



# City of Westbrook

DEPARTMENT OF PLANNING

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**WESTBROOK PLANNING BOARD  
TUESDAY, AUGUST 3, 2010, 6:00 P.M.  
WESTBROOK HIGH SCHOOL, ROOM 114  
MINUTES**

Planning Board Members present: Ed Reidman, (Chair) (Ward 5), Rene Daniel (Vice-Chair) (Ward 1), Dennis Isherwood (Ward 2), Rebecca Dillon (Alternate), Scott Herrick (Ward 3), Robert Morrill (Alternate), Cory Fleming (At Large), Michael Taylor (Alternate), Greg Blake (At Large)

Planning Board Members Absent:

Zoning Board Members Present: Philip Brown, Joyce Hebert, Ernest Porrell

Zoning Board Members Absent: Aaron Burns, John Turcotte, William Holmes

Staff: Molly Just, Richard Gouzie

**The Westbrook Planning Board came to order at 6:00 p.m. in Room 114 of the Westbrook High School.**

**1. Planning Board Administration – Legal training for Planning Board and Zoning Board of Appeals.**

**Natalie Burns** explained legalities for the Board members.

\*Editors Note: See attached outline

**CITY OF WESTBROOK  
PLANNING BOARD/ZONING BOARD OF APPEALS WORKSHOP  
AUGUST 3, 2010**

I. Jurisdiction of Board of Appeals

- A. Administrative appeals
- B. Variance requests
- C. Shoreland zoning appeals
- D. Flood plain zone appeals and variances
- E. Fire Code Appeals

II. Jurisdiction of Planning Board

- A. Subdivision review (30-A M.R.S.A. § 4401 et seq.; local regulations)
- B. Site plan review
- C. Other-Paper Street Development, Special Exception, Village Review

II. Procedures

- A. Statutory (ZBA-30-A M.R.S.A. § 2691(3))
- B. Zoning Ordinance ZBA: Section 703, Planning Board: Section 500
- C. Administrative Code (Planning Board)
- D. Rules/Bylaws (ZBA)
- E. Forms

III. Administrative Board Decision Making

- A. Impartial Decision-maker
  - (1) Conflict of Interest
    - a. Direct or indirect financial interest (30-A M.R.S.A. § 2605(4))
    - b. Blood/marriage relationship – 6<sup>th</sup> degree
      - i. ZBA By-Laws-also prohibit hearing matter involving employer of immediate family member
      - ii. Immediate family-grandparent, parent, spouse, child
    - c. Avoid appearance of impropriety
    - d. Common law conflict of interest
    - e. How to handle conflicts of interest
    - f. Westbrook Ethics and Conflicts of Interest Ordinance (Sec. 2-300 through 2-302)-additional conflicts:
      - i. Ongoing romantic relationship
      - ii. Physical intimacy
      - iii. Living together in same residence

- iv. Intermingling of financial assets with accounting of separate ownership interests
- (2) Bias
- (3) *Ex-parte* communication
- (4) Right-to-Know Law
  - a. General
  - b. Notice of meetings
  - c. Executive sessions
  - d. Minutes/record of meeting
  - e. Common violations
  - f. Site visits
- B. Hearing Procedures
  - (1) Standing to apply/appeal
  - (2) Pre-hearing
  - (3) Hearing
    - a. Tape recorder/Microphone.
    - b. Exhibits.
    - c. Role of Code Enforcement Officer.
    - d. Take adequate time to make decision.
  - (4) Motions
    - a. Table/Postpone
    - b. Merits.
    - c. Written decision.
    - d. Conditions of approval.
  - (5) Making the decision.
- C. Written Decision Requirements – Findings & conclusions
  - (1) Statutes
    - a. Zoning (30-A M.R.S.A. §§ 2691, 4353) ZBA-must be issued within 7 days of decision.
    - b. Right-to-Know law (1 M.R.S.A. § 407)
    - c. Subdivision (30-A M.R.S.A. § 4403)
  - (2) Case law
- D. Reconsideration
  - (1) Board of Appeals-30-A M.R.S.A. § 2691
    - a. Request must be in writing.
    - b. Request must be made within 10 days after vote.
    - c. Action on reconsideration must be completed within 45 days after the original vote.
    - d. If the Board votes to reconsider, any Superior Court appeal must occur within 15 days after the final action on the reconsideration.
    - e. These requirements do not apply to Board members, who may request reconsideration at the next meeting, subject to 45

day limit. *See Toomey v. Town of Frye Island*, 2008 ME 44, 943 A.2d 563.

