

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING

A public hearing of the Zoning Board of Adjustment was held on Tuesday, March 10, 2009 at 6:30 PM in the Auditorium at City Hall.

Jack Currier, Chair, conducted the meeting.

Members present were:

Jack Currier, Chair
Sean Duffy, Vice Chair
Kathy Vitale (arrived at 7:10 pm)
Gerry Reppucci
Carter Falk, Deputy Planning Manager/Zoning

Mr. Duffy explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Duffy explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Duffy also explained procedures involving the timing light.

1. **David C. & Cynthia J. Fletcher (Owners) 11 Jennifer Drive (Sheet C Lot 1060) requesting special exception for a major home occupation for an in-home day care for up to 12 children. R9 Zone, Ward 9.**

Voting on this case:

Jack Currier
Sean Duffy
Gerry Reppucci

Cynthia Fletcher, 11 Jennifer Drive, Nashua, NH. Ms. Fletcher stated that her husband is with her. She said she is requesting to have 12 children.

Mr. Currier asked if this is her first experience in having a day care.

Ms. Fletcher said she's watched children before, but not this many, and she needs to be licensed by the State.

Mr. Currier asked if she has a business plan.

Ed Swabowitz, 11 Wellesley Road, Nashua, NH. Mr. Swabowitz said she does have a business plan prepared.

Mr. Duffy asked if there are any young children in the household.

Ms. Fletcher said no, she would like infants through five-year olds. She said there are three children at her house now, and has been doing this for seventeen years.

Mr. Duffy asked about the hours of operation, and outdoor play activity.

Ms. Fletcher said the hours of operation will be 7:30 am - 5:30 pm, Monday through Friday, and there will be some outdoor play as well, no earlier than 10 am.

Mr. Duffy asked about the street traffic.

Mr. Swabowitz said it is a very quiet street, with not much traffic.

Mr. Reppucci asked if the lot conforms to the minimum lot size.

Mr. Falk said it complies with the ordinance.

Mr. Reppucci asked how many people will be coming to the house every day, and the number of employees that she would have.

Mr. Swabowitz said there would be one lady helping her from 7:00 am to 3:00 pm, and another responsible teenager would be able to assist later during the day. He said he didn't think the traffic would be very high.

Mr. Currier said he was somewhat concerned about the number of children, and asked if she had spoken with the neighbors.

Ms. Fletcher said she's reached out to all the neighbors, and they are all in support of the use.

Mr. Duffy asked about the size of the rear yard.

Ms. Fletcher said the lot is a quarter-acre.

Mr. Falk said it is about 3,000 square feet.

SPEAKING IN FAVOR:

Chris Pelland, 19 Memory Avenue, Nashua, NH. Ms. Pelland said that Ms. Fletcher's house is very clean, had meal plans planned out, and stated that it is a very high quality loving environment.

Sharon Fournier, 9 Jennifer Drive, Nashua, NH. Ms. Fournier said she lives right next door, and her son goes there. She said it is very convenient. She said she feels fortunate that he goes to a loving, nice environment. She said some of the traffic is foot traffic, as some of the neighbors children go there.

Scott Dean, 7 Mandibarb Circle, Nashua, NH. Mr. Dean said his son has been going to Ms. Fletcher's for a year. He said he cannot say enough good things about this use.

Danielle Ouellette, 43 Norma Drive, Nashua, NH. Ms. Ouellette stated that she agreed with the previous statements, and said that all 12 children wouldn't be there at the same time, they are staggered throughout the day. She said she is very happy with the services she provides, with the food, activities, field trips, etc. She said her daughter goes there, and loves it.

Nicole Taylor, 49 Spring Cove Road, Nashua, NH. Ms. Taylor stated that she's had a lot of experiences with day cares, and said she cannot say enough good things about this day care. She said that Ms. Fletcher is terrific with the children. She said she didn't think the traffic is very heavy going there.

Marie O'Connor, 10 Jennifer Drive, Nashua, NH. Ms. O'Connor said she doesn't have any children, but if she did, this is where they would go. She said she watches this house every day, and she wishes her children would send her grandchildren there. She said the traffic isn't bad.

Bob Lewis, 35 Robinson Road, Nashua, NH. Mr. Lewis stated that that this day care is a god-send. He said it is a wonderful place for the children, and it is very organized, clean and neat. He said the traffic isn't bad, he said he doesn't have any problem getting in and out.

