

**MINUTES OF THE
BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

May 20, 2025

MEMBERS PRESENT: Phyllis Eldridge, Chair; David Rheame; Thomas Rossi; Paul Mannle; Jeffrey Mattson; Thomas Nies

MEMBERS EXCUSED: Vice-Chair Beth Margeson; Jody Record, Alternate

ALSO PRESENT: Jillian Harris, Planning Department

Chair Eldridge called the meeting to order at 7:00 p.m. She stated that Old Business Petition F, 636 Lincoln Avenue, was re-noticed to the May 27 meeting.

She stated that Old Business Petition G, 1980 Woodbury Avenue, was requested to be postponed by the applicant and asked that it be taken out of order so that it could be addressed and postponed. Mr. Rossi read the petition into the record.

*Mr. Rossi moved to take Petition G, 1980 Woodbury Avenue, out of order. Mr. Mannle seconded. The motion **passed** unanimously, 6-0.*

*Mr. Rossi then moved to **postpone** Petition G, 1980 Woodbury Avenue, to the June 17 meeting. Mr. Mannle seconded. The motion **passed** unanimously, 6-0.*

I. APPROVAL OF MINUTES

A. Approval of the April 15, 2025 meeting minutes.

*Mr. Rossi moved to **approve** the April 15 minutes as submitted. Mr. Mattson seconded. The motion **passed** unanimously, 6-0.*

B. Approval of the April 22, 2025 meeting minutes.

*Mr. Rossi moved to **approve** the April 22 minutes as submitted. Mr. Mattson seconded. The motion **passed** unanimously, 6-0.*

Note: The Board decided that they would address as a group Section II, Old Business, Petitions A through E, the Kane Company (Owners) for removing, replacing, and relocating existing freestanding signs at Kane properties. Chair Eldridge read each of the five petitions into the record.

II. OLD BUSINESS

- A. The request of **The Kane Company (Owners)** for property located at **210 Commerce Way** whereas relief is needed to remove, replace and relocate an existing freestanding sign which requires the following: 1) Variance from Section 10.1253.10 for a freestanding sign to be setback 4 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-4; and lies within the Office Research (OR) District. (LU-25-35)
- B. The request of **The Kane Company (Owners)** for property located at **170 and 190 Commerce Way** whereas relief is needed to remove, replace and relocate two existing freestanding signs which requires the following: 1) Variance from Section 10.1253.10 for two freestanding signs to be setback a) 2 feet and b) 10.5 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-2 and lies within the Office Research (OR) District. (LU-25-42)
- C. The request of **The Kane Company (Owners)** for property located at **195 Commerce Way** whereas relief is needed to remove, replace and relocate an existing freestanding sign which requires the following: 1) Variance from Section 10.1253.10 for a freestanding sign to be setback 6 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-8 and lies within the Office Research (OR) District. (LU-25-43)
- D. The request of **The Kane Company (Owners)** for property located at **215 Commerce Way** and **75 Portsmouth Boulevard** whereas relief is needed to remove, replace and relocate two existing freestanding signs which requires the following: 1) Variance from Section 10.1253.10 for two freestanding signs to be setback a) 1.5 feet and b) 9.5 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-8a and lies within the Office Research (OR) District. (LU-25-44)
- E. The request of **The Kane Company (Owners)** for property located at **230 Commerce Way** whereas relief is needed to remove, replace and relocate an existing freestanding sign which requires the following: 1) Variance from Section 10.1253.10 for a freestanding sign to be setback 4 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-5 and lies within the Office Research (OR) District. (LU-25-45)

SPEAKING TO THE PETITIONS

[Timestamp 15:48] Attorney John Bosen was present on behalf of the applicant, with Neil Hansen of Tighe & Bond. Attorney Bosen stated that they were seeking the same relief for seven different properties. He noted that two signs currently existed at 170 and 190 Commerce Way in the right-of-

way that would be relocated onto the property. He said those buildings were commercial office buildings built in 1980 on a private road at the time but that the road later became a public road. He said the applicant would update and replace all the existing signs to modernize them and increase their visibility to the road. He referred to the Sign Relocation Plan to show the location of all the existing and proposed signs. He addressed the criteria and said they would be met.

