



PLANNING & CODE ENFORCEMENT



Planning & Code Enforcement

2 York Street
Westbrook, Maine 04092
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WESTBROOK PLANNING BOARD TUESDAY, JUNE 15, 2021, 7:00 P.M.

**Performing Arts Center
Westbrook Middle School
471 Stroudwater Street, Westbrook
Enter Building from Street side (Performing Art Center Entrance)**

AGENDA

1. **Call to Order**
2. **Approval of Minutes**

NEW BUSINESS

3. **2021.22 – Conditional Use – 630 County Road – A1K9, LLC – Public Hearing:** The applicant is requesting approval to offer boarding services for up to 6 dogs at their existing dog training and daycare facility located at 630 County Road. Tax Map: 002 Lot: 024B Zone: Industrial Park District Use: Boarding Kennel
4. **2021.11 – Site Plan, Subdivision – 21 Saco Street - Storage Realty Corporation – Public Hearing:** The applicant is proposing a mixed-use development with first floor commercial and 29-residential units on the second, third and fourth floors. Tax Map: 028 Lot: 075 and 077 Zone: City Center District, Residential Growth Area 1 Use: Dwelling, Multiple-Family - **TABLED AT APPLICANT'S REQUEST**
5. **2021.16 – Referral from City Council – Amendment to the Land Use Ordinance - §335-1.8 Definitions; New Section §335-2.29.1 – Solar Energy System; Article V – Zoning Districts; §335 Attachment 1, Table 1 Land Use Table – Public Hearing:** The proposed amendment establishes a Solar Energy System Ordinance. The intent of the Ordinance is to define Residential, Commercial and Accessory Solar Energy System Uses, establish performance standards and determine appropriate districts for each use throughout the community.

WORKSHOP

6. **2021.20 – Site Plan, Subdivision – 500 Spring Street – Westbrook Housing Group, LLC:** The applicant is requesting a 59 single-family residential lot subdivision with 4-commercial lots along Spring Street located at the former Twin Falls Golf Course. Tax Map: 008 Lot: 008B Zone: Residential Growth Area 1, Shoreland Overlay Zone, Limited Residential and Resource Protection Use: Dwelling, Single-Family

Deliberation of agenda items, including workshops, that have not been commenced by the Planning Board as of 10:00p.m. may be rescheduled to the next regularly scheduled meeting.



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PLANNING & CODE ENFORCEMENT

DATE: June 11, 2021

TO: Planning Board
FROM: Jennie P. Franceschi, City Planner & Rebecca Spitella, Assoc. Planner
Cc: Plan Review Team

RE: June 15, 2021 Planning Board Meeting

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1. **2021.22 – Conditional Use – 630 County Road – A1K9, LLC – Boarding Kennel**
 2. **2021.11 – Site Plan, Subdivision – 21 Saco Street – Storage Realty Corporation – 29 Dwellings & Commercial Units – TABLED AT THE REQUEST OF THE APPLICANT**
 3. **2021.16 – Referral from City Council – Amendment to the Land Use Ordinance - §335-1.8 Definitions; New Section §335-2.29.1 – Solar Energy System; Article V – Zoning Districts; §335 Attachment 1, Table 1 Land Use Table**
 4. **2021.20 – Subdivision – 500 Spring Street – Westbrook Housing Group, LLC – 63 Lot subdivision (59 Residential, 4 Commercial lots)**

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1. **2021.22 – Conditional Use – 630 County Road – A1K9, LLC**

PUBLIC HEARING

Tax Map: 002 Lot: 024B
Zone: Industrial Park District
Use: Boarding Kennel

Project Description:

The applicant is requesting approval to provide boarding services for dogs at their existing dog training and daycare facility located at 630 County Road.

Project History:

June 15, 2021 – Public Hearing

Staff Comments:

The applicant is proposing to provide 4-5 parking spaces along the front of the building and will be paving the entrance and parking area as part of this application. The applicant has been operating as a service business in this location but would like to add Boarding Services to their business.

Motion

Motion to grant a Conditional Use Permit for A1K9, LLC for a boarding kennel located at 630 County Road Tax Map: 002 Lot: 024B Zone: Industrial Park District is **(approved with conditions/ denied)** and the following findings of fact, conclusions, and conditions as stated on pages **2 through 3** of this Staff Memo dated June 11, 2021, are adopted in support of that approval.

