

## ***Planning and Zoning Commission City of Derby***

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

David Barboza II

Richard Stankye

Albert Misiewicz

Glenn H. Stevens

Raul Sanchez (Alternate)

Maryanne DeTullio, Clerk

A meeting of the Planning and Zoning Commission of the City of Derby will be held on Tuesday, October 19 2010 at 7:00 p.m. at the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:00 p.m. by Chm. Ted Estwan. Present were Ted Estwan, Steven Jalowiec, David Rogers, David Barboza, Alber Misiewicz and Raul Sanchez. Also present were Attorney Joseph Coppola, Michael Joyce, Milone & 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 09/21/10 meeting was made by Mr. Rogers, seconded by Mr. Misiewicz and carried unanimously with Mr. Estwan and Mr. Jalowiec abstaining.

Acceptance of Applications

Mr. Rogers moved to accept and schedule for public hearing an application from Jeff Schpero for 380 New Haven Avenue for a veterinary clinic. The motion was seconded by Mr. Barboza and carried unanimously.

Mr. Rogers moved to accept and schedule for public hearing an application from Debbie Parlow for 198 Seymour Avenue for use as a dance studio. The motion was seconded by Mr. Jalowiec and carried unanimously.

Public Hearings

(a) Application from 340 Derby Avenue, LLC for Zone Map Change for 340 Derby Avenue, from R-5 to I-1 Zone. (Application #2010-08-17-01). Continued from 9/21/10.

Walter Archer was present regarding the application. He stated that the property is non-conforming and they will be demolishing the existing house. The plan is to put up a

commercial retail use. There was no one from the public wishing to speak. A motion to close the public hearing was made by Mr. Rogers, seconded by Mr. Barboza and carried unanimously. Mr. Jalowiec moved to add this item to the agenda as Item 11a New Business and the have Item 12 be Payment of Bills and Item 13 adjournment. The motion was seconded by Mr. Rogers and carried unanimously.

(b) 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).

Raymond Sadlik and Attorney Cliff Hoyle were present for the application. The proof of certified mailings was presented and well as a packet of information regarding the application. Mr. Sadlik stated that he is asking for a zone change for that the entire parcel would be zoned R-3. At present the lot is in two zones and the zone change would follow along the lot lines. The remaining portion would remain IC. Atty. Hoyle stated that information regarding the legal description and ownership of the parcel was submitted. He stated that statements from several local entities have also been submitted. He stated that a letter was received from the Chief of Police dated 10/14/10 (read into the record and attached) indicating that there is no significant impact to traffic flow or public safety. Chm. Estwan also read into the record the following letters (copies attached): Department of Public Works dated 10/13/10; Fire Marshal dated 9/22/10; Fire Department 10/12/10, WPCA dated 9/27/10 and Valley Council of Governments dated 9/28/10. All letters indicated that this application would not have any adverse effects.

Mr. Sadlik stated that the effect is to make the entire parcel west of the easement residential. Atty. Hoyle stated that they feel that it meets all the purposes of the zoning ordinances and that this would be the best use of the property. It will provide the City with affordable appropriate housing. He stated that the various agencies have indicated that it meets all requirements and the Commission can feel comfortable in approving this application.

Mr. Joyce asked if they had received his review letter dated 10/13/10. Mr. Sadlik indicated that they have. Chm. Estwan stated that this application is for a zone change only although the applicant has been forth coming in stating that it is his desire to build four houses on the lot but that would be reviewed as a separate subdivision application. Mr. Joyce stated that the Commission should analyze what fundamental zoning things would change with the zone change. Atty. Hoyle stated that the main effect if approved as residential would be to push commercial development further away from the existing residential development. Chm. Estwan asked for any public comment.

Bill Nicolette, 31 Belleview Drive stated that he is opposed to the application and felt that there will be a problem with traffic. He was also concerned with possible problems with sewers. He asked if he Tennessee Gas Pipeline will still have their easement.

Maureen Jacko, 42 Belleview Drive, was concerned with traffic impacts and felt that if this is approved they could ask for more changes in the future.

Bob Miani, 53 Belleview Drive stated that this application has been before the Commission a number of times already. There are already 51 houses on the street when only 20 are allowed. He was opposed and felt that the applicant bought the property knowing what the zone was.

Bill Sodenberg, 12 Belleview Drive felt that there would be water problems with the development.

