

Cheryl Frazier

From: Roland Bartl
Sent: Wednesday, May 20, 2009 3:15 PM
To: Scott Mutch; Cheryl Frazier
Cc: 'Arthur Kreiger'
Subject: FW: NextGen Children's Center

Please add this to the ZBA file on this matter for the next hearing session.

Thx

Roland Bartl, AICP
Planning Director
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From: Frank Widmayer
Sent: Tuesday, May 19, 2009 4:18 PM
To: Steve Ledoux
Cc: Bruce Stamski; Roland Bartl
Subject: NextGen Children's Center

Steve,

Scott Mutch forwarded the package and I have reviewed the information submitted by MDM dated 7/18/08. My comments follow.

My biggest concern is how far the traffic will back up on Main Street because if it does go to the Route 2 ramps that will cause a backup on Route 2 in both directions. That would be a significant safety problem.

A very similar situation occurs daily at the Musket Drive & Hayward Road intersections with Main Street. Sometimes the queues can be quite long on the side streets and also on Main Street heading north and south. The issue is not only that people have to wait at the intersection but eventually they will take a chance and pull out hoping someone will stop in time for them.

One of the proposals at Next Generation is to install a left turn lane so traffic heading northbound into the lot will be able to stack up while other northbound traffic continues. That will help the Route 2 backup situation but will also make it very difficult for drivers to exit the NextGen lot and head northbound. The result will be delays for drivers pulling out and thereby cause risky maneuvers by drivers to get out into traffic. Depending on the design, the northbound left turn traffic into the NextGen lot will make it difficult to see if other drivers are heading northbound around the stopped left turn vehicles. This is the situation that occurs whenever someone wants to leave the Public Safety Facility to make a left turn onto Main Street if the northbound traffic is backed up to the second PSF driveway furthest from Hayward Road.

I am not overly concerned about the impact of this development on the PSF because most of the time our emergency response vehicles are out on the road. The PSF does not house any fire apparatus unless they happen to be here for training purposes and their response comes mostly from the outlying fire stations. Generally any emergency vehicles can make their way through traffic jams pretty quickly when lights and sirens are used.

Regards,
Frank

Frank J. Widmayer III
Chief of Police
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5/20/2009



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Planning Department

INTERDEPARTMENTAL COMMUNICATION

To: Chairperson and Members
Board of Appeals
Date: April 27, 2009
Revised: May 25, 2009

From: Scott A. Mutch, Zoning Enforcement Officer & Assistant Town Planner

Subject: Next Generation Child Care Facility - Petition for Review under Section 10.1.1 of Town of Acton Zoning Bylaw to Appeal Decision of Zoning Enforcement Officer

Location: 348 - 352 Main Street
Applicant: Walker Realty, LLC., 2 Lan Drive, Westford, MA 01886
Owner: Walker Realty, LLC., 2 Lan Drive, Westford, MA 01886
Engineer: Hancock Associates, 315 Elm Street, Marlborough, MA 01752
Zoning: R-2 (Residence 2)
Groundwater Protection District Zone 4
Proposed FAR: ***0.154 revised*** – maximum is 0.10 (0.23 originally proposed)
Proposed Net Floor Area: ***15,836 ft² revised*** – maximum 1,000 ft² (24,085 ft² originally proposed)
Open Space: 39% (35% minimum)
Proposed Uses: Child Care Facility
Map/Parcel: F-3/54, 61 & 61-1
Hearing Date: ***June 1, 2009*** (Original Hearing Date - May 4, 2009)
Decision Due: July 16, 2009

This communication shall be supplementary to the Planning Department's original interdepartmental communication dated April 27, 2009. This supplemental memo is necessary due to new and additional information being submitted and presented by the applicant at the May 4, 2009 public hearing. This memo will represent the first official response from municipal staff with regards to the applicant's latest information provided. All new data, information, and explanations are provided in a different font, bolded and italicized for clear identification and differentiation. Unless otherwise expressly identified within this memo, all of the information originally provided in the April 27, 2009 interdepartmental communication remains unchanged.

