

Memorandum

TO: Ted Estwan, Chair, Derby Planning and Zoning Commission and Members
FROM: Attorney Marjorie Shansky 
RE: Amendments to Derby Zoning Regulations
DATE: December 12, 2016

Attached please find proposed Amendments to the Derby Zoning Regulations. These Amendments have been discussed and reviewed by the Commission's Zoning Subcommittee. The Commission may receive these proposed amendments at its December meeting and move them to public hearing as early as January. Because the proposed Amendments are being advanced by the Commission itself, the statutory time limit to ultimately vote on these proposals does not apply.

Please do not hesitate to contact me if you have any questions relating to the attached.

Attachment

Cc: Mayor Anita Dugatto
Attorney Tom Welch
Ryan McEvoy, P.E.

Proposed Amendments/Revisions to the Derby Zoning Regulations

12/12/2016

Notice Requirement

§195-46 – Procedure

Section 195-46 F. is deleted and the following paragraph shall be added in its place:

F. Each application for a special exception shall include a list, prepared by the applicant, of the names and mailing addresses of the owners of all land included within the application and all land within 500 feet, 200 feet for home occupations, or less distant therefrom. All names, addresses and properties shall be shown on the most recent records and maps on file in the City Assessor's office. The applicant shall send notification of said pending application to at least one owner of each property not more than 15 days nor less than 10 days before the date of the public hearing, by transmitting the public hearing notice as provided by the Commission. Evidence of such mail, in the form of a Certificate of Mailing issued by the United States Post Office shall be submitted to the Commission or its designated agent(s) not less than five calendar days prior to the hearing date. Failure to comply with any of the procedures herein shall be deemed valid basis for denial of the special exception permit application.

§195-82. Hearings

Section 195-82 is deleted and the following paragraph shall be added in its place:

The Board of Appeals shall fix a reasonable time for the hearing of the appeal. At such hearing, any party may appear in person and may be represented by agent or attorney. Upon filing an application to overrule the action of the Zoning Officer or Building Official, or the filing of an application for a variance upon forms to be provided by the Board of Appeals, a date shall be set for a public hearing, and due notice thereof shall be given to the parties. Notice of the time and place of such hearing shall be published in a newspaper having substantial circulation in the City of Derby at least twice, at intervals of not less than 10 days; the first not more than 15 days, nor less than 10 days, and the last not less than two days before such hearing. . Notice shall be sent by the applicant to the owners of record of all property within 150 feet of the subject property. Evidence of such mailing, in the form of Certificates of Mailing from the United States Post Office, shall be provided to the Board prior to or at the public hearing. Whenever the Zoning Board of Appeals has before it for consideration an application for a variance in the use of property, any portion of which lies within 500 feet of a contiguous municipality, such Board shall, at least one week prior to the hearing thereon, notify the Clerk of such municipality, in writing, of the fact of such application and of the date fixed by it for such hearing.

§195-140. Amendments

Section 195-140 B.(4) is deleted and the following paragraph shall be added in its place:

(4) In addition to Subsection B(3), the petitioner requesting amendment of the Zoning Map shall provide proof to the Commission, of letter notification by first class mail, in the form of Certificates of Mailing from the United States Post Office, to all property owners within 100 feet in all directions of the property included in the proposed change 10 days prior to any public hearing. The letter shall state the time, place, date and purpose of the hearing. Prior to the date of the Commission's public hearing regarding the application, the applicant shall submit:

- (a) The certificates of mailing.
- (b) A list of the people notified.
- (c) A copy of the letter and any enclosures sent to people.

§195-141. Notification

Section 195-141 C.(3) is deleted and the following paragraph shall be added in its place:

(3) If the application shall be scheduled for a public hearing, the applicant shall notify each property owner within 100 feet of the subject property of the time, place, date and purpose of the hearing by sending a copy of the legal notice to each abutting property owner not less than 10 days prior to the scheduled hearing. Notice shall be sent by first class mail, postage prepaid with a Certificate of Mailing from the United States Postal Service. Proof of the notice shall be provided to the Commission as per Subsection C(5) below.

Liquor Permitting

Under state statute, one liquor license is available for every 2,500 residents of a town, according to the most recently completed decennial census. Derby is allowed up to five stores; as of the most recent DCP information (updated March 2016), one permit is currently available.

§195-122. Location of liquor outlets.

No land, building, or premises which prior to the effective date of these regulations is not the site or location of a liquor outlet shall thereafter be used either in whole or in part for a liquor outlet if the liquor outlet would be located within the minimum distances specified below and corresponding to the zoning district in which the liquor outlet would be located.

§195-123. Minimum distances and measurement.

A. No land, building, or premises located within the Center Design District shall be used as a liquor outlet if said land, building, or premises is located within 500 feet of any of the following:

1. Any other liquor outlet governed under a like permit, as issued by the State of Connecticut.
2. Any school.

B. No land, building, or premises located in a zone other than the Center Design District shall be used as a liquor outlet if said land, building, or premises is located within 1,500 feet of any of the following:

1. Any other liquor outlet governed under a like permit, as issued by the State of Connecticut.
2. Any school, public park, or church.

C. Said 500 and 1,500 foot distances shall be the shortest total horizontal distance that can be measured beginning at the midpoint of the principal outside public entrance door of the building, wherein is proposed to be located a liquor outlet, thence in one or more straight lines, measured along the right-of-way, via the shortest distance to a property line of the lot on which another liquor outlet is located.

§195-124. Discontinuance.

If any existing liquor outlet, which shall be located within the minimum distances specified in §195-122 and §195-123 above, shall be discontinued with intent to abandon for a period of 30 days, such liquor outlet shall not be resumed except in conformity to § 195-122 above.

Definitions

§195-7. Definitions and word usage.

Brewpub: An establishment that produces up to 15,000 barrels of beers, ciders, and/or similar alcoholic beverages annually, and offers such beverages for sale on-site as permitted by the Connecticut Department of Consumer Protection Liquor Control Division as a Manufacturer Brew Pub or Manufacturer Beer and Brew Pub. Food and beverage sales may be offered for both on-site and off-site consumption. Beverages produced at a brewpub may be sold at wholesale to retailers, distributors, and other commercial businesses.

Build-To Line: The line establishing the greatest distance from the front property line a building façade may be built. A build-to line runs parallel to and is measured from the front property line. In a zone subject to a build-to line standard, any building façade

must be located within the area defined by the front line setback (if any) and build-to line.

Food Truck: A licensed, motorized vehicle or mobile kitchen unit which is temporarily stored on a privately-owned lot, as permitted, where food items are prepared and sold to the general public.

Transparent: in relation to windows and doorways, any glass or similar material which allows views into and out of a building. Windows and doorways with glass that is translucent, opaque, tinted, or reflectively coated shall not be considered transparent.