



Planning Department

**TOWN OF ACTON**  
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**INTERDEPARTMENTAL COMMUNICATION**

**To:** Chairperson and Members  
Board of Appeals  
**Date:** May 27, 2009  
Revised: June 8, 2009

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

**Subject:** Learn & Play Preschool Child Care Facility - Petition for Review under Section 10.1.1 of the Town of Acton Zoning Bylaw to Appeal Decision of Zoning Enforcement Officer

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Location: 245 Main Street  
Applicant: Learn & Play Preschool, 245 Main Street, Acton, MA 01720  
Owner: 245 Main Street, LLC., 245 Main Street, Acton, MA 01720  
Architect: The Office of Michael Rosenfeld, Inc., 543 Massachusetts Avenue, Acton, MA 01720  
Zoning: R-2 (Residence 2)  
Groundwater Protection District Zone 4  
Proposed FAR: ***0.104 revised*** - maximum is 0.10 (0.0945 originally proposed)  
Proposed Net Floor Area: ***2,340 ft<sup>2</sup> revised*** - maximum is 1,000 ft<sup>2</sup> (2,128 ft<sup>2</sup> originally proposed)  
Open Space: ***36.2%*** - 35% minimum (38% originally identified)  
Proposed Uses: Child Care Facility  
Map/Parcel: G-3/22  
Hearing Date: ***June 9, 2009*** (Original Hearing - June 1, 2009)  
Decision Due: August 15, 2009

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***This communication shall be supplementary to the Planning Department's original interdepartmental communication dated May 27, 2009. This supplemental memo is necessary due to new and additional information being submitted by the applicant after the June 1, 2009 public hearing. The revised drawings and additional information provided are in response to previously issued municipal staff comments. 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 May 27, 2009 interdepartmental communication remains unchanged.***

Attached are the legal ad, application, site plan and architectural drawing sheets, and interdepartmental comments. As of this date, comments have been received from the Town of Acton's Board of Selectmen, Fire Department, Transportation Advisory Committee, Engineering Department, Municipal Properties Department/Tree Warden, Conservation Commission, Building Department and the Health Department.

The applicant is proposing to expand an existing child care facility through the conversion of an existing basement to useable child care space as well as a small addition to the front of the existing structure, with outdoor play areas for enrolled children, a 12 43 space parking lot, landscaping areas and the creation of a new driveway entrance for the subject property. The subject child care facility is located entirely within an R-2 Residential zoning district.

*Attached are the following new drawings and exhibits submitted by The Office of Michael Rosenfeld, Inc., project architect: revised Site Plan, Main Level Floor Plan, and Lower Level Floor Plan architectural drawings with accompanying revised general zoning data (dated June 5, 2009), a Landscaping Buffer Plan, Landscape Plant Cuts, and Existing Site Condition Photos also from the Office of Michael Rosenfeld, Inc. Additionally, an email chain between the Town of Acton's Engineering Department and Fire Chief has been attached discussing unresolved outstanding issues as currently proposed by the applicant.*

In addition to the new information submitted and identified in the preceding paragraph, the Planning Department is also in receipt of the following items and documentation:

- The original 5 page set of architectural drawings (A-1: Site Plan, A-2: Main Level Floor Plan, A-3: Lower Level Floor Plan, A-4: Sections, A-5: Sections) submitted as part of the building permit application which were prepared by The Office of Michael Rosenfeld, Inc., Architects and dated March 24, 2009;
- An email received by Town Staff on May 26, 2009 which included 3 revised drawings (SK-A 1: Site Plan, SK-A 2: Main Level Floor Plan, SK-A 3: Lower Level Floor Plan) which were prepared by The Office Of Michael Rosenfeld, Inc., Architects and dated March 24, 2009;
- A May 28, 2009 hand-delivered set of 5 revised drawings (SK-A 1: Site Plan, SK-A 2: Main Level Floor Plan, SK-A 3: Lower Level Floor Plan; SK-A 4: Exterior Elevations, SK-A 5: Building Section) which were prepared by The Office of Michael Rosenfeld, Inc., Architects and dated May 28, 2009.

