



City of Westbrook

DEPARTMENT OF PLANNING

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WESTBROOK PLANNING BOARD TUESDAY, JULY 13, 2010, 7:00 P.M. WESTBROOK HIGH SCHOOL, ROOM 114 MINUTES

Present: Ed Reidman, (Chair) (Ward 5), Rene Daniel (Vice-Chair) (Ward 1), Rebecca Dillon (Alternate), Scott Herrick (Ward 3), Robert Morrill (Alternate), Dennis Isherwood (Ward 2)

Absent: Greg Blake (At Large), Michael Taylor (Alternate), Cory Fleming (At Large)

Staff: Molly Just, Richard Gouzie

Chairman Reidman called the Westbrook Planning Board meeting to order at 7:00 p.m. in Room 114 of the Westbrook High School.

1. Call to Order

2. Approval of Minutes

Rene Daniel moved to accept minutes as written December 1, 2009 and June 1, 2010.

2nd by Robert Morrill

The vote was unanimous in favor 6-0

Continuing Business

3. **Site Plan – Animal Refuge League of Greater Portland – 449 Stroudwater Street – Sevee & Maher Engineers, Inc., on behalf of the Animal Refuge League of Greater Portland for the expansion and reconfiguration of existing parking lots. Tax Map: 9, Lot: 20, Zone: Rural District and Residential Growth Area 1.**

Staff Comments:

1. *Waiver: The applicant is requesting a waiver of the 26-foot drive aisle requirement for right-angle parking. This requirement is found in Section 505.1 B Design of Off-Street Parking of the Site Plan requirements. Note: Planning and Engineering staff do not support this waiver request as the bulk of the users of the parking will be visitors. The typical nature of visitors is that they are not accustomed to the space that they are entering. Add to that animals may accompany pedestrians in this area. Therefore, the drive aisles should be built to the minimum standard, which is intended to ensure safety.*
2. *The applicant proposes to delay installation of the proposed landscaping until Landing Road is constructed. Planning and Engineering staff oppose this timing as the*

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construction of Landing Road depends on the full build out of the Stroudwater Landing project, which could not happen at all, at worst, or could take 10 years, at best. Therefore, we recommend that the applicant provide a Performance Guarantee to the City for the purchase and installation of the plantings as depicted on the plans. The landscaping should be installed by the applicant within 12 months of Planning Board signature of the mylar. A Condition of Approval has been included in support of this recommendation.

Project Description– The Animal Refuge League of Greater Portland (ARLGP) is proposing to construct a parking lot addition beside their facility and reconfigure the existing parking to improve safety and add parking capacity. Forty-seven total parking spaces are proposed in the new parking arrangement. The parking spaces and drive aisle along Stroudwater Street would be restriped to provide for 12 parking spaces and a one-way drive aisle.

A 24-foot wide drive aisle would be reconfigured for access to the side parking lot. A new parking area with 33 parking spaces would be constructed for visitors, volunteers and employees. Other improvements would include a soil filter to capture stormwater runoff, landscaping and site lighting. No changes to the building or utilities are proposed.

The ARLGP has granted the approved Stroudwater Landing development a 50-foot right-of-way for a public roadway, identified as Landing Road. The proposed Site Plan includes the preliminary design for Landing Road subject to future adjustments for grading and utilities. When Landing Road is built, a driveway connection to the ARLGP would be made and the existing two-way entrance onto Stroudwater Street would be replaced with 4 new parking spaces. The dumpsters would be relocated to a new paved area near the back of the building when this connection is made. Approval of this Site Plan would include approval of these future changes.

Ed Reidman is the application complete?

Molly Just the application is complete.

Rene Daniel moved to accept the application as complete.

2nd by Dennis Isherwood

The vote was unanimous in favor 6-0

Guy Cote with Sevee and Maher Engineers, before I make a presentation, I would like to introduce a couple of the Animal Refuge representative here tonight, Patsy Murphy and John Giffune the Chairman of the Board of Directors.

