

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

The regular meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, November 16, 2010 at 7:00 p.m. in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:05 p.m. by Chairman Ted Estwan. Present were Ted Estwan, David Rogers, Albert Misiewicz, Glenn Stevens, Richard Stankye, Steve Jalowiec and Raul Sanchez. Also present were Atty. Joseph Coppola, Ryan McEvoy, Milone & MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

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

Correspondence - None

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes

A motion to approve the minutes of the 10/19/10 meeting was made by Mr. Rogers and seconded by Mr. Misiewicz. The motion was carried unanimously with Mr. Jalowiec and Mr. Estwan abstaining.

Acceptance of Applications

Mr. Jalowiec moved to accept and schedule for public hearing at the December meeting an application for modification of special exception from Cellco Partnership, d/b/a Verizon Wireless for 123 Minerva Street. The motion was seconded by Mr. Stankye and carried unanimously.

Public Hearing

(a) Application from Belleview Homes, LLC for zone change for Map 1, Block 3, Lot 2 and Map 2, Block 5, Lot 14, Belleview Drive – IC/R-3 to R-3 (Application #2010-09-21-10) – Hearing Continued from 10/19/10.

Raymond Sadlik presented additional certified mailings to the Commission. He presented a plan showing the entire area and what the boundary of the IC Zone is. If it is changed to residential the setback line would be pushed further back from the existing residential homes in the area. It would increase the buffer to the industrial use.

Chm. Estwan asked for any public comment.

Bill Nicoletti, 204 New Haven Avenue stated that he felt that the zone change is not in line with the current plan of redevelopment and it will not really help the tax base. He stated that he did not see the reason for adding this parcel to the existing residential. One house could be built and that would be fine. He felt that I-C zone would generate more tax base for the City. He stated that at the last hearing letters were presented from different City agencies who were in support of the subdivision and not the zone change. He stated that he had a problem with the letter from the Fire Department and did not feel that it carried any weight toward this application. The letter came from the outgoing Chief and no other existing chiefs or the Fire Commissioner had any knowledge of the letter being sent.

Elizabeth Laurella, 44 Belleview Drive felt that this would have a negative impact on Belleview Drive. She stated that in the past five years two individuals and also pets have been hit and injured. She felt that a current traffic study should be done. She also felt that the cost of educating children living in the houses would negatively impact the tax base. She was opposed to the application.

Bill Nicoletti, 31 Belleview Drive stated that he is opposed to the zone change.

Dan Waleski, 21 Elm Street stated that he was against granting this application.

Glenn Dworkin, stated that he did not live on Belleview Drive and he did not see why it would be such an issue with four new homes.

Cindy Nicoletti, 21 Belleview Drive stated that she was opposed to the zone change.

Tony Berlinger, 40 Belleview Drive stated that if the zone were changed it would negatively change the life of everyone living on the street.

Rosario Cayer, 11 Belleview Drive suggested that the applicant look at modifying the plans and have the access from another point. He was against the application.

Bill Nicoletti, 204 New Haven Avenue stated that it does not conform with the Plan of Development and the applicant did not prove that it would have a positive impact.

Mr. Rogers asked about a deed restriction to prevent any further encroachment into the R-3 zone in the future. He felt that this would seal it off permanently.

Mr. Estwan stated that this application is only to change the zone and extend one lot. The applicant has shared with the Commission what he would like to do in the future but that would be another application. Any deed restrictions would come with that application for a subdivision. He would be increasing the buffer between the I-C Zone and the residential development. He stated that the Commission has heard from all parties and has all the documentation submitted as well as comments from the engineer, public and Commission members.

Mr. Estwan stated that a petition dated 11/17/10 was presented from owners of property being effected by the zone change who are opposed to the application. Atty. Coppola stated that if a petition is presented and signed by more than 20% of all lots within 500' the vote would have to be five out of seven members present.

Mr. Jalowiec stated that it seems to make sense with what was presented regarding the setbacks. Mr. McEvoy stated that the setback from residential to the I-C Zone is 100' and by extending the R-3 zone you extend the distance from the residential homes to the I-C Zone. He also stated that a lot of comments cannot be considered because they do not pertain to this application.