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.

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 site is approximately 0.52 acres (22,500 ft<sup>2</sup>) and consists of only one parcel of land which is owned by the child care facility entity. The subject property is immediately bound by Route 27 (Main Street) to the west, and residentially zoned land to the north, east, and south.

There is currently a single story structure and detached shed on the subject property. The building located on the property is an approximately 1,008 ft<sup>2</sup> existing single story structure built in 1959 (as per the Town of Acton Assessor Office information) and originally utilized as a single family dwelling residence. The structure was converted to the existing child care facility use in 2004.

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

<b>By-Law Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Min. Lot Area (ft <sup>2</sup> )	20,000 ft <sup>2</sup>	22,500 ft <sup>2</sup>	22,500 ft <sup>2</sup>
Min. Lot Frontage (ft)	150'-0"	150'-0"	150'-0"
Min. Front Yard (ft) - West	30'-0"	89'-0"	+/- 78'-0" <sup>**</sup>
Min. Side Yard (ft) – North	10'-0"	31'-0"	+/- 29'-0" <sup>**</sup>
Min. Side Yard (ft) - South	10'-0"	+/- 58'-0" <sup>**</sup>	+/- 58'-0" <sup>**</sup>
Min. Rear Yard (ft) - East	10'-0"	34'-0"	34'-0"
Max. Building Height (ft)	36'-0"	Unknown	Unknown*
Max. F.A.R. (Floor Area Ratio)	0.10	N/A	0.104 <sup>**</sup> 0.0945
Max. Net Floor Area	1,000 ft <sup>2</sup>	N/A	2,340 ft <sup>2</sup> <sup>***</sup> 2,128 ft <sup>2</sup>
Min. Open Space	35%	N/A	36.2% <sup>****</sup> 38%
<b>Parking Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Use: Child Care Facility 1 space per 10 children of rated capacity plus 1 space for each staff person on the largest shift	12	Unknown	12 <sup>*****</sup> 13
Regular Spaces	12	Unknown	12 <sup>*****</sup> 13

\* No dimension provided on drawings submitted to date. Having the actual dimensions identified on the site plan would be a requirement of any future building permit plans.

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

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

\*\*\*\* Revised data. See Planning Department Comment #3 for detailed explanation.

\*\*\*\*\* Revised data. See Planning Department Comment #5 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”. *The applicant has revised their calculations to indicate a new proposed 0.104 FAR. To adequately verify this, the applicant has submitted revised floor plans which include all of the necessary areas which count towards the overall net floor area and floor area ratio for the subject project.*

The proposed site plan currently indicates a 0.0945 FAR. However, the applicant has submitted floor plans which show two (2) areas on the main level which have not yet been counted in the overall net floor area which must be included. The resulting increase to the overall net floor area for the subject child care facility will result in a higher Floor Area Ratio number, which staff believes will exceed the maximum 0.10 permitted FAR. New shaded floor plans and revised calculations are required to be submitted by the applicant.

- 2) **Maximum Net Floor Area** – The maximum permitted net floor area is 1,000 square feet. *The applicant has revised their calculations to indicate a new proposed net floor area of 2,340 square feet. To adequately verify this, the applicant has submitted revised floor plans which*

***include all of the necessary areas which count towards the overall net floor area and floor area ratio for the subject project.***

The drawings submitted to date are currently indicating a total net floor area of approximately 2,128 square feet. However, the applicant has submitted floor plans which show two (2) areas within the main level of the structure which have not yet been counted in the overall net floor area which must be included. The total net floor area for the subject project must also include the existing shed located on the property. New shaded floor plans and revised calculations are required to be submitted by the applicant. The resulting increase to the overall net floor area for the subject child care facility will also result in a higher Floor Area Ratio number.

