

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, March 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, Albert Misiewicz, David Barboza, Richard Stankye, Glenn Stevens, David Rogers and Raul Sanchez. Also present were Atty. Joseph Coppola, Ryan McEvoy, Milone & MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda - None

Correspondence – Letter from DEP

Chm. Estwan stated that the letter from DEP was referred to the City Engineer.

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes

A motion to approve the minutes of the 02/22/10 meeting was made by Mr. Rogers, seconded by Mr. Barboza and carried unanimously with Mr. Rogers and Mr. Barboza abstaining.

Acceptance of Applications

Mr. Stevens moved to accept and schedule for public hearing an application from Sprint Nextel Corporation for modifications to special exception for existing telecommunications installation at 137 Derby Avenue. The motion was seconded by Mr. Misiewicz and carried unanimously. Chm. Estwan stated that when the special exception was originally granted it was never filed on the land records and therefore a public hearing is needed to clarify this.

Mr. Stankye moved to accept an application from Spring Nextel Corporation for modifications to special exception to modify existing telecommunications installation at 135 Roosevelt Drive. The motion was seconded by Mr. Misiewicz and carried unanimously.

Mr. Stevens moved to accept an application from Chris Barretta and Michael Klein for CDD approval for 23 Factory Street, for use as a warehouse and miter wood molding and retail space. The motion was seconded by Mr. Barboza and carried unanimously.

Mr. Barboza moved to accept an application for site plan approval from A. Windslow Quality Landscaping for Water Street. The motion was seconded by Mr. Stankye and carried unanimously.

Public Hearings

(a) Application for Change of Zone from Pasquale J. Civitella for 154 New Haven Avenue, R-5 Zone to B-2 Zone (Application #2010-02-02-01).

Pasquale Civitella was present and submitted pictures of the original site and also presented the certified mailings. He stated that the property was used as a restaurant for many many years and that was closed approximately five years ago. He stated that he wishes to make it a commercial use. He stated that he has had inquiries for the space but because of the zoning he cannot entertain those requests. He stated that he has no intention in putting in a bar or restaurant. There are other commercial uses in the immediate area. Mr. Estwan stated that the requested change is only for the property at 154 New Haven Avenue and the properties to the right and left are zoned R-5. Mr. Stankye asked about the other parts of the building and Mr. Civitella stated that there are two apartments and the store front. There would be no additional apartments. He stated that one of his tenants was interested in using the ground floor for an antique store but because of the zoning it is not allowed.

Chm. Estwan asked for any public comment.

Dan Waleski, 21 Elm Street asked if the two apartments are above the store front. Chm. Estwan stated that the property has a store front and two apartments above.

Bob Merrick owner of 156 New Haven Avenue stated that what the applicant is asking for is allowed in a R-5 Zone. He stated that there were a lot of problems when there was a restaurant there. He asked if a traffic study was done and he was concerned that if the zone was changed a bar or restaurant could go in there in the future. Mr. Civitella stated that he cannot put in retail under the R-5 zone. Mr. Merrick stated that he was opposed to the zone change.

Susan Testone, stated that she is one of six owners of 146 New Haven Avenue and is speaking for all owners and they are opposed to the zone change. She stated that this is a small parcel and there have been a lot of problems when there was a bar there.

Helen Merrick, 168 Beacon Road, Bethany, owner of 156 New Haven Avenue stated that the zone change will depreciate property values in the area. She stated that there were a lot of problems in the past and it is a congested area.

Diana Thompson, Rockwell Place stated that her fear is that a bar or restaurant could go into that space at some point in the future. She asked the difference between the two zones and Mr. Estwan read the permitted uses in each zone and also the special exception uses allowed in the R-5 Zone (copy attached).

Ed Reagan, Burtville Avenue stated that this property was always a one family house and now it is multi-family. Mr. Estwan stated that two family is allowed in the current zone.

Maryanne Camolimi, 148 New Haven Avenue stated that the current tenant wanted to put in a retail use and Mr. Estwan stated that retail is not allowed in a R-5 Zone. She stated that she was concerned about what could happen in the future.