Attached are the legal ad, application, site plan sheets, and departmental comments. As of this date, comments have been received from the Town of Acton's Fire Department, Transportation Advisory Committee, Acton Historic District Commission, Economic Development Committee, Design Review Board, Engineering Department, Water Supply District of Acton, Municipal Properties Department/Tree Warden, Conservation Commission, Building Department and the Health Department.

Attached are new general elevation drawings (dated November 4, 2008), shaded FAR floor plans (dated May 1, 2009), and a copy of the "Brief to the Board" which was hand delivered to the Board of Appeals at the May 4, 2009 hearing. The "Brief" includes an updated Zoning Table (Tab #7) with amended data regarding the issues at the forefront of the appeal. Also, an email from the Town of Acton's Police Chief was received on May 19, 2009 regarding potential traffic concerns and is attached.

The applicant is proposing to construct a new regional child care facility. The development proposal consists of a new 2-story, 15,836 ft² (Net Floor Area) 24,085 ft² structure with outdoor play areas for enrolled children, a 77 space parking lot and landscaping areas. The subject development is to be located entirely within an R-2 Residential zoning district. *In addition to the new material identified in the preceding paragraph*, To date, the Planning Department is in receipt of 1) an up-dated, 1 page, Site Plan drawing dated March 15, 2009 and prepared by Hancock Associates which is sealed by the Engineer of Record on April 1, 2009; and 2) a 1 page, Open Space Exhibit drawing dated March 31, 2009 which is also prepared by Hancock Associates and sealed by the Engineer of Record on April 1, 2009.

Multiple meetings with municipal agencies and input from pertinent disciplines have contributed to the most recent site plan and open space exhibit submitted as part of the Zoning Board of Appeal Petition for Review. It has been discussed and reviewed that the proposed use is subject to special zoning status and protections afforded specifically to child care facilities under Massachusetts General Laws Chapter 40A, Section 3. Documentation in this regard has also been received by the Planning Department.

However, previous paragraph aside, the Town of Acton's Zoning Bylaw, Section 5.3.9 sets forth zoning standards governing child care facilities located in residential districts that the proposed facility would not meet. Additionally, the proposed site plan as currently designed, does not comply with the Parking Standards set forth in Section 6 of the Town of Acton's Zoning Bylaw.

The Site Plan:

The entire site is approximately 2.44 acres (106,188 ft²) and consists of three smaller individual parcels of land which are now in common ownership. The subject property is immediately bound by Route 2 to the west and southwest, residential dwellings to the north and northeast, and residentially zoned land to the south and southeast. The property immediately east is presently being utilized as a commercial landscaping business.

There are currently two single family dwelling units on the subject property. The dwelling located at 348 Main Street is a 1,349 ft² existing single story structure built in 1927 (as per the Town of Acton Assessor Office information). The dwelling located at 352 Main Street is a 1,669 ft² existing two story structure built in 1900 (as per the Town of Acton Assessor Office information). Both dwelling units are currently vacant and boarded up.

The proposed relevant zoning information for the subject site is summarized in the following table:

By-Law Requirements	Required	Existing	Proposed
Min. Lot Area (ft ²)	20,000 ft ²	106,188 ft ²	106,188 ft ²
Min. Lot Frontage (ft)	150'-0"	504.33'	504.33'
Min. Front Yard (ft)	30'-0"	N/A	46'-0"
Min. Side Yard (ft)	10'-0"	N/A	62'-0"
Min. Rear Yard (ft)	10'-0"	N/A	28'-0"
Max. Building Height (ft)	36'-0"	N/A	31'-6"*** Unknown
Max. F.A.R. (Floor Area Ratio)	0.10	N/A	0.154** 0.23

Max. Net Floor Area	1,000 ft ²	N/A	15,836 ft ² *** 24,085 ft ²
Min. Open Space	35%	N/A	39%
Parking Requirements	Required	Existing	Proposed
Use: Child Care Facility 1 space per 10 children of rated capacity plus 1 space for each staff person on the largest shift	77	4	77
Regular Spaces	54	4	54
Small Car Spaces (30% Max.)	23	0	23

* *New data provided by applicant. See Planning Department Comment #4 for detailed explanation.*

** *Revised data. See Planning Department Comment #1 for detailed explanation.*

*** *Revised data. See Planning Department Comment #2 for detailed explanation.*

Planning Department Comments

Section 5.3.9 of the Zoning Bylaw specifically sets forth standards for child care facilities that are located in Residential Districts.

