

## **Planning Board Meeting Minutes 02/19/03**

To: WaterboroME\_PlanMin

Abstract: Planning Board Meeting Minutes

February 19, 2003

The Planning Board met with the Finance Committee to review the budget at 7 p.m. In attendance at this meeting was Sue, Tim, Dwayne, Teresa, Kurt, Roland and Everett. Dwayne states that the planning board has about \$50,000 in its budget including \$14,000 in designated funds. The operating expenses for the board were reviewed with the finance committee. The budget for a full time planner was reviewed. The planning board has discussed this after the budget proposal was written and they would like to see a part time planner / CEO be hired. The board isn't sure what the selectmen are going to do with hiring a code enforcement officer but they would like assistance with the planning end but don't think the work warrants a full time planner. Dwayne states he thinks there is enough money in the current budget to support a part time planner until town meeting.

Paul Verrell asks the board, "isn't the CEO busy enough?" It was explained that this request for a part time planner / CEO would be additional to the current CEO position, not in place of. Sue states that they wouldn't have to call the position town planner, we could call it planning administrator or assistant. Paul asks if the town planner would be writing grants. Sue states that yes if grants are available such as there is information that grant money could be possible for GIS mapping programs. The board has consultant money left in their budget which could be used to pay for the GIS programming which we are estimating to be about \$5-7,000. There will be a meeting with the selectmen at some point in the near future to discuss purchasing this program. Sue Dunlap states that purchasing this mapping program will save the board money in consultant fees.

Dave Fedrizzi asks does it make sense to the board to go with a CEO/ Planner or a full time planner? The planning board agreed that it makes more sense to go with a CEO/ planner.

At this time the board left to attend the public hearing scheduled in the other meeting room.

Public Hearing

### **I ROLL CALL**

Sue Dunlap called the public hearing to order at 7:30 p.m. for review of the York County Community Action Head Start Program. Michael Gallo from Gallo Construction and Tom Nelson the executive director for York County Community Action head start are present to review the project and answer questions.

Mike Gallo gave a description of the project first. This is a proposed wood framed building approximately 700' up Middle Road from Ossipee Hill Road on map 3 a portion of lot 58. It is a five acre parcel. The soil has been tested and the site has been fully engineered. The site drainage has been planned, the parking is adequate and they feel they

have addressed every requirement necessary for approval. The building will be on a concrete slab on a frost wall. It will have radiant heat. The expected life span of the building is 75-80 years and is designed to be maintenance free.

Sue states that based on the plan presented tonight that the planning board's requests have been addressed.

Tom Nelson reviews the operations side of Head Start. This program is proposed to serve 16-18 children ages 4-5 and will provide two daily meals. The daily program will begin at 8:30 a.m. and will consist of free play, breakfast and teeth brushing, group time, activity, outdoor play, story time, lunch and teeth brushing and then the kids will leave about 12:45 p.m. The program runs from September through May. There will be no evening or off season use of this building.

David Benton, Road Commissioner asks when do they want to start building because he has a project to finish on Middle Road and he would rather not do it before they bring in cement trucks on his fresh pavement. The town has completed the ditching and tree removal and has to pave before June first.

Mike Gallo states that they will begin to build immediately upon approval. They intend to get their building permit and start construction and by June 1 they should be done. The paving won't be done until after that though. Mike suggests that maybe they could coordinate the paving to be done at the same time and by the same company. Mike states that they have measured the site distance of the entrance and it meets the requirements of the town. Dave states that he thinks some tree work needs to be done to make the entrance safer. Dave states that to the right of the entrance there is a ledge knoll that if he could take out he could take the corner out and make that section of Middle Road safer. Mike Gallo states that although he has not purchased the property yet, there is a purchase and sales agreement that gives him the property rights to make the decision to allow Dave Benton to remove the ledge. Mike states that he would be very happy to allow David to do that and to give the town an easement. Dave states that this will increase the site distance at the entrance and that the town only wants permission to take the land out not to take the land. Mike states he has no problem putting that in writing.

Mike discusses the fact that this property is part of a 60-78 acre parcel and because of state zoning changes a 40 acre parcel is no longer exempt from subdivision.

At this time, Sue opened the floor for public input.

David Garnett resident of Middle Road states that he has a petition signed by 35 residents of Middle Road who do not want this project to be approved. It is in the AR zone and is not a commercial property.

Sue states that there is no such thing as commercial land. The AR zone does allow certain businesses. To clarify this is not an issue of this use being a violation. Mr. Garnett states that he has already hired an attorney to sue the town if this project is approved. They don't want the extra traffic and they want to maintain Middle Road as a residential road. They are going to fight this and that will include going to court.

Sue read from section 3.06 the primary uses in the AR zone without planning board approval. Zoning is voted on at town meeting. Sue states that this land is actually in the F

& A zone and read the primary and conditional uses from section 3.09.