- (2) Planning Board-no statutory provision.
  - a. Request and motion/vote must occur at the same or the next meeting.
  - b. Can postpone action on the reconsideration in order to give notice.
- (3) General rules-motion made by someone who voted in the majority on the first vote; may be seconded and voted on by any member.
- (4) No action on reconsideration without notice; potential due process issues.

E. Right-to-Know Law Requirements and Regulations:

- (1) Meeting requirements.
- (2) E-mail correspondence among Board members.
- (3) E-mail correspondence to Board members from members of the public or applicants.
- (4) E-mails as public records.
- (5) Social networking sites.

Editors note \* Zoning Board Members left the meeting at 6:55 p.m.

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

**1. Call to Order**

Continuing Business (Should begin between 7:00 pm and 7:30 pm).

**2. 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.**

**Scott Herrick moved to remove this item from the table.**

**2<sup>nd</sup> by Michael Taylor**

**The Vote was unanimous in favor 7-0**

*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 26-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.*

*Update – At its July 13<sup>th</sup> meeting the Planning Board considered and denied a request for a waiver of the 26-foot drive aisle requirement for two-way drive aisles. The applicant has revised the plans to depict a 26-foot drive aisle by shifting the parking lot closer to the future Landing Drive. In addition, the Planning Board considered a proposal to delay installation of landscaping until the future Landing Drive is built.*

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*The Planning Board did not support this proposal and requested screening along Stroudwater Street. The applicant has revised the plans to depict landscaping Stroudwater Street instead of along Landing Road.*

**Guy Cote** with Sevee and Maher on behalf of the Animal Refuge League of Greater Portland presented aspects for the expansion and reconfiguration of existing parking lots. Tax Map: 9, Lot: 20, Zone: Rural District and Residential Growth Area 1.

As the Board has requested some changes in the document plan we have presented, we have increased the aisle width to twenty-six feet in the rear parking lot. By increasing the aisle width it reduces the area near the Landing Road.

Mr. Bob Grondin was in attendance at the last meeting and requested landscaping for screening from his property. We have added landscaping along improve the esthetics of the property and adds screening between the Grondin property and Animal Refuge League.

**Ed Reidman** are there any questions or comments with regards to the changes?

**Dennis Isherwood** assuming that this road is going to be built... if this road is not built then you will never have that other entrance. Is that correct? Or do you plan on building an entrance if that road is not built within a certain amount of time? What I am trying to get at is I would like to see another access to the Refuge League rather than the two right together. Do you have any plans if that road is not built?

**Guy Cote** if Landing Road were not built has not been discussed and we have no plans if Landing Road is not built. It would be a major undertaking to do that.

**Ed Reidman** on page two of Molly's memo in the top paragraph that has a statement:

"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."

Is there a note on any of the plans that say that? I know you agree but we have found in the past with changes of staff sometimes these things are sometimes not remembered and if it is not on the plans that will be recorded...

**Guy Cote** if I may, drawing C 101 the Site Plan on the bottom says: future parking spaces if Landing Road is constructed would cut right across the entrance. That note is right to the right of Stroudwater Street and it shows all of the parking spaces and the edge of the paved areas as the result.

**Ed Reidman** it is on the plans that if they build the road, if you make your driveway, then you will do it.

**Rene Daniel** I have some concerns with how close the two entrances are and thought I had mentioned it the prior meeting that I was not comfortable with two entrances off Stroudwater Street. I would rather have one off Stroudwater and one off of something else. I think it has been clarified a little as; if Landing Road is built you will need to put the entrance in.

**Guy Cote** that is correct.

**Rene Daniel** I need some clarity Patsy, in terms of the employees can you explain to me the need for two hundred to two hundred and fifty employees on a daily basis?

