



**CITY OF BRIDGEPORT
ZONING BOARD OF APPEALS
SPECIAL MEETING
OCTOBER 19, 2023**

45 Lyon Terrace
Bridgeport, CT 06604
(203) 576-7217 Phone
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ATTENDANCE: Ira Nachem, Chair; Robin Shepard, Vice Chair; Mary Gaits, Secretary; Tiheba Bain, Paul Miller

OTHERS: Paul Boucher, Zoning Official, Jackson Strong, Design Coordinator; Nick S, Atty. Russ Liskov, Atty. Mark Anastasi, Atty. Michael Jankovsky, Atty. Robert Berchem, Berchem Moses, LLC; Atty. Steve Studer, Berchem Moses, LLC.

CALL TO ORDER

Chairman Nachem called the meeting to order at 6:17 p.m. A quorum was present.

He introduced the Commissioners seated and reviewed the rules for those present. He explained that four out of the five Commissioners present must support the application in order for it to pass.

Commissioner Nachem said that they had concluded the public speaking at the previous night's meeting.

1805 (fka 1773, 1843, 1849) Madison Ave. – Petition of Avon Commons, LLC – Appealing, under CT General Statutes, sec. 8-6, and sec. 11.140 of the Bridgeport Zoning Regulations, the Zoning Official’s decision to revoke the approval of the application for a Certificate of Zoning Compliance for the construction of a 4-story, 177-unit apartment building in the former OR-G zone.

Atty. Steven Studer, of Berchem and Moses came forward and said that he was representing Mr. Boucher, the Zoning Official. He then distributed copies of a map to the Commissioners, Mr. Boucher and Atty. Bellis. He indicated where the parcel known as 1861 Madison was located in regards to the proposed parking plan. Atty. Studer pointed out that 1861 was used for access to parking spaces behind the interior boundary of the property.

He noted that if an application requires a variance, the applicant must first have a site plan review. Atty. Studer said Mr. Guedes had admitted in an email to Mr. Boucher that the parcel could not be included but would be added later.

Atty. Studer then distributed a document that summarized the City's position, which was entered as Exhibit 2. He noted that any project going forward would be subject to the ZBA's consideration and also to the public's input. He went on to speak about municipal estoppel and how it affects the appeal.

On March 23, 2023, the change to the application was submitted and deemed to be substantial which therefore required a new application. Atty. Studer said that the Zoning Official properly revoked the permit and the Commission should uphold the Zoning Official's decision.

Commissioner Bain asked when Avon was notified about the discrepancies. Atty. Studer said that the Council Members had contacted the City Attorney's Office and that was when the developer was notified. The first temporary suspension was issued in July of 2023.

Commissioner Nachem said that the application should have come to the Commission first. Atty. Studer said that the process should be fair and equitable.

Commissioner Nachem had some questions about when the various site plans were submitted, which Atty. Studer reviewed with the Commissioners. Commissioner Nachem said that if the application had stayed under the 2010 regulations, it would have been compliant. Discussion followed.

Commissioner Nachem called the opposition forward. Atty. Bellis came forward and said that while he understood that the public was upset that there had not been a public hearing held for the site plan review. Atty. Bellis said that it was not required by the Connecticut General Statutes. He said the ZBA was reviewing a site plan. He understands their frustration over this.

Atty. Bellis said that with the site plan review, the Planning and Zoning Commission or another designated authority – in this case, Mr. Boucher – would be able to state whether the application conforms to the regulations. The official has no discretion to deny an application based on whether or not the official likes the proposed project.

Atty. Bellis said that Mr. Guedes had been producing site plans for many years, and Mr. Boucher has been working in Planning and Zoning for over 20 years. The letter to the developer states that the Mayor had directed the City Attorney's Office to review the application.

Atty. Bellis then reviewed the objections in the letter which stated that the fee was not paid and there were no utility hook ups available among other issues. Atty. Bellis pointed out that the site was a former restaurant on Madison Avenue, not a parcel in the woods.

