

Planning and Zoning Commission City of Derby

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

David Barboza II

Richard A. Stankye

Albert Misiewicz

Glenn H. Stevens

David L. Savo (Alternate)

Joseph Gruttadauria III (Alternate)

Maryanne DeTullio, Clerk

A meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, May 15, 2007 at 7:00 p.m. in the Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:10 p.m. by Chairman Ted Estwan. Present were Ted Estwan, David Barboza, Glenn Stevens, David Rogers, Richard Stankye, Albert Misiewicz, Joseph Gruttadauria and David Savo. Also present were Atty. Joseph Coppola, Michael Joyce, Milone & MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

Mr. Estwan stated that he had several letters to read into the record. He also stated that an item will be added to the agenda for correspondence.

Mr. Estwan read a letter (copy attached) dated 3/31/07 from Ted and Bonnie Bultes regarding Marcucio Gardens. The letter stated that the only portion of his property that is zoned commercial is the hothouse connected to the retail area and the remaining is R-3 Zone. They feel that Mr. Marcucio is in violation of the zoning regulations.

Mr. Estwan read a letter dated 5/2/07 (copy attached) from Attorney James E. Cohen representing Marcucio Gardens which stated that Mr. Marcucio is awaiting preparation of a site plan. He will be submitting an application shortly for special exception use to allow the garden center in the R-3 Zone.

Public Portion

Ted Bultes, 23 General Wooster Road stated that Mr. Marcucio is using the portion of his property zoned R-3 for B-1 uses and has been adding more and more to that area. Mr. Bultes stated that it is difficult to enjoy his property because of the machinery being operated by Mr. Marcucio. Mr. Bultes had photographs that he wanted to present. Mr. Estwan stated that an application will be filed and a public hearing scheduled and at that time public comment will be accepted as well as the pictures. Mr. Bultes stated that he is in violation at this time and would like to see something done now. Mr. Estwan referred him to David Kopjanski, ZEO with any violations.

Approval of Minutes:

A motion to approve the minutes of 04/17/07 meeting was made by Mr. Barboza, seconded by Mr. Savo and carried unanimously with Mr. Rogers and Mr. Stankye abstaining.

Acceptance of Applications:

Mr. Stevens moved to accept an application for CDD approval from AT&T for 90 Elizabeth Street installation of new emergency generator. The motion was seconded by Mr. Stankye and carried unanimously.

Mr. Stankey moved to accept an application for CDD approval from Dennis Lee and Michael Pierce for 139 Main Street for local pool hall and recreation center. The motion was seconded by Mr. Stevens and carried unanimously.

Mr. Misiewicz moved to accept and schedule for public hearing on Tuesday, June 5, 2007 at 6:00 p.m. an application from Derby Recreation Camp for special exception use for off-site parking and drop-off area at Lakeview Terrace at Guardiano Drive. The motion was seconded by Mr. Stankye and carried unanimously.

Mr. Savo moved to accept an application for CDD approval from Derby Shores LLC for 7 Minerva Street a/k/a 195 Main Street for use as a law/real estate office. The motion was seconded by Mr. Gruttadauria and carried unanimously.

Public Hearings:

(a) Application for Site Plan Approval from Patel's LLC for 441 Roosevelt Drive - B-2 Zone.

Atty. William Sarris was present and submitted the proof of the certified mailings to adjacent property owners. He also submitted a letter from Atty. Alan Tyma, who represents a prospective tenant at this location, confirming that his client is in favor of the application and will attend this hearing. Atty. Sarris noted that the proposed pole sign exceeds the regulations and they will revise that sign and it will conform in size to the regulations.

Don Smith, engineer stated that the property is located at 441-443 Roosevelt Drive. They are proposing to expand the existing commercial and residential facility, which now has Derby Discount Liquors and two residential apartments on the second floor. They will be adding on a 24 X 38' addition which will provide three floor of space. The basement will be used as a commercial kitchen for the take-out restaurant which will be located on the first floor. The second floor will be a storage area for the two existing apartments. Mr. Smith stated that there previously was approximately 400' of storage area in the basement which has been eliminated but still carrying in the parking schedule. He stated the parking schedule would be two residential units would require four spaces. The storage area that is being proposed as an accessory to those two

residential units there are no additional parking spaces required for that area. The retail use, which is Derby Discount Liquor would generate 8 ½ spaces. There is storage in the basement and first floor which would require less than one space. The take-out restaurant would require 5 ½ spaces. The total parking required would be 19 and the plan has 19 spaces and one handicap space.

Mr. Smith stated that the traffic operation basically is one driveway into the facility and then you can either take a right which will have three spaces plus the handicap space right in front of the building; with exiting traffic only back on to Route 34. Additional parking spaces would be located basically on the norther property line. There would be four spaces in the back for residents parkings which will be signed. The dumpster is located in the rear corner and the design has been designed so that the loading spaces are in the back and there is sufficient for short tractor trucks to access that area. There will be landscaping along the northerly border and in the back around the dumpster.

Mr. Smith stated that would like to submit for the record are two letters from the DOT. The first is from the Department of Transportation in which they approved the concept of the driveways. There was another letter dated 5/11/07 from the Department of Transportation regarding the leasing of some area from the State of Connecticut in order to make the driveway work. The Department approved the request for that property.

Mr. Smith stated that there was some question regarding the location of a storm drain that comes out of Osborndale, under Hawthorne Avenue, through the property in the back and ultimately under Route 34 into the Housatonic River. That storm drain passes through the two catchbasins that are right on the border of their property and the neighbors. He stated that they retained the firm Conn Professional Water Services to locate that storm drain. They have traced that storm drain and submitted a letter stating that the storm drain does not exist under Mr. Patel's property but does exist under Mr. LaBlanca's property which is to the south.

