

# *Zoning Board of Appeals*

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## **Minutes**

(meeting taped)

Special meeting: Thursday, April 24, 2014 in the City Hall.

The meeting was called to order at 6:30 p.m.

By roll call, members present: Angelo Dirienzo, Richard Bartholomew, John Kowarik, Sam Pollastro Jr., Harvey Finkel and Earl Robinson.

Building Official Carlo Sarmiento and Atty. Marjorie Shansky were present.

### **Election of chair:**

A motion was made Harvey Finkel and second by John Kowarik. Move to nominate Richard Bartholomew as Chairman of the Zoning Board of Appeals. Motion carried unanimously.

No other nominations were received. The floor was closed.

**Public portion:** This public portion is to satisfy section 101 of the Charter of the City of Derby.

John and Greg Dorosh of 89-91 Park Ave were present. Mr. John Dorosh stated that he and his brother grew up in the area. He stated that the parcel was always residential. The parcel was used for employee parking for the 7pm-11pm shift for W.E. Bassett and it was never a commercial or industrial use. He was concerned for the lowering of property values and lessening of the quality of life for the neighborhood residents if this parcel was changed from residential. He raised issue with the noise, the diesel fumes and vibrations from the truck activity. The parcel lots in the area are small and there are at least 20 residents within 100 feet of the parcel being discussed. The parcels all around this particular lot are all residential and changing the lot would create spot zoning. Since the cease and desist case has moved forward the night time truck activity has stopped but there are trailers in the lot. Prior to the cease and desist, there was truck activity daily. He stressed that any change would be a detriment to the neighborhood and he was opposed to the proposed activity.

Emails were received and read into the record.

"Folks, a resident asked me if there was a ZBA meeting this evening that was going to deal with Schrade. I didn't know and asked Marc Garofalo. Marc sent me the message about your meeting (including the agenda).

I am disappointed that you are holding a meeting at a time when I won't be able to stand before you as a member of the public (and as a resident of that area).

Anyways, I was a former tractor-trailer driver. Don't let anyone kid you...a truck is nothing like a passenger vehicle. If Schrade are conducting pre-trip inspections before they climb in the cab (which according to federal law, they are required to do), there is a tremendous amount of noise. As I mentioned in a letter that I had Ron Sill read before you months ago, the diesel engine needs to be started. Can we agree that a truck diesel engine is much louder than a passenger vehicle? The driver then needs to check his air horn. He needs to back into the 5th wheel coupling (loud, metal on metal sound). Once the coupling holds, he needs to attempt to move forward to ensure the 5th wheel engages and locks. Each time in and out of the cab he needs to set his air brakes (another loud noise). The air brakes are driven by a compressor which also needs to be started, so you have another loud noise.

The majority of complaints that I have received have been noise complaints from residents on Hawthorne Avenue.

The preceding addresses the noise issue. What about the safety concerns? Tractor trailer areas should be fenced in. Presently, there is nothing to stop neighborhood kids from poking around that area.

On a recent Saturday evening, I watched one of their trucks turn at the Dew Drop Inn and race down Park Avenue to their lot. I suppose the driver preferred that route instead of turning at the gas station near the lot.

The former mayor stated he would talk to the owner to see if he could start his trucks up at a later time. Maybe this is how one runs a family owned business, but we ought not to run our city in this manner.

There should be no compromise. Simply stated, trucks do not belong in a residential area...period.

I thank you for your time and trust you will make the correct decision for the citizens of the 2nd Ward.

Art Gerckens"

And the second letter -

"Good afternoon,

I'm out of state and heard the Derby ZBA is talking about an issue that affects my family.

Specifically, Quick Pik's use of a residential zone as a storage area/trailer storage/boat storage/anything under the sun EXCEPT employee parking.

If I could attend, I would use the public portion of the meeting and say:

"I never hear the noise earlier in the morning, though the illegal use of the property has never stopped.

Personally, I am opposed to the use because property values in east Derby are already rapidly declining for a variety of reasons, so allowing the expansion of an industrial use to cross into a residential zone (instead of trying to protect the integrity of the residential zone) is bad public policy.

A judge -- a third party that is 100 percent unbiased -- AGREED with the previous sentence, so I hope Derby doesn't throw in the towel."

Eugene Driscoll  
246 Hawthorne Ave  
Derby, CT"

Motion made by Harvey Finkel and second by John Kowarik. Move to close the public portion. Motion carried unanimously.

**Approval of minutes:** Motion was made by John Kowarik and second by Harvey Finkel. Move to accept the minutes of the February 20, 2014 meeting, as written. Motion carried unanimously.

Motion made by Sam Pollastro Jr. and second by Harvey Finkel. Move to enter into executive session at 7:25 p.m. with City Counsel Atty. Marjorie Shansky invited to attend. Motion carried unanimously.

Motion made by John Kowarik and second by Sam Pollastro Jr. Move to return from executive session at 8:14 p.m. Motion carried unanimously.

At this time, Mr. Finkel noted that he did not participate in the original cease and desist action before the Board and at this time he is abstaining from the vote.

Motion made by Richard Bartholomew and second by John Kowarik. Move to discuss the pending litigation discussed in executive session regarding Schrade Roosevelt, LLC v. City of Derby ZBA, relating to the property located at Map 10-3-136, 137, 138 and 139, corner of Park Avenue and D Street, Derby, Connecticut. Motion carried unanimously.

Mr. Pollastro Jr. stated that modifications to the stipulated proposal of the applicant were brought forth. Members felt it lacked substantive detail for a resolution in regards to a suitable barrier to the neighbors and further discussion between Atty. Shansky and Atty. Thomas Welch, attorney representing Schrade Roosevelt, LLC were needed to reach a conclusion to the law suit before the courts. Mr. Kowarik indicated that further discussions were encouraged to reach a solution that would best serve the City of Derby, a plan more attractable to the residents and solution that would save the City of Derby costly legal expenses. The board must be mindful of setting precedence that will possibly reflect on future decisions.

Motion made by Richard Bartholomew and second by Sam Pollastro Jr. Move that the presented offer made is not agreeable at this point in time but the Board is willing to consider an alternative offer if mutually agreed upon by both parties. Motion carried with Harvey Finkel abstaining.

Motion was made by Sam Pollastro Jr. and second by John Kowarik. Move to adjourn the meeting at 8:24 p.m. Motion carried unanimously.

Respectfully prepared,

Karen Kemmesies, secretary

*These minutes are subject to Board approval at their next scheduled meeting.*