

***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
Raul Sanchez (Alternate)
Maryanne DeTullio, Clerk**

A meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, May 18, 2009 at 7:00 p.m. in the Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:05 p.m. by Chm. Ted Estwan. Present were Ted Estwan, Glenn Stevens, Albert Misiewicz, David Barboza, David Rogers, Steve Jalowiec and Raul Sanchez. Also present was Mike Joyce, Milone & MacBroom

Additions, Deletions, Corrections to Agenda

There were no additions, deletions or corrections to the agenda.

Correspondence

Chm. Estwan read a letter from Prestige Builders stating that the road has been completed for the David Humphrey Subdivision and requesting that the bond be reduced. This will be on the June agenda.

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes:

A motion to approve the minutes of 04/21/09 meeting was made by Mr. Barboza, seconded by Mr. Rogers and carried unanimously with Mr. Jalowiec abstaining.

Acceptance of Applications:

Mr. Jalowiec moved to accept an application 14-16 Cottage St. LLC for CDD approval for driveway to access rear utilities in basement and provide parking for 3 cars at 14-16 Cottage Street. The motion was seconded by Mr. Barboza and carried unanimously.

Public Hearings:

(a) Application for Special Exception Use from William Korolyshun for temporary rock crushing on property at Division Street (Application #2009-04-21-1).

William Korolyshun was present and stated that he is seeking a temporary permit to crush materials on property on Division Street. Mr. Joyce stated that this was a difficult application to review as it effected a lot of sections of the regulations. He also stated that it was difficult to read the actual topography of the property. He stated that when the BJ's application was submitted it depicted wetlands on this portion of the site. He stated that needed to be clarified. There was not enough information to move forward and comment on the crushing operation.

Mr. Korolyshun stated that he can move the operation anywhere on the site. He also stated that he has a certificate indicating that there are no wetlands on the site. Mr. Joyce stated that they are trying to be consistent with the regulations and what is required. He stated that there needs to be provisions for dust controls. Mr. Korolyshun stated that he went through the application with Mr. Kopjanski and thought that he had covered everything. He stated that he tried to keep the operation close to the railroad tracks away from the Greenway. Mr. Misiewicz asked how long he wanted the permit for and Mr. Korolyshun stated that he is looking for two years, which is the maximum that could be granted. Mr. Misiewicz asked if he was bringing in more materials and Mr. Korolyshun stated that he was not at this time. He stated that he will be crushing the materials that are already on site and will be doing this for his own business and when needed for a job.

There was no public comment on the application. Mr. Estwan stated that the Commission will need to see the letter from Inland Wetlands stating that there are no wetlands. He also asked the hours of operation and they will be 8:00 a.m. to 3:00 p.m. with no work on weekends or holidays. Mr. Joyce stated that he will need to show soil and erosion control measures, dust controls and also suggested an anti-tracking pad and having a water truck on site during operation. Mr. Korolyshun stated that he will go through the review letter and also present the letter from Inland Wetlands. He will work with Mr. Joyce on the application. A motion to continue the public hearing to the June meeting was made by Mr. Jalowiec, seconded by Mr. Misiewicz and carried unanimously.

(b) Application for Special Exception Use from Youghioghenny Communications, d/b/a Pocket Communications to add three antennas and related equipment on rooftop at 33 Elizabeth Street (Application #2009-04-21-2).

Tom Shevlin from HPC Development was present for the applicant. He stated that they are asking permission for three panel antennas which will be self-enclosed in the chimney. They will be 8'2" about the highest point and 10'4" about the lower penthouse. There will be a single equipment cabinet. There will be routine maintenance and two employees during that maintenance. There is no need for any additional parking spaces. He presented photo simulations of how the antennas will look. Mr. Joyce noted Planning & Zoning Commission

that the draft copy of the lease agreement with the owner shows that they can go up to 25' high. Mr. Shevlin stated that was done prior to the work and it was changed to adhere to the regulations. He also stated that they have submitted a letter requesting a waiver of the regulation for an A-2 survey. There was no public comment on the application.

A motion to close the public hearing was made by Mr. Stevens, seconded by Mr. Jalowiec and carried unanimously. A motion to add this under New Business as Item 10b was made by Mr. Barboza, seconded by Mr. Jalowiec and carried unanimously.

(c) Application for Special Exception Use from Cellco Partnership d/b/a Verizon Wireless for installation of an in-building wireless communications system and associated rooftop antennas at 130 Division Street. (Application #2009-04-21-3).