[Timestamp 20:54] Mr. Nies said that the existing and proposed conditions for 210 Commerce Way seemed to show that there was no freestanding sign on 210 Commerce Way now but that the applicant proposed to replace the sign in approximately the same location. He asked what the hardship was that caused the sign to need a setback. Attorney Bosen said it was due to the sign setback line that would put the sign in the parking lot.

[Timestamp 22:04] Mr. Rheume referred to the diagram called the Overall Site Sign Location Plan that had a representation of the proposed sign. He said he understood that the sign dimensions were 48"x60" but some of that 60 inches was a support post. He said he was confused by some of the other dimensions because they indicated different things. Mr. Hansen said the graphic was hard to read. He said the 120 inches was the total height, including the footing. Mr. Rheume said there was a 10-ft long pole of which three feet were stuck in the ground and there were seven feet above it. He asked what the 72-ft dimension referred to. Mr. Hansen said he had no answer. Mr. Rheume said he looked at all the properties and found that 210 Commerce Way did not currently have a sign, and he asked what drove the 4.2-ft setback for that property and indicated that it was the right spot for the sign. Mr. Hansen said it was based on the site conditions and that they were trying to locate the sign where it would be visible from the road but would not block the sight lines. He said the 210 Commerce Way property had a large tree, so they wanted to site the sign so that the tree would not block it. Mr. Rheume said the applicant was sort of all over the place with all the dimensions and that he wanted to understand why so much relief was needed. Mr. Hansen said it was about finding a location that had the best visibility from the roadway. Mr. Rheume said the one that concerned him the most was for the 215 Commerce Way property because that one was particularly close to the property line at 1.8 feet but was advertised as 1-1/2 feet. He said the property had the most current wall signage associated with it, which was very prominent and visible. He asked why the small sign needed to be positioned so close to the property line where 20 feet was required, noting that it was a lot of relief asked for. Mr. Hansen said the sign was an existing one and that they were replacing it at the existing location. Mr. Rheume asked if there would be any disadvantage to pulling it back, and Mr. Hansen said he did not think that they wanted to go as far back as 20 feet. Mr. Rheume said in most cases, the 20-ft corner was shown, so there was an argument to be made that if the sign was not 20 feet back from the roadway, then it was close to it. It was further discussed. Mr. Rheume said the signs were also modest ones and more like those found in Sign District 2 rather than Sign District 4, and Sign District 2 requires a 5-ft setback. Mr. Mannle asked how many of the sign requests were after-the-fact permission ones. Mr. Hansen said none of them were. Mr. Mannle asked if the applicant had variances for all the signs. Mr. Hansen said he did not know when the signs were installed but that they were all being replaced by the proposed signs. Mr. Mannle said there were no variance requests in the packet for any of the signs. Mr. Rossi noted that

the roads were private roads at one time. Mr. Mannle asked when the road turned into a public one. Mr. Hansen said he did not know.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITIONS

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 29:55]

*Mr. Rossi moved to **grant** the variances for Petitions II.A through II.E as presented and advertised, with the following **condition**:*

- 1. For 215 Commerce Way, the sign shall be located an additional five feet farther back than indicated in the submitted materials for a total setback of 6.5 feet.*

Mr. Rheume seconded the motion.