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**Patsy Murphy** the Animal Refuge League employs thirty-three employees most of which are full time and are at the shelter all day. Additionally we utilize two hundred and fifty volunteers that come at different times of the day to walk the dogs and care for the cats. At any given time there maybe five to ten volunteers to help care for the animals. But we have about two hundred and fifty total active volunteers. We operate seven days a week providing care for the animals.

**Rene Daniel** we are going to have how many parking spaces?

**Guy Cote** total parking spaces is forty seven with two handicapped spaces.

**Cory Fleming** are employees and volunteers going to be encouraged to park in the back parking lot?

**Patsy Murphy** that is correct, our goal is to have the employees and the volunteers park out back and the striped lined area parking will be for customers.

**Robert Morrill** just for clarification on plan C 101, I see on the bottom it says twelve spaces... I must be missing one I can only see eleven not twelve.

**Guy Cote** you would be correct.

**Robert Morrill** I will send it back to the Chair as how we want to handle that.

**Ed Reidman** what do you mean by your comment?

**Robert Morrill** the plan that is to be approved says twelve, but the plan only shows eleven.

**Scott Herrick** I think we can address as a condition.

**Robert Morrill** however you want to address it showing eleven but the number twelve is on the plans. The number of spaces needs to be increased to show twelve or the statement needs to say eleven and that would change the total amount of parking spaces that we are approving.

**Guy Cote** true to the overall number, we can certainly make three spaces to the building on the right.

**Robert Morrill** that would be an adjustment to the plan so...

**Ed Reidman** if we have pointed it out to them and we approve it tonight, when we receive the mylar to be signed the correction would be made.

**Michael Taylor** this goes to City Staff, I just have a concern about the amount of parking they are going to be adding to that. The concern for Middle School... is that going to be a concern for traffic circulation? I know they added that extra lane for the entrance for the new Middle School but when you make that turn on Stroudwater Street, I am concerned as that is a blind spot then you are adding more cars. Is the traffic circulation going to be okay for that spot especially when the Middle School is in operation this fall? Did the Staff address anything like that?

**Molly Just** the Staff has liked at this and it is fine. When the Middle School did its traffic study the Animal Refuge League was part of the area that they studied. It is not anticipated that trips will increase with this parking lot; it is just to capture the existing patrons and staff.

**Ed Reidman** page two of Molly's memo there is a motion that has been drafted.

**Molly Just** I have a question and a recommendation for a condition. What is the final parking count?

**Guy Cote** one hundred forty-six

**Molly Just** the total number of parking spaces?

**Ed Reidman** could you repeat the number you said one hundred and forty-six?

**Guy Cote** no, forty-six.

**Molly Just** it sounds like the access to Landing Road is an asset to this project. I would recommend an additional condition number five. Condition 5: The access point on Landing Road shall be depicted on the final accepted plans for Landing Road. The construction of this access point shall proceed with the construction of Landing Road of the Landing Road connection to Stroudwater Street.

So as Landing Road connects to Stroudwater Street it will be required that this access point be made.

**Ed Reidman** which is what you anticipate doing anyway.

**Guy Cote** correct

**Scott Herrick** wouldn't that be revising an existing approved plan?

**Molly Just** no you are approving with this plan the access point to Landing Road.

**Scott Herrick moved** the Site Plan application for Animal Refuge League of Greater Portland on Tax Map 9, Lot 20, is to be **approved with conditions** with the following findings of fact and conclusions.

### ***FINDINGS OF FACT***

#### **Utilization of the Site**

- The project has been engineered to consolidate the built environment along Stroudwater Street.

#### **Adequacy of Road System**

- Adequate.

#### **Access to the Site**

- The entrance to the site is currently from two access points along Stroudwater Street. When Landing Road is constructed one of the Stroudwater Street access points would be replaced with a new access point on Landing Road.
- The project has adequate sight distance at its entrances.

### **Internal Vehicular Circulation**

- Adequate.

