

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, July 19, 2011 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, Richard Stankye, Steven Jalowiec and Glenn Stevens. Also present were Ryan McEvoy, Milone and MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

Mr. Estwan moved to hear Item #8 next on the agenda. The motion was seconded by Mr. Jalowiec and carried unanimously.

Acceptance of Applications

Mr. Stankye moved to accept and schedule for public hearing an application from Schrade Water Street, LLC for zone map change for 205 Water Street, portion of Lot 8-7-237 from P Zone to I-1 Zone. The motion was seconded by Mr. Jalowiec and carried unanimously.

Mr. Stevens moved to accept and add to the agenda this evening as Item 9c Application for CDD Approval from Nicole Clapes and Amanda White for 1 Thompson Place for use as a day care and nursery school on the first floor. The motion was seconded by Mr. Stankye and carried unanimously.

Correspondence - None

Public Portion

Attorney Barbara DeGennaro, 51 Paugasset Road and second floor tenant at 1 Thompson Place stated that she has been a tenant there for approximately 17 years and has some concerns. She stated that under the terms of her lease she has two parking spaces in the lot. She stated that the other tenants on the second floor also have parking spaces under their leases. She asked that the tenant parking spaces are taken into consideration in accordance with their lease. Mr. Estwan asked if they were certain spaces designated for them and she stated that they are not.

Attorney Laura Donahue, second floor tenant at 1 Thompson Place stated that she was reiterating what Attorney DeGennaro stated. She stated that she has also been a tenant there for some time and has two spaces under her lease. She stated that it would be appropriate to consider the proposal carefully as it will be an intense use of the parking area.

Approval of Minutes

A motion to approve the minutes of the 06/21/11 meeting was made by Mr. Stankye, seconded by Mr. Misiewicz and carried unanimously with Mr. Jalowiec abstaining.

New Business

(a) Application for CDD Approval from Valley Community Foundation to amend existing site plan seeking permission to install two signs at 253 Elizabeth Street – CDD Zone. (Application #2011-06-21-01).

James Cohen, President of Valley Community Foundation was present. He stated that they will be the primary tenant in the carriage house located to the rear of the property. He stated that they are seeking permission to erect two signs. There is an existing sign at the corner of Cottage and Elizabeth Streets and another one in the middle of the property for the funeral home. They are proposing a sign at the northernmost driveway and another on the front of the building. The lawn sign would be 30 x 60 and the building sign would be 24 x 30. He stated that they conform to the zoning regulations. He also noted that the spaces in front of the carriage would be designated for their use. Mr. McEvoy stated that in the CDD Zone signage is at the discretion of the Commission.

A motion to approve the application was made by Mr. Estwan, seconded by Mr. Stankye and carried unanimously.

(b) Renewal of original zoning and flood plain development permit approval – Naugatuck River Greenway – Phase 3 Improvements.

Mr. Estwan stated that this is Phase 3 for the Greenway that was approved back in 2003 and the time line has expired. Mr. McEvoy stated that there are no changes to the plans. A motion to approve the application was made by Mr. Estwan, seconded by Mr. Jalowiec and carried unanimously.

(c) Application for CDD and Site Plan Approval from Nicole Clappes and Amanda White for 1 Thompson Place, for use as a daycare center. (Application #2011-07-19-01).

Attorney Dominick J. Thomas, 315 Main Street Derby, representing the applicants presented the certificates of mailing to all abutting property owners, list of owners and copy of the notification letter. He also presented a permission letter from Bank of America, current owner of the building. There was an auction of this building by Bank of America and his clients were

the successful bidders. They are currently business owners and operating in Derby, The Learning Center at 121 Olivia Street. Atty. Thomas stated that in order to get financing to buy the building they needed to get zoning approval. They now have approved financing and Bank of America has agreed to extend the purchase to August.

Atty. Thomas stated that this is an existing business in Derby. He also presented the statement of use and site plans. He stated that this property has been a bank for a very long time and has three street frontages. He stated that they wish to move their business into this building. They are required to make site adjustments, which include an outdoor play area. They currently have 45 children and would like to expand to 65. They currently have 12 employees and want to expand to 22 – there would be 10 fulltime and 12 parttime. The hours of operation are 6:45 a.m. to 6:00 p.m. Monday through Friday. There are provisions for drop off and pick up of the children at both ends. He stated that the handicap entrance has always been from the rear and there is a street entrance off of Thompson Place. He stated that because it is in the CDD Zone and across the street from the municipal parking garage it is exempt parking situation but they will address the parking issue.

