

Planning and Zoning Commission City of Derby

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

Richard A. Stankye

Albert Misiewicz

Glenn H. Stevens

Raul Sanchez

Anthony Szewczyk, Alt.

Maryanne DeTullio, Clerk

The regular meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, July 17, 2012 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, Richard Stankye, Steven Jalowiec, David Rogers, Albert Misiewicz and Anthony Szewczyk. Also present were Attorney Joseph Coppola, Corporation Counsel, Ryan McEvoy, Milone and MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

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

Correspondence

Chm. Estwan stated that a letter was received from Prestige Builders asking for a bond reduction. This has been referred to the city engineer.

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes

Chm. Estwan stated that he would like to have the minutes revised because of the comments on Page 8. He felt that they were not correctly written in the minutes. A motion to table the approval of the 6/19/12 minutes was made by Mr. Szewczyk, seconded by Mr. Stankye and carried unanimously.

Acceptance of Applications

Mr. Szewczyk moved to accept and schedule for public hearing in September a motion for resubdivision from Buckingham Estates LLC for property at Buckingham Road. The motion was seconded by Mr. Jalowiec and carried unanimously. Atty. Dominick Thomas, representing the applicant, stated that this property is split and a small portion is located in the Town of Seymour. He stated that he knew that the Town of Seymour had to be notified of the application but asked if he needed to notify residents in Seymour that are located within 200 feet of the property. Mr. McEvoy referred to the regulations and after review and discussion it was determined that he only needed to notify people in Derby.

Public Hearing:

(a) Application from Cellco Partnership d/b/a Verizon Wireless for Modification to Existing Telecommunications Antenna at 123 Minerva Street (Application # 2012-06-19-03).

Attorney Ken Baldwin presented the certified mailings. He stated that this is the same application that was approved on January 20, 2011. He stated that the special permit approval expired in January, 2012. The application is identical except for two minor changes. He stated that the last time they were here they were discussing the extensive process that they were undertaking at that time to get the site approved through the State Historic Preservation Office and other historic agencies on the federal level. He stated that the structure is historic and they needed those approvals. He stated that the process has been completed with the signing of a memorandum of understanding between Verizon Wireless, State Historic Preservation Office and the Federal Communications Commission. He stated that evidence of that has been submitted. Atty. Baldwin stated that the original plan showed a total of 15 antennas in three sections with the middle antenna in each larger than the others. The plans have been modified to show that the antennas will all be the same size which will make it more unified. Those are the two changes in this application from the original one. He stated that the mitigation efforts that were undertaken as part of the memorandum of understanding has been completed, which required some interior work to the church. He asked that the Commission incorporate the record from the previous filing.

Mr. McEvoy stated that he reviewed the application and the photo simulations that were submitted with the last application. He stated that the plans are identical to those submitted at the last public hearing.

There was no public comment on the application. A motion to close the public hearing was made by Mr. Stankye, seconded by Mr. Misiewicz and carried unanimously.

New Business

(a) Discussion and possible action - Application from Cellco Partnership d/b/a Verizon Wireless for Modification to Existing Telecommunications Antenna at 123 Minerva Street (Application # 2012-06-19-03).

Mr. Estwan moved that pursuant to Section 195-27, the Derby Planning & Zoning Commission finds that the application and supporting documentation as presented is in accordance with Sections 195-27. Additionally, the Derby Planning & Zoning Commission finds that the proposed antennas will preserve the historic and/or architectural character of the church bell tower.

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 Cellco Partnership d/b/a Verizon Wireless on properties shown on Derby Assessors Map 8-11, Lots 95-99 subject to the following conditions:

The approval shall be based upon the following documentation submitted in support of this application.

1. "Application for Special Exception Use and/or Site Plan Approval", dated November 16, 2010, prepared by Robinson & Cole LLP.
2. Cover letter to Chairman Estwan with waiver requests, dated June 8, 2012, prepared by Robinson and Cole, LLP.
3. "Statement of Use".
4. FCC license information of the applicant.
5. Plans entitled "Cellco Partnership d/b/a Verizon Wireless, Wireless Communications Facility, Derby CT, 123 Minerva Street, Derby CT 06418", prepared by Centek Engineering LLC, dated 6/1/10, revised to 8/02/11 with the following attached drawings:
 - a. "Title Sheet – Drawing T-1", not drawn to scale.
 - b. "Plans, Elevations, and Details – Drawing DE-1" drawn at various scales.
6. "Product Specifications", prepared by CommScope Company.
7. "Adjacent Owners Within 500 feet".
8. "Environmental Assessment, Derby, CT, Immanuel ST. James Episcopal Church, 123 Minerva Street, Derby Connecticut, dated 10/2011, prepared by VHB, Inc.

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. Since the existing church is located within the Birmingham Green Historic District, prior to issuance of a building permit, the applicant shall provide written documentation that no further permitting or approvals are required from the State Historic Preservation Office or other related regulatory agencies or that such approvals have been granted.
3. That the applicant is granted a waiver of Section 195-33 of the Zoning Regulations requiring a Class A-2 Survey for the final site plan.
4. Subsequent to the initial operation of a wireless telecommunication antenna, the owner of such facility shall conduct an actual measurement of the electromagnetic emissions and submit a report prepared by a licensed RF engineer to the Zoning Enforcement Officer. This report shall be submitted on a frequent basis not to exceed one per calendar year. When

there is more than one source of electromagnetic emissions at a location the above mentioned report should measure the cumulative emissions from all sources.

