



City of Westbrook

DEPARTMENT OF PLANNING & CODE ENFORCEMENT

2 York Street

Westbrook, Maine 04092

(207) 854-0638

Fax: 1-866-559-0642

**WESTBROOK PLANNING BOARD
TUESDAY, MARCH 6, 2018, 7:00 P.M.
WESTBROOK HIGH SCHOOL, ROOM 114**

AGENDA

PUBLIC HEARING

1. **2017.70 – Conditional Use/Home Daycare - 14 Glenwood Ave – Tatyana Nsankete Ekila** – The applicant is proposing a 12-child home daycare in her residence. Tax Map: 29 Lot 14/159. Zone: Residential Growth Area 1.
2. **2018.07 – Amendment to the Land Use Ordinance – Section 201 Definitions, 202 General Provisions - Accessory Dwelling Unit:** Proposed renaming and enhancing of the standards the Accessory Apartments.

REGULAR MEETING

3. **Call to Order.**
4. **Approval of Minutes.**
5. **2017.70 – Conditional Use/Home Daycare - 14 Glenwood Ave – Tatyana Nsankete Ekila** – The applicant is proposing a 12-child home daycare in her residence. Tax Map: 29 Lot 14/159. Zone: Residential Growth Area 1.
6. **2018.07 – Amendment to the Land Use Ordinance – Section 201 Definitions, 202 General Provisions - Accessory Dwelling Unit:** Proposed renaming and enhancing of the standards the Accessory Apartments.

WORKSHOP

7. **2018.08 - Land Use Ordinance Amendment – Chapter VIII Penalty Provisions - New Section 805 – Stop Work Order** – Discussion on codifying the process the Codes Office utilizes to address site non-compliance.
8. **2018.09 - Land Use Ordinance Amendment – Chapter II Section 201 Definitions - Service Business** – Discussion on amending the language to clarify the definition of Service Business.
9. **2018.10 - Land Use Ordinance Amendment – New Private Way Ordinance:** Discussion on establishing standards and a review process for New Private Ways within the City.

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



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2 York Street

Westbrook, Maine 04092 (207) 854-0638

Fax: 1-866-559-0642

DATE: March 2, 2018

TO: Planning Board

FROM: Jennie P. Franceschi, City Planner & Rebecca Spitella, Asst. City Planner

Cc: Plan Review Team

RE: March 6, 2018 Planning Board Meeting

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1. **2017.70 – Conditional Use/Home Daycare - 14 Glenwood Ave – Tatyana Nsankete Ekila**
 2. **2018.07 – Amendment to the Land Use Ordinance – Section 201 Definitions, 202 General Provisions - Accessory Dwelling Unit**
 3. **2018.08 - Land Use Ordinance Amendment – Chapter VIII Penalty Provisions - New Section 805 – Stop Work Order**
 4. **2018.09 - Land Use Ordinance Amendment – Chapter II Section 201 Definitions - Service Business**
 5. **2018.10 - Land Use Ordinance Amendment – New Section - Private Ways**

1. 2017.70. – Conditional Use/Home Daycare – 14 Glenwood Ave – Tatyana Nsankete Ekila

PUBLIC HEARING

Tax Map: 29 Lot: 14/159

Zone: Residential Growth Area 1

Project Description:

The applicant is proposing a 12-child home daycare in her residence. 14 Glenwood Ave is part of a 3-unit homeowners association where each (single family home) unit has designated rights to limited common elements on the lot. All features associated with the daycare (parking, play yard, etc.) are located on areas that are limited common elements attached to the Unit owned by the applicant. The applicant has provided a plan that outlines approximately 673 sf of outdoor area that will be used by the daycare and 8 parking spaces that are available to the home and the daycare.