Tim Neill states that the board cannot legally deny something that is allowed by zoning. The board does not have that option. Sue adds that the board can't deny the application and the planning board has to do what the law provides for or the applicant can sue the town.

Dave Garnett states that what the board is saying is that 100 residents opinions don't matter and the board doesn't care. Sue states that the residents can get a petition and draft a zoning change.

Nancy Peterson states that she is concerned about traffic and property values. Doesn't something have to be done about traffic? Middle Road is in a constant state of repair.

Teresa Lowell asks what is the level of road? Dave Benton states that it is not a collector road. It is a local road.

Mike Gallo states that the kids will be dropped off in private vehicles. The worst case scenario there will be 32 cars per day. Mike adds that half the people will be coming from the other direction.

Chris Ellerson states that at one time there was a pre-school on Middle Road and even though his kids went there he was happy when it left. He adds that his father started a head start school in New Hampshire and that Middle Road is a back road and this is a poor choice. No one wants it on Middle Road. What is there for security? He wouldn't want his kids going there.

Teresa Lowell states that it is interesting that Mr. Ellerson refers to Head Start as a school. There is discussion regarding the use of the application. Is it a school or a daycare. Tom Nelson presents the license issued by the state of Maine to the board for their review. YCCA Head start program is licensed as a daycare by the state of Maine.

Tom Nelson states that the reason the building is being located here is that the number of kids needing to be served. Waterboro is the highest growth area and this lot is centrally located and will fit a playground. It is not so far out. Around the corner is the Middle School. The price of the property was right for YCCA.

Sue read the letter from the town attorney that states the code enforcement officer interprets the application and determines whether the use is an allowed use in the zone. The state licenses YCCA head start as a daycare. It is not the planning board's call to make a zoning interpretation.

Russell Lowell states that he lives on Middle Road. Head start is a fantastic program and he is glad to see it coming to Waterboro. His concern is that the lot is in the F & A zone and that head start is being called a daycare. According to the head start national website this is not a childcare facility.

Tom Nelson states that he would like to site some differences between schools and daycares. The people head start hires do not have to have the same credentials as schools. The state of Maine has licensed them as a daycare for 38 years and regulates them as such. The rules they have to follow are regulated by the department of human services.

Russell Lowell states that in terms of licensing under DHS do they turn into a school if

legislation passes that wants to move head start from DHS regulation to the Dept. of education. What are the ramifications of that proposed legislation?

Tom states that this is a block grant from the state proposed for 2005 and he doubts it will pass.

Sue states the board cannot hold up an application process for proposed legislation.

Teresa Lowell asks what would happen if the board approved this project and the legislation did pass in 2004? Sue states then the daycare would be grandfathered as all other zoning changes that change existing uses.

Sue adds that the board has no jurisdiction to decide whether this is a daycare or a school. This was the CEO's call to make.

Chris Ellerson asks the board if the petition means nothing? He asks what kind of taxes does this business pay and is the town going to give them a tax break or is this a tax free thing? Sue answers that this has nothing to do with the planning board and he will have to ask Jerry Daigle the town's assessor.

Mike Gallo states that he would like to re-cap two major issues. He will not address the personal feelings of people on the street or whether this is a daycare or not. The traffic study done for the entrance took into consideration turning left and right from the entrance. This can be done quickly because there is room within the site for stacking of cars. The straightness of the entrance allows people to see before they go onto Middle Road.

Mr. Garnett asks who is going to pay for the road improvements of taking out the ledge and widening that corner? Sue states that town meeting has approved the repair of that section of Middle Road at last April town meeting. Sue added that now with Mr. Gallo's permission the town could take the ledge out and make that corner even safer. Without that, the town wouldn't be able to do that.

Mike Gallo states that the balance of this land on Middle Road is going to be developed as housing units. He understands where the residents are coming from but they can't stop growth.

Tim Neill asks the residents who live across the street to speak as they live as close as anyone else to this project.

Bob McKay states that he lives on 30 Middle Road, he is the first house. He doesn't know how a traffic study was done on this street but where traffic comes around this corner at incredible speeds. He would not want his kid coming out onto that road and he doesn't want to see 32 more cars traveling that road.

Sue states this isn't just a Middle Road problem. She lives on Deering Ridge Road and it is too dangerous for a bus to stop at her house. The speed and corners make it very dangerous. Middle Road has the least amount of issues compared to other roads.

Bob McKay asks if they will be putting up caution signs and posted speed limits.

Sue asks Dave Benton if this will be done. Dave says yes it will. Sue adds that enforcement is the issue not restricting people from building according to zoning.

Bob McKay thinks it's a shame this is going in a residential zone.

Tim Neill states that this project will have to maintain a greenbelt, as the ordinance requires. The rest of the site will remain intact. The pavement will be at least 25 feet from the front lot line.

