

Planning and Zoning Commission City of Derby

Theodore J. Estwan, Chairman
Albert Misiewicz
Raymond Sadlik

Steven A. Jalowiec, Vice Chairman
Raul Sanchez
Cynthia Knopick – Alternate

David Kopjanski
Glenn H. Stevens
vacancy – Alternate

Regular Meeting Minutes – 7:00 p.m. – Tuesday, June 16, 2020 Via ZOOM meeting

1. Call to Order

Chairman Estwan called the meeting to order at 7:00 PM

2. Pledge of Allegiance

Chairman Estwan led the Pledge of Allegiance

3. Roll Call

Members present:

Theodore Estwan, Steven Jalowiec, Raul Sanchez, Albert Misiewicz, Glenn Stevens, David Kopjanski, and Cynthia Knopick.

Raymond Sadlik was excused.

Also present: City Engineer Ryan McEvoy, Atty. Barbara Schellenberg, Building Official Carlo Sarmiento, Chief of Staff Andrew Baklik and Police Chief Gerald Narowski.

4. Additions, Deletions, Corrections to the Agenda

No changes.

5. Communications

The Board received a communication regarding a zoning violation at 49 Burtville Ave. It will be added to next month's agenda. Legal counsel has advised the Board not to discuss the matter as it pertains to a possible personnel matter.

6. Public Portion

No one came forward.

7. Approval of Minutes

MOTION by Theodore Estwan and second by Raul Sanchez. Move to table approval of minutes. **Motion carried unanimously.**

8. Receipt of Applications:

There are no new applications.

9. Public Hearing:

9.1 198 Seymour Avenue – Danz Magic Day Dreamers — Application for a Special Exception Use for a daycare center in an I-1 Zone.

The applicant – Alyssa and Deborah Parlow were present to answer any questions. The proposal was reviewed by the City Engineer. The parking requirement guidelines estimates .34 spaces per student. Projecting 15 students, the need is for 5.1 spaces. Peak hours for the daycare would be outside of the

customary time for the dance studio. The daycare hours will run Monday – Friday 7 am – 4:30 pm, the dance studio hours are Monday – Friday 4 pm – 8:30 pm and Saturday 9 am – 6 pm. A site plan has not been submitted with this application. The applicant formally requested that the site plan not be required. A site plan was submitted in 2011 when the Danz Magic studio was approved and there are no significant changes.

The public was invited to speak. No one came forward.

MOTION by Theodore Estwan and second by Steven Jalowiec. Move to close the public hearing for **198 Seymour Avenue – Danz Magic Day Dreamers – Application for a Special Exception Use** for a daycare center in an I-1 Zone. **Motion carried unanimously.**

10. New Business

No new business.

11. Old Business

11.1. 198 Seymour Avenue – Danz Magic Day Dreamers – Application for a Special Exception Use for a daycare center in an I-1 Zone. Continued discussion and possible action.

MOTION by Theodore Estwan and second by Glenn Stevens.

Application: Application for Special Exception Use – Day Care
#198 Seymour Avenue

Applicant: Alyssa Parlow

Pursuant to Section 195-44, the Derby Planning & Zoning Commission finds that the application and supporting documentation as presented is in accordance with Sections 195-44. In addition, the Commission finds that the joint use of the parking space for the day care and the existing dance studio will not overlap, and a reduction of 25% of the combined parking total is acceptable.

Therefore, following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Application for Special Exception Use for Alyssa Parlow on property shown on Derby Assessors Map 8-9, Lots 205 & 207 subject to the following conditions:

1. 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
2. The Special Exception approval shall not be effective until the following is completed and filed on the Derby Land Records. All documentation shall be reviewed by the City Engineer, Corporation Counsel and Derby Zoning Enforcement Officer:
 - a. The special exception approval is filed along with any conditions in accordance with the General Statutes of the State of Connecticut
 - b. An easement granting parking rights to encompass the proposed parking area for the proposed use, or confirmation from Corporation Counsel that current parking easements on file are suitable to support the daycare use in addition to the existing dance studio
3. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission staff for review.

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

1. "Statement of Use"
2. Application for Special Exception Use and/or Site Plan Approval
3. Sketch of floor plan entitled "Danz Magic Child Day Care Center, 198 Seymour Avenue, Derby, CT", not drawn to scale, dated: unknown, prepared by: unknown.
4. Letter from the owner of the parcel dated May 14, 2020.
5. Letter from the applicant in response to comments from Milone and MacBroom, Inc., undated, received on May 19, 2020 via email.
6. Testimony from the applicant, City staff, the Commission and the public at the public hearings held on May 19th, 2020 and June 16th, 2020.