Atty. John Poakeart, Robinson & Cole was present for the applicant. He stated that the application is for the installation of an in-building wireless communication system at Griffin Hospital. This will allow users to use the devices and make calls more easily. There will be antennas in the building and two on the roof. There will be panel antennas and they will be 5' above the existing penthouse on the roof and also be 10' lower than the other antennas already on the roof. He presented plans showing where the antennas will be located.

Rupert Day asked how the antennas will effect service in his own home. Atty. Paokeart stated that they are designed for operation within the Hospital and should not interfere with other radio frequencies or cause any problems to neighbors.

A motion to close the public hearing was made by Mr. Rogers, seconded by Mr. Jalowiec and carried unanimously. A motion to add to the agenda under New Business as Item 10c was made by Mr. Stevens, seconded by Mr. Jalowiec and carried unanimously.

New Business

(a) Discussion - Property at 111 High Street.

Vincent Guardiano was present and stated that this property is on High Street and McLaughlin Terrace and located within the R-3 zone which was changed in 2000. All abutting properties are in the R-5 zone and this family has a two family house on it now. He stated that when the zone was changed in 2000 it was not done to create non-conformities and he feels that this was an oversight and the zone line should have been drawn straight and this property included in the R-5 zone. He stated that he knew that the Commission has been making corrections as they find them to the zoning map. He stated that he found this out when doing an appraisal of the property for an estate. He stated that the request is that the mistake be rectified and the zone changed. Mr. Estwan stated that he understands what the situation is but wasn't sure how to proceed. Mr. Joyce stated that the lot is over an acre. Mr. Guardiano stated that the lot is oversized and there is no intention of subdividing the property. They would like to put a

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garage on the site. He also stated that they could add another lot if they wanted to as there is enough land. Mr. Joyce stated that it would be a flag lot and would require a special exception. Mr. Stevens moved that Mr. Joyce check the zoning map to see if there are any other changes that need to be made at this time. The motion was seconded by Mr. Jalowiec and carried unanimously.

(b) Application for Special Exception Use from Youghioghenny Communications, d/b/a Pocket Communications to add three antennas and related equipment on rooftop at 33 Elizabeth Street

(Application #2009-04-21-2).

Mr. Estwan moved that pursuant to Section 195-27, the Derby Planning & Zoning Commission finds that the application and supporting documentation as presented is in accordance with Section 195-27.

Therefore, following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Application for Special Exception for Youghiogheng Communications d/b/a Pocket Communications on a property shown on Derby Assessors Map 8-5, Lot 81, subject to the following conditions:

The approval shall be based upon the following documents submitted in support of this application.

1. "Application for Special Exception Use and/or Site Plan Approval," dated April 13, 2009.
2. "Statement of Use".
3. "Lease Agreement" including plans prepared by Bay State Design.
4. FCC license information on the applicant.
5. "Radio Frequency Exposure Report, Pocket Smart Wireless, NHCT0087c, 33 Elizabeth Street, New Haven, CT", prepared by C Squared Systems, LLC, November 20, 2008.
6. "Radio Frequency Engineering Report" 33 Elizabeth Street, Derby, CT, Pocket Smart Wireless, prepared by C Squared Systems, LLC November 18, 2008.
7. Plans entitled "Pocket Smart Wireless, NHCT0087c, 33 Elizabeth Street, Derby, CT 06418" prepared by Bay State Design, Inc. dated March 30, 2009 with the following attached drawings:
 - a. "Title Sheet - Drawing T-1" not drawn to scale.
 - b. "500' Radius Plan - Drawing C-1" drawn at scale of 1"=60'.
 - c. "Abutters List - Drawing C-2, C-3" not drawn to scale.
 - d. "Roof Plan and Details - Drawing A-1" drawn at a scale of 3/16"=1'.
 - e. "Elevation - Drawing A-2" drawn at a scale of 3/16"=1'.

With the following stipulated conditions:

1. The special exception approval shall not be effective until it is filed on the Derby Land Records along with any conditions in accordance with the General Statutes of the State of Connecticut.

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2. That the applicant is granted a waiver of Section 195-33 of the Zoning Regulations requiring a Class A-2 Survey for the final site plan.

3. Section 195-27F.C. the applicant is granted a waiver.

4. That the height of the proposed antenna above the penthouse elevation shall not exceed 15' in height.

5. Subsequent to the initial operation of a wireless telecommunication antenna, the owner of such facility shall conduct an actual measurement of the electromagnetic emissions and submit

a report prepared by a licensed RF engineer to the Zoning Enforcement Officer. This report shall be submitted on a frequent basis not to exceed one per calendar year. When there is more than one source of electromagnetic emissions at a location the above mentioned report should measure the cumulative emissions from all sources.