Elizabeth Laurella, 44 Belleview Drive was concerned about the educational costs to the City with more single family homes. She also felt that there are a lot of wetlands on that lot and was opposed.

Earl Robinson, 56 Belleview Drive stated that he is opposed to the application. He asked if there would still be an easement to the commercial zone.

R. Cayer, 11 Belleview Drive stated that this application was denied two months ago and asked why he was reapplying again. Atty. Coppola stated that with a zone change application the applicant can keep coming back even if a previous application has been denied.

Bill Nicoletti, 204 New Haven Avenue stated that the street is already over built and felt that there would be traffic impacts. He also felt that commercial development would bring in more taxes to the City than residential development.

Tony Berlinger, 40 Belleview Drive stated that the applicant bought the property knowing that it was zoned commercial and was also aware that there were already too many houses on the street. He stated that the entire neighborhood is opposed.

Joyce Johnson, 10 Belleview Drive stated that she is opposed and that this is an entire neighborhood that does not want the zone changed. There are traffic concerns and a lot of activity in the area already.

Bill Gorzelany, 29 Belleview Drive stated that there are already water problems and sewer problems in the street. This will only add more problems to the area.

Bob Miani, 53 Belleview Drive was concerned about the sewer capacity in this area.

Bill Sodenberg, 12 Belleview Drive asked if a traffic study was done. Chm. Estwan stated that a traffic study from 2005 which was done for an age restricted development was submitted. Mr. Sodenberg stated that a lot has changed since 2005.

Chm. Estwan stated that there have been a lot of comments relating to a subdivision application and what would happen if there was a four lot subdivision. The applicant is trying to present everything to substantiate this application as the best use for the property if changed to R-3.

Bill Nicoletti, 204 New Haven Avenue stated that he is against the zone change and it should be kept as IC which would generate more taxes and less traffic.

Bob Miani, 53 Belleview Drive stated that the zone change should show some benefit to the City and he did not feel that this would.

Atty. Hoyle stated that the traffic study that was presented was for a 28 unit development and it indicated that it would have no significant impact on traffic. This is just for four houses so the impacts would be less. He also stated that there were a lot of concerns expressed which relate to a subdivision and should be addressed when that application is filed. The zone change would come into compliance with the lot line and would be the best use for the property. He stated the VCOG felt that it would be the best use and it is also in accordance with the Plan of Development. He stated that the impacts on traffic, sewers and the school system would not be that great.

Tony Berlinger, 40 Belleview Drive stated that when he purchased the property he knew the zone.

Earl Robinson, 56 Belleview Drive asked if the zone change is approved will there be an easement or access through the commercial part or will it become landlocked and have no access to the commercial part.

Chm. Estwan stated that when the applicant was here the last time he made the motion to deny the application but did not see anything on the record to approve or deny it. This time much more has been submitted regarding the application. Mr. Joyce noted that the Tennessee Gas easement is included in the zone change area and he asked what the setbacks were from the easement. Mr. Sadlik stated that it is just to stay out of the easement area. Mr. Joyce stated that the commercial part cannot have access from a residential zone. The members discussed whether the property could be restricted so that there would be no access to the commercial portion. Chm. Estwan stated that he understands and is aware of the concerns of having it opened right through.

Bill Nicoletti, Belleview Drive stated that if it were changed there should be no way that it could be opened up to the back parcel.

Judy Larocco, 20 Belleview Drive asked if there is a significant difference between this application and the previous ones. Chm. Estwan stated that this time they have presented much more information to the Commission.

Chm. Estwan stated that the Commission does take into consideration the public input on an application when making their decision.

A motion to continue the public hearing to the November meeting was made by Mr. Rogers, seconded by Mr. Barboza and carried unanimously.

#### Old Business

(a) Application from Brickhouse Restaurant for 90 Pershing Drive for site plan approval for outside patio (Application #2010-08-17-02).

Rashad El-Sharnouby stated that they have taken into consideration the Commission's recommendations from the last meeting and have implemented those on the revised plans.

He noted that he has reduced the number of occupants which eliminates the parking problem. Mr. Joyce stated that he has reviewed the revised plans and do reflect the recommended changes.