Patsy Murphy I am the executive Director of the Animal Refuge League. We have been serving the community since 1911 and have been at this space since 1956. I currently employ thirty-three individuals most of them are fulltime. I require over two hundred and fifty volunteers to help us execute our mission everyday. That mission is to care for stray, abandoned and unwanted animals in our Greater Portland community. We are here tonight to explain that the need is great. We serve the public and are open to the public six days a week and we have extended hours. Saturdays is our busiest day as that is when we do

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most of our adoptions. Parking is a critical piece to our service delivery and we hope you will consider the aspects that we present tonight.

John Giffune I am the Chair of the Building Committee and wanted to thank you for considering our request. I do not have anything to add to what Patsy so apply stated.

Guy Cote I have a hand out that is the Site Plan with some colors added to it and I think it will be helpful.

Starting out with the site on Stroudwater Street, the Animal Refuge League that has seventy-six acre parcel that starts at Stroudwater Street and then heads towards the west and extends towards Spring Street. The majority of the property is fields, forested area with walking trails meandering throughout the property. The buildings are along Stroudwater Street as shown on the Site Plan that currently has limited parking and from a striped standpoint that is probably parking for about eight cars. The rest of the parking is unorganized. The goal of this project is to provide additional parking space for the Animal Refuge League to accommodate both their employees and visitors to the facility.

Two things play a major factor in the design of this project and that consists of the Portland Water District easement through the entire property that runs in an east, west direction on the left side of the Site Plan. There is a future right of way for Landing Road which runs from Stroudwater to Spring Street. When you take those two rights of ways into consideration it is a major constraint with developing the parking area.

In the end we came up with a design that has a total of forty-seven spaces, a dozen or so in the front, thirty-three in the rear, along the rear of the building.

This plan shows one of the features of the parking design is that we do have a twenty-four foot wide aisle width for which we are seeking a variance from the City's Ordinance that requires twenty-six feet. It is our opinion that the reduction to twenty-four feet will not impact traffic movement or create any additional safety hazards for this specific project at the Animal Refuge League.

One other item that we have asked for is to delay the landscaping along the future Landing Road that acts as screening from Landing Road and the project which currently has sufficient tree growth to act as a buffer and are asking the Board to consider delaying the landscaping plan until Landing Road is actually constructed.

Those are the two items that we are seeking a variance on as the rest of the project is in compliance with the City's Ordinance.

Rene Daniel you have how many parking spaces now?

Guy Cote organized in terms of striped parking there is eight, actually seven lined spaces.

Rene Daniel you are requesting delaying landscaping until Landing Road is created... maybe to Molly; I am assuming that they are going to put another egress on the Landing Road to go into this parking lot?

Molly Just that is correct.

Rene Daniel are they scheduled to remove the two egresses on Stroudwater Street?

Molly Just they have proposed to remove one access point on Stroudwater Street when they construct the access point onto Landing Road.

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Rene Daniel as far as the landscaping, I am just curious as to why it is only shrubs and trees and not plants?

Guy Cote to act as screening vs.... perhaps you are asking for a rain garden or?

Rene Daniel no just flowers.

Ed Reidman other questions?

Dennis Isherwood I drive by you twice a day, at least and I can see the need for the parking. Is it possible to widen that to twenty-six feet?

Guy Cote one of the considerations we have is in the winter we have snow plowing, so we wanted to take that into consideration. Down toward the lower end you have there air conditioning units, so other things would need to be moved, some infrastructure in order to do that. We needed room between the right of way on the north side to build a ditch as well as the screening material.

Dennis Isherwood I will assure you that this is not going to be only employee parking as the place fills up and I have seen the place overflowing. I have an issue with the size of lot. It is supposed to be twenty-six and if we give a variance to you, even for a good cause, then the person up the street when he builds his parking lot will say I want to build it twenty-four feet too. I want to look at it that way.

Robert Morrill I took the opportunity yesterday to visit the site and Betsy was very kind on a busy day to walk me through the site. I could not tell from the original Site Plan where the parking was requested. Just for everyone's knowledge, there were thirty-two vehicles there yesterday. So when you say there is parking for fifteen, there were thirty-two vehicles there yesterday. The parking was disorganized; there is a definite need for additional parking there.