Atty. Thomas stated that a lot of their clientele and employees are walk-in and the children are dropped off and picked up by the parents. There has never been any complaints about parking at their current location.

Atty. Thomas went through the review letter prepared by Milone and MacBroom dated July 18, 2011. He stated that the bank which operated there for a number of years had employees that parked there for the entire day and there were always tenants on the second floor that used the parking lot. He stated that the staff of his clients only 7 drive and the rest either use public transportation or walk. He also stated that the other tenant on the second floor, Atwater Insurance, has no parking reservation in its lease. He stated that his clients would be glad to put up signs and it would be a landlord/tenant issue as far as monitoring the reserved spaces. He stated that all of the clientele are going to be dropped off and then picked up. He also stated that the employees can park in the parking garage. He also stated that this is not a more intensive use than a bank. He did not feel that there would be any issue with parking. He stated that they would be glad to designate parking spaces for the tenants.

Atty. Thomas stated that concerning Item #5 in his letter which pertains to access onto Thompson Place, he has contacted Public Works about this. He stated that there was an initial concern that people would still want to drive in through there, but there will be landscaping there. They have also spoke with Public Works if it is removed and if it is then the Parking Authority could decide if it wants to put meters up for additional street parking.

Atty. Thomas stated that the main entrance of the building is on Thompson Place but most people have always used the rear entrance. So he did not feel there was a need to cut into the parking area and create a walkway to Thompson Place. He stated that the rear entrance is the handicap entrance and it will be kept that way. He also stated that the parking spaces that will not be used will remain as pavement.

Atty. Thomas stated that he spoke with the engineer regarding the comment about the grate on the catch basin in the parking lot. He stated that the engineer did not feel that there will be any issue with it having to be an ADA grate.

Atty. Thomas stated that with regard to the comment about the façade of the building and the need for exit doors in each classroom, this is an Group I-4 day care facility. He stated that it is not an educational group E facility. He presented information regarding this and it stated that the special means of egress are escape windows. He stated that this is really a building code issue but he wanted to address it since it is of some concern. He stated that the only exterior work will be the egress windows and door to the tricycle track and play area. On the Elizabeth Street side there will be the egress windows. The area where you pull out of the drive-thru will be landscaped and the play area will be to the standards of the Department of Health and will be along the westerly side of the building. The islands are going to be covered with play mulch and brought up to grade. There will be a small retaining wall around it and the appropriate fencing.

Mr. McEvoy stated that as far as his review letter the comment regarding the parking, the site is subject to a waiver of parking requirements. However, they are reducing the number of parking spaces and there is some question about the future occupancy of the building and the number of spaces needed. He stated that there is currently a two way entrance but that will be removed by the play area. Mr. McEvoy stated that as far as his comment Item 5 and the access onto Thompson Place he would still recommend that they have this walkway.

Mr. McEvoy stated that the Fire Marshal did raise the issue about egress from the building and the information that Atty. Thomas presented should go to him for his review.

Chm. Estwan read the letter from the Fire Marshal dated 7/18/11. Mr. Estwan stated that the Fire Marshal quoted a section of the Code that requires exit doors. Atty. Thomas stated that he presented this to the architect and he furnished the materials to him regarding that it is an E Use, which would allow for escape windows. The building is not sprinklered at this time and they cannot use the basement until such time as it is sprinklered.

Chm. Estwan stated that it is an existing use in the zone and really a site plan review. Mr. McEvoy stated that on the Olivia Street side there is only two striped parking spaces and the plans indicate that there are five. If those areas are going to be striped they have to conform to the Derby standards for parking spaces. He stated that it also looks like there is only room for four spaces in that area. Chm. Estwan asked how many spaces they will have on site and Atty. Thomas stated that it will be 17 and one handicap. Amanda White, 32 Union Street, Shelton stated that they currently have five part-time employees and five full-time and of those three have cars. She also stated that they have one parking space at their current location.

Mr. Stevens asked about the access to the front door and if it were possible to build a landscape stairway from the parking lot down to the public sidewalk. Mr. McEvoy felt that it could be done.

