

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, September 18, 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, Glenn Stevens, David Rogers, Albert Misiewicz, Raul Sanchez 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 - None

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes

A motion to approve the minutes of the August 21, 2012 meeting was made by Mr. Szewczyk, seconded by Mr. Stankye and carried unanimously with Mr. Stevens abstaining.

Acceptance of Applications

Mr. Stankye moved to accept an application for site plan approval from AIA Home Buyers, LLC – Pasquale Civitella for 253 Roosevelt Drive for use by Mr. Junker and outdoor storage for the business. The motion was seconded by Mr. Stevens and carried unanimously.

Mr. Stankye moved to accept and schedule for public hearing in October an application from Derby Dan LLC for special exception use for 59-65 Elizabeth Street and 58 Minerva Street for 14 residential apartment units, 3 two bedroom apartments; 6 one bedroom apartments; 5 efficiency apartments. The motion was seconded by Mr. Misiewicz and carried unanimously.

Mr. Stevens moved to accept and schedule for public hearing in October an application from BAMF Homes LTD for subdivision approval for 5 lot subdivision at 16 John Street. The motion was seconded by Mr. Szewczyk and carried unanimously.

Public Hearing:

(a) Application from Brookside Development LLC for 8 lot subdivision with flag lots at 410 David Humphreys Road – Application #2012-06=09-04 – Continued from August 21, 2012

Mr. Sanchez recused himself from hearing this application. Mark Nuzzolo, applicant, presented a letter from the Fire Marshal and the Director of Public Works. Mr. Estwan read into the record a letter dated July 23, 2012 from the Fire Marshal indicating that there was no problem pertaining to Fire Department accessibility or fire protection with this project (copy attached). Mr. Estwan also read into the record a letter dated September 3, 2012 from Ronald Culmo, Director of Public Works indicating the he saw no problem with traffic from the entrance on David Humphreys Road (copy attached).

Mr. Nuzzolo stated that this will be a positive development for the City of Derby and will bring in additional fees and taxes to the City. He stated that they will be marketing these homes to the older population and will not affect the school system. He also presented an economic activity summary resulting from this project.

Mr. McEvoy noted that the application was approved by Inland Wetlands. He stated that they issued an addendum to their comment from last month. He stated that the addendum is focused on some of the more detailed aspects of the site plan. He stated that there were a number of items that were up for discussion and one of the more important ones concerns the access strip. There is also the question of the sight lines coming out of the driveway. He stated that the applicant has indicated that there is a 300' sight line looking left coming out of the driveway and that is really only appropriate for 25 mph cars coming down the hill. He stated that they did indicate that you can see upwards of 500' through and around existing vegetation on abutting property owners but it is not appropriate to include sight lines that go across neighboring properties unless you have sight line easements. He also stated that they had asked for the applicant to determine what the speeds are on David Humphreys Road and everyone knows that they can be in excess of 25 mph. Mr. Estwan asked the applicant if he ever considered having the entrance from Sodom Lane and closing off the one from David Humphreys Road. He felt that there would be better sight lines from Sodom Lane and it would be more practical. Mr. McEvoy stated that he has some questions regarding the lot configurations. He stated that Lot 2 is oddly shaped in order to meet the minimum lot area requirement. He also noted that they need to get something from WPCA stating that they can have sewers for this development. Mr. McEvoy stated that there are some plan revisions that are going to be required. He stated that there are some grading and soil and erosion questions that need to be answered. He stated that the applicant will need to grant an extension to keep the public hearing open.

Mr. Misiewicz asked what recourse the town have if the homeowner does not maintain the rain gardens. Mr. McEvoy stated that the maintenance of the rain gardens is something that could be included in the deed to the lot. He stated that ultimately the project mitigates increases in runoff from formal detention basins and the rain gardens are really more of a water quality feature.

Mr. Stankye asked how wetlands could be calculated as useable building space. Mr. McEvoy stated that there is nothing in the zoning regulations that prevents use of wetlands in terms of minimum lot area calculations. He stated that Inland Wetlands reviewed the application and there are activities in the wetlands that they found appropriate.

Chm. Estwan asked for any public comment.

George Guigno, 333 David Humphreys Road stated that the line of sight on this road is not that good and he has witnessed several accidents right in front of his house. He presented some pictures of the accidents. He stated that there is a lot of speeding on the road.