When plowing does the snow get removed from this site?

Patsy Murphy it depends on the amount of snow. We are currently out for RFP, looking for a snow removal contractor.

Robert Morrill I am interested in your twenty-four foot variance request. To some extent I understand that within the parking area, but you have twenty-four foot on the turning radius coming off Landing Road. Why would you put a twenty-four foot entrance on the future entrance from Landing Road?

Guy Cote for the driveway aisle?

Robert Morrill yes, if twenty-six feet is the requirement...I understand the twenty-four feet within the parking area but you have coming in off Landing Road have already built in a twenty-four foot entrance that does not seem to be... That does not fall within the same analysis.

Guy Cote if we wanted to remove some of the landscaping that could be widened. There is currently landscaping in the peninsula on the right hand side of the entryway.

Ed Reidman generally speaking a traffic lane is twelve feet wide. Therefore the entranceway being twenty-four feet allows for two way traffic. When you get to deal with aisle ways between parking spots

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you are concerned with vehicles backing in or backing out. Generally accepted in the industry is from twenty-five to twenty-six feet for that center aisle when you have perpendicular parking. The City of Westbrook chose to put in twenty-six feet in the Ordinance.

Molly Just we have no specific requirement for the actual entrance width but the twenty-six feet is for a two way drive aisle as opposed to a one way drive aisle. The one way drive aisle for the diagonal parking their proposed aisle width exceeds anything that we would require for a one way drive aisle with diagonal parking.

Rene Daniel where is the storage system located?

Guy Cote they have a force main that goes over to Laffin Drive.

Ed Reidman seeing that there are two waivers, I would like to deal with them individually.

The first one is the potential to waive the twenty-six foot driveway aisle or not to waive the driveway aisle.

Rene Daniel moved to grant the waiver requesting a variance from a twenty-six foot drive aisle required for the right angled parking. This requirement is found in Section 505.1 the design of off street parking of the site plan requirements. The waiver is to twenty-four feet as shown on the existing plan.

2nd **Rebecca Dillian**

The vote was 3 in favor – 3 opposed (**Dennis Isherwood, Rene Daniel, Scott Herrick**)

Ed Reidman the motion fails due to the tie vote.

Scott Herrick moved to deny the request for the waiver of the twenty-six foot drive aisle requirement.

2nd by **Dennis Isherwood**

The vote was 4-2 in favor (**Robert Morrill, Rebecca Dillon** opposed)

Ed Reidman the waiver is denied. The second waiver is the applicant proposes to delay the installation...

Molly Just Mr. Chair just for clarification that is not an actual waiver request.

Ed Reidman we do have to deal with installation of... as I understand it the applicant has requested a delay of the installation of the landscaping to sometime in the future. That being installed... Guy please explain it to us.

Guy Cote the purpose of the screening is for Landing Road. We have asked when Landing Road is constructed that as a condition of approval the plantings and the screenings be planted at that time.

Ed Reidman that is my problem, I do not have any idea when they are going to build Landing Road.

Scott Herrick is the City receiving a performance bond? I saw the letter indicating the availability of a line of credit but obviously that can be spent tomorrow or on the 23rd of June... The Landing Road could be in five years, or ten years or never.

Does Staff feel there is adequate screening from other parties in existence from where the new parking would be? The second question is whether or not there is a performance bond to be issued that the City could draw on in the event that either screening changed or Landing Road gets put in and there are no funds available to make the landscaping happen?

Molly Just when the idea or concept of expanding the parking lot was first proposed, I was given a sketch or a preliminary draft and I understand and realize that there is a lot of screening or trees there now, however the Planning Board will likely be looking for some landscaping with this application. That resulted in the landscaping that you see now. Staff said nothing about providing a buffer from Landing Road.

I have proposed a performance bond requirement in the Conditions of Approval. You can include that as a condition or not. It says:

The applicant shall provide the City a Performance Guarantee to cover the cost of the landscaping and its installation. The landscaping shall be installed by the application within 12 months of Planning Board signature of the mylar.

We would at that time let go of the Performance Guarantee.

