

# ***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, June 21, 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 Acting Chairman Richard Stankye. Present were Richard Stankye, Raul Sanchez, Albert Misiewicz and Anthony Szewczyk. Also present were Attorney Marjorie Shansky and 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

The approval of the minutes from the May 17, 2016 and May 24, 2016 meetings was tabled.

## Receipt of Applications

Mr. Szewczyk moved to accept and add to the agenda under new business an application for CDD approval from Kaarzyna Konefal for 135-141 Main Street. The motion was seconded by Mr. Sanchez and carried unanimously.

Mr. Szewczyk moved to accept and add to the agenda under new business an application for Site Plan Review from Istvan Renebek for 73 Atwater Avenue. The motion was seconded by Mr. Sanchez and carried unanimously.

## Public Hearings

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

Tim Whalen, Centerline Communications was present for the applicant. Mr. Stankye stated that the

Mr. McEvoy stated that proof of the certified mailings was received. There was no public comment on the application. A motion to close the public hearing was made by Mr. Stankye, seconded by Mr. Sanchez and carried unanimously.

### New Business

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

Mr. Stankye 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 architectural character of the building..

Therefore, following review of the plans and supporting documentation submitted in support of this application, the Derby Planning and Zoning Commission hereby approves the Application for Special Exception for Tim Whalen / Centerline Communications on properties shown on Derby Assessors Map 8-5, Lot 3 subject to the following conditions:

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

1. "Application for Special exception Use and/or Site Plan Approval", dated April 13, 2016.
2. "Photo Simulations", prepared by Com-Ex Consultants.
3. "AT&T Radio Frequency Safety Survey Report Prediction", prepared by EBI Consulting, dated April 5, 2016.
4. "Structural Analysis Report", prepared by Destek Engineering, LLC, dated January 18, 2016.
5. Plans entitled "AT&T Mobility, Site Number CTV2210, Site Name Derby Center, 50 Olivia Street, Derby, CT 06418", prepared by Empire Telecom, revision dated 10/01/15 with the following attached drawings:
  - a. "Title Sheet – Drawing T-1", not drawn to scale.
  - b. "Grounding & General Notes – Drawing GN-1", not drawn to scale.
  - c. "Rooftop Layout – Drawing A-1", scale 3/32" = 1'-0".
  - d. "Equipment Layouts – Drawing A-2", scale: 3/8 inch = 1 foot.
  - e. "Antenna Layouts & Elevations – Drawing A-3" not drawn to sale.
  - f. "Details – Drawing A-4", not drawn to sale.
  - g. "Grounding, One-line Diagram & Details – Drawing G-1", not drawn to sale.

6. Testimony from the applicant, Commission and the public during the May 17, 2016 and June 21, 2016 public hearing.
7. Email from applicant to Ryan McEvoy and Carlo Sarmiento requesting a waiver of Section 195-33.
8. Letter from applicant addressed to Carlo Sarmiento and Ryan McEvoy from Tim Whalen dated June 21, 2016.

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. 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.
3. 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.
4. 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.
5. 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.
6. 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 Misiewicz and carried unanimously.

(b) Section 8-24 Referral – 49 Burtville Avenue, Derby.

Mr. Stankye stated that this property is necessary for construction of the Burtville Avenue pump station. He stated that information was received from Attorney Tom Welch regarding this referral. Mr. Stankye moved that a favorable recommendation be made to the Board of Aldermen regarding the 8-24 Referral for 49 Burtville Avenue with the condition that it must comply with all applicable zoning regulations. The motion was seconded by Mr. Szewczyk and carried unanimously.

(c) Application for CDD Approval from Katarzyna Konefal for 135-141 Main Street.

Katarzyna Konefal was present. Mr. McEvoy stated that the proposed use is compatible with the area. He also stated that it is located within 300 feet of the municipal parking lot on Caroline Street. Ms. Konefal stated that parking for employees is in the rear of the building. Mark Konefal stated that there is a loading area in the rear and there will be seating for 34 people. There will be no exterior renovations to the building. Mr. Stankye stated that the sign will need to be reviewed by the Zoning Enforcement Officer to make sure that it complies with the regulations. Mr. Stankye moved to approve the application with the condition that the signage is reviewed and approved by the zoning Enforcement Officer. The motion was seconded by Mr. Sanchez and carried unanimously.

(d) Application for Site Plan approval from Isvan Benedek for 73 Atwater Avenue.

Mr. Benedek was present and stated that he would like to convert a one family house into two family. Mr. McEvoy stated that it appears that there will be no exterior changes. He also stated that the minimum is 4,000 square feet per unit. Mr. Laslo Benedek stated that this was originally a two family and then changed to a one family. Mr. McEvoy stated that two parking spaces per unit are required. He stated that there is a two car garage and a large gravel area in the rear. Mr. Szewczyk asked about egress from the second floor. Mr. Benedek stated that each floor has two exits. Mr. McEvoy stated that it is a permitted use in the zone and meets all criteria. Mr. Stankye moved to approve the application with the additional parking spaces delineated and that it will remain as a two family house. The motion was seconded by Mr. Misiewicz 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 did not meet this month. The Committee will be meeting prior to the July meeting. The Plan of Conservation and Development was approved and this can be removed from the agenda.

#### Executive Session

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

There was no need for Executive Session.

#### Payment of Bills

Mr. Stankye moved that all bills be paid if found correct. The motion was seconded by Mr. Szewczyk and carried unanimously.

A motion to adjourn was made by Mr. Szewczyk, seconded by Mr. Sanchez and carried unanimously. The meeting was adjourned at 7:40 p.m.

Respectfully submitted,

*Maryanne DeTullio*  
MARYANNE DETULLIO