### **Pedestrian and Other Modes of Transportation**

- Adequate.
- A cross walk from the annex building to the main building, both located close to the primary site entrance, has been provided.
- Handicapped parking spaces have been provided.

### **Stormwater Management**

- The City Engineer has approved the stormwater management plan.

### **Erosion Control**

- The City Engineer has approved the erosion control plans.

### **Utilities**

- No change is necessary or proposed.

### **Hazardous, Special and Radioactive Materials**

- None have been identified in the application.

### **Technical and Financial Capacity**

- Adequate.

### **Solid Waste**

- Solid waste is the responsibility of the property owner.

### **Historic, Archaeological and Botanical Resources**

- No resources were identified.

### **Landscape Plan**

- Landscaping is proposed along Stroudwater Street.

### *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.

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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 a 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 dependant upon, and limited to, the proposals and plans contained in the application dated June 15, 2010, and plans dated May 27, 2010 and amended to July 22, 2010, 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 Planning Board signature of the mylar, the applicant shall pay for the required notice to abutters.
3. Prior to Planning Board signature of the mylar, the applicant shall pay a fee in the amount of two percent (2%) of the project's total site improvement costs for site inspections made by the Code Enforcement Officer and/or other appropriate City staff.
4. Prior to Planning Board signature of the mylar, 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 applicant within 12 months of Planning Board signature of the mylar.
5. The assess point on Landing Road shall be depicted on the final accepted plans for Landing Road. The construction of this access point shall proceed with the construction of the Landing Road connection to Stroudwater Street. At such time the access point on Stroudwater Street being closest to Landing Road shall be removed.

**2<sup>nd</sup> by Michael Taylor**

**The vote was unanimous in favor 7-0**

**3. 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.**

*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 manual 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.

*Update.* At its August 10<sup>th</sup> meeting the Planning Board discussed this proposal and made gave the following direction regarding the draft amendments.

- Address electronic message board signs.
- Allow for additional adjustments/replacement so long as there is further reduction in the non-conformity.

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.
- The applicant proposes to reduce the overall amount of 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** we have discussed this at a previous meeting and have asked the staff to look at it and have proposed language that is tied in here. Should we decide that the language is acceptable to us then the proper motion tonight would be to move to hold a Public Hearing.

Mr. Gouzie, do we still have a problem with a sign that can be changed by a computer?

**Richard Gouzie** do you mean a message board sign and do we still have a problem with it?

**Ed Reidman** or is this covered in the wording that you have submitted to us?

**Molly Just** all lit signs are covered in the wording. Actually it is on the second page. Basically it takes care of the more nuisance part of lit signs in residential areas. It talks about lit signs being turned off at the close of business.

**Ed Reidman** you have made the Ordinance more stringent then the State Ordinance, correct?

**Molly Just** that is correct, you can make it more stringent then the State Ordinance. I would consider that appropriate in a residential area. There are no electronic message board signs in residential areas at the present time.

**Ed Reidman** it was my understanding that the people that were denied had to put an electric message board up. Would that be allowed with the new language?

**Richard Gouzie** yes it would.

**Michael Taylor** I am trying to interpret it on that legal non-conforming business and then looking at the issues to consider. While Dairy Queen is not in that district and I know they are a franchise and I know that franchises have to change signs and do what Corporate tells them... what happens if Dairy Queen Corporate tells them the new design of a sign changes again? According to this you would have to change it 25% of the original sign? Is that how I am reading it?

**Richard Gouzie** that is right.

**Michael Taylor** even though they have been in business for so many years: they would not be grandfathered?

**Richard Gouzie** they would have to reduce the size of the sign by 25%.

**Ed Reidman** questions or comments? Date for a public hearing?

**Molly Just** the second August meeting, August 17<sup>th</sup>

**Rene Daniel** move to schedule a Public Hearing on August 17, 2010

2<sup>nd</sup> by Cory Fleming

The vote was unanimous in favor 7-0

4. Subdivision Amendment – 700 Saco Street – Sebago Technics on behalf of JTJ Holdings to amend the approved landscape plan which would result in an overall reduction in approved landscaping. The president of the condominium association has issued a letter of support for the request. Tax Map: 1, Lot: 2, Zone: Residential Growth Area 2.