Mr. Rossi said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said the purpose and spirit of the signage ordinance was to maintain and enhance the character of the City's commercial districts and residential neighborhoods. He said it was a Commercial Office Area and that the signage was consistent with that use and would not distract from it in any way and would actually enhance it by making it easier to find the intended buildings within a fairly large complex containing a lot of different lots. He said substantial justice would be done because the loss to the applicant for not being able to direct traffic to commercial properties within the area would not outweigh the loss to the public by having those signs erected. He said they were public roadways that would primarily be visible to people who had already entered into the commercial property and would have an interest in finding their way around. He said granting the variances would not diminish the values of surrounding properties because each property was undergoing similar treatments and one would not impact the value of the others. He said someone would not be able to see any of them unless they took an exit from the through traffic areas and went specifically into the complex, and that it would have no impact on properties that were in the broader definition of the neighborhood. He said literal enforcement of the ordinance would result in unnecessary hardship due to the special conditions of the property, including the setback that would place the signage in an unreasonable location where the signs would not be visible from the roadway, or they would diminish the accessibility of certain parking areas. He said overall, the locations of the signs were consistent with what was already there, regardless of whether they had variances or were grandfathered in. He said there was not much of a change going on, so literal enforcement of the ordinance would really not serve any purpose related to the intentions of the ordinance. He said that criterion was also satisfied.

[Timestamp 33:55] Mr. Rheume referred to the spirit of the ordinance and said he thought what the applicant was presenting were relatively modest signs of 20 square feet in overall dimension, equivalent to a Sign District 2 as opposed to a Sign District 4, which was the Office Research

District with a freestanding sign limit of 100 square feet and five times as much as what the applicant was asking for. He said the applicant was asking for only 20 percent of what would be allowed, so it would be more in accordance with Sign District 2. He said the relief asked from the 20 square feet was appropriate. From a hardship standpoint, he said the applicant had shown that there were some existing layouts set up many years ago that forced signage closer than the 20 foot setback, which was subsequently applied when the property lines were set up differently. He said it became a public way at an undetermined time and what was there was grandfathered in, but now the applicant was trying to upgrade that to a more uniform appearance, which was a more positive thing for the complex. He said the sign was still 20 feet from the traveled way, even though the property line was closer to where the sign was, and the overall effect was still within the characteristics of the Office Research District. He said another hardship was that the same applicant owned many of the properties that had been a large property at one time that was uniquely developed and that the applicant was placing the signs to create a uniform appearance to the whole complex. He said the condition included with the motion was important because the one sign that he felt was unusually close to the road went back to the spirit of being at least five feet away and was more like a Sign District 2.

[Timestamp 36:47] Mr. Mannle said he could not support the application because the applicant did not demonstrate any hardship and did not know when the road went public, and so on. He said the applicant could comply with the zoning ordinance and every one of the buildings was well marked. Mr. Mattson said two factors that swayed him were that the actual property lines were not where the road asphalt ended but were set back quite a ways into the grass already, so the effect was that the signs were farther back from the actual road than would be implied from the measurement. Secondly, he said he understood the logic of having a sign setback, and in this situation it may not be as important, but for him what was important was the triangular 20-ft sign exclusion zone. He said he could see how that could have a safety issue, but none of the signs were in that area, so there was no relief needed for it. Mr. Rheume noted that the 210 and 230 Commerce Way buildings had no wall signage at all, so there was no current way of knowing what businesses were in there. He said most of the other properties, like 170 and 190 Commerce Way, had modest existing signage, and he thought 215 Commerce Way had a good-sized sign, which was the one the Board was asking to be pushed farther back away from the road to be more respectful toward the zoning ordinance.

*The motion **passed** by a vote of 4-2, with Mr. Nies and Mr. Mannle voting against.*

F. RE-ADVERTISED FOR MAY 27, 2025 The request of **Mezansky Family Revocable Trust (Owners)** for property located at **636 Lincoln Avenue** whereas relief is needed to demolish an existing detached garage and to construct an addition to the primary structure which requires the following: 1) Variance from Section 10.521 to a) allow a 2 foot left side yard setback where 10 feet is required; b) allow a 16 foot rear yard setback where 20 feet is required; c) allow 39% building coverage where 25% is the maximum allowed; and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the

Ordinance. Said property is located on Assessor Map 148 Lot 17 and lies within the General Residence A (GRA) District. (LU-25-27) **RE-ADVERTISED FOR MAY 27, 2025**