Conditional Use – Finding of Fact

Standard	Finding
Landscape Environment and Enhancement	The operation of the proposed use is within the limits of the existing structure(s) on the site. No additional clearing is required. The currently gravel driveway and parking area will be paved to provide adequate site stabilization for the increase in use.
Surface Water Drainage	The operation of the proposed use is within the limits of the existing structure(s) on the site. No changes to the existing stormwater management are proposed. The addition of any additional buildings or structure will require updated surface drainage plan as part of the building permit process.
Water, Air, Soil Pollution	Animal waste will be contained in appropriate trash receptacles and removed from the site so as to not impact water/air/soil in the surrounding area.
Soil Integrity	The currently gravel driveway and parking area will be paved to provide adequate site stabilization for the increase in use.
Natural Environment	Not applicable
Nuisance Factor	The site is located within the Industrial Park District, which is appropriate for a commercial operation. The operation provides for a fenced area for outdoor animal play/training. The use includes 24-hour staffing to address evening care of the boarded animals.
Special Features	The fenced play yard is setback from the road and not located within the close vicinity of any residential zones or abutters.
Vehicular Access	Vehicular access is via an existing curb cut from County Road.
Parking and Circulation	The currently gravel driveway and parking area will be paved to provide adequate site stabilization for the increase in use. A minimum of 4-5 stiped parking spaces will be provided associated with the boarding kennel use.
Public Services	The use does not generate an unreasonable burden on available public services.

Conclusions

1. The landscape **is** preserved in its natural state insofar as practicable and **is** designed so as to stabilize the slopes and buffer the site, where necessary.
2. Surface water drainage **does not** have an adverse effect on surrounding properties, downstream water quality, soil stability or the storm drainage system.
3. The development **will not** cause unreasonable water, air, or soil pollution
4. The development **will not** cause unreasonable soil erosion or reduction in the capacity of the soil to hold water.
5. The development **does not** have an unreasonably adverse effect on a historic site or irreplaceable natural areas
6. The development **does not** cause unreasonable noise, odors, dust, gas, fumes, smoke, light, or other annoying or dangerous emissions.
7. Exposed storage areas, machinery installation, service and loading areas and similar facilities **are** set back, screened, or buffered so as to minimize any possible adverse effect on the surrounding uses.
8. The site layout **does** provide for safe vehicular access and egress, including that for emergency vehicles.
9. The layout of vehicular and pedestrian traffic patterns **does** provide for safe interior circulation, separation of pedestrian and vehicular traffic and storage of plowed snow. Parking **does** comply with the parking requirements set forth in the Ordinance.

10. The development **does not** impose an unreasonable burden on the water supply and sewage disposal systems, fire or police services, public ways, schools, recreational facilities and other public services or facilities.

Conditions:

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated May 21, 2021 and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the City Planner or the Planning Board.
2. Site entrance and 4-5 parking spaces shall be paved and appropriately striped prior to an increase in boarding of more than 12 animals/day or 6 animals/night or by Fall 2021 which ever comes first.
3. Animal waste will be stored in appropriate containers to avoid unreasonable odors. Trash removal required at an adequate frequency to avoid attraction of animals or pests.

2. 2021.11 – Site Plan, Subdivision – 21 Saco Street – Storage Realty Corporation

PUBLIC HEARING – Tabled at the request of the applicant

Tax Map: 028 Lot: 075 and 077
Zone: City Center District
Use: Dwelling, Multiple-Family

Project Description:

The applicant is proposing a mixed-use development with first floor commercial and 29-residential units on the second, third and fourth floors.

Project History

April 14, 2021 – Neighborhood Meeting
April 20, 2021 – Planning Board Workshop
June 15, 2021 – Public Hearing - Tabled

Motion:

That the Site Plan/Subdivision application for Storage Realty Corporation for a mixed-use development with first floor commercial and 29 residential units located at 21 Saco Street be tabled to the July 6, 2021 Planning Board meeting.

3. **2021.16 – Referral from City Council – Amendment to the Land Use Ordinance - §335-1.8**
Definitions; New Section §335-2.29.1 – Solar Energy System; Article V – Zoning Districts; §335
Attachment 1, Table 1 Land Use Table

PUBLIC HEARING

Ordinance Description:

A referral from the City Council through the Administration: The proposed amendment establishes a Solar Energy System Ordinance. The intent of the Ordinance is to define Residential, Commercial and Accessory Solar Energy System Uses, establish performance standards, and determine appropriate districts for each use throughout the community.

