

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, November 17, 2009 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, Albert Misiewicz, David Barboza, Richard Stankye, Glenn Stevens, Steven Jalowiec and Raul Sanchez. Also present were Attorney Joseph Coppola, Ryan McEvoy, Milone & MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

Mr. Stevens moved to add as Item 10(e) bond reduction request from Joseph Falango, Pine Street Estates. The motion was seconded by Mr. Stankye and carried unanimously.

Mr. Jalowiec moved to add as Item 10(f) bond release request from Terra Development, Edgebrook Estates Subdivision. The motion was seconded by Mr. Stankye and carried unanimously.

Mr. Stevens moved that Item 10(d) Request for Bond Reduction – Lowe's be removed from the agenda. The motion was seconded by Mr. Stankye and carried unanimously.

Correspondence – None

Public Portion

Don North, 15 Commodore Hull Drive stated that nothing has been done as approved and agreed at the former Stahl's Building on New Haven Avenue and Chapel Street. He stated that the curbing and railing have not been put in. Mr. Estwan stated that the Commission is aware of this and that this should be addressed with the ZEO as they have not followed through with the conditions of approval. He submitted a copy of the minutes from the 3/17/09 meeting regarding this approval.

Approval of Minutes

A motion to approve the minutes of the 10/20/09 meeting was made by Mr. Barboza, seconded by Mr. Stevens and carried unanimously with Mr. Stankye and Mr. Jalowiec abstaining.

Acceptance of Applications

There were no new applications to accept.

Public Hearings

(a) Application for Special Exception Use from Warren Dworkin (Barry Steinberg, P.E.) for 16, 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) – Continued from 10/20/09

Barry Steinberg, 319 Washington Avenue, North Haven was present for the applicant. He stated that meetings have been held since the last meeting. The plans have been revised regarding some of the issues concerning ownership of the properties. A new application has been submitted. The parking shown is for Frank's LLC only. There are still two vacant buildings on the lot and there is no use for those at this time and if there is in the future they will come back with a parking plan for that. He stated that the plans show the access to the property and building as well as the location of the dumpsters. Mr. Steinberg stated that the land leased from the State of Connecticut by Dworking Chevrolet would be used as dead storage of cars for the rental business and that is the only purpose that it will be used for. Mr. Estwan stated that it appears that there has been a reduction in the area that will be used and Mr. Steinberg stated that it has been reduced. Mr. Estwan asked about the maximum number of vehicles to be stored and Mr. Steinberg stated that it will be 75. Mr. Stevens asked if the stored vehicles will be wrecks and Mr. Steinberg stated that they will not be and they will be registered and in good operating condition.

Mr. Estwan asked for any public comment.

Maureen Murphy, 263 Hawkins Street, Derby asked about the size of the trucks noted in the application and Warren Dworkin stated that they are small used trucks.

Dan Waleski, 21 Elm Street stated that the minutes from the October meeting did not reflect his opposition to this application. He reiterated his opposition to the application.

Mr. Stevens asked what the hours of operation will be and Frank Heusser stated that they will be from 8:00 a.m. to 5:00 p.m. Monday through Friday and 9:00 a.m. to 4:00 p.m. on Saturday. Mr. Estwan asked about vehicle deliveries and Mr. Heusser stated that is done during regular hours of operation and is not done with car carriers. Mr. Barboza asked about the delivery of vehicles for the rental company and Mr. Dworkin stated that it is during normal business hours and if they use a trailer there is plenty of room on the site for them to park.

Mr. McEvoy stated that the removal of 298 Hawkins Street from the application removes a lot of concerns that they had and most of the concerns have been met.

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

New Business

(a) Application for CDD Approval from Darren Toth for 17 Elizabeth Street for use as office space – Application #2009-10-20-1.

There was no one present regarding this application. Mr. Barboza moved that the application be tabled to the December meeting. The motion was seconded by Mr. Stankye and carried unanimously.

(b) Application for CDD approval from 140 Main Street-Derby, LLC for 140 Main Street for use as a private social club. Application #2009-10-20-2.

Sam Rizzitelli was present and stated that he had applied for permission to add a handicap ramp to this building which was previously approved. He also received approval for an art studio which is there now. He now has a tenant interested in starting up a private social club. He stated that there will be no cooking and there is no application for a liquor permit at this time. There is plenty of parking available as the building is across from a municipal parking lot.