Mr. Stevens stated that looking at it just as a zone change he would be in favor of it; but knowing that there would be four houses presents a conflict. Mr. Estwan stated that there is no information that it would be four lots. Mr. Stevens stated that if it is kept as I-C would the neighbors want that in their backyards. Mr. Jalowiec stated that the Commission would have less control over the I-C Zone. Mr. Estwan stated that there is an access road on paper through Hines property and an agreement to enter into the I-C zone from this property. The Commission is trying to look at what is best for the neighborhood and what the Commission would have the most control over. Mr. Misiewicz stated that he did not feel that the applicant stated what the real benefit to Derby would be with the zone change. He did not see much benefit with the proposed change.

Mr. Jalowiec stated that the setback change is a benefit to the residents in the long term. Mr. Estwan stated that before this became I-C it was industrial and the Commission made the change to the I-C because they did not want to see heavy industrial in that area. Mr. Stevens

asked if the zone change is denied if the applicant would have a non-conforming lot that cannot be built on. Mr. Sadlik stated that he has not tried to get a building permit and the size
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is just over 15,000 square feet. He also stated that as far as traffic the study was done by a traffic engineer and even though it was done a few years ago the area has not really changed. He also stated that last month a letter was submitted from VCOG which stated that the application did not conflict with the Plan of Development. He stated that he has been forthcoming with what his intentions area but this application is just for the zone change.

Mr. Stevens asked about the access road to the I-C Zone and what would happen if the zone was changed to residential. Mr. Estwan stated that would be something that could be addressed with a deed restriction. He stated that you cannot access an I-C Zone through a residential zone. Mr. Stevens asked if there is a benefit to the City and neighborhood and Mr. Estwan stated that the benefits would be the setback change to the neighbors and he did not feel that would be detrimental to them. Mr. Misiewicz stated that last month there was a discussion regarding sewer system problems in that area. Mr. ESTwan stated that he understands that concern but it is something that should be discussed with the Sewer Commission.

Mr. Stankye asked about the petition that was presented. Atty. Coppola stated that it will have to be determined how many people who signed the petition are within 500' of the application and it will have to be determined that it is 20% of all the lots within that 500'. It would have to do with the number of positive votes required.

Earl Robinson, 56 Belleview Drive asked about the deed restriction. Mr. Estwan stated that would be considered as part of the subdivision application.

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

(b) Application for special exception from Jeff Schpero for 380 New Haven Avenue for a veterinary clinic – R-5 Zone (Application #2010-10-19-01).

John Rak was present for the applicant. He submitted evidence of the certified mailings. Mr. Rak stated that this application is for a special exception use so that the applicant can move his veterinary clinic. The site was previously used as a medical office. He stated that all comments from the city engineer have been addressed and the plans revised. He also presented a submittal signed off by the Inland Wetlands Agency that there are no wetlands on the site. The revised plans and letter of explanation was also submitted. The hours of operation would be 8:30 a.m. to 5:00 p.m. Monday to Friday with a shorter day on Wednesday and 8:00 a.m. to noon on Saturday.

Mr. McEvoy stated that his comments were mostly about the landscaping and grading and also the driveway. There were some drainage concerns and he has received the information from

the engineer on that and it meets the regulations. He was satisfied with the revised plans. The right turn only from the driveway has been added to the plans.

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Mr. Estwan noted that the apartment on the second floor will remain. He asked for any public comment on the application.

Kathleen Brickett, 400 New Haven Avenue stated that she was concerned about traffic in that area as it is a very busy intersection.

Dan Waleski, 21 Elm Street stated that he felt this is an excellent use for this property and is in favor of the application.

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

(c) Application for special exception from Debbie Parlow for 198 Seymour Avenue for use as a dance studio – R-4 Zone. (Application #2010-10-19-02).

A motion to move this further on the agenda was made by Mr. Jalowiec, seconded by Mr. Stankye and carried unanimously.

New Business:

(a) Application from Belleview Homes, LLC for zone change for Map 1, Block 3, Lot 2 and Map 2, Block 5, Lot 14, Belleview Drive – IC/R-3 to R-3 (Application #2010-09-21-10)

Mr. Rogers moved to continue this item to the December meeting in order to give Attorney Coppola time to review the petition for voting requirements. The motion was seconded by Mr. Stankye and carried unanimously.