Mike Gallo thinks it would help if these people looked at the plans. This is going to be built to look like a house with gables at the end. Yes they are going to add some traffic but this is such a minimal use. As far as the taxes go, the town will be getting a lot more tax dollars from this use than if it were a house.

Sue adds that there will be 16 cars maximum in the a.m. and in the afternoon. With one small subdivision of 8 houses there will be more traffic than that. There is 40 acres of land here and if this proposal were for houses would they be as opposed? This is less invasive to the property than a subdivision.

Sue states that unless someone has something new to say the board will have to move on.

Teresa Lowell states she wants to address the issue of whether this is a daycare or a private school. She thinks it is a private school. Sue points to the letter from Ken Cole stating that it is not the planning board's jurisdiction to determine what the use is and talking about it tonight is not going to get the board anywhere. Sue suggests anyone who questions it goes to the CEO to challenge this.

Sue closes the public hearing at 8:30 p.m.

The public hearing to review proposed zoning is opened at 8:30 p.m.

Sue reviews proposed amendments as follows:

ARTICLE : Shall the townspeople vote to amend Article 3 Section 3.01 and 3.02

To read:

Section 3.01 General - For the purpose of this ordinance the Town of Waterboro is divided into the following seven (7) districts; a Village district (V); a Village/Residential district (VR); an Agriculture - Residential district (AR); a Forest and Agriculture district (FA); a Conservation district (C); and a General Purpose district (GP). In addition to these districts, the Town of Waterboro has two (2) overlay districts; the Shoreland Overlay Districts divided into four (4) subdistricts; Resource protection, Limited Residential, Limited Commercial and Stream Protection as described in section 7.01; and the Well-head protection districts divided into three (3) subdistricts; District #1, District #2 and District #3 described in section 7.06. (Amended 6-3-95, 3-11-00, 6-24-00, 4-27-02

Now reads:

Section 3.01 - For the purpose of this ordinance the Town of Waterboro is divided into the following six (6) districts; a Village district (V); a Village/Residential district (VR); an Agriculture - Residential district (AR); a Forest and Agriculture district (FA); a Conservation district (C); and a General Purpose district (GP). In addition to these districts, the Town of Waterboro has two (2) overlay districts; the Shoreland Overlay Districts divided into four (4) subdistricts; Resource protection, Limited Residential, Limited Commercial and Stream Protection as described in section 7.01; and the Well-

head protection districts divided into three (3) subdistricts; District #1, District #2 and District #3 described in section 7.06. (Amended 6-3-95, 3-11-00, 6-24-00, 4-27-02)

To read: Section 3.02 - Zoning map - The boundaries of these seven (7) zones are established by the enactment of this Ordinance and are as shown on the Official Zoning Map of the Town of Waterboro, dated February 7, 1977; the Town of Waterboro Wellhead Protection Zone Map; and on the 1970 Town Maps. The Official Zoning Maps are integral parts of this certified copy of the zoning ordinance (maps and text) shall be available to the public at all times in the Town Clerk's office. The February 7, 1977, and as further amended from time to time, zoning map was drafted so that the zoning district boundaries followed property lines as depicted on the 1970 maps. It should be interpreted accordingly. (amended 3-11-89 & 3-11-00)

Now reads:

Section 3.02 - The boundaries of these six (6) zones are established by the enactment of this Ordinance and are as shown on the Official Zoning Map of the Town of Waterboro, dated February 7, 1977; the Town of Waterboro Wellhead Protection Zone Map; and on the 1970 Town Maps. The Official Zoning Maps are integral parts of this certified copy of the zoning ordinance (maps and text) shall be available to the public at all times in the Town Clerk's office. The February 7, 1977, and as further amended from time to time, zoning map was drafted so that the zoning district boundaries followed property lines as depicted on the 1970 maps. It should be interpreted accordingly. (amended 3-11-89 & 3-11-00)

ARTICLE : Shall the townspeople vote to amend Article 3 Section 3.03 and Section 3.10 and paragraph one of Section 2.06 of the Waterboro Zoning Ordinance to read

To Add: General Purpose: Minimum Road & Shoreland Frontage 150'

Now Reads: General Purpose: Minimum Road & Shoreland Frontage was not specified.