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*Summary.* A 7-unit condominium project on Saco Street was approved on December 6, 2005. On January 2, 2007 the project was amended to allow an existing unit that was to be rehabilitated to be demolished and replaced by a new single-family dwelling unit. This second amendment is a request to reduce the amount of landscaping from that required with the prior approvals. The applicant seeks to maintain the existing level of landscaping which is a partial fulfillment of the approved landscape plan.

The Planning Department has not as a matter of course supported a reduction in landscaping from that which was approved, particularly if there is no technical problem solved by doing so. Therefore, the Planning Department recommends that the Planning Board require the applicant to install the landscaping as approved along the Saco Street frontage and specifically the plantings approved between the roadway and the two nearest units. This would provide additional screening from Saco Street and would enhance the entrance of the project.

**Dustin Roma** Sebago Technics on behalf of JTJ Holdings presented aspects to amend the approved landscape plan which would result in an overall reduction in approved landscaping. The president of the condominium association has issued a letter of support for the request. Tax Map: 1, Lot: 2, Zone: Residential Growth Area 2.

**Ed Reidman** I understand that there is a drainage problem that has been brought to your attention.

**Dustin Roma** yes we have learned about that and have talked with Molly as we arrived at the meeting. One of the abutters had come with some questions about ground water issues that they may be having in their basement.

As far as those were concerned, what we did we designed... this site was originally a single family lot. There was an existing home where unit seven is, located on the north side. There was a residence there with a driveway coming in and the rest of it was wooded. Most of the drainage from the surface came to the front of the lot towards Saco Street. We knew that surface water was an issue when we designed the site so we have actually have tied that natural ponding area into the drainage system that was built which carries that stormwater all the way back to the stormwater filter.

As far as the surface water contributing to an elevated ground water issue, I would have to look at that further, I have not had time to consider it. Just looking at it quickly there is a number of under drains that were put in around the perimeter of these buildings to bring down the ground water, where there were none before. There are several measures here that would suggest that the ground water would have been brought down. I can not see anything that would suggest that we would have raised it.

**Ed Reidman** is there anyone that is interested in a Site Walk?

\*Editors Note: Rene Daniel and Dennis Isherwood showed interest.

**Rene Daniel** thank you for addressing the landscaping that you want to put there but could you explain what you want to remove?

**Dustin Roma** what we had there before was a mix of some varying height shrubs, wild flowers around where the lower depression was. Some down near the roadway had some shade trees proposed. It was shown like a development on a City street.

**Rene Daniel** can you give me a guesstimate of how much has not been planted?

**Dustin Roma** I would estimate looking at the approved plan; somewhere in the range of what has not been planted are forty or so different shrubs and trees.

**Rene Daniel** for those forty you will be giving up, you want to plant eight.

**Dustin Roma** right

**Robert Morrill** just so I understand this plan, I see some dark circles as proposed to be planted and the light circles will not be planted?

**Dustin Roma** the ones that are in the lighter circles are from the approved plan.

**Robert Morrill** the ones in the lighter circles that were planned to be planted, are any of them planted at this point?

**Dustin Roma** yes, there is some overlap around the building. We had proposed planting beds around the front porches and along the sides of the buildings. Those have all been planted and are a mix of perennials and shrubs.

The majority of what we are asking not to plant is the area surrounding the rear side of the units, 5 & 6, also the very dense plantings in the back of unit 2 and units 3 and 4. That request is to keep some lawn area in the back side of the buildings.

**Robert Morrill** on the Saco Street entrance side towards the right I see five plantings and it looks like twenty-two plantings that will not be done?

**Dustin Roma** that is what we propose. Looking at Molly's memo we can look at the street side and incorporate some of the plantings from the street side. From the road it would look as it was approved and then we would request that we not plant internally on the site as the residents have asked not to have that.

**Robert Morrill** how do we from an approval point of view approve the ones that will be planted and which ones will not be planted?