Mr. Estwan moved that pursuant to Section 195-15, the Derby Planning & Zoning Commission finds that the application and supporting documentation as presented is in accordance with Sections 195-30 through 195-33. Therefore, following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approved the Application for Site Plan Approval for Brickhouse Restaurant on a property shown on Derby Assessors Map 7-10, Lot 23, subject to the following conditions:

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

1. "Statement of Use".
2. Plan entitled "Proposed Patio and Parking Layout, Prepared for Brickhouse Restaurant and Café, LLC, #90 Pershing Drive, Derby, Connecticut", scale 1"=20', dated 10/8/10, prepared by Michael H. Horbal.
3. Plan entitled "Brickhouse Restaurant, Outdoor Dining Area, 90 Pershing Drive, Derby, Connecticut, 06418", scale 1/4"=1', dated 10/3/10, prepared by Zacharias and Company, LLC.
4. Testimony provided by City staff, Commission members and the Applicant and their representatives during the regular meetings which were held on September 21, 2010 and October 19, 2010.

With the following stipulated conditions:

1. All handicapped parking shall be provided in accordance with the CT State Building Code.
2. The applicant shall furnish City with an improvement Location Survey of the property depicting the completed site including all site features along with the proposed changes.
3. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.

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

(b) Application from Susan Giordano for site plan amendment for 19 McConney's Grove (Application #2010-06-5-01).

Joseph Mingoello was present for the applicant. He stated that the presentation was made at the July and the Commission was waiting for Inland-Wetlands approval, which they now have. Mr. Joyce stated that they requested that the flood elevations be shown on the plans which has been done.

Mr. Estwan moved that pursuant to Section 195-13(A), the Derby Planning & Zoning Commission finds that the application and supporting documentation as presented is in accordance with Sections 195-30 through 195-33.

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 Site Plan Approval for Susan Giordano on a property shown on Derby Assessors Map 12-5, Lot 2 subject to the following conditions:

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

1. Plan entitled "Existing Conditions Plan, Topographic Survey, No. 19 McConney's Grove, Derby, Connecticut, prepared for Susan Giordano." Scale 1"=10' dated January 20, 2010 revised to February 4, 2010, prepared by Lewis Associates.
2. Plans entitled "House Renovations for Susan Giordano, Lot #19 McConney's Grove, Derby, CT" dated February 22, 2010, containing sheets SP-1, A-1, A-2, A-3, prepared by Mingoello & Hayes Architects, P.C. revised through 09/7/10.
3. Statement of Use.
4. Letter from McConney's Grove Association.
5. Permit to Construct/Install a Subsurface Sewage Disposal System, prepared by Naugatuck Valley Health Department.
6. Plan entitled, "Existing Conditions Plan, Topographic Survey, No. 19 McConney's Grove, Derby, Connecticut, prepared for Susan Giordano" Scale 1"=10', dated January 20, 2010, revised to February 4, 2010, prepared by Lewis Associates, depicting a sketch of the proposed septic system.

7. Testimony provided by City Staff, Commission members, and the applicant and their representatives during the regular meetings which were held on July 20, 2010 and October 19, 2010.

With the following stipulated conditions:

1. The location of the deck shall not be permitted within the Floodway boundary.
2. Section 92-6D of the Flood Damage Prevention Ordinance requires that "...enclosed areas formed by foundation walls and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed for entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls." A registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this subsection.
3. The contractor is to provide a flood contingency plan that is to be reviewed and accepted by City staff prior to commencement of construction activities. If the weather forecasts indicate the possibility of a major weather system within 4 to 48 hours, the contractor shall plan for the possibility of high water levels in the river.
4. The applicant shall furnish the City with an Improvement Location Survey of the property depicting the completed site including all site features along with the proposed changes. In addition to the Improvement Location Survey the applicant shall submit an elevation certificate confirming the elevations associated with the new construction. The elevation certificate shall match the vertical datum of the current FEMA flood mapping when construction is completed.
5. This approval is for the reconstruction of the existing house only, and makes no representations as to the zoning compliance associated with other structures on the property.
6. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.

The motion was seconded by Jalowiec and carried unanimously.

11a. Discussion and possible action Application from 340 Derby Avenue, LLC for Zone Change for 340 Derby Avenue from R-5 to I-1 Zone. (Application #2010-08-17-01).