Mr. Currier said there are letters of support from Sharon Fournier, who has already spoken, also, letters from 25 Jennifer Drive, 15 Jennifer Drive, and 8 Jennifer Drive.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No One.

Mr. Duffy said this person has a great reputation. He said he'd be more in favor of 8 or 9 children, maybe 10 at the most.

Mr. Falk said that the ordinance allows for 420 square feet for the inside of a day care.

Mr. Duffy said he was concerned about the inside number of square feet for the children, also, for the parking and drop-off's.

Mr. Reppucci said he's happy that the people speaking in favor think so highly about Ms. Fletcher. He stated that the rules for special exceptions are pretty clear, if they meet the criteria, we should approve it. He said it appears as if they meet all the criteria for approval. He said he is comfortable in approving this request as advertised.

Mr. Duffy said he looked at the house, and the yard and inside space.

Mr. Currier said his initial opinion was that 12 children was a lot, and the property is close to Main Dunstable Road, which can be a busy road. He said the testimony he heard tonight was pretty compelling, in that this is a very well run operation. He said he is very interested in that the neighbors are in favor of this case, and takes that into high consideration.

MOTION by Mr. Duffy to grant the special exception for up to 12 children on behalf of the owner. He stated that it is listed in the Table of Uses, Section 190-36. Mr. Duffy said it should not unduly impair traffic circulation or unduly impair pedestrian safety, the applicants testimony is that there will be staggered delivery times during the hours of operation.

Mr. Duffy stated that it will not overload public water, sewer, drainage or other municipal systems, it is a well established day care with a long history, he said they have no children of their own, so that is a unique situation for this site. He stated that the special regulations are fulfilled per testimony, as stated. Mr. Duffy stated that the use will not impair

integrity or be out of character with the neighborhood or be detrimental to the health, morals or welfare of the residents.

SECONDED by Mr. Reppucci.

MOTION CARRIED UNANIMOUSLY 3-0.

2. **John L. & Reno & Carmen Deschenes (Owners) 743 West Hollis Street (Sheet F Lot 46) requesting special exception to work within the 75' prime wetland and wetland buffer of the Nashua River to allow a dock to remain; and, to work within the 75' prime wetland buffer to relocate an existing pavilion building outside the buffer area, and to mitigate and restore the area with loam and seed. R9 Zone, Ward 5.**

Voting on this case:

Jack Currier
Sean Duffy
Kathy Vitale
Gerry Reppucci

Gary Flaherty, 335 Broad Street, Hollis, NH. Mr. Flaherty said that about five years ago, they built a pavilion-style building in the wetland buffer zone, about 55 feet from the edge of wetlands. He said they have to move it out of the buffer. He said they also have a dock and deck that was built, too.

Mr. Flaherty said the Conservation Commission felt it would be more detrimental to the river bank and the land if it was torn out. He said they are going for a State permit to allow the dock to stay in place.

Mr. Currier stated that he has the Conservation Commission letter of approval, with seven stipulations.

Mr. Flaherty agrees with the letter, and the stipulations.

Mr. Currier asked about the septic tank.

Mr. Flaherty said the plumbing to it has been disconnected, and he said it is a dry well, because the pavilion building has a kitchen, but there are no bathrooms in this building. He said the septic tank allows the gray water from the kitchen sink. He said the Conservation Commission has reviewed this site eleven

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times. He said there is no "black water" that would come from a bathroom.

Mr. Currier asked about the dock, and whether it raises up in the winter time.

Mr. Flaherty said that is correct, it is seasonal.

Mr. Reppucci asked how this got here.

Mr. Flaherty said they built it about five years ago. He said the Code Enforcement Department initiated the violations years ago.

Mr. Duffy asked if the dock has to come out, how much impact would that be to the river bank.

Mr. Flaherty said about 300 - 400 square feet, because a crane, and other equipment would be required. He said he wasn't present when it was constructed. He said it may be more detrimental to the bank if it is removed.

Mr. Flaherty said they already have the permit from the Shoreland Protection Department to remove and relocate the pavilion building. He said for the dock, it is through the Wetlands Bureau, and they haven't heard yet on the dock and deck, it may take another two months.

Mr. Flaherty said the State will either deny or grant the permit for the dock, it is their call, there is no black and white.

SPEAKING IN FAVOR:

No One.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No One.

