

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)

Cynthia Knopick (Alternate)

Maryanne DeTullio, Clerk

The regular meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, May 17, 2016 at 7:00 p.m. in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:00 p.m. by Chairman Ted Estwan. Present were Ted Estwan, Richard Stankye, Steve Jalowiec, Raul Sanchez, Glenn Stevens, Albert Misiewicz, David Rogers and Cynthia Knopick. Also present were Attorney Marjorie Shansky, Carlo Sarmiento, Building Official, Ryan McEvoy, Milone & MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

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

Correspondence

Mr. Estwan stated that no correspondence was received.

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes

Mr. Stankye moved to approve the minutes of the April 19, 2016 meeting. The motion was seconded by Mr. Stevens and carried 7-0-1 with Mr. Jalowiec abstaining.

Receipt of Applications

Mr. Estwan moved to accept and add to the agenda under new business an application from Lowe's for amendment to original site plan for seasonal outside storage. The motion was seconded by Mr. Stankye and carried unanimously.

Public Hearings

(a) Application for Site Plan Modification from Cellco Partnership d/b/a Verizon Wireless, to modify existing wireless telecom, St. James Church, 123 Minerva Street.

Atty. Ken Baldwin, Robinson & Cole was present for the applicant. He presented the evidence of certified mailings. He stated that this is basically an antenna swap. He stated that they are restricted due to the height of the bell tower. One of the antennas will be the same width and the other two will

be a little wider. He stated that this is the latest technology available. All equipment will be located inside the church. He stated that they received the review comments from Milone & MacBroom and are in agreement with them. He stated that there was an old note on the plan on how far out the antenna extends. The note was wrong and has been taken off the plans. Mr. McEvoy stated that they will need to request a waiver of the A-2 survey requirement. Atty. Baldwin stated that they are requesting a waiver of the A-2 survey. There was no public comment on the application. A motion to close the public hearing was made by Mr. Jalowiec, seconded by Mr. Stevens and carried unanimously.

(b) Application for Site Plan Modification from Centerline Communications, to modify existing wireless telecom, 50 Olivia Street.

Tim Whalen, Centerline Communications stated that they are going to swap out an antenna and add some equipment. The color of the new antenna will match what is there now. He stated that they are asking for a waiver of the A-2 survey. There was no public comment on the application. Mr. Estwan moved to continue the public hearing to receive letter requesting the waiver of the A-2 survey and also proof of certified mailings. The motion was seconded by Mr. Jalowiec and carried unanimously.

New Business

(a) Section 8-24 Referral – Lot 48, Francis Street.

Mr. Estwan stated that the City is going to sell this property and will advertise for bids. He stated that one of the conditions of an 8-24 referral is how it affects any zoning regulations and it must adhere to the regulations. Mr. Sarmiento stated that there are different individuals interested in buying this property. Mr. Jalowiec moved to favorably recommend to the Board of Aldermen and that the subject property must be in complete compliance with City of Derby zoning regulations. The motion was seconded by Mr. Stankye and carried unanimously.

(b) Section 8-24 Referral – Lot 239 Water Street.

Mr. Estwan stated that this property can only be used for open space, parking or passive recreation and no structure is allowed to be built on it. Mr. Sarmiento it is proposed to be parking for the neighboring property. Mr. Jalowiec moved that a favorable recommendation be made to the Board of Aldermen subject to complete compliance with City of Derby zoning regulations and site plan approval. The motion was seconded by Mr. Stevens and carried unanimously.

(c) Discussion and possible action - Application for Site Plan Modification from Cellco Partnership d/b/a Verizon Wireless, to modify existing wireless telecom, St. James Church, 123 Minerva Street.

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 and 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 its application, the Derby Planning and 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 documents submitted in support of this application:

1. Cover letter to Chairman Estwan and Members of the Commission with waiver requests, dated April 8, 2016, prepared by Robinson and Cole, LLP.
2. "Application for Special Exception Use and/or Site Plan Approval", dated April 8, 2016, prepared by Robinson & Cole LLP.
3. "Statement of Use".
4. 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 2/08/16, revised to 5/17/2016 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.
5. Antenna Model X7C-465-V Specifications, prepared by JMA Wireless.
6. FCC license information of the applicant.
7. "Calculated Radio Frequency Emissions Report, Verizon Wireless, Derby CT, 123 Minerva Street, Derby, CT 06418", prepared by C Squared Systems, LLC, dated January 29, 2016.
8. "500-Foot Abutters' List".
9. Testimony from the applicant, Commission and the public during the May 17, 2016 public hearing.

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 Jalowiec and carried unanimously.

(b) Discussion and possible action - Application for Site Plan Modification from Centerline Communications, to modify existing wireless telecom, 50 Olivia Street.

Mr. Stankye moved to table this since the public hearing is still open. The motion was seconded by Mr. Stevens and carried unanimously.

(c) Lowe's Companies, Inc., application for amendment of original site plan for seasonal outside storage.

Peter Ouellette, Lowe's was present and stated that they would like an amendment to their original site plan for seasonal outside storage. He stated that their busiest time is between March to July. Mr. Estwan stated that he thought that was part of the original site plan approval. Mr. Sarmiento noted that this will result in a 25% reduction in parking. Mr. McEvoy stated that outdoor storage is prohibited in the B-1 Zone. Mr. Sarmiento stated that he spoke with the manager at Lowe's and asked him to file this application. He stated that he will review the original site plan to see if this was part of that approval. There is ample parking at the location and this would be for temporary seasonable sale of bulk merchandise. Mr. Estwan moved to approve a minor amendment of the site plan for temporary product in transit from March through July. The motion was seconded by Mr. Jalowiec and carried unanimously.

Old Business

(a) Derby Center Redevelopment District (DCRD), Mill Design District (MDD) and Update to Plan of Conservation and Development Discussions.

Atty. Shansky stated that the planning sub-committee met prior to this meeting to start discussing specific uses in the CDD Zone. She stated that a survey is being prepared of the height and uses for all structures currently in the Minerva, Caroline and Elizabeth Street areas. She stated that they are looking at the R-6 Zone and CDD zone. She asked the members to think about what uses they would like to see as allowable and also those that would not be allowed in these zones. Another meeting with Milone and MacBroom and VCOG and a work session with the full board will be scheduled. Mr. Jalowiec noted that at this time there is no heavy industrial uses in the downtown area.

Atty. Shansky stated that a public hearing and special meeting is scheduled for May 24, 2016 regarding the Plan of Conservation and Development.

Executive Session

(a) Update on Enforcement Issues; Discussion of pending litigation.

Mr. Estwan moved that the Commission go into Executive Session at 8:15 p.m.. and have Atty. Shansky and Michael Michalal attend. The motion was seconded by Mr. Stankye and carried unanimously. The Board came out of Executive Session at 8:47 p.m.

A motion to adjourn was made by Mr. Estwan, seconded by Mr. Jalowiec and carried unanimously. The meeting was adjourned at 8:50 p.m.

Respectfully submitted,


Maryanne DeTullio, Clerk

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