Ed Reidman any questions in regard to landscaping? As Molly has just said:

“The applicant shall provide the City a Performance Guarantee to cover the cost of the landscaping and its installation. The landscaping shall be installed by the application within 12 months of Planning Board signature of the mylar.”

When you bring the mylar to us to be signed, maybe two meetings from now, that will trigger that requirement.

Guy Cote certainly if the Board feels that there is a need for landscaping... from our standpoint there is sufficient buffering from Laffin Drive.

Ed Reidman when we have an application like this I always ask a couple of questions, does anyone want to take a site walk? Public hearing?

Editors Note No site walk, no public hearing.

Ed Reidman will the Board give Mr. Grondin permission to speak?

Bob Grondin 446 Stroudwater Street I live directly across from the Refuge League. I do agree that there is a need for additional parking on that site.

When they did the School down the street a few years ago, the City had some easements with me where we cleared the corner back for site distance near the entrance to the School.

On a busy weekend when they have an event going on across the street cars are lined up on the inside of that corner and I have a hard time with visibility getting in and out of my driveway. There is a need for this project.

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The thing I question is the Landing Road, I was following when Sandy River first came forward, the alignment of that road was closer to the Adams property and now they are showing it between the house and the property line. If Landing Road was moved closer to the property they would be able to get their twenty-six feet for their parking and they probably have ample room for snow removal.

I Landing Road were never to be built, I am looking at the landscaping out front that has a few trees by the building. I am wondering if they should fill in more of a buffer to screen that end of the parking lot.

I do support this project and agree there is a need for the parking; you have a few angles to work out.

Ed Reidman in Molly's memo there is a proposed motion. Having heard from Mr. Grondin and disposing of the need for a site walk, would anyone care to have a public hearing?

Ed Reidman the question is: are we going to hold a public hearing. Seeing no need, that puts us back to the proposed motion?

Scott Herrick my concern is I do not know if I can vote on a plan that I have not seen yet. I do not want to delay this, but if there is a significant revision...

Molly Just Mr. Chair, if I could interject perhaps you should have some discussion whether or not you want landscaping period. Could you deal with less landscaping, should there be plants, flowers instead of shrubs and trees. If you are happy with the landscaping as is and you want the twenty-six foot wide drive aisle (which you have already voted on) then that is their marching orders. But I think I was hearing from Mr. Cote that is you want a lesser or different landscaping that will indicate or dictate the changes to the plan. If you have a little dialog on that, Mr. Cote will have an idea for the changes on the plan then maybe we can figure out if this does need to come back or we can massage the conditions to address the changes that will be made and then you can go ahead and vote this evening.

Ed Reidman we all heard the Planner, any comments?

Dennis Isherwood I want to address the landscaping a little bit. I really doubt Landing Road will be built.

I would like to see it moved over and give you some room for some landscaping. The landscaping that is there now, the tree line is a really good block. What is going to happen if Landing Road is not built? If we do not ask you to do anything now nothing will ever be done and whatever is built will be up to them... If they put in a condominium in that space instead of Landing Road then they are going to be looking at your parking lot.

John Giffune if I could make a comment, Animal Refuge League owns that section of the tree line and that will not be sold to Sandy River, if there ever is a Sandy River; it is just a right of way. You said you are concerned about anyone building a condo in that area, we are not going to be building a condo there.

Rene Daniel I tend to agree with Mr. Grondin and it is overdue for a number of years. I think the parking is irregular and erratic. Now that the new Middle School is there it is important to make the traffic flow much safer for everyone using the area.

I am not in favor and I have been trying to decrease the egresses on major roads. As far as the landscaping, Molly have we ever postponed installation of landscaping for twelve months for any projects in recent times?

Molly Just nothing that I recall, no.

Rene Daniel I agree with Mr. Isherwood, the chances on having Landing Road built, in my opinion will happen, but as the months go by I do not think it will happen, even if it does the landscaping has to occur. I do not think the landscaping is enough.

Guy Cote as Molly has mentioned the landscaping there is not a requirement.

Robert Morrill is it appropriate to state that we have a landscaping plan? This landscaping plan would get triggered if Landing Road ever went in? Would that be possible?