Dan Waleski, 21 Elm Street stated that he did not believe that this application was in keeping with the surrounding area and neighborhood. The zone change would add congestion and lower property values in the area. This is a busy intersection and a business would add to that. He stated that it is not compatible and would open up to many other forms of businesses in the future. It is a small lot and he was opposed.

Mr. Misiewicz stated that he can understand the applicant's desire to get a business in there, but it is really spot zoning. It would allow a lot of different uses under the B-2 Zone.

Mr. Stevens agreed that it is spot zoning.

Richard Testone, one of the owners of 146 New Haven Avenue stated that there is very little parking in that area and it would be a safety issue if the zone is changed.

Helen Merrick, owner of 156 New Haven Avenue stated that the pictures that the applicant presented were taken before there was any Route 34 traffic.

Mr. Barboza stated that he also agreed that it is spot zoning and he stated that there was always a parking issue there.

Mr. Estwan read the definition of spot zoning and stated that he did not feel that this conforms to the Comprehensive Plan of Development and it is for one address only. He stated that the property now has different uses that are allowed and more under special exception uses. He did not feel that this would be good zoning practice and a classic case of spot zoning. He stated that a zone change should benefit the community and people and that does not fit with this application.

Mr. Civitella stated that he has no intention of putting in a bar or restaurant and he is not asking for anything more than what is in the area now. He stated that next door there is a retail use with apartments. He stated that he understands the concerns about a bar or restaurant and felt that the Commission could limit the allowed use.

Dan Waleski, 21 Elm Street stated that he understands the situation that the applicant is in but this is not right for this area. Route 34 is very busy and this will not add anything to benefit the City.

Mr. Civitella stated that the intersection is controlled by a traffic light.

Susan Testone, Richard Testone and Bob Merrick all expressed concerns with traffic in the area.

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

(b) Application for Change of Zone from Belleview Homes, L.L.C. for property on Belleview Drive (partial piece), Map 1, Block 3, Lot 2 – I-C Zone to R-3 Zone (Application #2010-02-09-01).

Ray Sadlik, 5 Cullens Hill Road, Derby presented the certified mailings. He stated that he is seeking a change of zone from I-C to R-3 for a partial piece of the property in order to get four building lots. This is the same zone as the neighboring area of Belleview Drive. The piece is the closest to Belleview Drive. He stated that this will make the property into a buffer area between the industrial use in the rear. Mr. Rogers asked how large the piece is and Mr. Sadlik stated that it is 1.75 acres. Mr. Stevens asked about where the lot line is and stated that under the regulations you cannot split off one lot into a different zone. Mr. Estwan read the letter dated 3/12/10 from Milone and MacBroom concerning this application. He asked for any public comment on the application.

Bill Nicoletti, Belleview Drive stated that he does not want to see a street going right through the parcel into the industrial portion.

Mr. Estwan noted that the application is only for a change of zone and there is no subdivision application or any other application.

Bill Sodenberg, Belleview Drive asked if another change could be made on this property. Mr. Estwan stated that right now the change is for a portion from I-C to R-3 and another application could come in for the development of the R-3 but it would have to fit the R-3 regulations.

Mr. Stevens asked if the zone change would have to be for the entire parcel. Atty. Coppola stated that yes it would but that is not how he made the application. He stated that Section 195.24 does not allow a partial zone change but this is a public hearing and the public comment must be taken. The applicant has heard the comments.

Bob Miani, Belleview Drive approval associated with this property shall still apply unless otherwise revised by the following conditions which shall only apply to this request for modification.

Mr. Estwan stated that the subdivision regulations specify that in a subdivision there should be no more than 20 homes on a street with one ingress and egress.

Bob Miani noted that this street is already over the limit. He also stated that this property has been zoned industrial for many years and the applicant knew the zoning when he purchased it.

Tony Bellinger, Belleview Drive stated that the applicant took a risk when he purchased it, but the neighborhood does not want this development.