DECISION

*The petition was **re-noticed** to the May 27 meeting.*

G. REQUEST TO POSTPONE - The request of **Colbea Enterprises LLC (Owners)** for property located at **1980 Woodbury Avenue** whereas relief is needed to demolish and redevelop an existing gas station and convenience store which requires the following: 1) Special Exception from Section 10.440, Use #8.122 to allow a convenience goods 2 use with 24 hours per day operation (*approved April 22, 2025*); 2) Variance from Section 10.5B33.20 to allow for a front lot line build out of 0% where a minimum of 75% is required for a commercial building; 3) Variance from Section 10.5B34.60 to allow for a front setback from the lot line of 27 feet on Woodbury Avenue and 46 feet on Gosling Road where a maximum of 20 feet is required; 4) Variance from Section 10.5B83.10 to allow for parking spaces to be located between the principal building and the street; 5) Variance from Section 10.835.32 to allow for drive-through lanes, bypass lanes and stacking lanes to be located within 13 feet of the property line where 30 feet is required; 6) Variance from Section 10.835.31 to allow outdoor service facilities to be located within 38 feet of a lot line where 50 feet is required. 7) Variance from Section 10.843.33 to allow for pump islands to be located within 28 feet of the lot lines where 40 feet is required; 8) Variance from Section 10.1251.10 to allow for an aggregate sign area of 454 s.f. where a maximum of 223.5 s.f. is allowed; 9) Variance from Section 10.1251.20 to allow a 134 s.f. freestanding sign where a maximum of 100 s.f. is allowed; and 10) Variance from Section 10.1253.10 to allow for a freestanding sign at a) a height of 26.5 feet where a maximum of 20 feet is allowed and b) two freestanding signs at a setback of 3 feet where 10 feet is required. Said property is located on Assessor Map 239 Lot 11 and lies within the Gateway Corridor (G1) District. (LU-25-39) – **REQUEST TO POSTPONE**

DECISION OF THE BOARD

*The petition was **postponed** to the June 17 meeting.*

III. NEW BUSINESS

A. The request of **Deer Street Hospitality LLC (Owners)** for property located at **165 Deer Street** whereas relief is needed for a marquee sign and a freestanding sign which requires the following: 1) Variance from 10.1251.20 for a 67.5 s.f. marquee sign where 20 s.f. is allowed; 2) Variance from 10.1273.10 to allow a marquee sign to be placed on top and to be 24 inches tall; 3) Variance from 10.1253.10 to allow a freestanding sign to be setback 0 feet where 5 feet is required. Said property is located on Assessor Map 125 Lot 17 and lies

within the Character District 5 (CD5), Municipal (M), and Downtown Overlay Districts.
(LU-25-60)

SPEAKING TO THE PETITION

[Timestamp 41:15] Mike Leary of Sundance Signs was present on behalf of the applicant. He said the property was Homewood Suites by Hilton. He said there were several iterations since construction began, so they wanted to put the marquee sign on the top entrance of the building where it could be seen from Deer Street. He noted that other nearby hotels received variances for larger signs. He said his client wanted a 24” high sign where 18 inches was allowed for channel letters. He said part of that was the size of the building where the marquee was visible. He said the other request was for a zero setback, and he explained that there were building piers that ran up and were at the setback, so they wanted to just go in line with the piers of the building that were zero to one foot from that property line. He reviewed the criteria and said they would be met.

[Timestamp 46:53] Mr. Rheume said there appeared to be a property line near Sign C and there was some distance between the property line and the sign, but it was advertised as zero feet. He asked if there was some setback for the sign. Mr. Leary said there were two building piers on the drawing. Mr. Rheume said those piers seemed closer to the property line and that he believed the sign was actually set back a few feet. Ms. Harris said the number was rounded because it was so close. Mr. Rheume asked if there was an easement related to the hotel property due to the driveway that went on the neighboring property and was used to access the turnaround drop-off area for the hotel use. Mr. Leary agreed. Mr. Rheume said the marquee sign was limited to 20 square feet but it was indicted that it was 67 square feet as a result of the 2-ft high letters, which he further discussed. He asked if the letters were hollow. Mr. Leary said they were standard channel letters so there was space between them except from the side view that showed the mounting and where the wire was run. Mr. Rheume asked if most of the height of the letters were open air, and Mr. Leary agreed. It was further discussed. Mr. Nies asked why the marquee sign and freestanding sign in the front of the building were right next to each other and what purpose the freestanding sign served. Mr. Leary said the marquee sign was elevated so that someone coming down the road and turning onto the right-of-way would see the space that allowed that person to pull in.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 53:08]