Molly Just landscaping is not required to screen Landing Road. There is a requirement for screening: "All parking shall be screened from adjacent properties in making the determination about the screening; the Planning Board shall take the need of abutters into consideration."

The landscaping from Staff never mentioned Landing Road. You are not required to screen a street. With every site plan project you have landscaping. My comments to landscaping were in regards to mature trees in the rear of the property. If I were going to do anything I would recommend some shrubs toward the side, near the front of the existing building closest to Landing Road for the abutter.

Robert Morrill I am concerned that with no landscaping there in front of that building we will be parking in that area again, so if we are talking about landscaping along Stroudwater Street I think there should be some requirement for that.

Patsy Murphy in front of the little house there is a very large pine tree with a lot of roots that come around to the front. The line of trees wrap around the house and the parking would be difficult.

Robert Morrill on the map, there was parking where you are showing the day I was there.

Patsy Murphy it is not assigned parking. Yes you do see cars driving up there.

Robert Morrill that is my concern that there needs to have landscaping in there to eliminate the opportunity for the thirty-two parking spaces there. There needs to be some deterrent like landscaping along that area to keep people from parking there.

Guy Cote with this plan you will have striping and signs such as "no parking here." Certainly that would prevent people from going up on the grass.

Robert Morrill I personally would like to see some beautification along Stroudwater Street in the front of that building.

Ed Reidman I would caution the Board as to when the School went in and the road was widened in order to improve the site distance in that area. When you deal with a driveway you do not want to landscape the area between the in and out traffic because you block the view.

At the point we are now we have to either vote on the item or put the item on the table and bring them back. I am personally not opposed to the project and do not want to hold the project up, but if the

Board is uncomfortable approving the plan until the issue of the center driveway has been resolved and the landscaping has been resolved...

Robert Morrill I would like to see revised plan and have it come back in front of us.

Ed Reidman anyone else? Shall we place the item on the table until the next meeting?

Scott Herrick moved to place this item on the table.

2nd by **Rene Daniel**

The vote was unanimous in favor 6-0

4. Land Use Ordinance – Section 404.2 - Business Signage in Residential Districts – The City Council has referred to the Planning Board for their consideration and recommendation alternatives for non-conforming signage for businesses in residential zones.

Land Use Ordinances – Business Signage in Residential Districts

Summary. The City Council has referred to the Planning Board consideration and recommendation of amendments to the Land Use Ordinances to enable the alteration of non-conforming signs for non-conforming uses in residential zones.

Background. Dairy Queen, located at 272 Main Street, has applied for a sign permit to replace their existing message board sign, name sign and drive thru sign. Dairy Queen exists as a legal non-conforming use as the use is not currently allowed but the building and use pre-dates zoning in the City of Westbrook. The existing signage is also non-conforming as it exceeds the square footage and number of sign faces allowed and is inconsistent with the type of illumination currently allowed.

In response to the sign permit, the Code Enforcement Officer issued a denial of the application as Section 404.2 (D) states that, on the premises of a non-conforming use there may be 1 sign containing not more than ten 10 square feet of signboard area. Further, section 404.8 Variance and Nonconforming Uses states that where a sign is non-conforming, it may not be extended, altered or enlarged, except that routine maintenance is permitted. The referenced zoning provisions are attached for your reference. Dairy Queen subsequently appealed to the Zoning Board of Appeals the determination of the Code Enforcement Officer. The ZBA upheld the determination of the Code Enforcement Officer finding that the zoning provisions governing signage for non-conforming uses are very clear, with no room for a different interpretation. The ZBA then referred the matter to the City Council for consideration of changes to the subject zoning provisions. The next step would be for the Planning Board to advertise language and hold a public hearing. The Planning Board is expected to recommend revised zoning provisions to the City Council who will then consider, hold a public hearing and may adopt the revised zoning provisions.

Issues to Consider:

- While Dairy Queen as a use is not allowed in the district, the business has existed since before the adoption of zoning in Westbrook.