5. If the wireless telecommunication antenna is not in use for 12 consecutive months, it shall be removed by the service facility owner. This removal shall occur within 90 days of the end of such 12 month period.

6. The approval of an application for special permit shall be void and of no effect unless installation of the antenna commences within one year from the date of the approval granted by the Commission. The Commission may grant up to two six-month extensions of this period upon written request by the applicant. The Commission shall withhold approval of any or all extensions unless the development plan is brought into conformance with any relevant zoning regulations, which have been amended subsequent to the original approval and if the applicant fails to provide adequate evidence that construction is able to begin within the extended time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing.

7. 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 Szewczyk and carried unanimously.

(b) Application for CDD Approval from Paul Yacovelli d/b/a Canvas Products for 23 Factory Street – Application #2012-06-19-01.

Paul Yacovelli was present and stated that he has been in business since 1987. The building is approximately 13,000 s.f. and he will be using about 2500 sf. He stated that 1200 sf will be used for storage. The remaining space would have a sewing table and sewing machines. He stated that he sews awnings, boat covers, cushions and related items. He stated that there are no employees. Mr. Szewczyk asked about permits for the systems. Mr. Yacovelli stated that if he is approved he will put in a central air system for the 1200 s.f. area that he will be working in.

Mr. Estwan moved to approve the application for CDD approval from Paul Yacovelli for 23 Factory Street. The motion was seconded by Mr. Stankye and carried unanimously.

(c) Application Site Plan Modification from Smoke & Bones BBQ for 1 New Haven Avenue for outside seating and increased parking – Application #2012-06-19-02.

David Grant and Alan Shepard were present and presented the certified mailings. Mr. Grant stated that they need more parking for their restaurant. He stated that they have spoken with the Railroad and have a leasing going with them. Mr. Shepard stated that this is a site plan modification to extend parking area. There is a letter agreement and building with the Railroad. He stated that the city engineer had some comments which they have addressed. He stated that the aisle width has been extended between the two way parking and on the one way parking the aisle width is 21.9 feet. The plan will also allow for some outside seating. There are dumpsters and a portable trailer in the rear of the building. He stated that additional

details of storm water runoff will also be done and he will meet with the city engineer regarding that. He stated that the Railroad requires a fence along their strip of land and that will be leased.

Mr. Estwan asked what brought about the addition of outside seating. Mr. Grant stated that they actually need more parking and with that they felt that they could add some outside seating. The seating area will have a split rail fence along the railroad tracks.

Mr. McEvoy stated that it appears that they have satisfied his concerns about the distance between the parking. He stated that the parking on the north side is one way and is not a major change from what is there now. The dumpsters in the rear need to be screened. He stated that the infiltration measures that they propose are not a problem as long as the DOT does not have any issues. Mr. McEvoy stated that before they can do this they will have to get a final lease agreement on file on the land records.

Mr. Grant stated that the Railroad has been very good to work with but they are very slow in getting things from them. He stated that they have gotten a right of entrance which is good for one year. He stated that they were told that they have to move the fence which they will do. Mr. Grant asked what the downside would be to if it were approved now and then the lease did not go through. He stated that if it did not then they would have to revert back to the way it was. He also stated that his contact at the Railroad did not feel that it would not go through. Mr. Estwan stated that they have to submit what they have now from the Railroad and he felt that the downside would be the expense to the applicant for removing the fence. Mr. Shepard stated that this is an existing building and Mr. Grant stated that they have paid for the lease already. Mr. Rogers asked where the dumpsters are now and Mr. Grant stated that they are in the rear and will be boxed in. Mr. Szewczyk asked how high the split rail fence is and Mr. Grant stated that it is 4 to 5 feet high.

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 Approval for Michael Grant on property shown on Derby Assessors Map 7-6, Lot 3 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 "Additional Parking Plan, Prepared for, Smoke and Bones, 1 New Haven Avenue, Derby, Connecticut", dated June 4, 2012, revised to July 9, 2012.
3. Letter from Frederick Columbo, dated July 11, 2012.
4. Email correspondence from Ronald Boremski to David Grant dated June 8, 2012.

With the following stipulated conditions:

1. The application proposes to expand the parking and seating area within a proposed lease agreement on the adjacent railroad parcel, owned by the Connecticut Department of Transportation (CDOT). The applicant shall enter into an agreement with the CDOT prior to conducting any site work or expanding the seating area. Should the lease terminate, the applicant shall remove the outdoor seating and return the dimensions and layout of the parking lot to the previously approved configuration. Additionally, the applicant shall provide evidence that all proposed site improvements within the lease area, including but not limited to the fencing, drainage system, dumpsters, etc. are approved as depicted on the referenced documents by the CDOT; including agreement that they now have.
2. The applicant shall submit a revised site plan depicting the following:
 - a. Location of the parking spaces that will be reserved for Crystal Cleaners.
 - b. Details of the drainage system including top of frame, inverts, cover over the infiltration galleries, etc.
 - c. Dumpster screening in accordance with Section 195-39.J.(2).
3. All handicapped parking shall be provided in accordance with the CT State Building Code.
4. All lighting shall comply with Derby Zoning Regulations. If necessary the Derby Zoning Enforcement Officer shall have the authority to request additional cutoff features to prevent objectionable glare beyond the property line.
5. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission staff for review.