Section 3.10 paragraph 2 to read:

Section 3.10 - General Purpose Zone (GP) - The minimum lot size in the General Purpose District (GP) is 40,000 sq. ft. depending on the lot being served by the public water system. If the lot is not served by public water the minimum lot size is 80,000 sq. ft. Any lots under 80,000 sq. ft. will be required to be served by public water supply. The minimum lot width and frontage requirements of 150' will be required No principle or accessory structure may be placed within thirty-five (35) feet of any side or rear lot line. Such structures must be set back fifty (50) feet from the front lot line. No principle or accessory structure may exceed thirty-five (35) feet in height. See section 2.06 for minimum lot width and frontage requirements. Abutting properties purchased that do not fall within the General Purpose (GP) District will retain their original zoning requirements

Now reads:

The minimum lot size in the General Purpose District (GP) is 40,000 sq. ft. depending on the lot being on the public water system. If the lot is not on public water the minimum lot size is 80,000 sq. ft. Any lots under 80,000 sq. ft. will be required to be on public water supply. No principle or accessory structure may be placed within thirty-five (35) feet of

any side or rear lot line. Such structures must be set back fifty (50) feet from the front lot line. No principle or accessory structure may exceed thirty-five (35) feet in height. See section 2.06 for minimum lot width and frontage requirements. Abutting properties purchased that do fall within the General Purpose (GP) District will retain their original zoning requirements.

To Read:

Section 2.06 Site Restrictions - All lots shall abut upon an existing or proposed road which meets all municipal and other applicable government regulations and standards or, if landlocked, shall have a legally recorded access right-of-way, of no less than fifty (50) feet in width, to a public or private road. All lots, with the exception of landlocked lots, shall have a minimum road and/or water frontage of one hundred (100) feet in the Village zone, one hundred (100) feet in the Village/Residential zone except on cul-de-sacs where fifty (50) feet will be required, one hundred fifty (150) feet in the Residential, the Agriculture/Residential and the General Purpose zones and two hundred (200) feet in the Forest/Agriculture and Conservation zones. Situations involving or utilizing cul-de-sacs, curvilinear streets, cluster design or planned unit design permitted by the Subdivision Regulations or by this ordinance (see Section 8.02 and 8.03) when the Planning Board determines that these frontage requirements are not practical it may approve frontage reductions of up to fifty (50) percent. (Amended 3/11/89 & 3/11/00)

Now Reads:

Section 2.06 Site Restrictions - All lots shall abut upon an existing or proposed road which meets all municipal and other applicable government regulations and standards or, if landlocked, shall have a legally recorded access right-of-way, of no less than fifty (50) feet in width, to a public or private road. All lots, with the exception of landlocked lots, shall have a minimum road and/or water frontage of one hundred (100) feet in the Village zone, one hundred (100) feet in the Village/Residential zone except on cul-de-sacs where fifty (50) feet will be required, one hundred fifty (150) feet in the Residential, the Agriculture/Residential zones and two hundred (200) feet in the Forest/Agriculture and Conservation zones. Situations involving or utilizing cul-de-sacs, curvilinear streets, cluster design or planned unit design permitted by the Subdivision Regulations or by this ordinance (see Section 8.02 and 8.03) when the Planning Board determines that these frontage requirements are not practical it may approve frontage reductions of up to fifty (50) percent. (Amended 3/11/89 & 3/11/00)

ARTICLE : Shall the townspeople vote to amend Article 2 Section 2.10 paragraph 1

To read: Site Plan Review and approval by the Planning Board shall be required before issuance of a building permit or certificate of occupancy for any commercial building or structure, or the expansion of any commercial use or structure including but not limited to: Office buildings, multi-family residences; shopping centers; mobile home parks; travel trailer parks; and commercial complexes as provided in the Town of Waterboro Site Plan Review Ordinance adopted June 28, 1988.

Now reads: Site Plan Review and approval by the Planning Board shall be required before issuance of a building permit or certificate of occupancy for any building or structure or

any expansion of any building or structure of 1,000 square feet or more; including but not limited to: Office buildings; multi-family residences; shopping centers; mobile home parks; travel trailer parks; and commercial complexes as provided by the Town of Waterboro Site Plan Review Ordinance adopted June 28, 1988.

ARTICLE : Shall the townspeople vote to amend Article 4 Section 4.01 paragraph 3

To Read: If the Planning Board feels it is necessary to either gather information, resolve conflicting information, or to inform the public, it may hold a hearing, pursuant to the provisions of Section 13.07, before deciding an application to commence a conditional use. The Applicant is required to notify abutters of the property of the conditional use that applied for within 10 days prior to the scheduled Planning Board meeting. This notice shall inform the abutters of the application for conditional use, the date and time of the meeting and that the abutters must submit their concerns in writing to the planning board prior to the meeting date.

Now Reads:

If the Planning Board feels it is necessary to either gather information, resolve conflicting information, or to inform the public, it may hold a hearing, pursuant to the provisions of Section 13.07, before deciding an application to commence a conditional use.