**Dustin Roma** we would certainly revise the plan.

**Ed Reidman** there are two issues and I am personally not opposed to granting the change. I would like to see something before the Board that would indicate which trees are going in and which trees are not. I would also like in that period that the engineer and owner if necessary meet with the abutter to discuss that problem in the field.

With that, I will ask for a motion to postpone this item to the 17<sup>th</sup> of August.

**Michael Taylor** moved to postpone this item to the August 17<sup>th</sup> meeting.

2<sup>nd</sup> by **Dennis Isherwood**

**Rene Daniel** I have been on this Board for awhile and a number of us have worked hard to include plantings. Unless the new planting sketch knocks my socks off, I will be voting against it. I will not take a step back unless it wows me.

**Ed Reidman** we have a motion on the floor is to postpone to the 17<sup>th</sup>.

**The vote was unanimous in favor 7-0**

New Business

**5. Special Exception – 536 Bridge Street – Kozeta Zere for approval of a 7-child Home Day Care Provider operation on an approximately 0.38-acre parcel located at 536 Bridge Street. Tax Map: 48, Lot 4B, Zone: RGA-2.**

*Project Description – The applicant is requesting Planning Board approval of a 7-child Home Day Care Facility and is in the process of obtaining State approval of the facility. The property is served by public water and sewer and is located beside the Westbrook Community Center on Bridge Street. The property is accessed via an easement from an abutter (Map 48, Lot 4). The easement language does not prohibit the proposed use of the property and the property owner is notified as part of the routine abutter notification procedure.*

**Kozeta Zere** presented aspects of a 7-child Home Day Care Provider operation on an approximately 0.38-acre parcel located at 536 Bridge Street. Tax Map: 48, Lot 4B, Zone: RGA-2.

**Ed Reidman** as I recall your house is out back on Bridge Street and there are conditions...

**Molly Just** the applicant is seeking approval for a 7-child Home Day Care facility. She will have to construct a sturdy fence to the satisfaction of the Code Enforcement Officer, of at least three-hundred and fifty square feet... a unique aspect of this site is that the parcel faces public property, it faces the Westbrook Community Center property and the power lines, so there is no immediate need for screening.

In terms of conditions the applicant will have to construct a sturdy fence and the hours of operation will be limited to 7:00 am to 6:00 pm Monday through Friday. Before issuance of any permits the applicant would have to pay any outstanding fees. In order to increase the enrollment beyond seven children the applicant would have to come back to the Planning Board.

**Michael Taylor** moved the Special Exception application for Kozeta Zere on Tax Map: 48, Lot 4B is to be **approved with conditions** based upon the following conclusions:

- A. A minimum of 50 S.F. of dedicated outdoor play area shall be required for each child, said play area shall not be placed in required yard setbacks.
  - The applicant must provide a minimum of 350 square feet of outdoor play area. All play areas must be enclosed by a minimum of four (4) foot secure fencing.
- B. A combination of fencing with plantings, shall be installed such that the area is screened from abutting residential properties in terms of both sight and noise.
  - The applicant proposes to build a fenced in play area at the rear of her home, which would face, on all sides, non-residential properties. Therefore, such screening would not be required. However, where the outdoor play area faces Map 48, Lots 4 and/or 6 (abutters), then this requirement must be met.

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- C. One (1) off street parking space shall be provided for each employee or volunteer, and one (1) off street parking space for every 6 children shall be provided.
  - The subject property includes adequate space for the off street parking spaces required by the 7 children and up to two employees (4 spaces).
- D. 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.
  - Requirement met.
- E. That the proposed facility shall not burden on-site septic or offsite waste disposal.
  - The subject property is served by public water and sewer.
- F. 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.
- G. Based on location, area traffic, and neighboring uses, the Code Enforcement Officer or Planning Board may set the hours of operation.
  - The hours of operation should be limited to 7: 00 am to 6:00 pm Monday – Friday.
- H. 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 is the owner of the subject property.