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

Old Business

(a) Application from BAMF Homes, LTD for 5 lot subdivision at 16 John Street (Application #2012-02-21-02).

A motion to table this application to the August meeting was made by Mr. Estwan, seconded by Mr. Stankye and carried unanimously

(b) Application for CDD Approval from M. Jacobs & Sons for signs on the building and on a building on adjacent property. The property is located at 2 Factory Street (Application #2012-05-15-01).

Atty. Dominick Thomas was present for the applicant. He stated that the truck with the signs has been removed and the sign on the restaurant on Main Street has also been taken down. He stated that discussions on having a directional sign at the corner of Factory Street is in progress. He stated that his client would like to be allowed to have the large sign face Route 8 and not downtown Derby. He would also like to put a sign on the building. Atty. Thomas stated that he reviewed the regulation and there are three stages – 100' from a right of way; 150' of a right of way or 200' of a right of way. He stated that while Factory Street is a right of

way no one goes down there. He stated that the building is 113 feet and the sign could be 10 x 11. He would like to comply with the wall sign but have it be the largest one allowable. Mr. Jalowiec felt that the directional sign would eliminate the need for a sign on the building. Mr. Estwan stated that with the three signs; two are much too large.

Mr. Estwan moved that following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby denies the application on a portion of property shown on Derby Assessors Map 8-3, Lot 2 and Map 8-5, Lot 179.

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

1. Statement of Use.
2. Photograph of 4' High by 8' Wide sign on Housatonic Lumber building.
3. Photograph of 10' High by 30' Wide Sign on 2 Factory Street.
4. Photograph of 4" high by 8' Wide Sign on 2 Factory Street.

The denial is based on the following reasons:

1. The existing sign on Assessor's Map 8-5, Lot 179 advertises for a business located off the property where it is located and is therefore a Billboard based on the definition of Billboard in Section 195-66. The billboard as proposed is not in a desirable or appropriate location, and does not enhance the appearance of Derby as a whole.
2. The existing 10' High by 30' sign on 2 Factory Street (Assessor's Map 8-3, Lot 2) is excessive in size and the sign is not desirable and does not enhance the appearance of Derby as a whole.

Mr. Estwan stated that what is being proposed is having some other sign that is in compliance. He stated that he is not opposed to having another application with whatever directional sign would be proposed to having that added to that application. He did not feel that a sign as large as the ones being proposed are appropriate. The motion was seconded by Mr. Jalowiec and carried unanimously.

Mr. Estwan stated that he would advise the applicant to present something to the building official and Mr. McEvoy that would fit better and a directional sign. Atty. Thomas that his applicant's position is that the City of Derby destroyed that area and the businesses down there have customers who felt that they were no longer in business. His client is trying to rectify the situation with the signs. Mr. Estwan stated that he will defer to corporation counsel and the city engineer to review the comments and advise what the appropriate signage would be. Mr. Estwan stated that he took offense with his comments regarding the City of Derby destroying that area. Mr. Jalowiec stated that this is in the CDD Zone and the Commission

has some attitude. Mr. Stankye stated that he also took offense with his comments and felt that some of those businesses have not kept up with the times and that is why they may have lost business.

(a) Update on Redevelopment Zone.

There was no report on the redevelopment zone.

Executive Session

(a) Update on Enforcement issues; discussion of pending litigation.

There was no need for an Executive Session to discuss pending litigation regarding enforcement issues.

Payment of Bills

Mr. Jalowiec moved that the following bills from Milone and MacBroom be paid. – Invoice #60479, #60480 #60481, #60482 and #60483 be paid. The motion was seconded by Mr. Stankye and carried unanimously.

A motion to adjourn was made by Mr. Szewczyk, 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 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

Albert Misiewicz

Glenn H. Stevens

Raul Sanchez

Anthony Szewczyk (Alternate)

Maryanne DeTullio, Clerk

The regular meeting of the Aquifer Protection Agency was held on Tuesday, July 17, 2012, in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 8:00 p.m. by Chairman Ted Estwan. Present were Ted Estwan, Albert Misiewicz, Richard Stankye, David Rogers, Steven Jalowiec and Anthony Szewczyk. Also present were Atty. Joseph Coppola, Corporation Counsel, Ryan McEvoy, Milone and MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

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

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 06/19/12 meeting was made by Mr. Jalowiec, seconded by Mr. Stankye and carried unanimously.

Acceptance of Applications

There were no new applications to accept.

A motion to adjourn was made by Mr. Szewczyk, seconded by Mr. Jalowiec carried unanimously. The meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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