Ordinance History

May 4, 2021 – Planning Board Workshop
June 15, 2021 – Public Hearing

Staff Comments

Updated Solar Ordinance has been provided to the Board based on feedback provided during the 5/4/2021 Planning Board Workshop: (Document is highlighted in yellow where changes were made from the 5/4/21 workshop document.

- 1) Concern on Height limitations for Solar components
 - a. We have altered the language to be consistent with how we address Chimneys and antennas and pulled the proposed language from existing ordinance sections.
 - b. In summary, solar components are not considered part of the roof system as it pertains to height limitation, but there is a 10' max over the roof height which is a limit already utilized in our ordinance for Chimneys/Antennas.
- 2) Concern on Commercial SES operations in the Rural District
 - a. The board has been provided additional standards for Commercial SESs in the rural district in response to the concerns raised on clearing in the Rural areas.
 - b. There is a bit of a balancing act we are proposing where we see the value in Solar's carbon reduction in relationship to the type of vegetation that is being cleared for these systems.
 - c. We have included parameters for the City to review the value of the land from a habitat perspective to restrict or prevent a CSES from clearing out a high value habitat area.
 - d. We have also been informed that in Clearing an area of overgrowth, a meadow can be planted to provide an ecosystem that is needed for the pollinators. These are the components of "balancing" that Staff is trying to achieve in the edits provided for the Boards consideration.
 - e. **If the Board does not agree that CSES's should be in the Rural district at all, then the text in red would be deleted, which would then prohibit CSES in the RD.**
 - i. **Staff would request the Board to review this item and determine if you wish to take a vote to amend the language as proposed to prohibit CSES's in Rural District. (Remove all red text from the Document to then send to the City Council.)**

Summary from the 5/4/2021 Staff Memo for reference: The City has wanted to look at modern uses that need to evolve with the times to include in our zoning land use tables. Recent advances in Solar Energy have pushed staff to look at how to afford this use to our citizens, with performance standards. Currently, we can only place Solar Arrays in the Manufacturing District as without a specific definition, we have had to define Solar Arrays, from a land use perspective, as "light manufacturing". This has been extremely limiting is not reflective of good planning practices regarding land value and the most appropriate locations to place commercial solar arrays.

After receiving several requests from landowners inquiring about solar arrays on their properties, the Administration tasked Staff with drafting a Solar Ordinance. As is typical when developing new Ordinances, Staff first reviewed the region to research how other municipalities regulate solar energy systems as well as several model ordinances to determine a regulatory structure that is appropriate to this community. Many communities regulate solar energy

systems by size; however, Staff found this methodology difficult to translate between communities (for example, a “small” solar array would look very different in a community with a 1 – 2-acre minimum lot size vs a more urban setting) and this did not seem to accomplish the local need of allowing solar harvesting in areas where commercial development is not appropriate (residential nature of the zone, lack of utility infrastructure, etc.) while preserving the commercial districts for growth that will support industry, taxation and employment. Staff is recommending that, rather than regulating by size or production, the City adopt an Ordinance that regulates by use category.

The goal of this Ordinance is to 1.) Define and establish standards for commercial solar arrays, where the array may be the primary use on the site and the energy produced may be sold back to the grid; 2.) Permitting commercial arrays at locations that does not utilize the high value lands that could otherwise be used for commercial operations that build a greater tax base, while also not prohibiting a principal commercial use from having a smaller array to offset on site energy production; and 3.) Defining such commercial use(s) in a manner that does not unintentionally prohibit or create an overburdensome process for residents to install solar panels on their homes/properties.

To achieve this, the proposed Ordinance before the Board defines a Solar Energy System and creates three uses to be incorporated into the land use table:

- Solar Energy System, Commercial (CSES)
 - Used to harvest solar energy beyond the needs of any other uses located on the parcel (if any) and for the purpose of selling back to the grid.
 - May be the principal use on a property.
 - Permitted in the RGA1, RGA2, RGA3 and Rural Districts only
 - Subject to setbacks from major corridors to limit visual impact.

- Solar Energy System, Accessory Commercial (ACSES)
 - Used to harvest solar energy to offset the energy consumption of a commercial use on the same property.
 - Permitted in all districts.
 - Must be located behind principal structure to limit visual impact.