Mr. Currier said clearly this was something that was done under the radar screen. He said if this came through as an original application, and they wanted to build this, it wouldn't be supported. He said if it were outside of the buffer, it wouldn't be a big deal. He said a lot of negation has taken place before this application came to us, and the agreement has been established to move the pavilion building out of the buffer

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zone. He said that is a good negotiation, and is ok with that. He said there are two main actions, one is permission to remove the house out of the buffer, and the other one is to allow the dock and deck to remain. He said the Conservation Commission has approved it. He said they are in the middle of the process for the dock and deck, pending State approval. He said if the other permitted processes feel its ok to keep it there, then he'd agree. He said he would prefer to go along with the State permitting process, if they say it goes, he'd agree with that, and if they say it can stay, he'd agree with that too.

Mr. Reppucci said when people get caught doing things, and they come here just expecting to keep it, it encourages people to do it, and just come to the Board for permission. He said it isn't fair that the Board is put into this situation. He said it could also be something where their taxes would go up if the City knew about it.

Mr. Currier stated that the Deschenes live and have a business on West Hollis Street. The lot goes back over 1,000 feet. He said it is almost like a big shed. He stated that the Assessing Dept. could look at this as the value would go up with the extra structure. He said for the dock, it shouldn't be an issue with the value of the home or property, but more a purview of the Shoreland Protection Division or the Wetlands Bureau.

Ms. Vitale said she agrees with the dock issue, it could have a greater disturbance if it is removed. She said she wouldn't approve it to stay, if it is determined to increase damage, she would rather it stay there.

Mr. Duffy said he is comfortable with removing the house outside of the buffer. He said he feels uncomfortable that the dock permitting isn't done yet. He said if this application was before us for a dock in that zone, he'd feel very uncomfortable with that as a member. He said he didn't feel uncomfortable with the pavilion being removed from the buffer, as long as it's looked at thoroughly in the Code. He said he didn't think the applicant can work on the dock and decking system until we hear from the Wetlands Bureau about that, and if they get approval, they can come back. He said he didn't think that they need to approve that at this time.

Mr. Currier said that this Board does not do site walks like the Conservation Commission. He said that they have already looked at this in great detail.

MOTION by Mr. Duffy to waive the rules to ask about the deck framing and the dock stabilization.

SECONDED by Mr. Reppucci.

MOTION CARRIED UNANIMOUSLY 4-0.

Mr. Currier asked for comments from the applicant about holding off on the dock and deck until the Wetlands Bureau has made their decision.

Mr. Flaherty stated that it is the Board's decision. He said that if the Board wants it gone, they'd come back. He said there has been clearing, and a pathway system to the river from at least the 1960's. He said they are woods roads, not paved. He said the Fire Department likes it, because they'd have access to the river for water for a tanker if need be. He said the roads have been there for at least forty years or longer.

Mr. Flaherty said the Shoreland Protection Division has jurisdiction for the pavilion building, and they are ok with that. He said the Wetlands Bureau has jurisdiction on docks, and wetlands.

Mr. Currier asked if there are other docks on the river.

Mr. Flaherty said he was here for 101 Shore Drive a couple years ago, which was approved, and said there are a few other ones along the river. He said there isn't much activity on the river.

Mr. Reppucci asked about the septic tank.

Mr. Flaherty said it is will be taken out, but the plumbing has been removed for it.

Mr. Flaherty said the City has a civil case against the Deschenes about this issue.

Mr. Reppucci said this property put a septic system right next to a river, and built a dock. He said these things are not built by novices, they had to cognitively know they were doing this. He said his feeling on this is that everything should go. He said if it is done correctly, the area can be put back exactly like it was.

Mr. Currier said that no matter what you do in the 75-foot buffer, you have to come before the Board. He said they are here before the Board because they want to move the pavilion building out of the buffer, and by approving that, it is moving it out of the buffer.

Ms. Vitale said once it is moved out of the buffer, it doesn't have to come back before the ZBA again for the pavilion.

MOTION by Mr. Duffy, on behalf of the owners, for a special exception to work within the 75-foot prime wetland buffer, and the wetland buffer of the Nashua River, to work within the 75-foot wetland buffer to relocate an existing pavilion building outside the buffer area, and to mitigate and restore the area with loam and seed. He said the motion is to grant that component of the application.