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- The applicant proposes to reduce the overall size of the signage for the use, thereby reducing the non-conformity of the signage.
- The nature of the location and its surroundings. In the future, should we consider the possibility of rezoning to a mixed-use designation the frontage parcels along Main Street between the Gateway Commercial District and the City Center District?

Ed Reidman our Planner has provided us the start of proposed language to do something about this situation. What we have to do is to work on the language in order to incorporate it within the Ordinance. Then we have to hold a public hearing and then we need to make a recommendation to the City Council. Technically this item is strictly for Board action.

Mr. Daniel and I have been with the Board for a long time. The Board's philosophy has been to protect the gateway into the City of Westbrook on the Main Street end. If you look at some of the changes that have happened within recent history the lady that rehabilitated the house next to Lee Auto Sales did that, Blake Hurley rehabilitated a house farther down into town and there was another proposed use for that property and the Board rejected it. The Board also on the corner of Forest Street and Main Street, the Board rejected that building going to commercial.

It is at least my opinion that the two predominant uses within that, which are commercial, are destination locations. If you want to have a soft ice cream you are going to the Dairy Queen which is on Main Street and if you want to have your car washed you go to Tom and Jerry's also on Main Street, Those two uses have been there for a long time. The Dairy Queen burnt down at one time and was allowed to rebuild under the Ordinances that was in existence at that time.

Therefore I do not see a reason to revise the Ordinance, but that is a personal opinion. The Planning Board has this referral and the Staff has put time into it and is on Molly's handout.

Richard Gouzie how this has been brought about is that the Dairy Queen came in as their corporate office asked them to change their signs to meet the new corporate sign requirements. I denied them a sign permit because the Sign Ordinance does not allow what they need to do other than what they have there now. The Ordinance currently does not allow them to do anything. We do not have any language, in the residential zone that allows them to even do a repair to it. This would give them some leeway along with other businesses not only in that zone but we have some nonconforming businesses in residential zone throughout the City.

After looking at this, they did an Administrative Appeal on my decision to deny them a building permit. It went to the Zoning Board of Appeals and they struggled with it for two hours and I met with our legal staff and we went over it and there is no leeway at all in the sign Ordinance for them to allow them anything for their signs in the Residential Zone.

The Zoning Board of Appeals tabled it and asked me to go to the City Council to see if they are in favor of recommending anything back to the Planning Board for changes to the sign Ordinance in the Residential Zone. That is what gets us to this point tonight. The City Council recommended it back to you for wording.

Ed Reidman what does the underlying portion of what was handed out do?

Richard Gouzie this gives them a little more leeway...if a sign needs to be replaced that is in the Residential Zone, even like this situation like Dairy Queen, the corporate office is asking them or say the sign was in disrepair... even under disrepair we have nothing. We have language in the City Center

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District Sign Ordinance that we changed last year but we did not do anything in the Residential Zone because nothing actually came up.

This will give them leeway to replace their sign but they have to do it with a 25% reduction in the size of the sign to get it closer to a conforming sign in the Ordinance. It is a one time deal that this can do this.

Ed Reidman if the Council was to institute this and they replace their sign to a smaller size, we have a hurricane go through and it knocks the sign down, what happens then?

Richard Gouzie they should be able to replace it.

Ed Reidman they would be able to replace it, without the 25%.

Richard Gouzie yes, without taking another 25%

Dennis Isherwood if they were allowed to replace that sign with it being 25% smaller in size would that meet with what Dairy Queen is asking for?

Richard Gouzie we are not sure of that. The representative from the Sign Company could address what they are looking for.

Ed Reidman does anyone have any objections to allow the gentleman in the audience to speak?

No objections.

Roger Flannery I own Sign Design and we represent Dairy Queen. We went to the meetings and did what Rick has talked about. The folder includes what we went through. (Folder on record)

I applied for a permit and it tells what we did and how we did it. We also have provided a picture of the sign that Dairy Queen has now and what is proposed. What Dairy Queen has now... they are not legal with the Dairy Queen corporate office? That causes franchise problems and they need to update their sign as part of the program. So to upgrade it we have built it quite a bit smaller than the existing one and is what Dairy Queen requires. It is quite a bit smaller and that is what is proposed.