Mr. Smith stated that there was a misinterpretation of the regulations regarding the ground sign and it will comply with the regulations.

Mr. Estwan read a letter from the Fire Marshal which stated that there were no problems with fire accessibility.

Mr. Joyce stated that he submitted a review letter and asked that it be made part of the record. Mr. Joyce asked what type of vehicles can be accommodated on the site and Mr. Smith stated that it can accommodate SU vehicle without any conflicts or a small tractor trailer. He stated that the take-out restaurants receives two deliveries a week from small trailers and they can scheduled at his convenience to be done during off peak hours. Mr. Joyce asked the business hours and Atty. Sarris stated that the liquor store hours at 9:00 a.m. to 8:00 p.m. Monday through Saturday. Dennis Sojka, owner of Mattei's Deli & Catering stated that he open from 8:00 a.m. to 5:00 p.m. Tuesday through Saturday and his deliveries are always before 10:00 a.m. He stated that his business is a take-out establishment.

Mr. Joyce stated that there are storage doors along the northerly side of the building. Mr. Smith stated that the storage area accessible is used essentially for returns. Mr. Joyce asked Mr. Smith to explain the major differences between the plans. Mr. Smith stated that the previous plan had parallel parking in front of the building. The DOT did not like the operation of the driveways and the traffic configuration. They are actually removing almost all of the existing canopy in the front of the building and getting back to the original line of the building which allowed for more area in the front of the building. They can now provide angle parking and it makes for better circulation than what was there before.

Mr. Estwan asked for public comment.

Attorney Leslie Howell, Madison, Ct representing the adjacent neighbor Tammy LaBlanca and her father who operates the antique store. He asked about the turnaround area and whether a delivery truck can get into that area. He asked about the size of the trucks that will be using that area. Mr. Smith stated that it would be a short box tractor trailer. Atty. Howell asked what assurances there are that no larger trucks would be used. Mr. Smith stated that only a smaller truck would be able to maneuver that area. Atty. Howell asked about the hours of operation and when the deliveries are done. He stated that there is a time period when there might be cars parked and it would make it difficult for the trucks to get to the rear portion. He felt that there might be problems with circulation and felt that the plan does not provide adequate turning area. Atty. Howell stated that he had a question about the catchbasin and drainage pipe and stated that a portion of the catchbasin is in front of the property. Mr. Joyce stated that from the plans it is very close. Atty. Howell stated that it does go over the dividing line and Mr. Joyce stated that most of it is to the right. Atty. Howell asked if there was an A-2 survey to reflect the exact location of that drain pipe. Mr. Smith stated that the water service contractor came in and traced the pipe and found that it exists to the right hand side of the fence. He stated that they did not survey the location of the pipe because it is not on their property. He stated that the grading plan shows where the outlet of the storm drain is. Atty. Howell asked about an easement and Mr. Smith stated that the gas main easement is shown and it is not an active gas line. Atty. Howell asked if there were any other easements and Mr. Joyce stated that this is what has been submitted.

Atty. Howell asked about the location of the restroom in the take-out restaurant and whether it met the code. Mr. Joyce stated that the bathroom is in the lower level and internal buildings codes are not under the jurisdiction of this commission. Atty. Howell asked about the number of vehicle trips per day and if a traffic study is necessary. Mr. Joyce stated that according to the regulations 200 trips or more per day would require a traffic study and none has been submitted at this time. Atty. Howell stated that the DOT letters indicate that they have not reviewed the turn around area and Mr. Joyce stated that it is outside their jurisdiction. Atty. Sarris stated that the deli deliveries are done between 8:00 a.m. and 10:00 a.m. and their peak hours are during lunch hours. The liquor store peak hours are primarily after the deli is closed from 5:00 to closing. Atty. Howell stated that this is a very tight location and with this much additional vehicle and

Estwan asked how many spaces the deli has at their current location and Mr. Sojka stated that he has four. Mr. Estwan asked the number of deliveries and Mr. Sojka stated that he get two deliveries per week. Mr. Joyce asked if they could provide the number of customers per day. Atty. Sarris that the peak hours for the deli are lunch hours and for the liquor store it is late afternoon and evening when the deli is closed.

Dan Waleski, 21 Elm Street stated Route 34 is a very busy road and he asked if there was adeuqte parking for employees and tenants.

Vincent Shabone, Barnum Electrical stated that he was concerned with the dumpster location and would like to see it moved to the other side. He also asked who was responsible for the drainage pipe. Mr. Joyce stated that there is no formal drainage easement for maintenance and the property owner who has the pipe should be responsible. Mr. Sojka stated that the dumpster will be completely enclosed in a structure and the details are shown on the plans. Mr. Sojka stated that during the summer months he has two day pick up of the dumpster and it is cleaned and sanitized and during the winter months it is collected once a week. Mr. Shabone asked about the height of the retaining wall and Mr. Smith stated taht it is approximately 3 feet.

Mr. Stankye asked about the deliveries to the liquor store. Mr. Patel stated that they are done in the morning before 9:00 a.m.

Al Shucky, owner of the antique business stated that it is impossible to get a 30 foto trailer in that area. He stated that Route 34 is very busy and he is concerned with people parking on his property.

A motion to continue the public hearing was made by Mr. Barboza, seconded by Mr. Stevens and carried unanimously.

Old Business

(a) Update on Redevelopment Zone

Atty. Coppola stated that there has not been a meeting since last month and there is nothing new to report.

Payment of Bills:

Mr. Estwan stated that he had no new invoices.

A motion to adjourn was made by Mr. Savo, seconded by Mr. Stankye and carried unanimously. The meeting was adjourned at 8:10 p.m.

Attest:

Maryanne DeTullio

These minutes are subject to the Commission's approval at their next scheduled meeting.