Mr. McEvoy stated that the parking requirements could be waived because of their proximity to a municipal parking lot. They would have to comply with any signage regulations. Mr. Estwan read a letter from the Fire Marshal stating that he had no problems with the application.

A motion to approve the application was made by Mr. Stevens, seconded by Mr. Misiewicz and carried unanimously.

(c) 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 stated that Atty. Coppola met with the applicant regarding the ownership issues of the properties. He stated that based on that and the resubmission of the revised plan, revised statement of use the Commission was in a position to act on this application. The maximum of vehicles has been changed to 75 and all have to be registered and operable. The hours of operation will be Monday to Friday from 8:00 a.m. to 5:00 p.m. and Saturday from 9:00 a.m. to 4:00 p.m. with no Sunday or holidays.

Mr. Estwan moved that pursuant to Section 195-48, the Derby Planning and Zoning Commission finds that the application and supporting documentation as presented is in accordance with Section 195-48 (subsections A through D).

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 Barry Steinberg shown on Derby Assessor's Map 8, Lots 206, 207, 208 subject to the following conditions:

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

1. Revised Statement of Use dated November 14, 2009 – Frank's LLC and Storage of Vehicles by Dworkin, 18/196/208 Seymour Avenue.
2. Revised application – Applicant: Barry Steinberg of Steinberg Assoc. dated 11/14/2009.
3. "Site Plan for Frank 's LLC and Parking", prepared by Engineers Steinberg Associates, dated 6/10/09 and revised through 11/14/09, drawn at a scale of 1"=20'.
4. Copy of a letter from Richard A. Siegel to Warren Dworkin regarding: Martin Dworkin Revocable Trust – including referenced deeds: Volume 174, Page 667; Volume 243, Page 315; Volume 221, Page 899; Volume 253, Page 199; Volume 174, Pages 655,656; and Volume 243, Page 315.
5. Property Survey Prepared for: '208 Seymour Avenue Associates, LLC' Formerly "Dworkin Chevrolet, Inc.", Seymour Avenue, Hawkins Street, Winter Street and Mohawk Avenue, Derby, Connecticut, Prepared by Steinberg Associates, dated: April 1993, Revised to: May 28, 2009.

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. Prior to issuance of a certificate of zoning compliance, the applicant shall demonstrate using existing documentation or through new agreements that the subject parcels and immediately adjacent to the State of Connecticut parcel has rights of ingress and egress. Said agreements shall be provided to the City of Derby Corporation Counsel, City Engineer and Zoning Enforcement Office for review.
3. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.

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

Mr. Estwan noted for the record that the Statement of Use revised dated 11/14/09 covers the 75 cars registered and operating; hours of operation 8:00 a.m. to 5:00 p.m. Monday to Friday and 9:00 a.m. to 4:00 p.m. on Saturday; no Sunday or holiday delivery and there will be no storage of inoperable vehicles outside the building.

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

(e) Request for bond reduction – Joseph Falango, Pine Street Estates

Mr. Estwan stated that the letter from Milone & MacBroom recommends that a portion of the bond remain in place and the bond be reduced to \$5,000.00. Mr. Jalowiec moved that the bond for Pine Street Estates be reduced to \$5,000.00. The motion was seconded by Mr. Stankye and carried unanimously.

(f) Bond Release Request – Terra Development, Edgebrook Estates Subdivision

Mr. Estwan stated that the letter from Milone and MacBroom recommends that Letter of Credit 10382 be reduced from \$50,000. to \$15,000. and Letter of Credit 10383 be reduced from \$25,000. To \$5,000. Mr. Stevens moved that the Letter of Credit 10382 be reduced from \$50,000 to \$15,000 and Letter of Credit 10383 from \$25,000 to \$5,000. The motion was seconded by Mr. Jalowiec and carried unanimously.

11. Old Business

(a) Update on Redevelopment Zone

Mr. Stevens stated that conceptual master plan has been submitted to the Economic Development Director.

(b) Update on Enforcement Issues

Atty. Coppola stated that the ZEO has been very busy with enforcement issues and there will be several matters that need litigation. Mr. Stevens brought up the property at the former Stahl's location that was discussed during the public portion. Atty. Coppola stated that he will speak with Mr. Kopjanski on this matter.

12. Payment of Bills

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

A motion to adjourn was made by Mr. Stankye, seconded by Mr. Jalowiec and carried unanimously. The meeting was adjourned at 7:45 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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