

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, February 15, 2011 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, David Barboza, Glenn Stevens, Steve Jalowiec, Richard Stankye and Raul Sanchez. Also present were Atty. Joseph Coppola and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

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

Correspondence - None

Public Portion

Bill Nicolette, 204 New Haven Avenue asked how the petition that was present regarding Item 10(a) Belleview Drive did not meet the square footage requirement which would have required a two-thirds vote. Mr. Estwan stated that there is a specific calculation that is followed in determining whether it would require a different vote. The petition was reviewed and it was found that a standard majority was all that would be required. Mr. Nicolette stated that the Connecticut General Statutes state that 20% or more of the lots in the area are on the petition then a super majority vote would be needed. Atty. Coppola stated that there is a specific way to figure and calculate the percentage required and all the documentation is on file in the Building Department.

Fran Finnucan, 45 Belleview Drive asked what will happen to the gully that runs into this property. Mr. Estwan stated that the public hearing is closed and this application is only for a zone change and any further development on this property would have to come back to this Commission for review and approval and also go before Inland-Wetlands.

Tom Greene, 49 Belleview Drive asked how the 500' for the petition is determined. Mr. Estwan stated that there is a specific formula that is used and it is from the center of the property and drawn out. The information is on file in the Building Department and the City Engineer supplied necessary documentation on this.

Approval of Minutes

A motion to approve the minutes of the 01/20/11 meeting was made by Mr. Barboza, seconded by Mr. Misiewicz and carried unanimously with Mr. Jalowiec and Mr. Stankye abstaining.

Acceptance of Applications

An application was received from Fabrizio Taramelli for 67 Minerva Street for site plan modification for use as a shop for fabrication of miscellaneous metals and railings. A motion to accept the application for the March meeting was made by Mr. Barboza, seconded by Mr. Stankey and carried unanimously.

New Business

(a) Request from Lowe's for release of performance bond.

Mr. Estwan read a letter dated 10/22/10 from Lowe's requesting release of their bonds for the Lowe's Center. Mr. Estwan also stated that a letter was received from Langan Engineering dated 1/24/11 regarding the annual inspection of the stabilized rock cut. Mr. Jalowiec felt that the Commission should wait until after April to take any action on the bond request when the next inspection will be done. Mr. Estwan agreed that the Commission should wait to make sure that no more work is needed to be done. Mr. Barboza moved to table the request to the May meeting. The motion was seconded by Mr. Misiewicz and carried unanimously.

Old Business

(a) Discussion and possible action - 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/R3 to R-3 (Application #2010-09-21-01).

Mr. Estwan that this item was tabled last month and an extension received from the applicant. He stated that the applicant actually produced more information and documentation on this application as well as what the plans might be for future development. He stated that what he would like to do is not really relevant to the application before the Commission. The lot line would be changed to combine with an existing non-conforming lot to create one large conforming lot. The lot line would cleaner than what is existing now. He felt that it is harmonious with the Plan of Development and requires a better buffer for the neighboring properties. It also increases the buffer and it is one lot. He stated that there were questions about wetlands and drainage and that is not relevant to the Commission's decision. He stated that a lot of residents came out and voiced their concerns but right now it is only a zone change application.

Mr. Misiewicz stated that if the intent is to clean up the lines it could have been done differently and now it seems to be taking away a nice buffer. He stated that a lot of comments were received from the public and their concerns should be taken into consideration.

Mr. Rogers felt that by approving the zone change the Commission would have a lot more flexibility and control as to what could happen there in the future. He stated that under the I-C Zone there are a lot of uses that are allowed that would not be harmonious with the neighborhood. He also felt that it cleaned up the lot lines and the application made sense.

Mr. Jalowiec stated that it does give the Commission better control of what happens to the parcel in the future. He also stated that it would increase the buffer for the residents.

Mr. Stevens stated that he is against the application and does not see the reason to change the zone. There was overwhelming public opposition to the application and he did not feel that enough was presented to justify the change.

Mr. Stankye stated that it does give the neighbors a little more of a buffer. He stated that if it is kept as I-C there are a lot of things that could be put there and the residential zone would give the neighbors more of a buffer. He also stated that deed restrictions could be placed on the deeds.

Mr. Estwan stated that the zone change would give the Commission better control over what could be built there and it would be an improvement to what is there now.

Mr. Rogers stated that there are a lot of different permitted uses in the I-C Zone and things that you would not want in a residential area. Mr. Misiewicz stated that the Commission still has some say of what goes back there and Mr. Estwan stated that the Commission does not have that much if it is a permitted use.