Ed Reidman on the bottom of page is the agreement of what we are looking at.

Roger Flannery yes

Ed Reidman I see there is an electronic message board sign.

Molly Just a reader board sign.

Ed Reidman are those allowed in the Residential District?

Richard Gouzie no

Scott Herrick my question is, isn't that an expansion of a nonconforming use going from a letter board to a message board?

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Roger Flannery it is an illuminated reader board which they have now, it is just a different kind and it is a lot smaller than the one they have now. So they have one that lights up and they put letters on it.

Ed Reidman there is a great deal of difference of one that lights up and you put letters on and a message board that you deal with your computer inside.

Roger Flannery what is the difference? It is against the law in the State of Maine to do that.

Ed Reidman we know that, but it can be changed... the grief that comes with a message board that is electronic and you start changing anything other than the time of day and the temperature within a period of time...that I do not recall...

Roger Flannery twenty minutes

Ed Reidman twenty minutes... if we do not allow it all ready... you have not achieved your goal by coming in here. The Board feels that the DQ is reduced by 25%, maybe we could recommend living with that, but if you are going to have the message board there that is electronic and an electronic message board is not allowed, you have only accomplished half of what you came before the Board to do.

Scott Herrick I would remind the Board that we are here to look at the revisions for the sign ordinance and this is a good example of what we need to be wary of as there are a very limited amount of businesses that will qualify for any revision that we propose. We are not looking at a Dairy Queen amendment. We should not be discussing the particulars of this sign because there may be problems changing the Ordinance and how it could affect Dairy Queen.

Roger Flannery this is just a particular instance and the reason I came it is my instance. The fact of the matter is that you have an ordinance that is new and fresh and clean and for a reason you chose what you needed to accomplish with our Ordinance and sometimes it does not fit and Dairy Queen is one of them.

Scott Herrick I agree that the current Ordinance does not address Dairy Queen's situation. The way I read the Ordinance, Dairy Queen has to remove the sign or make it conform to the amended Ordinance and the amended Ordinance does not allow for a sign in the residential district...

Roger Flannery that is the issue.

Scott Herrick we need to not only think of the Dairy Queen, we need to think in a broader sense.

Roger Flannery in a broader sense if dairy Queen has to update their sign to Dairy Queen corporate standards... it is not allowed... it is not in the Ordinance... it can not be done, so Dairy Queen is in jeopardy of losing their franchise...

Scott Herrick I understand your point but my point is we are not considering the Dairy Queen here. We are considering an amendment to the existing Ordinance that will apply to dairy Queen, but we are not reviewing Dairy Queen sign and what they can or can not do, we are looking at the Ordinance.

Roger Flannery understood, but this particular instance is what gets us here tonight.

Ed Reidman we fully understand and I agree with you Scott we probably should not have started off with the use of that... but it is an excellent example of what you have to deal with when it comes to re-writing a portion of the Ordinance. That is why we are debating this to start with.

Molly Just the proposed changes are only for legally non conforming businesses that are allowed in the Residential Zone are allowed a certain amount of signage. Therefore when their sign needs to be altered or replaced, they can do that. This use predates our Zoning Ordinance, it predates when we began zoning in the City of Westbrook. There are no provisions changes to be made to the signs for uses that are nonconforming.

You can have a use that is nonconforming and have a sign that is nonconforming; businesses in residential districts are typically home businesses or businesses that understand that they are in a Residential District and will have smaller more diminutive, less obvious signs.

Another example of a nonconforming use in a Residential Zone is Mainly Small Engines on County Road and Spring Street, that property is actually zoned residential, while most of the property around it is zoned Industrial. That is another example of a nonconforming use in a Residential District with signage.

Robert Morrill as I read the legal nonconforming business portion here:

The replacement shall not increase any nonconforming aspects for the sign and can not be used to replace any existing sign with a different sign type that is not allowed within the zoning district.

So we have no sign that is allowed in the zoning district right now because this is grandfathered, correct? If Dairy Queen came in and wanted to put a sign in there right now, they would not be allowed to do that.