CONDITIONS

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated July 12, 2010 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 Planning Board.
2. Prior to issuance of any permits for the project, the applicant shall pay any outstanding fees to the City.
3. The hours of operation shall be limited to 7:00 am to 6:00 pm Monday – Friday.
4. Screening is not required from abutters unless the outdoor play area faces an abutting residential property.
5. At all times the applicant shall provide at least 50 square feet of fenced in outdoor play area per child (350 square feet). Such fencing shall be of a sturdy material such as metal, vinyl, composite or wood and shall be at least 4-feet tall.
6. The Planning Board approval must be obtained to increase enrollment beyond 7 children.

**2<sup>nd</sup> Cory Fleming**

**Rene Daniel** from the French doors, will there be stairs?

**Molly Just** for public record, the stairs are required from the glass doors to where the outdoor play area will be.

You see the decorative fence, that is not the required fence. There will be improvements made and it will comply with the Ordinance.

**Ed Reidman** any objections to receiving a comment before the Board votes on this item?

**Gary Eastman** 530 Bridge Street which abuts their property. We share a common shared driveway entrance. There is a lot of traffic on Bridge Street and by having this child care center; there will be a lot of people turning around in our driveway. Their driveway is one hundred and sixty feet long and is narrow and is hard to get in and out of without coming on our side of the shared driveway. I do not know if this is relevant or not, but they do not keep their side of the drive on the right cleared from snow.

We moved there twenty-four years ago and it is a nice quiet private back yard. If this is approved the children will be making noise going in and out will interfere with our privacy of the back yard. The exit and entrance is my main concern. Also, there is wetland out back and about twenty-five feet from the house it slopes down. Where that is about a third of their lot will that have any effect on this being passed?

**Ed Reidman** any questions? There is a motion on the floor to grant this application as sited.

**Robert Morrill** was the amount of traffic, increased traffic and the shared driveway taken into consideration with your conclusions and recommendations?

**Molly Just** no, seven children, the number of children allowed in a home daycare is intentional so as not to provide or to not enable a significant traffic impact. While that is the purview of Special Exceptions to guard against nuisance issues, there is adequate parking for the staffing and parent needs and there is adequate on site parking.

In terms of the shared driveway, I did look at the deed that split off this parcel and created the easement, there was no mention of any restrictions on parking, driving or turnaround.

**Rene Daniel** I do not have enough information to vote on this. If it goes forward I will be voting against or abstaining, I am not sure which.

**Dennis Isherwood** I thought everything looked great until I heard the about the shared driveway. Right now with the shared driveway, that is a negative for me and with abutting neighbors that are opposed to having a child care at that site, I will be opposed to this application.

**Ed Reidman** there is a motion on the floor.

**The vote is 5-2 in favor (Dennis Isherwood and Rene Daniel opposed)**

**Rene Daniel moved to recess to workshop.**

**2nd by Michael Taylor**

**The vote was unanimous in favor 7-0**

6. Recess to Workshop

Workshop: Note – Public comment will be accepted during workshop.

7. **Sketch Plan – Greenwood Creek Condominiums - ES Coffin Engineering & Survey on behalf of HW Land Company, LLC for construction of 20 single-family detached condominium units on**

**an approximately 13-acre parcel located at 341 Austin Street. Tax Map: 15, Lot: 14, Zone: RGA-2.**

*Background.* On June 17, 2008 the Planning Board approved a Subdivision and Site Plan for a 30 unit duplex (15 buildings, 30 units) condominium project on this same property. Approximately one year later the Planning Board approved an extension of the approvals. The same applicant now seeks Planning Board feedback on a revised plan that would include 20 single-family detached condominium units. The units would be accessed via a common driveway with an Austin Street address.

*Staff Comments:*

- *The name of Austin Drive should be removed from the plans. The units would be accessed via a driveway extending from Austin Street.*

**Jim Coffin** ES Coffin Engineering & Surveying on behalf of HW Land Company, LLC presented aspects of the construction of 20 single-family detached condominium units on an approximately 13-acre parcel located at 341 Austin Street. Tax Map: 15, Lot: 14, Zone: RGA-2.

We have decided to stay away from the power lines and out of the easements. What we are bringing before you tonight is twenty single family homes with public sewer and public water with power off Austin Street. The traffic study will be amended by Gorrill Palmer. The chunk of land back here will still go to the conservation committee.