ARTICLE : Shall the townspeople vote to amend Article 12 Section 12.01 to add the following:

## Code Enforcement Re-Inspection fee \$25.00

## Renewal permit fee \$50 (see Section 2.03)

Building Permit Fee shall not be less than \$50.00 in any case except there shall be no fee if estimated cost does not exceed \$1,000 (see Section 2.03)- otherwise \$4.00 per One Thousand dollars of estimated cost. (Amended 3/12/88, 4/27/02)

Site Plan Review \$400.00

Now Reads:

Building Permit Fee shall not be less than \$25.00 in any case except there shall be no fee if estimated cost does not exceed \$1,000 (see Section 2.03)- otherwise \$4.00 per One Thousand dollars of estimated cost. (Amended 3/12/88, 4/27/02)

Site Plan Review \$200.00

ARTICLE : Shall the townspeople vote to amend Article 2 Section 2.03 and Article 12 Section 12.01 to add paragraph to require electrical permits.

Section 2.03 To Read: An electrical permit, designed to insure compliance with state law must be obtained from the Code Enforcement Officer as a requirement of the building permit application.

Section 12.01 to add: Electrical permit fee \$25

ARTICLE : Shall the townspeople vote to amend Article 9 Section 9.05 paragraph 1



To Read: Nonconforming single lots of record on the date of enactment of this ordinance may be utilized as provided in Section 2.08. Two or more contiguous lots of record in common ownership at the time or since adoption or amendment of this ordinance, shall be combined and treated as a single lot or parcel of land. If the dimensional or area requirements of the district in which the combined parcel is situated are not met development shall be in conformance with the provisions of this ordinance.

Now Reads: Nonconforming single lots of record on the date of enactment of this ordinance may be utilized as provided in Section 2.08. Two or more contiguous lots of record in common ownership on the date of enactment of this ordinance, shall be combined and treated as a single lot or parcel of land. If the dimensional or area requirements of the district in which the combined parcel is situated are not met development shall be in conformance with the provisions of this ordinance.

ARTICLE : Shall the townspeople vote to amend Article 3 Section 3.03 to add a paragraph:

Lots divided by district boundaries: When a lot is divided by a land use district boundary, other than the boundary to an overlay zone, the following rules shall apply:

A. On lots two acres or less in area, the lot shall be used as if the entire lot were in the district which comprises the larger portion.

B. On lots larger than two acres, the district regulations shall be followed in each portion.

ARTICLE : Shall the townspeople vote to amend Article 2 Section 2.06 paragraph 1 sentence 1;

To Read: No building permit shall be issued to erect any structure on a lot without frontage on a public way unless an access road meeting the following criteria has been constructed within a deeded right of way, a minimum of fifty feet in width. The access road shall be constructed to a minimum width of twelve feet in width if serving one dwelling unit, and fifteen feet if serving two dwelling units. The access road shall contain a minimum depth of fifteen inches of bank run gravel and have drainage ditches and culverts at all appropriate points as determined by the Waterboro Road Commissioner. Such an access road shall serve no more than two dwelling units. Any access road serving between three and eight dwelling units shall meet the road design and construction standards for a low volume road but need not be paved. Any access road serving more than eight dwelling units shall meet the road design and construction standards of the Town of Waterboro for local roads. All privately owned roads will remain private until such time as all the requirements of the Town of Waterboro Street Design Ordinance are met and the road has been approved and accepted by the voters at an annual town meeting. (still waiting for wording from road review committee but this is the intent). For fire protection purposes all access roads must be maintained and plowed the required width of the road.

B. No building permit shall be issued to erect a structure which is located more than 100 feet from a public or private road unless an access road meeting the condition standards of section A. above has been constructed.

Now Reads: All lots shall abut upon an existing or proposed road which meets all municipal and other applicable governmental regulations and standards or, if landlocked, shall have a legally recorded access right of way of no less than fifty (50) feet in width, to a public or private road.

ARTICLE : Shall the townspeople vote to amend Article 3 Section 3.06.01 and section 14.02 to add Contractor Business as a permitted use in the V, AR and GP zoning districts.  
Add definition to Section 14.02

Contractor Business: A business engaged in the provision of services off the premises, but which has an office and equipment / materials stored on the premises.

ARTICLE : Shall the townspeople vote to amend Article 14 section 14.02 to change the reference to parking spaces to correspond with Article 5's definition of parking:

To Read: Parking area: An unobstructed area consisting of one or more 200 sq. ft. parking spaces no part of which is located in or on any public or private right of way and the principle use of which is the temporary storing and maneuvering of vehicles.

Now Reads: Parking area: An unobstructed area consisting of one or more 222 sq. ft. parking spaces no part of which is located in or on any public or private right of way and the principle use of which is the temporary storing and maneuvering of vehicles.

ARTICLE :

To Read: Shall the townspeople vote to amend Article 7 Section 7.02 A to correspond with allowed uses in Sections 3.04 and 3.05.

To Read: Authority and Purpose (1) Notwithstanding other provisions of this Ordinance, the Planning Board in reviewing and approving proposed mobile home park developments in the Residential Zone, shall apply the provisions of this section, as well as the requirements of the Waterboro Land Subdivision Regulations and Waterboro Mobile Home Park & Trailer Park Ordinance. Where the provisions of this section conflict with specific provisions of the Town of Waterboro Land Subdivision Regulations and/or the Town of Waterboro Mobile Home Park & Trailer Park Ordinance, the provisions of this section shall prevail.