Mr. Duffy said it is listed in the Table of Uses, Section 190-112. He said it should not create undue traffic congestion or unduly impair pedestrian safety, it should not overload public water, drainage or sewer or other municipal systems, the special conditions are that the movement of the structure cannot be reasonably avoided, it is the least damaging, best practicable alternative proposed to bring the property into more compliance with the ordinance. He said that acceptable mitigation is incorporated to minimize loss, it is necessary for productive use of adjoining land, there are no rare or endangered species, and there were none noted in the Conservation Commission findings of December 11, 2008, adequate erosion and sedimentation control methods are proposed per the plan, the proposed activity will repair and not impair, the wetland buffer, and the Conservation Commission findings have been received.

Mr. Duffy said it should not impair the integrity or be out of character with the neighborhood, or be detrimental to the health, morals, or welfare of residents.

Mr. Duffy said that the special conditions are that the applicant is aware that the telephone pole will be placed outside the buffer at the time of the movement of the structure, there will be no change to the structure - the size, height, dimensions of the structure that is moved, and only that structure can be moved, if it comes apart upon the removal of the structure, it's only that structure that is relocated, not a

replacement of that structure, and, that the applicant is aware that this Board is not going to rule at this time on any work to be done at the dock stabilization, or the deck frame, or anything attached to the deck and dock at this time.

SECONDED by Ms. Vitale.

Mr. Currier said he's ok with the motion. It is good to remove the house outside of the buffer, but it's a non-statement on the deck and dock, the applicant will have to come back before the Board to do something on the dock, whether it's to take it out or put it in, they will get approval or denial from the State. He said they will come before us no matter what.

Ms. Vitale said she wants to see what is said at the State level first.

Mr. Currier said this motion is only for the removal of the pavilion building, it is not for the dock.

MOTION CARRIED 3-1 (Mr. Reppucci)

3. Richard E. & Katherine M. Norcross (Owners) Shaun Allard (Applicant) 3 Woodbury Drive (Sheet D Lot 199) requesting special exception for an accessory (in-law) dwelling unit. R40 Zone, Ward 5.

Voting on this case:

Jack Currier
Sean Duffy
Kathy Vitale
Gerry Reppucci

Shaun Allard, S.K. Allard Construction, Pelham NH. Mr. Allard stated that they are looking for an in-law approval at this property. Mr. Allard said they are requesting a 660 square foot in-law apartment. He said that their daughter will make the primary residence hers, and the parents will take the in-law space. He said the existing garage and breezeway will be removed, and the in-law apartment will be built with a new foundation, and it will be completely level with the house.

Mr. Allard said the new construction will be within the existing footprint, it will sit exactly as before, the only change will be that it will be two feet higher due to the foundation. He

said they have room for six cars in the driveway, and there are no affects to traffic. He said the finishes to the addition will match the existing house, and it will be in character with the neighborhood.

Mr. Duffy asked if any of the other building issues are in the setbacks.

Mr. Falk said everything complies with the ordinance.

SPEAKING IN FAVOR:

No One.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No One.

MOTION by Mr. Currier to grant the special exception on behalf of the applicant. Mr. Currier stated that the use is listed in the Table of Uses, Section 190-32. Mr. Currier stated that the use will not create undue traffic congestion or unduly impair pedestrian traffic. Mr. Currier stated that it will not overload public water, sewer, drainage or other municipal systems. Mr. Currier stated that all six special regulations have been testified to and are fine. He said the request will not impair the integrity or be out of character with the neighborhood, or be detrimental to the health, morals or welfare of residents.

SECONDED by Mr. Reppucci.

MOTION CARRIED UNANIMOUSLY 4-0.

4. City of Nashua, Mount Pleasant Elementary School, (Owner) 10 Manchester Street (Sheet 67 Lot 27) requesting variance to exceed maximum size of a ground identification sign, 12 sq.ft allowed, 20 sq.ft proposed. RB Zone, Ward 3.

Voting on this case:

Jack Currier
Sean Duffy
Kathy Vitale
Gerry Reppucci

Attorney William Barry, Kinsley Street, Nashua, NH. Atty. Barry stated that the applicant wants a sign of 20.5 square feet, where 12 square feet is allowed. He said the property is located in the Historic District. He said they have approved it, the letter is attached. He described what the sign would look like, with granite posts. He said the hardship is that the front yard is very large, and a 12 square foot sign is too small to publicize school events to the public. He said the extra area will allow for a school announcement capability. He said the spirit and intent will not be violated, as the Historic District has approved it. He said an expansion of the size allowed is miniscule, and the size will not matter. He said it will be non-illuminated, and will have granite posts, and will look like a Historic-based sign. He said the sign will allow for messages and announcements, and often the children do not bring the papers home. He said the benefit will be to the parents and the general public, and the neighbors, on why additional cars are coming to the site.