If granted a permit is it still substantial start two and completion in five? Is that still standard? With the letter about financial capability, is that for the infrastructure or the complete build out?

**Ed Reidman** please repeat your question?

**Jim Coffin** the financial capability one?

**Molly Just** a financial letter is needed to show you can complete the project.

**Jim Coffin** meaning we would need to get a letter from the bank for all twenty houses to be built along with the infrastructure?

**Molly Just** that is correct.

**Jim Coffin** I should also mention that the impervious area of will be less than an acre so we will no longer need the DEP stormwater permit but of course we will inform the City of Westbrook.

**Ed Reidman** suggestions or comments... you heard Mr. Daniel speak about landscaping and he will speak about landscaping again.

As we said to the Public we can take Public input if they have comments to your proposed plan.

**Rita Smith** 347 Austin Street when talking with my neighbor lives here and owns the property here (shown on map)... The property line is about eight feet on my side closer than I think it should be. My neighbor said they gave me eight or ten feet on his side. I am wondering if that could be readdressed with the surveyors. I know it would probably cost me five thousand dollars to have it done; I really do not want to spend that kind of money. But I am questioning where the pins are.

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**Ed Reidman** you are a land surveyor Mr. Coffin?

**Jim Coffin** I am but I did not do this survey, I would gladly give you a copy of the boundary survey or the Surveyors telephone number.

**Rita Smith** sure, I would gladly call him. Other than that I would be glad to see those two houses removed.

**Ed Reidman** other questions or comments?

**Lawrence Lovejoy** the abutter on the east side of the property. When he pointed out on his map that he is going to give this whole strip of land away, what will happen to all the rest here that he is not using? Why doesn't he give that too?

**Jim Coffin** most of that land will be used as common area. We have a road association as well as a home owners association and that will allow them to get on that land and utilize it.

**Chris Neault** 4 Jemada Way I moved in about a year ago. I am unfamiliar with the project and have come tonight to see what it is about. One thing I have noticed over the past year with everyday commuting on the street, it is obviously an extremely narrow street. I know you have passed it and have done studies and all but I can not tell you how many times I have been waking up that street where it bends and almost been straight cleared out by other cars, numerous times. I was wondering what kinds of safe guards will be implemented if any with all the extra traffic with twenty homes? It could be easily forty extra cars or more.

**Ed Reidman** there will be a traffic study as the project moves forward and as I recall we required a sidewalk on the edge, along Austin Street, across the property so it will at least be that safety zone out front. In between, I do not know when you will ever see a sidewalk all the way down Austin Street.

**Chris Neault** can there be a speed deterrent or something? People going easy about fifty miles an hour around that corner? I am just thinking will all the extra traffic.

**Ed Reidman** generally speaking speed and those items are referred to the Police Department. I believe Captain Roth handles those. If you wanted to call him and talk to him and that in conjunction with Public Services is they were to put in speed bumps or something like that.

**Chris Neault** is that something you would consider? Do you ever go to them?

**Ed Reidman** I do not ever recall us having done that.

**Chris Neault** I have one other question, you mentioned the common area, where is that in relationship to my property?

**Richard Gouzie** it is up on the screen.

**Jim Coffin** anything to the left of the screen we will not be doing anything with. By common area I mean they can utilize the land they can not build anything there at all.

**Chris Neault** will there be any trees or a buffer?

**Jim Coffin** I will give you more information when the landscaping plan is complete.

**Ed Reidman** anyone else? Seeing none, may I have a motion to go into regular session?

**Dennis Isherwood** moved to Regular session

**2<sup>nd</sup> by Cory Fleming**

**The vote was unanimous in favor 7-0**

**8. Resume Regular Session**

**9. Adjourn 8:30 p.m.**

*Respectfully submitted by Linda Gain PECE Administrative Assistant  
MINUTES MAY NOT BE TRANSCRIBED VERBATIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A COMPLETE RECORDING MAY BE OBTAINED BY  
CONTACTING ENGINEERING, PLANNING AND CODE ENFORCEMENT at 207-854-9105 ext. 220 and lgain@westbrook.me.us. THANK YOU*