(b) Application for special exception from Jeff Schpero for 380 New Haven Avenue for a veterinary clinic – R-5 Zone (Application #2010-10-19-01).

Mr. Estwan moved that pursuant to Section 195-44, the Derby Planning & Zoning Commission finds that the application and supporting documentation as presented is in accordance with Sections 195-44.

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 Use for Jeff Schpero on property shown on Derby Assessors Map 5-4, Lot 71 subject to the following conditions:

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

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1. "Statement of Use"

2. Plan entitled "Site Plan, prepared for Jeff Schpero, 380 New Haven Avenue, Derby, Connecticut," scale 1"=20', dated October 7, 2010, revised to November 15, 2010, prepared by Nowakowski-O'Bymachow-Kane Associates.

3. Plan entitled "Proposed Floor Plan, prepared for Jeffrey K.Schpero, DVM, for property located at 380 New Haven Avenue, Derby, Connecticut", dated October 11, 2010.

4. Drainage Calculations, 380 New Haven Avenue, Derby, Connecticut, dated November 15, 2010, prepared by Nowakowski, O'Bymachow, Kane & Associates.

With the following 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. Applicant shall furnish the City with an improvement Location Survey of the property depicting the completed site including all site features including the proposed changes.

3. The proposed parking layout and curb cut modifications are subject to final review and approval by the Zoning Officer and City Engineer.

4. All handicapped parking shall be provided in accordance with the CT State Building Code.

5. All lighting shall comply with the City of Derby Zoning regulations.

6. The applicant's engineer shall revise and resubmit the Drainage Calculations to confirm the adequacy of the design of the storm drainage infiltration measures.

7. A performance bond in an amount and form acceptable to the City Engineer and Corporation Counsel shall be posted prior to any construction activities associated with the site. The amount of the bond shall cover the following improvements:

- a. Improvement Location Survey
- b. Landscape walls & buffer plantings
- c. Parking lot, pavement markings and curb cut improvements.

8. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission staff for review.

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

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Old Business

(b) Update on Redevelopment Zone.

Atty. Coppola stated that the meeting has been rescheduled to November 18, 2010 and there is no report at this time.

(c) Update on Enforcement issues

Atty. Coppola stated that they are still working on illegal apartments.

Payment of Bills

There were no bills to approve at this time.

A motion to recess the meeting at 8:15 p.m. was made by Mr. Jalowiec, seconded by Mr. Stankye and carried unanimously. A motion to reopen the meeting at 8:30 p.m. was made by Mr. Jalowiec, seconded by Mr. Rogers and carried unanimously.

Public Hearing

(c) Application for special exception from Debbie Parlow for 198 Seymour Avenue for use as a dance studio – R-4 Zone. (Application #2010-10-19-02).

Ms. Parlow stated that she does not have the evidence of the certified mailings and cannot get in touch with her attorney. Chm. Estwan explained that the public hearing cannot be opened with those. A motion to hold a special meeting for this public hearing on Monday, November 22, 2010 at 6:00 p.m. was made by Mr. Jalowiec, seconded by Mr. Stankye and carried unanimously.

A motion to adjourn was made by Mr. Stevens, seconded by Mr. Stankye and carried unanimously. The meeting was adjourned at 8:35p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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

***Aquifer Protection Agency
(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

The regular meeting of the Aquifer Protection Agency of the City of Derby was held on Tuesday, November 16, 2010 immediately following the Planning & Zoning Commission meeting, in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 8:35 p.m. by Chairman Ted Estwan. Present were Ted Estwan, Steve Jalowiec, David Rogers, Albert Misiewicz, Richard Stankye, Glenn Stevens and Raul Sanchez. Also present were Atty. Joseph Coppola, Ryan McEvoy, Milone and MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

None.

Correspondence

None

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes

A motion to approve the minutes of the 10/19/10 meeting was made by Mr. Jalowiec, seconded by Mr. Stankye and carried unanimously.

Acceptance of Applications

There were no new applications to accept.

A motion to adjourn was made by Mr. Stevens, seconded by Mr. Jalowiec and carried unanimously. The meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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