Now Reads: Shall the townspeople vote to amend Article 7 Section 7.02 A. Authority and Purpose (1) Notwithstanding other provisions of this Ordinance, the Planning Board in reviewing and approving proposed mobile home park developments in the Village and Residential Zones, shall apply the provisions of this section, as well as the requirements of the Waterboro Land Subdivision Regulations and Waterboro Mobile Home Park & Trailer Park Ordinance. Where the provisions of this section conflict with specific provisions of the Town of Waterboro Land Subdivision Regulations and/or the Town of Waterboro Mobile Home Park & Trailer Park Ordinance, the provisions of this section shall prevail.

ARTICLE : Shall the townspeople vote to amend Article 2 Section 2.03 to add this paragraph just prior to paragraph three.

Prior to the issuance of any occupancy permit for any structure with a potable water

supply system, a water quality analysis demonstrating that the State of Maine Safe Drinking Water Guidelines are met shall be submitted to the Code Enforcement Officer.

ARTICLE: Shall the townspeople vote to Amend Section 14 of the Waterboro Zoning Ordinance to add amend the definition of Substantial work.

To Read: Substantial work: (actual construction) a term evidencing the point at which a nonconforming use status arises and/or that degree of reliance upon a building permit or variance sufficient to prevent its expiration for non-use. The point at which the planning and site preparation phase of a project gives way to actual construction aimed at bringing the contemplated structure or use into being. Documentation of an approved inspection of a completed foundation is sufficient to meet the requirements of substantial work.

Now Reads: Substantial work: (actual construction) a term evidencing the point at which a nonconforming use status arises and/or that degree of reliance upon a building permit or variance sufficient to prevent its expiration for non-use. The point at which the planning and site preparation phase of a project gives way to actual construction aimed at bringing the contemplated structure or use into being.

ARTICLE: Shall the Town of Waterboro vote to amend the Waterboro Subdivision Regulations, General Requirements as follows:

To add to Section 7.2 the following two paragraphs:

9. The subdivider shall receive written approval from the E911 coordinator of any proposed road names prior and show the road names on the final plan. The applicant shall mark on the plan, lines or dots in the center of the streets at every fifty (50) foot interval so as to aid in the assignment of numbers to structures subsequently constructed and all other requirements set forth in conformance with the E911 ordinance adopted June 3, 1995.

10. Wherever any residence or other structure is developed, it shall be the duty of the lot owner to procure the assigned number from the E911 coordinator. This shall be done at time of issuance of the building permit.

#### Section 8.7

To Read: 8.7 Fire protection: The Board shall require one of the following forms of fire protection for all developments and the applicant shall provide written verification from the fire chief that their proposal meets his approval.

for every five houses or units the devlepor shall provide one of the following means of fire protection:

Sprinkler system installed in the house;

provide a 10,000 gallon cistern;

hook up to town water system and provide a hydrant every 8-10,000 feet;

construct a fire pond that will sustain a minimum of 20,000 gallons of water and a hydrant that meets the standards of the Waterboro Fire Department;

There shall be a written maintenance plan on the final plan for the annual maintenance and upkeep of any and all fire protection devices or ponds.

Now Reads: 8.7 Dry Hydrants

8.7.1 The Board may require that the developer provide, under the direction of the Fire Chief, a dry hydrant for fire protection.

Shall the townspeople vote to amend the Town of Waterboro Site Plan Review Ordinance as follows:

Add section III. Design Standards and change current section III. Administration to section IV, change current section IV. Definitions to Section V;

Architectural Design:

a. The purpose of these guidelines is to provide design standards with which to assist the development or renovations of commercial properties to compliment the overall rural atmosphere of the Town of Waterboro. The guidelines are directed towards, but are not limited to, assisting corporate franchises and commercial development in the design of structures which reflect the small town atmosphere of Waterboro. Consideration must be given to scale and pedestrian orientation for the design of, or renovation of a commercial structure so as to make it fit in and compliment the surrounding neighborhood. Consideration must be made to encourage the ability of pedestrians to gain access where none is currently provided between commercial buildings to include but not limited to sidewalks.

b. The objective of these regulations is not intended to restrict imagination, innovation or variety in the new construction or renovation of commercial buildings and related property, but rather to encourage continued economic development, conserve property values and further enhance the visual appearance of the community with these standards in mind:

Design Standards

Monotony of design or warehouse style structures shall be avoided. Variation in detail, form and siting shall be used to provide visual appeal. In order to prevent the construction of warehouse style buildings - buildings with long horizontal rooflines - all new buildings and additions shall have pitched roofs of 3:12 or greater or gabled roofs, where practical. In cases where pitched roofs are not practical, the use of false building fronts shall be used to imitate pitched roofs to vary the horizontal lines along portions of the façade to create the appearance of multiple attached buildings. All sides of a structure should receive design consideration. In commercial structures with over 100 feet parallel to the road front, building elevations facing the road shall be designed to give the appearance of multiple attached buildings. Wherever possible, all roof top mechanical units shall be located so as not to be visible from the street level or from public areas from ground level.