Mike Alberta, 325 David Humphreys Road stated that he is not opposed to the building of the homes but is concerned with the entrance driveway on David Humphreys Road. He stated that there is a lot of traffic and speeding.

George Guigno, Sr., 333 David Humphreys Road stated that there is a lot of speeding on David Humphreys Road and he is concerned about the entrance driveway on that road. He is not opposed to the houses but would like to have a retaining wall from his property. He stated that he has spoken with the applicant and he offered to put in a buffer for them. Mr. Nuzzolo stated that there is a stone wall on the boundary and he suggested that they could fill to the back side of the wall and put in a series of trees. He stated that he is backing up the wall so erosion does not occur.

Mr. Nuzzolo stated that they spent a lot of time on the layout of the property and the lots. They felt that it is important to maintain the integrity of the stone wall and landscaping to make the site attractive. He stated that they did not want to have individual driveways for each lot and were able to satisfy the regulations with the one common drive. He stated that they did look at using the Sodom Lane entrance but felt that the grades were too steep. He stated that they looked at the sight lines and studies show that 300' is sufficient. He stated that as far as the configuration of Lot 2 it was intentionally made that way to provide privacy and a conservation easement.

Alan Shepard stated that the common driveway layout is much better than multiple curb cuts. He also stated that they have met the sight line pursuant to the regulations. The driveway off of Sodom Lane would involve some grading issues and that felt that this is the best plan from David Humphreys Road. Mr. Shepard stated that with Lot 2 they tried to make it more private and have the lot follow the land features. He stated that they put a lot of thought into the layout.

Mr. Estwan stated that he would like to have the applicant look at using the entrance from Sodom Lane. He stated that he does not think that anyone is opposed to the type of development or the private driveway. He stated that there are concerns with the entrance from David Humphreys Road. He also stated that nothing has been shown using the Sodom Lane entrance and would like to see that. He also stated that there are sight lines issues. He stated that we don't have any report from the Traffic Authority regarding this application. He stated that there will be an increase in traffic. Mr. Estwan stated that he likes the concept and wants to work with them. He stated that there are more signs and radar use on that road regarding

speeders. He stated that they are trying to address the issue but once the radar is taken away the speeding continues.

Mr. Szewczyk stated that perhaps they could consider putting in mirrors at the end of the driveway to help deal with the sight line issue. He also stated that perhaps they could do something on the road to slow the speeding. He stated that the project is aesthetically pleasing. Mr. Nuzzolo stated that he will take all of this under advisement and will re-look at using the other entrance. He also stated that he would be willing to appear at the next Police Commissioners meeting to discuss the project.

Bob Searles, 319 David Humphreys Road was concerned about the conservation area and if trees come down who would be responsible for cleaning up the area. Atty. Fran Teodosio, representing the applicant, stated that it will depend on how the association is set up as to who will have control over the trees. He stated that it is their intention to have the association responsible. Mr. Nuzzolo asked if he had any problems with the trees along his property line and he will remove any fallen trees or invasive species.

Fatima Silva, 40 Stony Brook Drive, Monroe stated that perhaps they could look at controlling the speeding with red lights.

George Guigno, 333 David Humphreys Road stated that they take care of the trees that are on their property line and he would like to have the conservation easement 15' off the property so that they could take care of the trees behind their property. Mr. Nuzzolo stated that the plan is to go in and clear the area and put in pine trees.

Mike Alberta, 325 David Humphreys Road stated that at the last meeting the Commission had comments about removing Lot 3. He asked if anything has been done about that or downsizing the project. Mr. Estwan stated that the applicant has demonstrated why they would like to keep the lot and the open space behind it and how big the lot. He did not think that was as much of a pressing issue now as the entrance to the entire development and a few other items that are being discussed.

Mr. McEvoy stated that he just wanted to clarify his point about the sight lines and for the Commission to consider if there is anything safe than 300'. Mr. Estwan stated that even though there are posted speed limits in the City on certain streets. He felt that this will all be reviewed and come out with the Traffic Authority comments. He asked the applicant to grant an extension to keep the public hearing open. He stated that we do not have the comments from the Traffic Authority and have asked for other things from the applicant. A 35 day extension will cover it. Mr. Nuzzolo stated that he will grant that extension and submitted it in writing. A motion to continue the public hearing to the October meeting was made by Mr. Stevens, seconded by Mr. Stankye and carried unanimously.

