it is potentially necessary to have a sign such as this.

Atty. Cronin suggested as a compromise for the Board to consider since his client prefers a monument style bottom over a directory style bottom, he was willing to reduce the height by eliminating one row of panels which would reduce the sign height by 18" and provide the general aesthetic his client is looking for in a monument style sign.

Ms. Alger confirmed with the suggested compromise that would provide 21 panels on the sign in lieu of the original proposed of 24 panels. Atty. Cronin confirmed that is correct. Mr. Golden suggested repositioning the slots to make it a 6x4 dimension sign, creating a shorter and wider sign.

Atty. Cronin opined by eliminating three panels would work better for his client considering there are several tenants who take up multiple units therefore a row on the sign can be eliminated. Ms. Alger confirmed if a monument sign is installed the sign will require approximately five (5') feet of relief. Atty. Cronin said yes.

Ms. Cullion commented the 18" reduction makes it a better sign as stacking 4 panels in a row can make the sign harder to read.

Mr. Collier also appreciated the removal of the top row of panels as well as the sign being repositioned to meet the front setback requirement.

Ms. Alger read the relevant standards the Applicant had to meet in order for the application to be approved:

The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and not the general characteristics of the surrounding area.

The hardship is not the result of any prior action by the applicant and does not result primarily from the desire for greater financial gain.

Granting the request will not alter the general character of the surrounding area or impair the purpose or intent of the Zoning Ordinance or Comprehensive Plan.

The relief to be granted is the least relief necessary.

The hardship suffered by the owner if the variance is not granted shall amount to more than a mere inconvenience.

Ms. Cullion amended her motion to approve the application reflecting the removal of the top row of sign panels creating a 21 panel sign, making the sign eighteen inches (18”) shorter which will continue to be a monument, solid base sign and will be ten feet (10’) from the front property line. The hardship is specifically due to the unique characteristics of the land. Seconded by Ms. Sceery. Roll Call Vote: Ms. Alger: Yes, Ms. Cullion: Yes, Ms. Sceery: Yes, Mr. Golden: Yes, Mr. Collier: Yes (**VOTE 5 - 0**) in favor of the motion.

### **Zoning Board of Review Business**

1. Minutes: Review/action on the minutes of the November 26, 2019 appeal meeting, January 28, 2020, February 25, 2020 and April 28, 2020 meetings.

Motion by Ms. Alger to approve the November 26, 2019, January 28, 2020 and February 25, 2020 meeting minutes as drafted.  
Seconded by Ms. Sceery.

VOTE: 7 - 0.

April 28, 2020 minutes continued to the June 23, 2020 meeting.

Motion to add TMG/Town of East Greenwich vs. Dellagrotta to the agenda for discussion purposes only by Ms. Sceery. Seconded by Ms. Cullion.

VOTE: 6-0.

Atty. Skwirz noted the case was recently dismissed.

Motion to adjourn by Mr. Golden. Seconded by Ms. Alger.  
Approved 7 -0.

Zoning Board of Review meeting adjourned at 8:00 pm.

Minutes respectfully submitted by:

Lea Anthony Hitchen,  
Assistant Town Planner

For more information, please refer to the recording available in the Planning Department.