

***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**

The regular meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, July 15, 2008 at 7:00 p.m. in the Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:15 p.m. by Chairman Ted Estwan. Present were Ted Estwan, David Barboza, Glenn Stevens, Albert Misiewicz, David Rogers, Steve Jalowiec, Richard Stankye and Raul Sanchez. Also present were Atty. Joseph Coppola, Michael Joyce, Milone & MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

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

Correspondence

Mr. Estwan read a letter from Ken Hughes, President of the Board of Aldermen regarding zoning enforcement (copy attached).

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes:

A motion to approve the minutes of 06/17/08 meeting was made by Mr. Stankye, seconded by Mr. Jalowiec and carried unanimously with Mr. Rogers and Mr. Stevens abstaining.

Acceptance of Applications:

A motion to accept an application for site plan review from Derby Housing Authority for business office at Cicia Manor (West Fourth St., Anson St. and Fifth St.) was made by Mr. Barboza, seconded by Mr. Stankye and carried unanimously.

Public Hearing:

(a) To consider amendments to the City of Derby Plan of Conservation and Development.

Mr. Joyce stated that he received more input from Sheila O'Malley, Economic Development Director and felt it would be appropriate to have her attend the meeting. She was unavailable this evening and he asked that the public hearing be continued to next month.

Dan Waleski, 21 Elm Street stated that this is the best plan that he has seen in many years. He stated that he does not know what amendments will be proposed but hopes they will be made available to the public and will be consistent with the present plan.

A motion to continue the public hearing to the August meeting was made by Mr. Stankye, seconded by Mr. Jalowiec and carried unanimously.

(b) Application for Special Exception Use and Site Plan Modification from Michael Teixeira for 193 Marshall Lane to expand rear yard using segmental wall, crushed stone and fill - R-3 Zone (Application #2008-6-17-1).

Ted Witek was present for the applicant and submitted the certified mailings to adjacent property owners. He stated that the property is located on the easterly side of Marshall Lane and is a rear lot. The applicant was issued a cease and desist order for the work he was doing on the property because he had no permit. He stated that after the property was surveyed it was found that about 50' of the blocks are encroaching onto City property. These will be removed and located totally within Mr. Teixeira's property.

Mr. Joyce stated that he noticed some erosion problems along the back property line and that was when the cease and desist order was issued. He stated that there are no wetlands on the property but the activity was performed without a permit almost to completion. He stated that the Commission needs to know what work is left and how much fill is needed to complete the project. Mr. Teixeira stated that it should be approximately 150 to 200 yards of fill to complete. It was noted that he has a planting plan to screen the walls from adjoining properties. Mr. Estwan asked about the erosion problems and Mr. Joyce stated that it was between the block walls. Mr. Witek stated that they will back up with haybales and re-bars during construction. He stated that they have permission to move the blocks off of the City property. Mr. Teixeira stated that it should take about four days to complete the project. Mr. Joyce stated that this is a stand alone filling operation and was not anticipated under the subdivision application.

There was no public comment on the application.

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

New Business

(a) Application for Site Plan Modification from Ken Hughes for 470 New Haven Avenue for home office use and construction of sign - B-1 Zone (Application #2008-6-17-2).

Ken Hughes was present and stated that he would like to establish a home office and erect a sign.

Mr. Joyce stated that there are specific regulations regarding home offices and under Section 195-41(2) the Commission may waive some of them. Mr. Hughes stated that there will be three parking spaces which will be marked and the office will be in the existing house.

Mr. Estwan moved that following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Application for Site Plan Modification for Ken Hughes on property shown on Derby Assessors Map 4-3, Lot 36 subject to the following conditions:

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

1. "Building Location Plan - Proposed Garage - 470 New Haven Avenue - Route 34 - Derby, Connecticut", prepared for Kenneth Hughes, prepared by Paul F. Valko, dated September 20, 2001 and revised, drawn at a scale of 1"=20'.
2. "Sign Detail" - New England Realty Company.
3. "Statement of Use" & "Legal Description".

With the following stipulated conditions:

1. The Commission hereby grants a waiver of the site plan requirements in accordance with Section 195-41(2) except for the requirements associated with the proposed parking area and site signage.

2. The site plan shall be revised to indicate the surface material for the existing driveway and proposed parking area.

3. Prior to any construction activities covered by this permit, the applicant shall have the following items both completed by a qualified party and verified as complete by the City Engineer, Corporation Counsel and/or Zoning Enforcement Officer.

- a. Arrange for the filing of this approval on the Derby Land Records.

4. Any significant changes or modifications to the plans presented will require subsequent review and approval by the Planning & Zoning Commission.

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

(b) Request for Release of Maintenance Bond for Hidden Woods Subdivision.