Richard Gouzie not that particular sign.

Robert Morrill now they need to replace this sign with something and I think your wording here is appropriate in a sense that we have a manual message board, we have an electronic message board, and they are both message boards. I do not think there is anything that is being added that is different here.

If the car wash had a manual message board and wanted to replace it with an electronic message board, they would go to this newly proposed language for the Ordinance because it is nonconforming. They have not really changed the signs because they are both message boards.

Richard Gouzie they are both message boards, that is correct.

Robert Morrill whether they are electronic or manual, I do not see a difference, technology has allowed it to be more efficient and business friendly allowing our businesses to be more efficient in that area. I think the new language meets this need as long as long as the new sign is going to be 25% less and whether that works.

I think the wording that you have here meets this need. It is replacing a manual message board with an electronic message board. That is my interpretation, would you agree?

Richard Gouzie I agree with that, other people have different interpretations of message board signs. That is my interpretation and I interpret the Ordinance. If people do not like my interpretation, that is a – trip to the Zoning Board of Appeals.

Robert Morrill I think your wording meets that need.

Richard Gouzie I know we wanted to get away from using the Dairy Queen but the top part of the sign is a change, it is a different design. If that stays the same size they can reduce the message board sign to meet the 25 %.

Scott Herrick I think those are the things we need to be cautious of, is what the interpretation of a sign is. Whether the top part is the sign or the message board is the sign, it is all one big pylon sign.

Richard Gouzie my interpretation would be a pylon sign with a message board and their logo, that would be one sign.

Scott Herrick I am looking at the proposed language and the only thing I have a concern with, if we are looking for longstanding wording that can survive the test of time is: *the replacement is allowed only one time for a nonconforming sign.*

I personally do not understand why we need that, provided that they are going to reduce the signage size again.

Richard Gouzie this is just a draft and if that is something that...

Scott Herrick that is not a criticism.

Richard Gouzie I was at 50% at one time.

Rene Daniel I watched the Zoning Board of Appeals that evening, did at any time the words electronic message board sign come up?

Richard Gouzie at the Zoning Board, I do not believe so.

Rene Daniel how about at the City Council?

Richard Gouzie no, I made a very short presentation there and they sent it on to you.

Ed Reidman was this in a Committee meeting?

Richard Gouzie no, right straight to Council.

Rene Daniel that is why I am surprised about the electronic message boards.

Ed Reidman we are not ready tonight to schedule a public hearing. What I would ask with the permission of the Board, is for the Staff to go in and take a look at the electronic message board issue, whether it should be addressed in there, deal with that issue.

Mr. Herrick has brought up if you replace it the first time you lose 25 % and if you replace it the second time you lose 25%.

Scott Herrick I am not looking at if there is a tornado that has destroyed it and you are replacing the exact same thing. I am looking at a redesign that is significantly different or reinstalled for safety reasons.

Rene Daniel I have no problem with your suggestion but we are trying to go global and globally speaking there is probably a time constraint with the owner because of franchising. I think we need to be cognoscente of that and we should be relatively compassionate in that they have been our neighbor in the community for years and I think we should try to move as quickly as possible to come to some closure.

Ed Reidman would there be any other suggestions to the Staff when they review this?

Robert Morrill the other thing was it sounded as though it was arbitrary as originally stated, you were going to make it 50% less, then you made it 25% less. You have the building mounted signs in here reduced by at least half? Should both of those be at 25 % so we have some consistency?

Richard Gouzie if that is your wish.

Robert Morrill was there a rationale to make it 50% or was that just a number?

Richard Gouzie some of the businesses that are nonconforming in the residential zone have a number of signs, that are way too many, so if replacement was being done on the building mounted we could get closer to what is required at the time of the change.

Robert Morrill I do not have any objection to your recommendation but I heard you say that the percentage was an arbitrary number and I wanted you to address the building mounted signs as well.

Rene Daniel I am also concerned about the electronic portion of the language.

Ed Reidman is the Board all set?

5. Adjourn - 8:45 pm

Respectfully submitted by Linda Gain PECE Administrative Assistant

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