*Mr. Rheume moved to **grant** the variances for the petition as presented and advertised, seconded by Mr. Mattson.*

Mr. Rheume said the marquee sign and the square footage associated with it seemed quite a bit larger than what the ordinance allowed, but the overall square footage was sort of overestimated by the way it was looked at from a zoning ordinance standpoint. He said some of the lettering was one foot high, but the lettering was open, so it was not like a massive sign. He said the fundamental feel of it would be something different from being 67 square feet and two feet high. He said the small sign on the ground would be needed because the marquee sign would not be seen once someone approached the building, from a traffic standpoint. He said it would reinforce the turn-in to vehicles turning into the drive on the neighboring property. He reviewed the criteria and said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said the applicant's signage for the building was overall modest compared to the much larger signage of some of the other nearby hotels, so there were similar things seen in the neighborhood that would not make the applicant's sign look and appear different. He said the applicant met the spirit and general characteristics of the neighborhood. He said granting the variances would do substantial justice because there was nothing in the public interest from a traffic safety standpoint to indicate that it was not decent signage. He said it was relatively modest signage that served the public interest and would not outweigh the applicant's need to properly display information about his hotel that would allow guests to find it. He said it would not diminish the values of surrounding properties because the area was a highly commercial one. He said the signage would not be imposing in a way that would negatively affect the property values of the other commercial buildings. He said the hardship was the setback for the freestanding sign because it was slightly set back from the property line, but the property line was tight and there was also an easement that went across onto the neighboring property for the road. He said under normal circumstances the Board would not have had a discussion about the setback for Sign C. He said it was on the neighboring property but was guaranteed by an easement, so the affected property line was farther away, which was a unique characteristic about the property. He said the property was situated on a corner and there was not a lot of opportunity for a wall sign, so using the marquee sign made the most sense. He said a unique set of circumstances drove the signage and was in keeping with what the Board was trying to do to minimize the amount of signage in their character districts. Mr. Mattson concurred. He said the freestanding sign was located between the two pillars of the building and the building was slightly closer to the property line than the sign, so it seemed reasonable. He said the convincing factor about the marquee sign was that the letters were see-thru ones and made the sign very different than if it were a solid one.

[Timestamp 59:22] Mr. Nies said he would not support the motion. He said he had no problem with the freestanding sign because it served the purpose, nor with the location of the marquee sign or the fact that it was lighted, but he said the ordinance was clear about the sign sizes in that area and that he heard no justification as to why the sign needed to be larger than what was called for in the ordinance. Chair Eldridge said the sign ordinance changed the dimensions for different districts but did not take into account the size of the building that the sign was being put on. She said she thought that those sign restrictions did not mean a lot when one building might be a third of the size of another building. She said the applicant's proposed sign was a reasonable scale for the building and that she would support it. Mr. Rossi said he shared that concern but thought that, since there was no backing to the letters, the actual square footage of the sign was quite a bit smaller than

presented. He said he did not think that the applicant needed anything close to 64 square feet. He suggested that the motion have a condition to indicate that the Board was not approving a 64-sf sign. Ms. Harris said that was the way the Planning Department measured the sign.

*The motion **failed** by a tie vote of 3-3, with Mr. Nies, Mr. Mannle, and Mr. Rossi voting against. (The motion would have needed four affirmative votes to pass).*

*Mr. Mannle then moved to **deny** the request. There was no second.*

*Mr. Rossi moved to **grant** the variances for the petition, with the following **condition**:*

- 1. The sign shall not be constructed with a backing behind the letters.*

Mr. Mattson seconded the motion.

[Timestamp 1:03:37] It was further discussed. Mr. Rossi restated his motion.