Mr. Fred D'Amico was present regarding this matter. He had sent a letter dated May 30, 2008 requesting that the maintenance bond be released. Mr. Joyce stated that he reviewed the documentation submitted and the address for the homeowner's association was Mr. D'Amico's business address. He stated that maintenance of the basin is a concern and no documentation regarding the maintenance has been received. He stated that he would not want to have the bond released until a maintenance agreement is submitted. Mr. D'Amico stated that no maintenance has been done within the last year. The Association took over the basin and the LLC was responsible for setting up the Association and turning the basin over to them. He stated that he is still a member of the Association and can get reports for this year's maintenance and make sure that something has been done. Mr. Joyce stated that there is a tree leaning over and the bottom of the basin is overgrown. He stated that there were modifications made to the basin which were not authorized and they had to go back to Inland Wetlands regarding those.

Mr. Estwan stated that the Commission needs to know that the basin is being maintained by the Association and documentation of that provided. Mr. D'Amico stated that he will get some documentation that there was maintenance done recently and also what has to be done in the future. Mr. Estwan stated that this should be reviewed by Mr. Joyce prior to the next meeting.

A motion to continue this matter to the August meeting was made by Mr. Barboza, seconded by Mr. Stankye and carried unanimously.

(c) Application for Special Exception Use and Site Plan Modification from Michael Teixeira for 193 Marshall Lane to expand rear yard using segmental wall, crushed stone and fill - R-3 Zone (Application #2008-6-17-1).

Mr. Estwan moved that following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Application for Site Plan Modification & Temporary Special Exception (pursuant to Article XVI of the Derby Zoning Regulations) for Michael Teixeira on property shown on Derby Assessors Map 2-5, Lot 2C subject to the following conditions:

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

1. "Property Boundary - Improvement Location Dependent Resurvey", prepared for Michael and Amelia Teixeira, prepared by Clarke & Pearson Associates, Inc., dated 5/19/08 and drawn at a scale of 1"=20'.

2. "Statement of Use".

3. "Legal Description".

with the following stipulated conditions:

1. The applicant shall provide plantings along each terrace of the proposed wall to screen and/or conceal the view of the wall from the adjacent properties. Final plant species and planting locations to be reviewed and approved by the City Engineer.
2. The applicant shall provide verification from a professional engineer, licensed in the State of CT, that the backfill material behind the proposed retaining walls has been compacted appropriately and is structurally sound. All walls over the height of 4 feet shall be designed by a professional engineer.
3. No additional impervious areas beyond which was approved under the original subdivision shall be constructed. The plans shall be revised to indicate the surface materials for all disturbed areas, including but not limited to the area between the existing house and the proposed wall/top of slope.
4. The drawings shall be revised to include the location of the proposed construction entrance and a detail for its installation.
5. The applicant shall provide for the permanent delineation of the property boundary shared with the City of Derby Landfill prior to any additional site activities. Access, either temporary or permanent, on the City of Derby property is prohibited, except for the removal of the encroachment and restoration activities.
6. Final restoration of the City of Derby Landfill property shall be reviewed and approved by the City Engineer following completion of construction.
7. This application proposes to import approximately 800 cubic yards of materials to fill and construct a terraced slope and is subject to Article XVI of the Derby Zoning Regulations. Therefore, pursuant to Section 195-115, the applicant shall provide a concise statement indicating why it is essential and necessary to the development of the property to remove or deposit such amount of material. The Statement of Use does not provide this level of detail.
8. Section 195-117 requires profiles every 200 feet through the area of fill. While the property is less than 200' wide, at least one profile or cross section shall be provided to represent the proposed fill slope in relation to the adjoining properties.
9. While spot elevations have been provided on the site plan to represent the existing grades, contours shall be provided in accordance with Section 195-117D so that the existing drainage patterns can be identified. Although the existing trees within the proposed work area have already been cleared, the site plan shall indicate the approximate limit of the original tree line.

10. The applicant originally initiated this work without permit and was issued a Stop Work order by the Zoning Enforcement Officer. Since a significant amount of the work has already been performed, an estimate of the amount of material imported to date and the remaining amount of material needed to complete the project shall be provided.

11. The application shall indicate the origin of the imported material, the estimated number of trucks needed to import the remaining fill and amount of time needed to complete the project.

12. The site plan shall indicate all areas required for the stockpiling of material along with the appropriate sediment and erosion control measures.

13. Any significant changes of modifications to the plans presented will require subsequent review and approval by the Planning & Zoning Commission.

The motion was seconded by Stevens and carried unanimously.

#### Old Business

##### (a) Update on Redevelopment Zone

Atty. Coppola stated that the City and developer attempted to mediate a settlement of the contract dispute and this has been completed and litigation will begin. He stated that the Redevelopment Agency will be modifying the plan to include the entire site and go out to bid for another developer.

##### Payment of Bills:

A motion to pay all bills was made by Mr. Stevens, 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 8:00 p.m.

Attest:

Maryanne DeTullio

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