Atty. Bellis pointed out that the Zoning has two functions: administrative and legislative. The administrative function focuses on whether something could be placed in a particular location while the legislative function focuses on variances. He felt that if the Commission uses common

sense they will see that the City Attorney's letter was not sufficient grounds to deny the application.

Atty. Bellis said that Mr. Boucher had accepted and reviewed the site plan correctly. However, the issues arose when the Mayor asked the City Attorney looked into the issue.

Commissioner Bain asked about the sequence of events. Atty. Bellis said that the seller had hired Atty. Rizio to present the application.

Atty. Studer said that Atty. Bellis had stated that the Mayor recommended a review and then recommended the action, which was the first line of the letter from the City Attorney's Office.

RECESS

Commissioner Nachem announced a recess at 7:16 p.m. He reconvened the meeting at 7:33 p.m.

Commissioner Nachem reminded everyone that all the Commissioners were Bridgeport residents as are many of the staff. He said that he had lived in Bridgeport for 28 years, and many of the others had been in Bridgeport and were long time residents.

He said that this session was for the Board Members and not for public comment. They will try to keep this in context.

Commissioner Miller said the administrator should go through an application with a fine tooth comb. He felt that Mr. Boucher had gone over the application carefully. It became evident that a developer had not followed the process for the additional parcel. It is not right that non-Bridgeport resident belittle the City's process. Discussion followed.

Commissioner Gaits said that there were three houses were on the site along with a restaurant, so the utilities were present. Commissioner Nachem pointed out that the developer has to approach the utilities for evaluation. The building would not be able to get the certificate of occupancy without proper utilities.

Commissioner Shepard said that Mr. Boucher had discovered an error and set about correcting it.

Commissioner Bain said that officials need to check and double check their work. Mr. Boucher has had over 20 years of experience. When the application was filed, it was in compliance at the time. She said that he did not make a mistake in the beginning. She noted that there were no issues until there was push back from the City Attorney. Discussion followed.

Commissioner Nachem said that if a permit can be revoked whenever someone decides to, that will have an effect on developers. The closest thing that Bridgeport has to an expert is the Zoning

Department. He reminded everyone that they were present to decide as to whether the permit was properly revoked.

Commissioner Miller pointed out that most people have driver's licenses, but if he did something improper, a police officer could pull his license immediately. The court may later decide the removal of the license was wrong and restore it.

Atty. Liskov reminded everyone that the sole question was whether Mr. Boucher properly issues the revocation of the permit.

**** COMMISSIONER NACHEM MOVED TO SUSTAIN AGENDA ITEM 1805 (FKA 1773, 1843, 1849) MADISON AVE. – PETITION OF AVON COMMONS, LLC – APPEALING, UNDER CT GENERAL STATUTES, SEC. 8-6, AND SEC. 11.140 OF THE BRIDGEPORT ZONING REGULATIONS, THE ZONING OFFICIAL’S DECISION TO REVOKE THE APPROVAL OF THE APPLICATION FOR A CERTIFICATE OF ZONING COMPLIANCE FOR THE CONSTRUCTION OF A 4-STORY, 177-UNIT APARTMENT BUILDING IN THE FORMER OR-G ZONE BECAUSE THE ZONING OFFICER WAS INCORRECT IN HIS REVOCATION OF THE CERTIFICATE OF ZONING COMPLIANCE.**

**** COMMISSIONER GAITS SECONDED.**

**** THE MOTION FAILED TO PASS WITH THREE (3) IN FAVOR (NACHEM, GAITS AND BAIN) AND TWO (2) OPPOSED (SHEPARD AND MILLER) FOR THE FOLLOWING REASONS:**

- 1. A VARIANCE IS NEEDED TO INCLUDE 1861 MADISON AVE IN THE PROJECT.**
- 2. THE APPLICATION WAS INCOMPLETE.**

ADJOURNMENT

**** COMMISSIONER BAIN MOVED TO ADJOURN.**

**** COMMISSIONER SHEPARD SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 7:55 p.m.

Respectfully submitted,

Telesco Secretarial Services

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