Project History:

February 6, 2018 – Planning Board Workshop

February 24, 2018 – Site Walk

March 6, 2018 – Public Hearing

Staff Comments:

1. Fees due in the amount of \$516.40 in abutter and newspaper notices

2. The facility must provide at least 600 sf of fenced in area for outdoor recreation.
3. The proposed in-home daycare includes 2-employees and will require a total of at least 6 parking spaces
4. The applicant must ensure employees/caregivers do not park or drive on the portion of the parking area that is under the ownership of 16 Glenwood Ave.

Conditional Use Review:

Finding of Facts and Conclusions for the Westbrook Planning Board

Motion:

The Conditional Use application for Tatyana Nsankete Ekila to operate as a Home Daycare Provider at 14 Glenwood Avenue, Tax Map: 29 Lot: 14/159 Zone: Residential Growth Area 1 is **(approved with conditions/ denied)** and the following finding of fact, conclusions and conditions as stated on pages 2 through 3 of this Staff Memo dated March 2, 2018 are adopted in support of that approval.

Home Daycare Provider – Finding of Fact:

Uses specific to this section are: Home Daycare Provider

- A minimum of fifty (50) S.F. of dedicated outdoor play area shall be required for each child and such play area shall not be located in the front yard facing a public right-of-way; - *Adequate – will be verified by Code Enforcement prior to Certificate of Occupancy.*
- All play areas shall be enclosed by a minimum of four (4) foot fencing; - *Applicant will confirm with Code Enforcement Officer prior to issuance of a certificate of occupancy.*
- When a facility is located in a two (2) family dwelling then at least an equal amount of outdoor play area shall be maintained for the second unit, also not located in the front yard facing a public right-of-way; - *N/A*
- One (1) off street parking space shall be provided for each employee or volunteer, and one (1) off street parking space for every six (6) children shall be provided; - *Adequate*
- The parking area shall be in a safe location, shall include an area for snow storage, and shall permit the parent to move directly to the entrance for the loading and unloading of children without affecting the movement of other vehicles; - *Adequate*
- The proposed facility shall not burden on-site septic or offsite waste disposal; - *Adequate*
- There shall be toilet facilities on every floor of the facility. Where the facility is a Home Day Care Provider separate toilet facilities shall be provided for the residential and facility uses; - *Adequate*
- All facilities shall demonstrate that they meet the requirements for licensing by the state and shall provide proof of state licensure prior to issuance of a Certificate of Occupancy and shall meet all sanitary, plumbing code, fire code, and building code requirements, as identified by the Code Enforcement Officer, - *Condition of approval to be inspected and signed off by Code Enforcement*

- Based on location, area traffic, and neighboring uses, the Code Enforcement Officer or Planning Board may set the hours of operation; and **Requesting Monday - Friday 7:00AM – 5:30PM**
- If the operator of the facility is not the owner of the property on which the facility will be located, the operator shall provide evidence of the property owner's consent to the facility. The operator shall also provide proof of interest in the property, such as a deed or lease. – *Operator resides on property.*

Conclusions:

1. The proposed site plan **will not** result in undue water or air pollution.
2. The proposed site plan **has** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed site plan **will not** cause an unreasonable burden on an existing water supply.
4. The proposed site plan **will not** cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed site plan **will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed site plan **will** provide for adequate sewage waste disposal.
7. The proposed site plan **will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed site plan **will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. The proposed site plan **conforms** to the duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer **has** adequate financial and technical capacity to meet the standards of this section.
11. The proposed site plan **is not** situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.
12. The proposed site plan **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed site **is not** situated entirely or partially within a floodplain.
14. All freshwater wetlands **have** been shown on the site plan.
15. Any river, stream, or brook within or abutting the site plan **has** been identified on any maps submitted as part of the application.
16. The proposed site plan **will** provide for adequate storm water management.
17. The proposed plan **will not** negatively impact the ability of the City to provide public safety services.

Conditions:

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated December 27, 2017 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. Prior to any permits being issued for the project:
 - a. Staff comments need to be addressed.
 - b. Code Enforcement sign off of outstanding items list provided to the applicant.
3. The applicant shall comply with the requirements of local and state authorities for life and safety requirements.