(b) Application from Buckingham Estates, LLC for 2 lot re-subdivision at 8 Buckingham Road – R-1 Zone – Application #2012-07-17-01.

Atty. Dominick Thomas stated that with regards to a previous application that was accepted this evening and scheduled for a public hearing. This is the Derby Dan application and Section

141(c) requires a mail notification at the time of application to the abutters including people across the street. He stated that in the letter they were not advised that it will be a public hearing since a public hearing is not required. He presented copies of the notifications. He also noted that there is a conflict in the regulations – in Section 195.46 states that each application shall provide a list of all owners within 500' and shall send certified mail notices. In the notification section 195.41 it states that for a site plan property owners within 100' must be notified. Mr. McEvoy stated that the applicant should go with the more restrictive regulations. Atty. Thomas stated that the regulations are ambiguous and should be cleared up. He stated that with the BAMF Homes application it will be 500' and with the Derby Dan application it will be 100'.

Atty. Thomas then stated that regarding the application from Buckingham Estates he presented the list of property owners and certified mailings to property owners within 500' in the City of Derby. This does not include property owners in the Town of Seymour. He stated that this subdivision was approved by this Commission in 2004. This application is for a re-subdivision of Lot 3 and a portion of the property, the house in fact, is in Seymour. He stated that they had to design to the Derby standards but have to address Seymour zoning issues. He stated that he spoke with a member of the Board of Education in Seymour to find out where the children would go to school. He was told that it would depend where the bedroom is. He also spoke with emergency personnel and the fire marshals from both Seymour and Derby. He stated that they felt that it would be better to have Derby handle it with an intermunicipal agreement.

Atty. Thomas stated that this is a landlocked parcel in Seymour. He could get variances in Seymour since he cannot comply with their regulations. He stated that he appeared at the Seymour Planning & Zoning Commission and presented the plan to them. They felt that he should appear before the ZBA and would be able to get the necessary variances. He also stated that there could be some adjustment to the lot line which would result in less variances. He presented copies of the zoning regulations and maps of the area.

He stated that back in 2004 there was a discussion at that time and they were told to drop the fourth lot. The owners then deeded to the City of Derby property along the property line so that it was 25' from the center line. He stated that he looked at the bulk requirements and did not agree with the interpretation. He presented copies of the zoning regulations regarding the lot width.

Jim Swift stated that the lot will have an on-site septic system and field tests were done. All calculations were done and two septic systems could be done and no waivers needed. They will get a letter from Naugatuck Valley Health Department regarding the septic systems. The lots will be serviced by city water. He stated that they have provided calculations and a method for storm water runoff so that there would not be an increase in runoff. A surface pond has been designed in the lower location that will receive most of the water from Lot 3A and a great deal from Lot 3. He stated that they submitted information indicating that there will be no net increase. He stated that in regards to Milone & MacBroom letter a lot of their comments pertain to performance standards. He stated that the requests for additional data to be provided on the plans will be complied with. He stated that there was a comment about the sight line. He stated that Buckingham Road has a flat area and then the grade changes

drastically. He stated that the two driveways are located as close to the peak point as possible. He stated that the sight lines are most sensitive going to the left coming out of the driveways and are much better coming down. He stated that the left sight lines are around 160' distance which meet the DOT standards for 25 mph roadway. He stated that there was a comment about a sight line easement and they would concur with that. He stated that they will need to do some additional testing on the detention basin which will be done and the report modified.

Mr. Estwan read into the record the letter from the Seymour Planning & Zoning Commission (copy attached). Atty. Thomas stated that there was a comment in the city engineer's letter regarding open space. He stated that this is a re-subdivision of a lot in a subdivision and he did not feel that this applies. He stated that if it does apply they will request a waiver of that regulation.

Mr. Estwan asked about the driveway. Atty. Thomas stated that it is a driveway to a flag lot but it is really an interior lot and that is why they have to comply with Seymour regulations. He stated that they had a discussion with Seymour P&Z but have to come here first and then can go and get the variances from Seymour.