Mr. Duffy stated that the application lists 20.5 square feet, and it was advertised at 20 square feet.

Atty. Barry said it is 60 inches by 49 inches, the only difference is that 20 square feet would be 60 inches by 48 inches.

Mr. Duffy said the sign isn't square, it has a curvy top to it.

Mr. Duffy said he is comfortable with the case to go forward.

Mr. Reppucci asked how the sign is measured for the area.

Mr. Falk said its length times width. If it's not easily calculated, usually a sign company will indicate what the square footage is.

Mr. Reppucci suggested that the Board could approve it as advertised, to avoid any procedural issues.

Further discussion ensued about the size of the sign.

SPEAKING IN FAVOR:

Laurie Ethier, 53 Wood Street, Nashua, NH. Ms. Ethier said she is the PTO Co-President. She said the sign will be used to provide for public announcements to the community, because

sometimes the information does not make it home to the parents. She said it will improve the involvement with the school.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No One.

Mr. Duffy said the 20.5 square foot size is a reasonable, minor clerical error. He said is reasonable and negligible.

Mr. Currier said it is a tastefully done sign, and will accomplish what they need to do.

MOTION by Mr. Duffy to grant the area variance application on behalf of the applicant, 12 square feet allowed, up to 20.5 square feet proposed. Mr. Duffy said the area variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, it is a school, and there are only nine elementary schools in Nashua and reasonable signage should be and could be allowed in a site like this, and it is within keeping with the character of the neighborhood, in fact, this is in the Historic District, and there has been review and determination of which the applicant is in compliance, or will be in full compliance, upon the installation, it is a school sign for community interest and information, and therefore, is within the spirit and intent of the ordinance, it is non-illuminated and non-electric message center sign, it should not adversely impact the property values of surrounding parcels, it is not contrary to the public interest, and the fact that we may have advertised it at 20 square feet instead of 20.5 square feet is a very negligible error, a clerical typo, and due to the negative sign area at the top, certainly offsets that even more than a half-square foot. Mr. Duffy said substantial justice is served, with no conditions.

SECONDED by Mr. Reppucci.

Ms. Vitale said there are twelve elementary schools in the City.

Mr. Duffy said he agrees to amend his motion to reflect the twelve schools.

MOTION CARRIED UNANIMOUSLY 4-0.

5. **Hanane & Leila Ajib & Ayoub Nabih (Owners) 26 Harris Street (Sheet 110 Lot 49) requesting special exception for a major home occupation for an in-home day care for 12 children. RB Zone, Ward 6.**

Voting on this case:

Jack Currier
Sean Duffy
Kathy Vitale
Gerry Reppucci

Hanane Nabih, 26 Harris Street, Nashua, NH. Ms. Nabih said she can be called Hannah. She said that she is requesting approval for up to 12 children. She said she has credentials, and courses, to be qualified. She said her house is three levels, and the bottom level would have the daycare, also, it has a fenced-in back yard. She said her street is quiet, but there is more traffic on Robinson Road. She said her package outlines her degree, her diplomas, and philosophy statement, and all her credentials.

Mr. Currier asked how many employees she planned on having.

Ms. Nabih said two, one full-time and one part-time, in addition to her.

Mr. Currier asked if the State is paying to take care of the children.

Ms. Nabih said that's how it works for all child care services. The State pays you, not the parents. The State can limit how many children you have.

Mr. Currier stated that many of the Board members believe that caring for twelve children is quite a lot. He thought that that many children is a lot, and asked if a smaller number would be considered.

Ms. Nabih said the child care does have some expenses, and some of the children are only there part-time. She said right now, she can only have three at a time, and has been doing this for over a year.

Mr. Currier asked if she has talked to her abutters.

Ms. Nabih said she talked to the people on her street, but she didn't speak to the owner in the back.

Mr. Duffy said there could potentially be twelve children, plus the four adults, in the house at any given time.

Ms. Nabih said the other adults work outside of the home every day, and a lot of the children are outside playing, plus, some of them will be infants.

Mr. Duffy asked about traffic, and drop-offs.

Ms. Nabih said some will come in the CityBus. She said she has enough parking spaces for people to park.

Mr. Currier asked who lives at the house.

Ms. Nabih said it is her parents, and her brother, and they are all gone during the daytime.