Chm.Estwan stated that it is an existing use in the CDD Zone and felt that the Commission had any issue with the use continuing. It is really for the site plan and typically the Commission needs to determine if the use fits the site. He stated that it does fit the site. He also agreed that the daycare facility will generate less traffic than a bank. He felt that the conditions should include the landscaped steps, the path from the parking lot to Thompsons Place. He stated that people walk there now and will continue to walk there. It is nice to have a second entrance to that area. He also stated that Item #5 in Mr. McEvoy's letter, the access with the curbing and sidewalk to close that ramp up was already discussed and should be a condition of approval. He stated that the Commission just received something today from the engineer and there is a letter from the Fire Marshal stating that they need egress doors. He stated that if that changes on the building approval and the doors have to be changed comes back to this Commission. Mr. Jalowiec stated that he did not think it would be necessary to have the door issue come back.

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 CDD Use Review and Site Plan for Nicole Clapes and Amanda White on property shown on Derby Assessors Map 8-5, Lot 45 subject to the following conditions:

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

1. Statement of Use dated July 6, 2011.
2. Application for Central Design Development District Zone and Legal Description.
3. Draft Floor Plan.
4. Plan entitled "ALTA/ACSM Land Title Survey, Prepared for: Bank of America, 1 Thompson Place, Derby, Connecticut", dated 10/6/2010, drawn at a scale of 1"=10', prepared by Lehr Land Surveyors.
5. Plan entitled "Site Plan, Prepared For, The Learning Studio, One Thompson Place, Derby, Connecticut", dated 7/7/2011, scale 1"=10', prepared by Donald W. Smith.
6. Plan entitled "Schematic Floor Plan, Sheet A-1" dated 7/15/11 prepared by Mingolello & Hayes Architects, P.C. (with ATM removed).

7. Plan entitled "Schematic Elevations, Sheet A-2", scale $\frac{1}{4}"=1'0"$, dated 7/15/11, prepared by Mingolello & Hayes Architects, P.C.
8. Letter to Planning and Zoning Commission, City of Derby from Bank of America, N.A. regarding CDD /Site Plan Application.
9. Pages 30, 40, 230 of the 2003 International Building Code Portion of the 2005 State Building Code.
10. Page 101-143 of the Life Safety Code, 2003 Edition.
11. Letter from Milone and MacBroom, Inc. dated 7/18/11.
12. Certified copies of mailings to abutting property owners

With the following stipulated conditions:

1. Add a landscape access from the parking lot to Thompson Place and leave plans for that at the discretion and approval of staff.
2. Item #5 on the letter from Milone and MacBroom dated 7/18/11 regarding the access to curbing and the sidewalk will also be addressed by Mr. McEvoy.
3. If there is any change to the egress windows after discussion and proven that it has to go to egress doors, this Commission and staff be given new drawings so they are reviewed and if necessary an application filed.
3. Reserved parking places pursuant to the leases with the second floor tenants (2 each) shall be provided.

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

Old Business

- (a) Update on Redevelopment Zone.

There was no report as Atty. Coppola was not present at the meeting.

Executive Session

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

Chm. Estwan stated that this would be tabled to the next meeting.

11. Payment of Bills

Mr. Estwan stated that he was ordered by the Tax Board to appear before them on Monday. He stated that they seem to have a concern because the Commission continually exceeds whatever funds they are given. Mr. Estwan stated that he will meet with the full Tax Board next month. He stated that engineering is the only line item that is the budget at this time. He stated that every year he asks for \$30,000.00 and is always given \$15,000.00. He stated that he always asks for the revenue received by this Commission and has never been given that information.

Mr. Stankye moved that the following bills from Milone and MacBroom be paid – Invoice #56741 dated 7/13/2011 - \$607.50; Invoice #56739, dated 7/13/2011 - \$542.44; Invoice #56740 dated 7/13/2011 - \$397.50. The motion was seconded by Mr. Jalowiec and carried unanimously.

A motion to adjourn was made by Mr. Stevens, seconded by Mr. Stankye and carried unanimously. The meeting was adjourned at 8:20 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

David Barboza II

Albert Misiewicz

Glenn H. Stevens

Raul Sanchez (Alternate)

Maryanne DeTullio, Clerk

The regular meeting of the Aquifer Protection Agency was held on Tuesday, July 19, 2011, in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 8:20 p.m. by Chairman Ted Estwan. Present were Ted Estwan, Albert Misiewicz, Richard Stankye, Glenn Stevens and Steven Jalowiec. Also present were 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 06/21/11 meeting was made by Mr. Jalowiec, seconded by Mr. Stankyez 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. Stankye and carried unanimously. The meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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