6. If the wireless telecommunication antenna is not in use for 12 consecutive months, it shall be removed by the service facility owner. This removal shall occur within 90 days of the end of such 12 month period.

7. The approval of an application for special permit shall be void and of no effect unless installation of the antenna commences within one year from the date of the approval granted by the Commission. The Commission may grant up to two six-month extensions of this period upon written request by the applicant. The Commission shall withhold approval of any or all extensions unless the development plan is brought into conformance with any relevant zoning regulations, which have been amended subsequent to the original approval and if the applicant fails to provide adequate evidence that construction is able to begin within the extended time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing.

8. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.

The motion was seconded by Mr. Rogers and carried unanimously.

(c) Application for Special Exception Use from Cellco Partnership d/b/a Verizon Wireless for installation of an in-building wireless communications system and associated rooftop antennas at 130 Division Street. (Application #2009-04-21-3).

Mr. Estwan moved that pursuant to Section 195-27 the Derby Planning & Zoning Commission finds that the application and supporting documentation as presented is in accordance with sections 195-27.

Therefore, following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Application for Special Exception for Cellco Partnership d/b/a Verizon Wireless on

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properties shown on Derby Assessors Map 8-11, Lots 95-99 subject to the following conditions:

The approval shall be based upon the following documents submitted in support of this application:

1. Cover Letter to Chairman Estwan with waiver requests, dated April 13, 2009, prepared by John A. Poakeart.
2. "Application for Special Exception Use and/or Site Plan Approval" dated April 13, 2009.
3. "Statement of Use", prepared by John A. Poakeart.
4. Plans entitled "Cellco Partnership d/b/a Verizon Wireless, In-Building Wireless Communications Facility, Griffin Hospital, 130 Division Street, Derby, CT 06418" prepared by

On Air Engineering, LLC dated March 13, 2009 with the following attached drawings:

- a. "Title Sheet - Drawing T-1" not drawn to scale.
 - b. "Site Plan and Bulk Requirements - Drawing C-1" drawn at scale of 1"=50'.
 - c. "Partial Roof Plan - Drawing A-1" drawn at scale of 1"=25'.
 - d. "West Elevation and Penthouse Elevation - Drawing A-2" drawn at various scales.
 - e. "Antenna Mounting Details - Drawing A-3" drawn at various scales.
5. "Product Specifications, DB499-C" prepared by CommScope Company.
 6. FCC license information of the applicant.
 7. "Adjacent Owners within 500 feet".

With the following stipulated conditions.

1. The special exception approval shall not be effective until it is filed on the Derby Land Records along with any conditions in accordance with the General Statutes of the State of Connecticut.
2. That the applicant is granted a waiver of Section 195-33 of the Zoning Regulations requiring a Class A-2 Survey for the final site plan.
3. Subsequent to the initial operation of a wireless telecommunication antenna, the owner of such facility shall conduct an actual measurement of the electromagnetic emissions and submit a report prepared by a licensed RF engineer to the Zoning Enforcement Officer. This report shall be submitted on a frequent basis not to exceed one per calendar year. When there is more than one source of electromagnetic emissions at a location the above mentioned report should measure the cumulative emissions from all sources.
4. If the wireless telecommunication antenna is not in use for 12 consecutive months, it shall be removed by the service facility owner. This removal shall occur within 90 days of the end of such 12 month period.

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5. The approval of an application for special permit shall be void and of no effect unless installation of the antenna commences within one year from the date of the approval granted by the Commission. The Commission may grant up to two six-month extensions of this period upon written request by the applicant. The Commission shall withhold approval of any or all extensions unless the development plan is brought into conformance with any relevant zoning regulations, which have been amended subsequent to the original approval and if the applicant fails to provide adequate evidence that construction is able to begin within the extended time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing.
6. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.

The motion was seconded by Mr. Barboza and carried unanimously.

Old Business:

(a) Update on Redevelopment Zone

Mr. Stevens stated that they are proceeding cautiously with the proposal that they have.

(b) Update on Enforcement Issues

There was no report on this matter.

Payment of Bills:

Mr. Barboza moved that all bills be paid. The motion was seconded by Mr. Rogers and carried unanimously.

A motion to adjourn was made by Mr. Jalowiec, seconded by Mr. Barboza 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.