Motion carried unanimously.

11.2 Map 7-8 Lot 1 – Schrade Roosevelt, LLC – Application for a Site Plan Approval for the contractor yard for a crane business plus warehouse and storage of large equipment and commercial vehicles for other businesses. Continued discussion and possible action.

Mr. McEvoy summarized the review of the application. First, the Derby Inland Wetlands Agency approved their application. There were a list of modifications and the posting of bonds for soil and erosion controls included with the approval. Additionally, regarding zoning requirements; clarification on the WPCA approval, whether signage is proposed, what curbing is proposed, the lighting plan, calculating the landscaping for the parking lot and also the landscaping and buffering between the development and the adjoining properties and impacts on the Army Corp of Engineers (ACOE) easement of the property.

Mr. McEvoy suggested that there are limitations as to the disturbance within the Army Corp of Engineers easement and the application has been cautious in not encroaching on said limitations. He recommended that the applicant contact the Army Corp of Engineers to apprise them of the activity. Mr. Estwan concurred that this would be in the way of a courtesy, not in the form of an application for review.

Atty. Dominick Thomas, representing the applicant, indicated that the Army Corp of Engineers stipulation is a restriction rather than an easement and it states that the development shall not go below an elevation 5. There will be no excavation below that elevation.

Members questioned why the applicant was hesitant to approach the Army Corp of Engineers. Atty. Thomas indicated that interactions with them is like "going into quicksand" and there is no need for his client to go there. If contacted, they could stall the project for months. It is on his client, not the Planning and Zoning Commission to decide to contact them. Mr. Schrade indicated that he is leaving it up to his attorney to make that decision.

Atty. Thomas indicated that bathroom facilities will be limited but they will be going before the WPCA for approval. He indicated that updated plans were submitted today to the Planning and Zoning Commission.

Mr. McEvoy noted that the updates that were just submitted today were not available for public review prior to this meeting and as such should not be formally received. Atty. Thomas was hopeful that the public presentation by the applicant's engineer this evening could be sufficient for public notification and details could be stipulated within the approval if an approval was suggested.

Engineer Alan Shepard reviewed the City Engineer's comments. Regarding curbing, it will be along the building to protect the building; but the remainder will have no curbing and will provide flow into the storm drainage as proposed. Regarding signage, there will be signs at the entranceway and into the courtyard. The signage will satisfy the zoning requirements for signage. A DOT style guard rail will be constructed above the small wall between the inside driveway and the dike. The gravel area will be two inches of gravel aggregate. As stated, the applicant will seek approval from the WPCA for the new connection. All necessary reviews will be sought from the Fire Marshal and Fire Department. The outdoor lighting will be on the building. There will be planting islands with lighting coverage for the parking areas.

Mr. Estwan noted that he did receive comment from the Fire Marshal who will make formal review upon receipt of the building documents, but no exceptions were raised as to the preliminary proposal.

Mr. Kopjanski questioned if there were any drainage easements. Atty. Thomas was unaware of any drainage easements across the property. There is mention of flood gates.

Mr. McEvoy noted that there are drainage easements from the Aldi's development in adjoining properties. Lines on the title sheet of this application describe ACOE oversight.

In regard to the subject of buffering, it was questioned whether equipment would be easily visible to the adjoining greenway, speaking to heights of cranes, etc. Atty. Thomas indicated that this is an industrial zone and as such, parking of the equipment is permissible. He noted that this property historically has had industrial use.

Mr. Schrade noted that he currently is residing cranes at 205 Water Street, another industrial parcel and there are cranes over 100 feet. It causes no threat or jeopardy to the adjoining properties. All cranes will be outside. The building itself will be used by contractors for inside storage. Additionally, he has a parcel on Roosevelt Drive that is primarily inside storage, no cranes will be stored there. On Park Avenue, that parcel had equipment recently stored there for the construction of the pump station. He stressed that he tries to run a clean operation and has equipment that are in good condition.

Mr. Stevens noted that he passes by the Water Street location and is satisfied with its clean conditions.

MOTION by Theodore Estwan and second by Steven Jalowiec.

