

# ***Planning and Zoning Commission City of Derby***

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

Richard A. Stankye

David Barboza II

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, October 20, 2009 at 7:00 p.m. in the Aldermanic Chambers, 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, Albert Misiewicz, David Barboza, David Rogers, Glenn Stevens and Raul Sanchez. Also present were Michael and Ryan McEvoy, Milone & MacBroom and Maryanne DeTullio, Clerk.

## Additions, Deletions, Corrections to Agenda

Mr. Stevens moved to add as Item 10(d) 8-24 Referral from Board of Aldermen Re: property on Water Street. The motion was seconded by Mr. Misiewicz and carried unanimously.

## Correspondence – None

## Public Portion

Dan Waleski, 21 Elm Street complimented the Commission on their hard work on various projects.

## Approval of Minutes

A motion to approve the minutes of the 09/15/09 meeting was made by Mr. Stevens, seconded by Mr. Rogers and carried unanimously with Mr. Barboza abstaining.

## Acceptance of Applications

Mr. Misiewicz moved to accept an application for CDD approval from Darren Toth for 17 Elizabeth Street, third floor, for use as an office. The motion was seconded by Mr. Stevens and carried unanimously.

Mr. Barboza moved to accept an application for CDD approval from 140 Main Street Derby, LLC for 140 Main Street for use as a private social club. The motion was seconded by Mr. Stevens and carried unanimously.

Public Hearings

(a) Application for Zone Text Change from Jalowiec Realty Associates, L.P. to revise Section 195-15 – Business-1 (B-1) Zone to allow the development of vehicle repair facilities, not to exceed 5 service bays within the B-1 Zone one independent of gasoline stations to provide necessary service to the community – (Application #2009-08-18-1) – Continued from 9/15/09

Jim Rotondo, engineer stated that the presentation was made last month and the Commission held the public hearing open to receive comments from VCOG. Mr. Estwan stated that a letter was received dated 9/23/09 from VCOG stating that this application had no negative impacts.

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

(b) Application for Special Exception Use from Warren Dworkin (Barry Steinberg, P.E.) for 196, 198 and 208 Seymour Avenue and 298 Hawkins Street for use by Frank's LLC for sales and service of cars and trucks and storage of automobiles – I-1 Zone (Application #2009-07-21-1)

Barry Steinberg, 319 Washington Avenue, North Haven was present for the applicant. He stated that they are seeking a special exception use to permit Frank's LLC, an auto dealer and repairer, to operate a similar business to what the site was presently used as. He indicated that they will only be servicing the vehicles that they are selling. There will be no additions or new paving work. There will stripe the parking area to create the parking spaces and some interior work for an office and the repair area will be done.

Mr. Steinberg stated that the building at 298 Hawkins Street is rented for light manufacturing and warehouse and he showed the parking for that use on the plans. He also showed the parking allocated for a rental car company use. He stated that when they need it they will be storing vehicles in the back. There is significant parking for any future uses on the property.

He also stated that the certified mailings have been submitted to the office.

Mr. Stevens stated that 208 Seymour Avenue is now vacant but is there parking shown on the plans for that. Mr. Steinberg stated that it is not shown since it is not needed at this time. He indicated that there is parking available for that location.

Mr. Estwan asked if they had responded to the comment in the Milone & MacBroom letter dated 10/14/09. Mr. Steinberg stated that they have responded to a number of comments. He stated that he did not quite understand the last comment concerning the runoff from cars since that is nothing new to the site.

Mr. Rogers asked about the oil/water separator and Mr. Steinberg stated that in the past they collected the oil and burned it with the permission of the Fire Marshal and that approval is still in effect. Mr. Rogers stated that he is concerned that if another tenant moves in they will have access to that.

Mr. Joyce stated that the application has a name change but it is still the same property. The retail use has been eliminated and the application is now just for Frank's LLC. Mr. Estwan asked if Frank's is licensed and Mr. Steinberg stated that before they can be licensed they need the approval of location from P&Z. Mr. Barboza asked the hours of operation and it was indicated that they will be Monday to Friday from 8:00 a.m. to 5: p.m. and Saturday from 9:00 a.m. to 4:00 p.m. He will only be servicing cars that he is dealing with not any off the street.

Mr. Estwan stated that they have a towing service now which is not shown on the map. Mr. Steinberg stated that they are keeping their location in Ansonia and will not have a towing service in Derby.

Mr. Estwan asked for any public comment on the application.

Maureen Murphy, 263 Hawkins Street asked why they need a special exception. Mr. Joyce stated that there are different uses that are permitted as of right and the zoning regulations also provide for special exception uses. These are uses that would be consistent with the zone but require approval by this Commission. She stated that Dworkin repaired cars before and Mr. Joyce stated that it is a different licensee. She stated that the term rental cars was used during the presentation. Mr. Estwan stated that they are going to periodically store cars for a rental car company. Ms. Murphy stated that 298 Hawkins Street is currently used by a manufacturing firm and asked if they are going to be taking that over. Mr. Dworkin stated that some of the space that will be used for storage of rental cars is in the rear of the property and nothing will change in use there. She also asked if there will be any storage of wrecks and Mr. Dworkin stated that it will only be a used car dealership.

Ed Sheehy, 9 Iannotti Lane stated that it is not in the best interest to have this business move into the former Dworkin building. He stated that if you look at their site in Ansonia and it is not kept up.