- Solar Energy System, Residential (RSES)
 - Used to harvest solar energy to offset the energy consumption of a residential use on the same property.
 - Permitted in all districts.

As proposed in the draft Ordinance, all Solar Energy Systems would be subject to the provisions and standards of Site Plan review and would therefore require Planning Board review if the disturbance is greater than 3,000 sf or will be reviewed by the Code Enforcement Officer if less than 3,000 sf. The intent of these provisions is to ensure the larger arrays, which will likely comprise of most “CSES” operations, receive a comprehensive review to ensure all land use standards and life safety measures are met and the operation does not create issues for abutting properties with respect to erosion, drainage etc. Solar Arrays that are smaller in scale and therefore less likely to create an impact on surrounding properties, such as a “ACSES” or “RSES”, can be processed through the Code Enforcement Office which allows for a more expeditious review process while still requiring surface drainage is addressed through the building permit process. It is still the intent that if an “ACSES” or “RSES” creates as disturbance greater than 3,000 sf, it is subject to the standards of Site Plan review.

The draft language does not conflict with State law and has been reviewed by the City solicitor.

Motion:

Motion to recommend the proposed amendment to the Land Use Ordinance §335-1.8 Definitions; New Section §335-2.29.1 – Solar Energy System; Article V – Zoning Districts; §335 Attachment 1, Table 1 Land Use Table, to City Council for adoption.

4. 2021.20 – Subdivision – 500 Spring Street – Westbrook Housing Group, LLC – 63 Lot Subdivision

WORKSHOP

Tax Map: 008 Lot: 008B

Zone: Residential Growth Area 1, Shoreland Overlay Zone, Limited Residential & Resource Protection

Use: Dwelling, Single-Family, Commercial

Project Description:

The applicant is requesting a 59 single-family residential lot subdivision with 4-commercial lots along Spring Street located at the former Twin Falls Golf Course. The commercial lots are to be divided in this action but would require site plan review at a future date for any development on the individual parcels.

Project History

May 2021 – Neighborhood Meeting

June 15, 2021 – Planning Board Workshop

Staff Comments:

Please find attached letter of 6-11-21 from PRLT on initial comments related to the Open Space proposal.

1. Noticing: \$63.92
2. Provide documentation of neighborhood meeting to Planning Dept (attendance and minutes)
3. Trail access from pump station parking lot is shown through the “no disturb buffer” – may need to relocate pump station/trail access to another location as site is currently showing the drainageway complete filled by the pump station.
4. Connect with PRLT to discuss open space easement and land conveyance
5. Easement from Spring Street blocked by structure that crosses property line. Relocate easement (either from Spring Street but around structure or along northerly edge of Commercial Lot 1)
6. Twin Falls Drive name not available – Provide new proposed street name for E-911 verification.
7. Road naming will need to be reviewed as the layout does not follow traditional road naming flow. The first access to Spring St will be one name through to the T intersection point. The Second access from Spring St will need to have a different name that would continue all the way to the back lots (#10-21) as this would be the natural flow of the road. You could keep Bunker Way starting from the eastern Spring St access point and continue it all the way to Lot 9/48. Another named road will start at the Western access with Spring St and continue through to Lots 47/54 which would intersect with Bunker Way. Eagle Drive is fine.
8. Final plan set should show boundaries of sewer easement over this projects land and the abutting property to Miles Lane pump house.
9. Further collaboration needed regarding Spring Street pedestrian improvements – sidewalk, crosswalks and RRFBs at Jacqueline Way. Coordinate with 364 Spring Street project.
10. Redesign/reconnection of 364 Spring St project’s sewer is the responsibility of this project.
11. Final plan design will need to collect runoff from northeasterly portion of project to prevent flooding issues in/over Spring Street
12. Mailbox – Provide location for cluster box and pull off area for mail deliver/pickup (Bus stop for school busses along Eagle Lane – Coordinate with School Transportation Department.)
13. Sidewalk along the entire frontage will be required and connection to the bus stop system at Landing Way in coordination with the 364 Spring St project.
14. Access to any of the commercial lots will be off of the internal street system of the project and not off of Spring St.
15. For next stage call out RP vs LR on plan for Shoreland Zoning.
16. SLOD amendment required & ACOE re-submittal required

Board Action

1. Provide feedback to applicant on this sketch plan application.