- 1) Maximum Floor Area Ratio (FAR) – The maximum permitted FAR is 0.10. *As defined in Section 1.3.9 of the Bylaw, the FAR is “the ratio of the sum of the net floor area of all buildings on a lot to the developable site area of the lot”. Due to the applicant further developing and revising the net floor area for the subject facility, the floor area ratio has also been revised (reduced). Previously, there were no floor plans and the FAR was based solely upon the entire building shell as a whole (proposed gross square footage). After the revised net floor area has been calculated, the project has a new total proposed Floor Area Ratio of 0.154. Although the overall building shell of the proposed structure was not reduced in size, the deduction of permitted floor areas results in a reduced FAR. The new proposed total FAR is smaller than originally proposed, but still exceeds the maximum permitted FAR.*

The proposed site plan indicates a 0.23 FAR. The proposed FAR is only listed as a number on the plans at this time. It greatly exceeds the maximum permitted FAR. Complete floor plans should be detailed to reveal an accurate FAR.

- 2) Maximum Net Floor Area – The maximum permitted net floor area is 1,000 square feet. *The applicant has developed and provided realistic floor plans illustrating the proposed configuration of the interior layout of the child care facility. Previously, there were no floor plans and the net floor area was being based solely upon the entire building’s floor plates and footprint with no areas being deducted (actual gross square footage of the overall structure). The creation of realistic floor plans has resulted in a new (smaller) overall total net floor area. The development of the proposed floor plans has allowed the applicant to more accurately calculate the net floor area. Detailed and shaded floor plans clearly identifying which areas of the floor plate are being counted towards the net floor area and those areas which are excluded from the net floor area have been provided. Areas which are excluded from the net floor area are identified in its definition under Section 1.3.8 of the Bylaw. After the deduction of the floor areas permitted, the new net floor area of the proposed facility is 15,836 square feet. Although the overall building shell of the proposed structure was not reduced in size and the gross floor area remains unchanged, once the permitted floor area exclusions are removed from the calculations, the resulting net floor area is less than previously indicated. The new proposed total net floor area is smaller than originally proposed, but still exceeds the maximum permitted net floor area.*

The proposed site plan indicates approximately 24,085 square feet. The proposed total square footage is only listed as a number on the plans. It greatly exceeds the maximum permitted net floor area. Complete floor plans should be detailed to reveal an accurate overall net floor area.

- 3) Minimum Open Space (not including outdoor play areas) – The minimum open space required is 35%. The proposed site plan indicates that 39% open space is being provided. The applicant has provided additional open space drawings which indicate how the proposed 39% open space was calculated. Planning Department Staff is comfortable with the submitted open space calculations.

There is no change to the landscaping data from the previous plan submissions and interdepartmental communication.

In addition to the specific Bylaw requirements set forth above, the following is another Table of Standard Dimensional Regulation of the Town of Acton's Zoning Bylaw which may or may not be in conformance.

- 4) Maximum Permitted Building Height – *The applicant has submitted basic elevation drawings, unfortunately, there are no vertical dimensions indicated or provided. The applicant has however, indicated a 31'-6" proposed height in the revised Zoning Table (Tab #7) submitted as part of the "Brief to the Board" package. Using an architectural scale on the elevation drawings however, it appears that the proposed structure is approximately +/- 32'-0" in height. Having the actual vertical dimensions identified on the elevation drawings would be a requirement of any building permit plans. Although the proposed height can not be 100% confirmed at this time, the proposed height does appear to comply with the Zoning Bylaw.*

Currently there are no building permit plans submitted which identify the proposed building height of the structure. The submitted site plan and associated documentation provided to date, indicates a two (2) story structure which may or may not be able to comply with the maximum height requirement. Based on previous experience, it is conceivable that the structure would be in compliance with this requirement.