Mr. Estwan stated that this would create one large conforming building lot. He stated that he understands the neighbors concerns and is glad that they came to the meetings. The Commission has to take into consideration what could happen in the future if it is not changed. Mr. Barboza asked about the deed restrictions and Mr. Estwan stated that those would be into consideration with any future applications for development.

Mr. Estwan moved that following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission finds the following:

1. The applicant has demonstrated to the Commission the proposed zone change is harmonious with the Plan of Conservation and Development.
2. That the Zone change and subsequent lot line revision will result in the zone district lines to follow lot lines in conformance with the intent of Section 195-24 of the Zoning Regulations.

Therefore, the Derby Planning and Zoning Commission hereby approves the Zone Change Application for Belleview Homes, LLC on a portion of property shown on Derby Assessors Map 1-3, Lot 2 subject to the following conditions:

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

1. "Legal Description" of for the portion of property that is the subject of the change of zone. Robinson & Cole LLP."
2. "Proposed Site Development Plans, 500' Radius Map", prepared for Belleview Homes, LLC, prepared by Pereira Engineering, LLC dated 2/9/2010 and drawn at a scale of 1" = 100'.
3. Conceptual Subdivision Sketch.
4. Adjacent Property Owners within 100' of 35 Belleview Drive.
5. Letter from Derby Police Department dated October 14, 2010.
6. Letter from Fire Marshal's Office dated September 22, 2010.
7. Letter from Derby Department of Public Works dated October 13, 2010.
8. Letter from Derby Fire Department dated October 12, 2010.
9. Letter from Derby Water Pollution Control Authority dated September 27, 2010.
10. Letter from Valley Council of Governments dated September 28, 2010.
11. Application for Zone Map Modification.
12. "Traffic Impact and Access Analysis", Age-Restricted Development, Derby, Connecticut, Prepared for: Frank A. Hoinsky Real Estate, Inc. Prepared by Frederick P. Clark Associates, Inc. dated December, 2005.
13. Volume 419, Page 57 of the Derby Land Records.
14. Correspondence from Milone and MacBroom, Inc. dated October 13, 2010.

With the following stipulated conditions:

1. The Zone Change shall not become effective until the following has been completed:

The applicant shall submit an A-2 property boundary survey for Lot 14 on Assessor's Map 2-5 which appends the portion of Lot 2 on Assessor's Map 1-3 west of the eastern edge of the existing gas easement including the area depicted as "Proposed Road" on Assessor's Map 2-5. This survey and associated legal documents shall be submitted to the City Engineer, Zoning Enforcement Officer and Corporation Counsel for review and approval, and then filed on the Derby Land Records.

2. The Commission's decision to grant this approval makes no warranties or representations, either express or implied, that future development of this property will necessarily be permitted.

The motion was seconded by Mr. Rogers and carried by a 6-2 vote.

(b) Update on Redevelopment Zone.

Atty. Coppola stated that the developer came down and gave the City an update that has a major tenant that is committed to the site. They are going through the final analysis and next month there should be more information forthcoming.

(c) Update on Enforcement issues

Atty. Coppola presented copies of a draft chronic nuisance ordinance which the City would like to be able to use to clean up some property issues. He asked the members to review it and get any comments or questions to him. Mr. Barboza asked about absentee landlords and Atty. Coppola stated that the ordinance was drafted based on similar ordinances in other municipalities and allows for landlord/tenant issues to be addressed.

11. Payment of Bills

Mr. Stankye moved to pay all bills submitted if found correct. The motion was seconded by Mr. Jalowiec and carried unanimously.

A motion to adjourn was made by Mr. Stevens, seconded by Mr. Barboza and carried unanimously. The meeting was adjourned at 7:50p.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 was held on Tuesday, February 15, 2011, in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:50 p.m. by Chairman Ted Estwan. Present were Ted Estwan, David Barboza, David Rogers, Albert Misiewicz, Steve Jalowiec, Glenn Stevens, Richard Stankye and Raul Sanchez. Also present were Atty. Joseph Coppola 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 01/20/11 meeting was made by Mr. Jalowiec, seconded by Mr. Rogers and carried unanimously.

Acceptance of Applications

There were no new applications to accept.

A motion to adjourn was made by Mr. Barboza, seconded by Mr. Jalowiec and carried unanimously. The meeting was adjourned at 8:00 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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