The exterior surfaces of all buildings shall be covered with wood or vinyl clapboard, wood or vinyl shingles or brick. Pitched roofs shall be constructed with shingles, metal roofing (with consideration made to a snow fall area) or other materials traditionally used in this region.

Windows shall comprise no less than 10 % and nor more than 40% of the exterior wall surface of the portions of the building facing the road front. Windows may be used for either interior illumination or for display purposes.

**Landscape:**

Boundaries with existing residential properties must be planted with vegetative screening which will create an effective visual barrier from the ground level to a height of ten feet. If the existing vegetative cover meets the intent of this standard the existing cover may be maintained.

**Design of Drive thru facilities:** Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive through facility shall be located in the area of the site adjacent to a residential use or residential zone. Communications systems must not be audible on adjacent properties to residential uses. Vehicular access to the drive-through shall be a separate land that prevents vehicle queuing within normal parking areas. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street, within the entry from the street, or within designated parking areas. The drive through must not interfere with any sidewalk or bicycle path.

**Amend Section II 12. to read:**

The proposed water supply will meet the demands of the proposed use or for fire protection purposes. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

**Amend Section III. Administration by adding the following sections:**

**Recording of the Approved plan:** One copy of the approved site plan must be recorded in the York County Registry of Deeds within thirty (30) days of approval and a certified copy with the book and page number provided to the Code Enforcement Officer. Failure to record the plan within thirty (30) days shall void the approval. The Planning Board may extend this period for cause.

**Improvement Guarantees:**

(1) **Improvement Guarantee** - The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in subsection 2 below as reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

(2) Upon substantial completion of all required improvements, the developer must notify the Planning Board of the completion or substantial completion of improvements, and must send a copy of such notice to the appropriate municipal officials. The respective municipal officials shall inspect all improvements and shall file a report indicating either approval, partial approval, or rejection of such improvements with a statement of reasons

for any rejection.

(3) The Planning Board shall either approve, partially approve or reject the improvements on the basis of the report of the municipal officials.

(4) If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

2. Form of Guarantee - Performance guarantees may be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Town Manager, Town Planner, Board of Selectmen or Town Attorney.

(1) Security Bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in Maine.

(2) Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.

(3) Escrow Account. The applicant may deposit cash, or other instruments readily convertible into cash at face value, either with the municipality, or in escrow with a bank. Any such account must require Town approval for withdrawal and must stipulate that the Town can withdraw the money upon forty-eight (48) advance notice to the applicant to complete the guarantee improvements.

Minor changes to approved plans: Minor changes in approval plans necessary to address field conditions may be approved by the Planner or Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such changes must be endorsed in writing on the approved plan by the Planner or Code Enforcement Officer.

Approval Block: Space must be provided on the plan drawing for the signatures of the Planning Board and date together with the following words, "Approved: Town of Waterboro Planning Board."

Amendments to Approved plans: Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval. (A note on the plan submitted for final approval with this statement shall be required.)

Amend section III. G. To read: Appeals involving an action of the Planning Board under this ordinance shall be to the Zoning Board of Appeals. Any such appeal must be filed within thirty (30) days of the date upon which the Planning Board voted to take action on the application. Any aggrieved party may appeal the action of the Planning Board.

Add a section as follows:

## Administration and Enforcement

This ordinance shall be administered and enforced by the Code Enforcement Officer (CEO) appointed by the Municipal Officers.

It shall be the duty of the CEO or his/her agent to enforce the provisions of this ordinance. If the CEO or his/her agent shall find that any provision of this ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The CEO shall order the discontinuance of illegal use of buildings, structures, additions, or work being done, or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

The CEO is hereby authorized to institute or cause to be instituted, in the name of the municipality, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this ordinance; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this ordinance.

Any person, firm, or corporation being the owner of or having control or use of any building or premises who violated any of the provisions of this ordinance, shall be fined in accordance with Title 30A, §4452 and Section 12 of the Waterboro Zoning Ordinance. Each day such a violation to exist after notification shall constitute a separate offense. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

To amend Section III. I. To read: Each applicant shall pay a filing fee in the amount of \$400.00 at the time the application is submitted, and consultant fees as required by Article III, Section B.

There is discussion about cluster developments and road issues that have not been decided on yet. It is decided to come in to the meeting on Monday prepared to present revisions.