- 3) **Minimum Open Space (not including outdoor play areas)** – The minimum open space required is 35%. ***The applicant has revised their calculations to indicate a new proposed open space calculation of 36.2%. To adequately verify this, the applicant has submitted a revised site plan which depicts the necessary information required under the Bylaw, and includes all of the necessary areas which either count or are excluded when calculating the minimum open space requirement.***

The proposed site plan indicates that 38% open space is being provided. However, the submitted drawings are unclear as to how exactly this number was calculated. Section 6.7.6 of the Town of Acton Zoning Bylaw requires “a minimum 10'-0" wide perimeter landscape buffer, which must be provided in addition to any minimum open space requirement for the property”. Therefore, the 10'-0" wide landscape buffer can not be included in the overall open space calculation for this project. The applicant should submit new open space drawings which clearly separate and indicate how the proposed 38% open space is calculated.

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** – Currently there are no building permit plans submitted which identify the proposed building height of the structure. The submitted plans and associated documentation provided to date however, indicate a one (1) story structure only with full basement. Although the height of the structure can not be confirmed at this time, the proposed height would appear to comply with the Zoning Bylaw requirements. Having the actual vertical dimensions identified on the elevation drawings would be a requirement of any future building permit plans.

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

- 5) Section 6.3.1.5 of the Bylaw which regulates the minimum number of parking spaces for a given use states that “One space per ten (10) children of rated capacity of the child care facility plus one space for each staff person on the largest shift” is required. ***The applicant stated at the previous hearing that the maximum number of children permitted in the proposed facility is 45. Therefore, based upon the above noted information, the parking requirement for this facility is 12 parking spaces. The applicant is currently proposing 12 parking spaces which complies with the Bylaw requirements.***

The submitted plans do not currently indicate what the total projected rated capacity for the entire child care facility is proposed to be. The plans do however, provide a number of 54 children, but it is unclear whether this number is the actual rated capacity of the facility or if it is the proposed number of enrolled children (which could be less than the rated capacity). Once this number is calculated and provided, then an exact minimum parking requirement could be computed.

- 6) Section 6.7.2 of the Bylaw states "*no parking space or other paved surface, other than access driveways, common driveways or walkways, shall be located within 30 feet of the front lot line and within 10 feet of the side and rear lot lines*". *The revised site plan submitted by the architect for the subject project has addressed this bylaw requirement and there is no longer any pavement or parking spaces located within the front 30'-0" of the subject property.*

The current site plan indicates a large portion of pavement and 2 parking spaces currently located within this minimum required setback.

- 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*", and "*an access driveway for one-way traffic only may be a minimum of 14 feet*". The submitted site plan indicates that there is currently one existing access driveway and proposes a second access driveway through the Main Street frontage. If the introduction of the second access driveway is to create a true circulation pattern of one-way traffic through the site, then the Special Permit Granting Authority could waive this requirement based upon safety considerations. *Please refer to the attached email chain between the Engineering Department and Fire Chief discussing unresolved outstanding concerns with respect to this proposed configuration.*
- 8) Section 6.7.4 of the Bylaw states that "*interior driveways shall be at least 20 feet wide for two-way traffic and 14 feet for one-way traffic*". *The reconfiguration of the parking lot identified on the revised site plan submitted by the applicant now provides a minimum 24'-0" wide interior maneuvering aisle. This revised layout complies with the Bylaw requirements.*

Should the applicant wish to create a true circulation pattern of one-way traffic through the site and satisfy the minimum required front yard setback (6.7.2), then this requirement could be satisfied.

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 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 detailed and specific as to the proposed species. The landscape plan shall be completed by and show the seal of a Registered Landscape Architect. Additionally, the Acton Water District is now promoting drought sensitive species and varieties.
- 2) 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.

- 3) 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.).
- 4) 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.