2. 2018.07 – Amendment to the Land Use Ordinance – Section 201 Definitions, 202 General Provisions – Accessory Dwelling Unit (Previously “Accessory Apartments”)

PUBLIC HEARING

Ordinance Description:

In working with added definitions to our ordinance, it was brought to Staff’s attention that the definition of the accessory “apartment” needed to be amended to achieve the true intent of the definition. When the definition was added to the ordinance, it was to address the “In-Law” apartments that were allowed in structures for aging parents, but to follow up on these properties to have the units removed upon the parents leaving the unit was not a feasible task.

The definition for an accessory “apartment” allows for increased density but to fit in existing neighborhoods. The intent was allowing existing space in homes or additions to homes for these units to be created in.

Attached is an amended version of the ordinance that clarifies what these units are: “Accessory Dwelling Units”. Also, the area where an accessory dwelling unit is permitted must be attached to the primary structure and providing parameters on the unit’s size so that it is clearly accessory to the primary residence.

Additionally, the City Solicitor requested that the performance standards be removed from the definition section and placed in the General Provisions section of the ordinance, where they truly belong, thus why it appears to be a whole sale change as the language is moving into a different section.

This document has undergone significant review by City Staff and Legal council and thus why it has been placed on this meeting as Public Hearing.

Project History:

March 6, 2018 – Public Hearing

Staff Comments:

Staff have reviewed this language with legal council and City Staff.

Staff have noticed the item in the newspaper as a public hearing which allows the Board to hear comments from the public.

Board Action:

- Consider public comments provided during public hearing
- Provide any further feedback on this ordinance

Motion:

Motion to recommend the proposed ordinance amendment for adoption by the City Council.

3. 2018.08 – Land Use Ordinance Amendment – Chapter VIII Penalty Provisions – New Section 805 – Stop Work Order

WORKSHOP

Ordinance Description:

This language is to clarify the process by which the Codes Office would administer Stop Work Orders as they pertain to work outside of a structure. The CEO has language in building codes that applies to work within the structure, but Staff felt we needed to look at adding language to address deficiencies in site work around a structure that could warrant Stop Work Order action.

Project History:

March 6, 2018 – Planning Board Workshop

Staff Comments:

Staff and Legal have reviewed the attached language.

Potential Board Actions for discussion:

Consider public comments provided

Provide Feedback on the ordinance

Consideration of a public hearing on the proposed language - Staff would suggest holding a public hearing on April 3, 2018.

4. 2018.09 – Land Use Ordinance Amendment – Chapter II Section 201 Definitions – Service Business

WORKSHOP

Ordinance Description:

To reduce the confusion in the definition of a Service Business. The examples stated in the definition, although meant to provide examples of Service Businesses, end up causing confusion to the public on what a service business can be. By elimination of the examples, this would address the confusion.

Project History:

March 6, 2018 – Planning Board Workshop

Staff Comments:

City Staff have reviewed the attached language and support the amendments.

Potential Board Actions for discussion:

Consider public comments provided

Provide Feedback on the ordinance

Consideration of a public hearing on the proposed language - Staff would suggest holding a public hearing on April 3, 2018.

5. 2018.10 – Land Use Ordinance Amendment – New Private Way Ordinance

WORKSHOP

Ordinance Description:

Currently the ordinance does not provide a clear process for private ways. When an applicant comes into the office, they do not have the clear direction that other processes do so that the applicant is adequately prepared and understands all the requirements of the process.

Project History:

March 6, 2018 – Planning Board Workshop

Staff Comments:

Staff have utilized other municipalities processes to pull together a draft document for the Board's consideration.

Potential Board Actions for discussion:

Consider public comments provided

Provide Feedback on the ordinance

Consideration of a public hearing on the proposed language - Staff would suggest holding a public hearing on April 3, 2018.