Mr. Estwan moved that following review of the documentation submitted in support of his application, the Derby Planning & Zoning Commission hereby approves the Zone Change Application for 340 Derby Avenue, LLC on a property shown on Derby assessors Map 6-11, Lot 17 subject to the following conditions:

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

1. Copy of a portion of the Derby Zoning Map.
2. (Untitled) List of properties.
3. Schedule A Description.

With the following stipulated conditions:

1. The zone change shall not become effective until the applicant has completed the following:
  - a. The existing non-conforming structures on Lot 17 are to be removed.
  - b. The applicant shall submit an updated A-2 proeprty boundary survey appending Lots 15 and 17 on Assessor's Map 6-11 This survey which shall be filed on the Derby Land Records.
2. The Commissions'' decision to grant this approval makes no warranties or representations, either express or implied, that future development of this property will necessarily be permitted.
3. This conditional approval shall expire on October 19, 2012 if the above conditions have not been met.

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

(b) Update on Redevelopment Zone.

Atty. Coppola stated that no meeting was held and therefore no update to report on.

(c) Update on Enforcement issues

Atty. Coppola stated that they not commenced any more litigation and are working on tracking down illegal apartments .

### 13. Payment of Bills

A motion to pay all bills was made by Mr. Barboza, seconded by Mr. Rogers and carried unanimously.



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

Respectfully submitted,

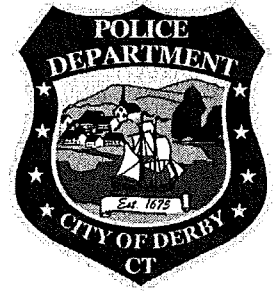
Maryanne DeTullio, Clerk

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



# **Derby Police Department**

125 Water Street  
Derby, Connecticut 06418  
Tel. (203) 735-7811  
FAX (203) 736-1499  
Email: [jerry.narowski@derbypd.org](mailto:jerry.narowski@derbypd.org)



October 14, 2010

Planning and Zoning Commission  
35 Fifth Street  
Derby, CT 06418

RE: Proposed Subdivision Road off of Belleview Drive

Planning and Zoning Commission,

I have reviewed the proposal for a road extension from Belleview Drive into the newly proposed subdivision and do not feel that this would significantly impact traffic flow or public safety demand.

Please contact me if you have any further concerns.

Sincerely,

Gerald D. Narowski  
Chief of Police  
Derby Police Department

**City of Derby**  
**Department of Public Works**

COON HOLLOW ROAD  
DERBY, CONNECTICUT 06418

Ronald J. Culmo  
*Director of Public Works*

Tel: (203) 736-1468  
Fax: (203) 736-1470

October 13, 2010

**Mr. Raymond Sadlik**  
**Bellview Homes LLC**  
**5 Cullens Hill Road**  
**Derby, CT 06418**

**Mr. Ted Estwan**  
**Chairman Planning & Zoning Commission**

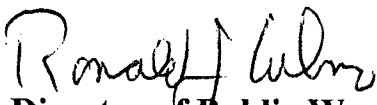
**Dear Mr. Sadlik and Mr. Estwan,**

**In reviewing the services provided by the Derby Public Works Department, I find no circumstances that would have to change with the proposed development at the end of Bellview Drive. Constructing the road with a cul de sac would not cause any problems with road maintenance and snow plowing. Also the addition of 4 more houses with the need for trash pickup would not cause any significant problems with removal. Therefore, I find no problems with the development and I think it would be another help towards the tax base in the City of Derby.**

**Please feel free to contact me with any questions that you might have concerning any effect it would have on our Department.**

**Thank you very much!**

**Ronald J. Culmo**

  
**Director of Public Works**  
**City of Derby**



# City of Derby

*Office of the Fire Marshal*  
1 Elizabeth Street  
Derby, Connecticut 06418  
Telephone: (203) 736-6976

September 22, 2010

Theodore Estwan Jr., Chairman  
Planning and Zoning Commission  
C/o City Clerk's Office  
35 Fifth Street  
Derby, CT 06418

**RE: Proposed Subdivision Road off of Belleview Drive**

Dear Mr. Estwan:

This letter is in regards to the proposed road extension from Belleview Drive into a new proposed subdivision road from Raymond Sadlik.

Upon review of this project the proposed road would have to comply with the requirements of NFPA 1 Chapter 18 for fire department access roads and also a fire hydrant would have to be extended into the new road. This would provide for Fire Department accessibility and fire protection with this project.

If you have any questions, please call me at 736-6976 thank you.