Chris Ellerson asks about the 10 year plan and the growth management ordinance. Sue states that the growth ordinance was developed according to state law. 70 houses is the minimum the town could limit to. This was based on the average of the last ten years of permits. Sue adds that the comprehensive plan is working on preserving areas of town to limit growth more. They are looking at designating growth areas where there can be differential growth permits.

The public hearing closed at 9:20 p.m.

The regular meeting opened at 9:25 p.m. with Gerald Gannett asking to address the board. He states that talking about the growth ordinance and a cap of 70 permits per years with 20 in Lake Arrowhead. He adds that the limit of 3 permits per year for other subdivisions

with a requirement to build internal roads is impossible to do. What is going to happen is there is going to be a flood of 3 lot subdivisions and the board or the town will have no control. This has created a problem. We are not directing growth and are creating sprawl not avoiding it.

Sue asks Gerald if he would support differential growth areas. Gerald says yes he would.

Sue states this is not the final answer. The comprehensive plan committee is trying to find a balance between economic growth vs. residential growth.

## II. APPOINTMENTS

YCCA Head Start facility for final approval on Map 3 lot 58. The peer review was performed by Sebago Technics for the town and the letter from them was reviewed. Sue states that it appears that the technical questions the board had have been addressed. Kurt Clason points out that the well is not located on the plan. Mike Gallo states that they have not determined where the well is going to be yet. Dwayne states that Mike Gallo owns all the way around this project. The wellhead protection zone for a public well is 300 feet. Mike asks if they would like a well envelope on the plan? Mike adds that they have to meet the state standards for drinking water and DHS will test for lead and arsenic. He states the board could approve with the condition that the CEO approves of the well site before getting a building permit.

Sue reviews the checklist items. A hydro study is not required because the septic is designed for less than 800 gallons per day.

Mike states that he is planning to have the septic 300 feet from the well in case YCCA wants to expand the use in the future. Sue states that the application is for 16-18 kids and to add more kids would be a different intensity of review and would have to come back before the board for a change of the plan. Mike states he understands that and he is giving YCCA a better product for future use with that understanding.

The location of the nearest hydrant is the Kruegar fire pond. The state fire marshall will inspect the building. The fire chief has given his verbal ok of the building.

Tim Neill made the motion to approve the site plan application of YCCA head start contingent upon the well being placed on the plan and the well to be no closer than 300 feet to the septic system and be within the sideline setback of the property.

Sue states that she would like some mention of the agreement between the developer and the road commissioner in the motion. Mike states that this plan meets the requirements for site plan the way it exists and that he doesn't want to hold up the building permit for this verbal agreement. Sue states that this verbal agreement makes the plan better for traffic purposes and she would like it documented that it will happen.

Tim Neill adds to his motion that the agreement between the developer and the road commissioner that the outcropping of ledge will be removed to improve site distance on Middle Road and a quitclaim deed from the developer to the town for said piece of land will be passed. Dwayne Woodsome seconds the motion.

Kurt Clason asks about the calculations on the drainage plan that was addressed by Sebago Technics. Mike points to the change on the plans and shows that the calculations



were addressed.

Teresa Lowell believes that this is a private school. She states that on September 30, 2003 the website states that half the teachers have a degree in early childhood development. Teresa reads from information she has gathered from the internet regarding head start programs and states that the programs hires teachers, holds parent-teacher conferences, discusses classroom size, curriculum, etc.

Sue states that she saw a poster in a local store and the only hint of education on the poster was a statement that they prepare a child for school.

Teresa Lowell states that her information is off the national website and that the state has a cooperative agreement with the federal government for funding.

Tom Nelson states that they operate under Maine State Law, which licenses them as a daycare. They fall under those guidelines as any other daycare would.

Sue states that the head start employees could not get a job as a teacher.

Teresa Lowell asks what if the president's proposal passes? Tim Neill states that this is no different from when Ken Cole stated that developers who knew that a growth cap was coming and who built anyway were in violation.

Tom Nelson stated that the governor was over at head start in Biddeford. The president's proposal is for the year 2005 to make head start come under the jurisdiction of the department of education.

Teresa asks what is the impact of that if that happens? Sue answers that the use would be grandfathered just like any other zoning change.

Dwayne Woodsome moved the question.

David Benton asks if he can comment regarding daycare. He says people don't have to be certified teachers to be a substitute teacher in our school system.

Sue calls for a vote where Dwayne has moved the question. Motion carries with a vote of 5-1-0 in favor with Teresa Lowell voting in opposition.

Dwayne Woodsome made the motion that the plan be amended to show the location of the well and be brought back Monday for signing. Everett Whitten seconds. Motion carries with a vote of 5-0-1 with Teresa Lowell abstaining

#### ADJOURNMENT

Dwayne Woodsome made the motion to adjourn at 10:25 p.m. Everett Whitten seconds. Motion carries with a unanimous vote in favor.