*Mr. Rossi moved to **grant** the variances for both the location of the freestanding sign and the square footage of the marquee sign, with the following **condition**:*

- 1. The letters shall remain as freestanding letters and shall not have a backing.*

Mr. Mattson seconded the motion.

Mr. Mattson said he understood why the Planning Department defined the signage square footage the way they did because if the sign were a see-thru one, the font thickness and letters would have to be determined, but because of that, he thought the sign had a very different feeling than if it were a solid sign, so with the condition included, he thought it was a reasonable relief request. Mr. Nies said he did not understand how the motion was different than the earlier one. Mr. Rheaume explained that in his opinion the motion was different because it helped clarify the intent of the Board.

*The motion **passed** by a vote of 4-2, with Mr. Nies and Mr. Mannle voting against.*

- B. The request of 3201 Lafayette Road LLC (Owners) and Jessica King (Applicant) for property located at 3201 Lafayette Road** whereas relief is needed to allow a group daycare facility which requires the following: 1) **Special Exception** from Section 10.440, Use #7.12 to allow a group daycare facility where it is allowed by Special Exception. Said property is located on Assessor Map 291 Lot 8 and lies within the Gateway Corridor (G1) District. (LU-25-49)

SPEAKING TO THE PETITION

[Timestamp 1:09:25] The applicant/owner Jessica King was present and reviewed the petition. She explained the boutique style of learning that her current daycare center had and said the care would

be provided on the ground level of the building for children six weeks old up to two years and that the second floor would be for pre-K to Grade 2 and for partial and day programming. She described what the interior would look like and said the outdoor space would include green space and fencing for the play area. She said there would be 20 parking spaces that could maximize the enrollment at 40 children. She said the parents would drop the children off to a childcare employee in front of the center and then would be free to go. She reviewed the special exception criteria

[Timestamp 1:18:31] Mr. Nies said the building was capable of handling 60 students but the parking limited the number to 40. He asked if the applicant could envision expanding the parking lot to move the number up to 60. Ms. King said they liked to operate between having 20 to 50 children, so 40 was a good number that allowed them to provide a higher level of care but still meet the needs of a significant amount of children. She said she did not envision increasing the number of parking spots. Mr. Rheume verified that, of the two structures on the property, the two-story one would have the daycare use and the applicant would have nothing to do with the other building. Mr. Rossi asked where the fenced-in play area would be. Ms. King said it would be to the right of the building as one faced it and would be well set back from Lafayette Road. Mr. Rossi asked about the parents who would be coming southbound on Lafayette Road to drop their children off and then would have to turn left onto Lafayette Road. Ms. King said her current daycare location was also on Lafayette Road and encountered the same type of issue and had not received a lot of feedback about it. She said there was a traffic light intersection at the proposed location that would allow people to exit easily. Mr. Rossi said he was also concerned about a six-year-old darting out into Lafayette Road traffic if they wandered out of the fenced-in area, and he verified that the area was only accessible from the building. Mr. Mattson asked about the timing of drop-offs and pick-ups. Ms. King said they asked parents to give them a 25-minute window and that they limited it to a certain number of families. She said they did not get a lot of partial day programming. She said they were open from 7 a.m. to 5 p.m. and had a busy half-hour to 45-minute morning drop-off. She said they had no traffic issues with that at their present location.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD [Timestamp 1:25:03]

*Mr. Nies moved to **grant** the special exception for the petition as advertised and presented. Mr. Mannle seconded.*

Mr. Nies said the use was permitted in that zone and had no specific standards applied to it, so it complied with the ordinance. He said granting the special exception would pose no hazard to the public or adjacent public on account of potential fire, explosion, or release of toxic materials. He said a daycare did not involve any of those activities and that it was a commercial area and the