Application: Schrade Roosevelt, LLC
 Division Street
 Application for Site Plan Approval
 Assessors Map 7-8, Lot 1

Pursuant to Section 195-48, the Derby Planning & Zoning Commission finds the following:

- 1) The application and supporting documentation as presented is in accordance with Sections 195-48 (subsections A through E)
- 2) The application proposes to construct a warehouse and outdoor storage for cranes and other construction related vehicles.
- 3) The applicant's engineer has produced documentation demonstrating that formal stormwater detention is not warranted, with stormwater quality enhancements provided, and is therefore in compliance with the Regulations.
- 4) The site plan improvements contain a detailed sediment and erosion control plan that is in compliance with the Derby Zoning Regulations

- 5) Existing vegetation between the outdoor storage areas and the adjacent pedestrian path along the Greenway provides suitable screening in accordance with Section 195-26.CC.(2).

Therefore, following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Application for Site Plan Approval on property shown on Derby Assessors Map 7-8, Lot 1 subject to the following conditions:

1. The applicant shall obtain approval from the Derby Water Pollution Control Authority (WPCA) for the proposed sanitary sewer connection.
2. The applicant shall submit an architectural plan demonstrating compliance with applicable Zoning Regulations regarding maximum building height, a footprint not to exceed what is shown on the referenced plan and in general conformance with the style of buildings depicted in the submitted photos.
3. All building mounted lighting shall be shielded or directed as to limit the glare on adjacent properties. The height of any building mounted lighting shall not exceed 20' from ground level.
4. The dumpster enclosure shall be constructed of materials required in Section 195-39.J.2
5. All retaining walls near parking areas shall incorporate protective guide rails for vehicular safety.
6. The parking area on the east side of the proposed building shall be suitably graded to direct runoff to the proposed rain gardens. To the extent possible, concentration of runoff from paved surface across gravel outdoor storage areas should be avoided.
7. All site signage shall be reviewed with the Zoning Enforcement officer for compliance with the Derby Zoning regulations.
8. The applicant is hereby notified that certain easements in favor of the Army Corps of Engineers (ACOE) exist on this parcel. While not in the jurisdiction of the Planning and Zoning Commission, it is recommended that the applicant contact the ACOE to determine if the site plan as presented warrants any review and approval from the ACOE.
9. The Zoning Enforcement Officer and City Engineer shall have the authority to direct the applicant, to install additional sediment and erosion control measures as conditions may warrant.
10. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.
11. The Building Official shall not issue any building or zoning permits on the lots until the City Finance Director has verified that all fees have been paid in accordance with City of Derby Ordinance Section 85-3.

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

1. Derby Planning and Zoning Commission Application for Special Exception Use and Site Plan Approval.

2. Statement of Use
3. Plans entitled " Schrade Roosevelt, LLC", Derby Commerce Park, Portion of Assessor's Map 7-8, Parcel 1, Derby, Connecticut, dated 04/10/2020, revised 06/08/2020, prepared by Nowakowski, O'Bymachow, Kane & Associates, with the following plans attached:
 - a. "1, Overall Site Plan," at a scale of 1"=100'
 - b. "2, Site and Grading Plan," at a scale of 1"=50'
 - c. "3, Soil and Erosion Control Plan," at a scale of 1"=50'
 - d. "4, Landscape and Planting Plan," at a scale of 1"=50'
 - e. "5, Existing Condition Map," at a scale of 1"=20'
 - f. "6, Detail Sheet," not to scale
4. Adjacent Property Owners List
5. Renderings of Possible Buildings
6. Letter from William Pollock, Licensed Arborist, dated May 26, 2020
7. Letter from Milone and MacBroom, Inc., dated June 11, 2020
8. Testimony from the applicant, City Staff and the Commission at the May 19th, 2020 and June 16th, 2020 regularly scheduled meetings.

Discussion on the motion. Plan A-5 notes that inspections are to be performed by a third party and cites Oxford Conservation Commission. That typo will be corrected. Mr. McEvoy noted that in the Derby Inland Wetlands Agency approval, inspections are also specified in detail.

Motion carried unanimously.

12. Payment of bills

MOTION by Theodore Estwan and second by Glenn Stevens. Move payment of the following invoices to Milone and MacBroom, Inc.

For professional services for the period May 2, 2020 to May 29, 2020	
Invoice #97364 dated May 29, 2020 for 181 Main St – Outdoor patio	\$341.25
Invoice #97365 dated May 29, 2020 for General consultation & Admin.	\$612.50
Invoice #97366 dated May 29, 2020 for Seymour Ave (General)	\$87.50
Invoice #97367 dated May 29, 2020 for 59-65 Minerva St – Additional Apartment Units	\$385.00

For a TOTAL of	<u>\$1,426.25</u>
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Motion carried unanimously.

13. Adjournment

MOTION by Glenn Stevens and second by Steven Jalowiec. Move to adjourn the meeting at 7:51 PM.

Motion passed unanimously.

Respectfully submitted;

Karen Kemmesies

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