Alicia Sodenberg, Belleview Drive stated that she appreciates the quiet neighborhood and the quality of life will be jeopardized if this is allowed. She was also concerned that the property will be open up through the industrial portion;

Steve Panzol, 30 Belleview Drive stated that the road is very narrow and it could become a safety issue. He also stated that the parcel could open up for more homes.

R. Cayer, 11 Belleview Drive stated that he was opposed to the application and concerned about future uses.

Tom Greene, Belleview Drive stated that he is opposed to the application.

Dan Waleski, 21 Elm Street stated that Mr. Hines' property should be preserved and asked if this will have any effect on that.

Bill Nicoletti, Belleview Drive stated that it is not a bad idea but he was concerned about the amount of houses on the site and what could happen in the future. He was opposed.

Cindy Nicoletti, Belleview Drive stated that she is opposed and the development would be right in her backyard and affect her privacy. She was also concerned about increased traffic.

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

New Business

(a) Application for CDD Approval from Dharmesh Patel for 41 Elizabeth Street for convenience store with deli (Application #2010-02-08-01).

Dharmesh Patel was present and stated that they have made many improvements to the building since they purchased it. They would now like to add a small deli with hot and cold

sandwiches. There is extra room in the rear to accommodate this. Mr. Estwan stated that he did not see any problems with this. A motion to approve the application was made by Mr. Stevens, seconded by Mr. Stankye and carried unanimously.

(b)) Discussion and Possible Action – Application for Change of Zone from Pasquale J. Civitella for 154 New Haven Avenue, R-5 Zone to B-2 Zone (Application #2010-02-02-01).

Mr. Estwan stated that there are several issues with this application. It is definitely spot zoning. He stated that the Commission in making a decision also considers the public safety, welfare and health and whether an application will help the Comprehensive Plan of Development. He also stated that any change once it is done allows a lot of uses. Mr. Stevens stated that there are also safety issues with traffic in that area.

Mr. Estwan moved to deny the application because it is spot zoning and does not follow the Comprehensive Plan of Development for that area and does not enhance the public health and welfare. The motion was seconded by Mr. Stankye and carried unanimously.

(c) Discussion and Possible Action - Application for Change of Zone from Belleview Homes, L.L.C. for property on Belleview Drive (partial piece), Map 1, Block 3, Lot 2 – I-C Zone to R-3 Zone (Application #2010-02-09-01).

Mr. Estwan asked Atty. Coppola about the issue regarding the split of the property. Atty. Coppola stated that you have to decide what zone a property is in and the zoning should follow the lot line. To take a parcel like this and segregate a portion in one zone and another portion in another zone contradicts the zoning regulations. He stated that the application was not for the entire parcel, just a portion of it. Mr. Estwan stated that the Commission has to follow the Comprehensive Plan of Development, the zoning regulations, subdivision regulations and also consider the public opinions expressed during the public hearing. He stated that he did not think that four houses will make much of a difference but it contradicts Section 195-24b. Mr. Estwan moved to deny the application as it contradicts Section 195-24b of the zoning regulations. The motion was seconded by Mr. Barboza and carried unanimously.

11. Old Business

(a) Update on Redevelopment Zone

Atty. Coppola stated that the City has been approached by a group that wants to do some due diligence and offer a comprehensive plan. The presentation will be made next week.

(b) Update on Enforcement Issues

Atty. Coppola stated that they have been very active in dealing with illegal apartments. He also stated that the gas station on New Haven Avenue (Route 34) appears to have done a lot of the work and the only remaining item is the parking.

13. Payment of Bills

There were no bills to be approved for payment.

A motion to adjourn was made by Mr. Stevens, seconded by Mr. Misiewicz 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, March 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 Chm. Ted Estwan. Present were Ted Estwan, Glenn Stevens, Richard Stankye, David Barboza, Albert Misiewicz, David Rogers 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 02/22/10 meeting was made by Mr. Barboza, 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. Stevens, seconded by Mr. Misiewicz 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.