## Scott Mutch

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**From:** Corey York  
**Sent:** Friday, June 05, 2009 3:38 PM  
**To:** Scott Mutch  
**Subject:** FW: Learn & Play Preschool on Main Street  
**Attachments:** site Plot.pdf; Plan - Revised - 2009-06-04 - SU-30 - V2.pdf; Plan - Revised - 2009-06-04 - SU-30 - V1.pdf

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**From:** Robert Craig  
**Sent:** Friday, June 05, 2009 3:11 PM  
**To:** Corey York  
**Subject:** FW: Learn & Play Preschool on Main Street

Thanks Corey,

Got tied up and didn't get back here to send a separate memo.

Have a good weekend.

Bob

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**From:** Corey York  
**Sent:** Friday, June 05, 2009 1:13 PM  
**To:** Scott Mutch  
**Cc:** 'lpecoraryan@omr-architects.com'  
**Subject:** FW: Learn & Play Preschool on Main Street

Scott,

I met with the Fire Chief this morning around 11:30AM and we discussed the revised site plan. The Chief stated that he concurs with the comments that I made below.

Let me know if you need any additional information.

Corey

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**From:** Corey York  
**Sent:** Thursday, June 04, 2009 4:30 PM  
**To:** Robert Craig  
**Cc:** Bruce Stamski; Adrian Charest; Scott Mutch  
**Subject:** FW: Learn & Play Preschool on Main Street

Bob,

The attached PDF file (site Plot) is a revised plan dated June 4, 2009 that was emailed to my office from the Architect. I also attached 2 other PDF files with our turning template overlaid onto the image to show the areas where the fire truck would be driving over the grass. I took a quick look and have the following questions/comments:

6/5/2009

- The architect has drafted pavement roundings by Main Street on the revised plan. However, the pavement roundings were drafted on the property line; not the edge of the road pavement for Main Street. The architect has not shown the edge of pavement or the lane lines for Main Street on the site plan. As a result, I can't confirm whether the fire truck will cross over the grass and/or the opposing lanes on Main Street when they try to enter and/or exit the site.
- I assume that emergency personnel could potentially come northbound from the South Acton station or southbound from Acton Center.
- The plans show a 10' radius for all the pavement roundings at Main Street for the 14' wide entrance/exit lanes. I am only speculating but I do not think the 10' radiuses will be sufficient for a SU-30. As a result, it is my opinion that the fire truck would be driving over the road shoulder to enter/exit the site.
- I laid out the turning template in one of the PDF files to demonstrate what would happen if the fire truck was attempting to make a continuous 180-degree turn in/out of the site. As you can see, the access ways are too close together for that. Without the Main Street pavement being shown on the plan, I am assuming the fire truck could only be in that position in the entrance lane if it was entering the site from the southbound lane. I don't think it would be possible for a fire truck heading northbound on Main Street to make a continuous 180-degree maneuver in/out of the site without backing up in the parking area. This is only based on speculation at this point.
- The second version shows the fire truck in the site trying to exit. As you can see, the image shows the areas that the fire truck would be driving on the grass.

Could you take a look at these and give me some feedback. I believe Scott needs to write a response to the BOA for the meeting on Tuesday. If you want, you could stop in the office and we can take a closer look at the plan with our turning templates.

Thank you  
Corey

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**From:** Lisa Pecora-Ryan [mailto:lpecoraryan@omr-architects.com]  
**Sent:** Thursday, June 04, 2009 3:11 PM  
**To:** Corey York  
**Cc:** Stacey Regan; Scott Mutch  
**Subject:** Learn & Play Preschool on Main Street

Hi Corey,

I am contacting you in regards to the Learn & Play Preschool project on Main Street. I believe that you have reviewed drawings for this project back in mid May. As previously shown proposed the owner would like to have two access drives into the parking lot for safety and to ease the flow of traffic into and off of Main Street. We have added a 10'-0" radius at the ends of the drive to flare the driveway access onto Main Street. I have attached a sketch of the revised layout and I hoping that you might have some time this afternoon or tomorrow morning to review our proposed layout. Please let us know if you feel that this layout is acceptable by you and the fire department.

Thank you,

Lisa Pecora-Ryan, RA, LEED AP  
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