Mr. Stankye stated that in 2004 they did not get approval for a four lot subdivision. He stated that the property was purchased with the understanding that it was a three lot subdivision and now you are asking for a special exception for a four lot subdivision. Atty. Thomas stated that at that point the interpretation to the regulation of the lot width was incorrect.

Chm. Estwan asked for any public comment.

Fatima Silva stated that she was speaking for F. Batista, 1 Buckingham Road. She stated that this was one lot and are now trying to get two lots. Mr. Estwan stated that they can ask for a re-subdivision. Mrs. Silv stated that Mr. Batista is concerned about water behind his property. Mr. Swift pointed out where his property is and also noted that Lots 1 and 2 have storm water detention ponds. The contours are toward the back and there is a berm along the northerly property line that directs the flow into the detention pond.

Bill Robins, 4 Buckingham Road stated that there is never any water in that detention pond. He also stated that there is a lot of speeding on that road.

Mr. McEvoy reviewed his letter and stated that regarding lot width when he looks at the regulations in this case there is a lot on a curved section of the road and the lot width is not shown to be measured along the curved section of the front setback. It is shown to be a straight line which is what is required in the definition a straight line measure between the side lot lines. He felt that will require more investigation than presented tonight, but it is his interpretation is that a straight line is needed. It is their opinion that a straight line is how you measure lot width. He stated that the lot width requirement is 175'. He stated that they brought up the issue of sight lines and he felt that 160' sight line is unsafe. He stated that there may be a better location for the driveway. He stated that Seymour has indicated that according to their regulations this lot cannot be built. He stated that they may want to look at

getting the house out of Seymour and totally in Derby. They will also need to submit a letter from Naugatuck Valley Health Department regarding the septic systems.

Atty. Thomas stated that they do not have to produce a lot in Seymour and it would be impossible for them to reply with the Seymour regulations. They can ask for a variance.

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

New Business

(a) Discussion and possible action – Application from Buckingham Estates, LLC for 2 lot re-subdivision at 8 Buckingham Road – R-1 Zone – Application #2012-07-17-01.

Mr. Stevens moved that this item be tabled since the public hearing is still open. The motion was seconded by Mr. Stankye and carried unanimously.

Old Business

(a) Discussion and possible action - Application from Brookside Development LLC for 8 lot subdivision with flag lots at 401 David Humphreys Road – Application #2012-06-19-04.

A motion to table this matter since the public hearing is still open was made by Mr. Stevens, seconded by Mr. Stankye and carried unanimously.

(b) Discussion and possible action – Technical review of settlement plan for Walgreen's

Atty. Tom Regan stated that BL Companies and Millone & MacBroom have gone back and forth and there is a letter from Milone & MacBroom regarding the settlement. Mr. McEvoy read his letter regarding this matter. Atty. Regan stated that P&Z needs to approve the settlement and then all parties will sign the stipulation and it goes to the Court for approval. He stated that all parties are satisfied with the settlement. Mr. Estwan stated that based on the technical review and all the documents provided the Commission approve the settlement. Mr. Estwan then moved that the settlement be approved. The motion was seconded by Mr. Stankye and carried unanimously.

(b) Update on Redevelopment Zone.

Atty. Coppola stated that a meeting was scheduled but the developer was unable to attend so the meeting was cancelled and will be rescheduled.

Executive Session

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

Atty. Coppola stated that it was not necessary to go into Executive Session. She stated that there have been three zoning related appeals filed within the last month and that is what he has been working on.

Payment of Bills

Mr. Stankye moved that the following bills from Milone and MacBroom be paid. – Invoice #61117, #61118 #61119, #61120, and #61121 be paid. The motion was seconded by Mr. Stevens and carried unanimously.

A motion to adjourn was made by Mr. Stankye, seconded by Mr. Misiewicz and carried unanimously. The meeting was adjourned at 9:15 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, September 18, 2012, in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 9:15 p.m. by Chairman Ted Estwan. Present were Ted Estwan, Albert Misiewicz, Richard Stankye, David Rogers, Glenn Stevens, Raul Sanchez 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 08/21/12 meeting was made by Mr. Stevens, 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. Stankye, seconded by Mr. Rogers carried unanimously. The meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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