Dan Waleski, 21 Elm Street stated that he has some concerns about other uses for this property. It is basically in a residential area and any changes that occur will have an effect on the overall area. He did not think that the area should be changed too much. There are a lot of other uses that can be done with this property and he was not in favor.

Warren Dworkin stated that they are not doing anything different and it will be a used car dealership. He stated that he cannot let the property stand empty and he will not allow the tenant to change anything and will make sure that it is properly maintained and keeps its value. He stated that this is the only person that he has right now who wants to rent this property.

Frank Hauser, Jr., 27 Prindle Avenue, Ansonia, Frank's LLC stated that it will be the same use and there will not be any wrecks on the site. He stated that the landlord has strict regulations and the property will be kept up and will not be blighted.

Mr. Estwan stated that the Commission is concerned about junk cars or wrecks on this property. He stated that the Commission and ZEO will not tolerate what is going on in Ansonia.

Mr. Joyce stated that there is a question on ownership of what is being approved. Mr. Dworkin stated that he submitted a letter from his attorney with copies of the deeds. He stated that all the properties have been transferred into a trust and under one ownership, which the City of Derby Assessor has agreed with. Mr. Dworkin stated that Dworkin Properties Limited owns 298 Hawkins Street and a small piece of Mohawk Avenue. The other pieces are owned by Martin Dworkin Irrevocable Trust.

Mr. Joyce stated that there is a lease agreement with the State of Connecticut for use of a portion of the property. Mr. Dworking stated that the lease is in the name of Dworkin Chevrolet, Inc. for parking. There was some question whether the area could be used if it is not Dworkin Chevrolet and Mr. Joyce felt that the corporation counsel should review the lease.

Mr. McEvoy stated that regarding the spaces that are used for storage should not be shown as parking spaces. He stated that there are six spaces shown behind 298 Hawkins Street which are in front of a delivery or overhead door. He stated that they could probably shift around the spaces to make the area work. He stated that they raised the concern about the oil water separator because they did not know the nature of the vehicles that would be on the site. He stated that if they are rental vehicles and not repair vehicles then there probably would not be that much need for an oil/water separator.

Mr. Joyce asked about signage and lighting facing Winter Street. Mr. Dworkin stated that most of the lighted signs on the property have been taken down. Mr. Estwan stated that they will have to adhere to the signage regulations on any changes to the signs.

Mr. Steinberg stated that the parking behind 298 Hawkins Street where the overhead doors are is not a loading area and that is why the parking was put there.

Mr. Stevens stated that he has been a neighbor of Dworkin for many years and there have not been any problems. He stated that he knows what the tenant's property looks like in Ansonia and would not want to see that here. He stated that he is in favor of this but it will be watched very closely.

Mr. Estwan stated that they will submit the lease for review by the corporation counsel. Mr. Joyce stated that the lease agreement and deeds should be submitted so they are part of the record. Mr. Dworkin stated that the deeds have already been submitted.

Mr. Barboza moved to continue the public hearing to the November meeting. The motion was seconded by Mr. Misiewicz and carried unanimously.

### New Business

(a) Discussion and possible action - Application for Zone Text Change from Jalowiec Realty Associates, L.P. to revise Section 195-15 – Business-1 (B-1) Zone to allow the development of vehicle repair facilities, not to exceed 5 service bays within the B-1 Zone one independent of gasoline stations to provide necessary service to the community – (Application #2009-08-18-1)

Mr. McEvoy stated that it would be their recommendation that the language "not to exceed five service bays" be eliminated. Mr. Stevens moved to approve the application with that language eliminated, effective November 9, 2009. The motion was seconded by Mr. Estwan and carried unanimously.

(b) Discussion and possible action - Application for Special Exception Use from Warren Dworkin (Barry Steinberg, P.E.) for 196, 198 and 208 Seymour Avenue and 298 Hawkins Street for use by Frank's LLC for sales and service of cars and trucks and storage of automobiles – I-1 Zone (Application #2009-07-21-1)

Mr. Estwan noted that the public hearing on this application has been continued to the November meeting.

(c) Request for bond reduction – Lowe's

Mr. Estwan stated that a letter was received from Kimco requesting a bond reduction. Mr. Joyce stated that he received the correspondence regarding the bond reduction and thought that this was acted on at the February, 2009 meeting. He stated that he was not sure if the proper paperwork went through with the Clerk's Office and bank. He stated that if this is a new reduction request, the City would not be in a position to do that at this time. A motion to table the request was made by Mr. Stevens, seconded by Mr. Barboza and carried unanimously.

(d) 8-24 Referral – Water Street

Mr. Estwan stated that a referral was received from the Board of Alderman for sale of property on Water Street. This property is located to the south of the Irving School playground and is very steep. Mr. Estwan moved to approve the 8-24 referral for Water Street. The motion was seconded by Mr. Barboza and carried unanimously.

Old Business

(a) Update on Redevelopment Zone

Mr. Stevens stated that there is nothing new to report.

(b) Update on Enforcement Issues

Mr. Estwan stated that he has not updates at this time.

(c) Aquifer Protection Agency Discussion

Mr. Estwan stated that this will be discussed during the Aquifer Protection Agency meeting and will no longer be on the P&Z agenda.

12. Payment of Bills

Mr. Barboza moved to approve the payment of all bills if found correct. The motion was seconded by Mr. Misiewicz and carried unanimously.

A motion to adjourn was made by Mr. Stevens, seconded by Mr. Misiewicz and carried unanimously. The meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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