Sincerely,

Philip A. Hawks  
Fire Marshal

C.c. David L. Kopjanski, Building Official  
Mike Joyce, City Engineer

# DERBY FIRE DEPARTMENT

1 ELIZABETH STREET  
DERBY, CONNECTICUT 06418

Kelly Curtis  
*Fire Commissioner*

James Butler Jr.  
*Fire Chief*



William Nicoletti III  
*1<sup>st</sup> Assistant Chief*

Thomas Lenart Jr.  
*2<sup>nd</sup> Assistant Chief*

Kurt Kemmesies Jr.  
*3<sup>rd</sup> Assistant Chief*

Raymond Sadlik  
Bellevue Homes L.L.C.  
5 Cullens Hill Road  
Derby CT 06418

October 12, 2010

Dear Mr. Sadlik

I have reviewed your proposed zone map amendment for you 4 lot (Single family home) subdivision on Bellevue Drive. In regard to Fire Department operations for this area I see no detrimental issues with your plan as proposed. Please include in your design the comments set forth in the Fire Marshal's letter dated September 22, 2010, regarding this project, as these items would have to be implemented. If you have any further questions feel free to contact me at any time.

Sincerely

A handwritten signature in black ink that reads "James J. Butler". The signature is written in a cursive style with a long horizontal flourish extending to the right.

James J. Butler – Fire Chief  
Derby Fire Department



*City of Derby*  
*W.P.C.A.*  
*1 Elizabeth Street*  
*Derby, CT 06418*  
*(203) 736 1475*

September 27, 2010

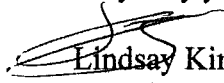
Re: Sewer line capacity on Belleview Drive

To whom it may concern,

After discussion with the W.P.C.A. consulting engineer, Weston & Sampson, we feel the wastewater collection system has capacity to accept flows from a new four house, single family subdivision on Belleview Drive. There is currently a capacity issue with the interceptor on the east end of town but a rigorous maintenance plan has eliminated problems in this area except for extreme wet weather events. A new facilities plan, currently waiting for approval from the CT Department of Environmental Protection, will be investigating the interceptor sewer hydraulics through modeling to address these issues.

Please note, a W.P.C.A. review is still required for approval of the subdivision and all appropriate applications and fees need to be paid.

Very truly yours,

  
Lindsay King  
Superintendent  
Derby W.P.C.A.

VALLEY COUNCIL OF GOVERNMENTS  
REGIONAL PLANNING COMMISSION  
MAIN STREET •RAILROAD STATION •DERBY, CONNECTICUT 06418

Tel: (203) 735-8688  
Fax: (203) 735-8680  
Website: www.valleycog.org

September 28, 2010

Mr. Ray Sadlik  
Bellevue Homes LLC  
5 Cullens Hill Road  
Derby, Connecticut 06418

BARTHOLOMEW FLAHERTY III  
Chairman  
*City of Ansonia*

DAVID BARBOZA II  
Vice-Chairman  
*City of Derby*

ALFRED YAGOVANE  
*Town of Seymour*

VIRGINIA HARGER  
Secretary  
*City of Shelton*

Re: Four Lot Sub-division, Bellevue Homes LLC

Dear Mr. Sadlik:

In reviewing your application as it relates to the 2002 City of Derby's Strategic Plan of Conservation and Development I have the following comments:

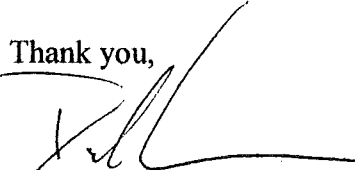
1. The Plan identifies the need to consider Open Space in new sub-divisions;
2. The Plan recognizes the importance of new development occurring in areas that have existing water and sewer infrastructure;
3. The Plan recognizes the need for housing variety in style and affordability.

It is my understanding that your proposal includes an open space set-aside and that water and sewer are currently available on Bellevue Drive. Additionally, the market rate of single family homes in Derby, according to average housing value statistics from the Connecticut Department of Economic and Community Development, is the second lowest in the Naugatuck Valley and is therefore, "affordable."

Based on the 2002 City of Derby's Strategic Plan of Conservation and Development, and the information provided by you, it is my opinion that your application does not conflict with the goals and objectives for housing development in the Plan.

Please feel free to contact me with any questions.

Thank you,



David Elder, AICP  
Senior Planner

CC: Ted Estwan, Jr., Chairman  
Derby Planning & Zoning Commission