Furthermore to the above identified Bylaw requirements, the following are dimensional requirements set forth in Section 6 of the Town of Acton' pertaining to Parking Standards which are not in conformance.

- 5) Section 6.7.1 of the Bylaw states that "*parking requirements shall be met by utilization of parking lot cells having a maximum of forty (40) parking spaces per parking lot cell. There shall be a minimum separation distance of thirty (30) feet between parking lot cells*". The submitted site plan does not currently meet or satisfy this requirement.
- 6) Section 6.7.7 of the Bylaw states that "*a minimum of ten percent (10%) of the interior area, exclusive of perimeter landscaping, of a parking lot cell containing more than twenty-five (25) parking spaces must be planted as landscape island areas*". The submitted site plan indicates that only 4.5% (1,146 square feet) is being provided. However, it is unclear exactly how this number was calculated. The submission of shaded drawings which clearly show which areas are being included and which are not would be extremely helpful in understanding how this number is being calculated.

The aforesaid violations came as a result of plan changes following discussions with Town staff to achieve compliance with the open space requirements of the bylaw.

- 7) Section 6.7.3 of the Bylaw states that “*each lot may have one access driveway through its frontage which shall be 24 feet wide*”. The submitted site plan indicates that the entrance access drive at the point where it intersects the property line at Main Street is approximately 50 feet in width. However, a Special Permit Granting Authority could waive this requirement based upon safety considerations.
- 8) Section 6.7.4 of the Bylaw states that “*interior driveways shall be at least 20 feet wide for two-way traffic*”. The submitted site plan indicates that the interior driveway weaving around the front of the building is 24 feet wide. Reducing the width to the minimum 20 feet, would provide additional space for landscaping along Main Street.

Should the Zoning Board of Appeals conclude to overturn the decision of the Zoning Enforcement Officer, the following is a list of suggested conditions which the Board of Appeals may wish to impose upon any development.

- 1) The applicant has verbally agreed to not utilize the existing Isaac Davis Way right-of-way for any ingress or egress from the proposed child care facility for other than perhaps emergency apparatus. Should the proposed development move forward, this should be formalized in writing and recorded in the Middlesex South District Registry of Deeds.
- 2) The proposed site plan indicates garbage dumpsters to be provided on the northern side of the parking lot area. These garbage dumpsters should be sufficiently screened from view. This could be accomplished through the introduction of an adequate height stockade fence or dumpster enclosure.
- 3) The applicant should make every attempt possible to preserve the existing stone walls along the Main Street frontage. It is understood that a portion of the existing stone wall would be removed or relocated to allow for the creation of the access drive, but the remaining stone walls should be maintained and preserved as much as possible.
- 4) The applicant should submit a complete landscape plan for the entire property to be reviewed and approved by the applicable disciplines prior to building permit issuance. The landscape plan should be very specific as to the proposed species. Additionally, the Acton Water District is now promoting drought sensitive species and varieties. A landscape architect should review any proposed planting list.
- 5) The applicant should submit a complete lighting plan for the subject property. The lighting plan should verify that all light being produced by the proposed development would not extend beyond the subject property extents in a detrimental or harmful way to any of the abutting properties. The minimum requirements in order to adequately satisfy this requirement are set forth in Section 10.6 of the Town of Acton’s Zoning Bylaw.
- 6) ***No building permit or Certificate of Occupancy for the subject property shall be approved or issued until such a time that the applicant has 100% completed the proposed Main Street right-of-way improvements.***

The applicant should post a bond to cover any cost associated with the improvements currently identified for Main Street. The amount of the bond and the degree of work required or proposed should be negotiated between the applicant and the Town of Acton Engineering Department.

- 7) *Prior to any building permit being issued for the subject project, the applicant shall demonstrate compliance with any and all other comments provided by other municipal disciplines (such as, but not limited to, the Engineering Department, Fire Department, Municipal Properties Department/Tree Warden, Health Department and Building Department, etc.).*
- 8) *Prior to any Certificate of Occupancy being approved or issued for the use of the subject space, the applicant shall show compliance with all conditions and comments imposed by the Zoning Board of Appeals.*