daycare activity was allowed by special exception, so it was difficult to see how it would have any detriment to any property values. He said the daycare would be near some residential areas but was a large property that was set off, so he could not imagine that it would have any impact. He also noted that there was no evidence provided that the daycare would have an impact on property values and that minor changes such as fencing would not affect the neighbors. He said granting the special exception would pose no creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity. He said the applicant showed that they have a plan for drop-off and pick-up, which would have a regulated traffic flow on the property, with people entering in one spot and exiting at another spot. He said the parents would be entering and exiting from busy Route One, but a little over a block away to the north was a traffic light that would interrupt the flow of traffic a bit, which should help people merge if they decided that they had to go southbound. He said the applicant also had a plan to space out the arrivals and departures, which would help mitigate any traffic. He said 40 students were planned, so possibly 40 vehicles added on Route One twice a day was probably negligible considering the amount of traffic seen on Route One. He said there would be no excessive demand on municipal services because the daycare would be a daytime operation for 40 students and would not create an excessive load on water, sewage, waste disposal, or police and fire protection. He said the applicant was not planning any significant changes to the property at present, so there would not be a significant increase in stormwater onto adjacent properties and nearby streets. He said the petition met all the requirements for a special exception and should be granted. Mr. Mannle concurred and had nothing to add.

The motion passed unanimously, 6-0.

IV. OTHER BUSINESS

A. Zoning Board of Adjustment Rules and Regulations

[Timestamp 1:29:18] The Board discussed the BOA rules and regulations. Mr. Rossi referred to Section 6, Item 7, and asked about the meaning of the sentence ‘It is the Chair’s determination if there’s a deadlock and the request is denied’. Ms. Harris said it referred to tie votes. Chair Eldridge said it was part of the reason why the Board asked the motion maker to describe what failed so if it were denied, the Board had the means to protect themselves. Mr. Nies asked whether the sentence was needed, and he thought the idea of the sentence was that it was possible to get to a point where there would be a series of motions that all failed on a tie vote and the Chair would say that was enough and that they were done. Mr. Rheume said it reiterated the Chair’s power of saying that the Board was deadlocked and would consider the motion making at an end and gather some facts to inform the applicant of the Board’s thinking. Mr. Rossi suggested a clearer wording. It was further discussed and the Board decided to amend the sentence to say: ‘The Chair may make the determination that there is a deadlock and the request is denied’.

Mr. Nies asked about the redlined version in Section 7, Item 4 and whether it was supposed to say ‘an application for a variance OR a special exception’ instead of saying ‘an application for a variance OF a special exception’. It was decided that it was a typographical error and that it should say a variance OR a special exception.

Chair Eldridge referred to Section 4, Item 6, when the Board talked about meeting minimum requirements and said she wanted to get rid of the word ‘minimum’ because she felt that the petition either met the requirements or it did not. It was decided that the word ‘minimum’ would be struck anywhere it said ‘minimum requirements’.

Chair Eldridge asked Mr. Nies if he was satisfied with Mr. Rossi’s suggestion of four votes being necessary for a vote to pass. Mr. Nies agreed.

Chair Eldridge referred to Section 6, Item 12, the statement that no one would leave a meeting without permission without voting on a motion. Mr. Nies said the language was fine but odd, and he could not imagine that anyone would just get up and leave unless they were sick. Mr. Rheume suggested simplifying it to state that ‘no member shall leave a meeting without the permission of the Chair and justification for it’.

Mr. Nies said he thought it would be more transparent if someone who recused themselves announced why. Mr. Rossi said members may recuse themselves due to a personal relationship with the applicant. Chair Eldridge said the usual reason was that the person who recused was an abutter. Ms. Harris said the member could state the reason if they wanted to.

Mr. Rossi asked if the Board should be required to keep a training record so they could signify whether they attended training. Ms. Harris said it was good practice for members to log that information for themselves. Mr. Rheume said training was encouraged but not required to be a BOA member, and he thought keeping a log would be a personal thing. It was further discussed.

*Mr. Rossi moved to **approve** the amended BOA rules and regulations, with the addition of the changes that were made. Mr. Rheume seconded. The motion **passed** unanimously, 6-0.*

Chair Eldridge noted that alternate Jody Record resigned from the Board and that two new alternates would have to be found.

V. ADJOURNMENT

The meeting adjourned at 8:42 p.m.

Submitted,

Joann Breault
BOA Meeting Minutes Taker