Mr. Currier read the letters from the neighbors, from the Dionnes', asking that there not be a sign displayed. They have also asked that the traffic noise be kept to a minimum, with outdoor play only in the rear yard.

Ms. Nabih said all of those issues are ok.

SPEAKING IN FAVOR:

No One.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

William Baker, 37 Eastman Street, Nashua, NH. Mr. Baker stated that he lives directly behind the applicant. He said the fence is 30 feet from his house, and is chain-link. He said he has three children, and they make noise. He said he wouldn't have bought the house knowing this use was in back of him. He said he is concerned about the traffic as well.

Mr. Currier asked if would be better if it were a stockade fence.

Mr. Baker said that would be better, if it were a privacy fence.

Mr. Duffy said if they get approved for twelve, the Code requires a fence.

SPEAKING IN FAVOR - REBUTTAL:

Mr. Reppucci asked about the fenced in area where the kids play.

Ms. Nabih said it is fenced in, it's chain link. She said she understands that it has to be a solid fence, all the way around, the play area.

Mr. Duffy asked if she would be amenable to having eight or nine children, instead of twelve. He said she is a newer child care provider.

Ms. Nabih said there is a cost involved, with meals, etc. She said she looked at her cost analysis, and this would be the only way she'd make a profit, she would be more comfortable with twelve. She said she will have some infants, and they are quiet. Also, one child has asthma, and will not play outside, also, there would never be a time when all twelve children would be outside at once.

Mr. Duffy asked the ages of the children that she would watch.

Ms. Nabih said up to age four. She said some of these children would only be there part of the day.

Mr. Currier asked to clarify the ages.

Ms. Nabih said four, going to five years old. She said the State regulates how many children she watches, and their ages.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

None.

Ms. Vitale said she was originally concerned with the number of children. She said there is a cost involved, with more children, because she would have to hire an employee, and there are other costs involved. She said she thought it's a well-put together program for the children. She thought the play area is well-defined, and safe, and not all the children would be outside playing at the same time. She said the program looks to be very controlled. She didn't have a problem with the twelve children.

Mr. Reppucci said the only thing he is concerned about is the impact to the rear neighbor. He said the lot meets the minimum size for the special exception for child care. He said the testimony of the abutter weighs a lot. He thought the applicant is motivated to have twelve children for the program, it is a dollars and cents issue. He didn't think she was trying to appease the abutter. He said he'd be inclined to approve it, but to restrict it in some way. He asked if the code reads that if you have twelve children, is that the complete total, or is it twelve at the house at the same time. He thought it reads that it can only be twelve there at the same time.

Mr. Currier said he thought so, but wasn't sure.

Mr. Falk said this issue hasn't been addressed. He said it was his belief that the Code intends to mean that there is a total number of twelve children that would be allowed, as the State allows for 35 square feet per child. He said he thought that twelve is the maximum total, whether they're all there at the same time or not.

Mr. Duffy thought it was that many at the site at the same time.

Mr. Currier said he was initially concerned about twelve children. He said the application is very complete and thorough, as far as the credentials. He said that the abutter testimony is quite credible. He said he's uncomfortable with the twelve, and was with the last application, but she had a twenty-year successful track record to back it up, where this applicant has only been doing it for a year or so. He said this is a quieter neighborhood, and is more comfortable with nine.

Ms. Vitale said she didn't see much difference between nine and twelve, with the way it would be operated. She said one of the concerns is the chain-link fence, which will be addressed, because the City of Nashua requires the fencing. She said she hasn't seen any testimony that the property values will go down due to a day-care, she said it will be a very well-run daycare center. She said she's run the numbers, and twelve children will be good for her. She said she didn't believe it would be more traffic, with twelve children there, and shouldn't impact the City utilities, and all the special regulations are fulfilled, and didn't think it would impact the character of the neighborhood.

Mr. Reppucci said he didn't hear a lot of negative issues from the neighbor in the back, he thought he was sincere, but will be impacted, it didn't sound like he was trying to make it so she didn't have the use, he was being realistic. He said he feels good about the nine, it will give her an opportunity to get her business going and established, and maybe someday in the future she can come back to expand to twelve.

Mr. Duffy said this daycare is more of a leap than the other one we heard earlier, but this one goes with the land.

Further discussion ensued.

MOTION by Mr. Currier to grant the special exception on behalf of the owner for up to nine children at this location. Mr. Currier said the request is listed in the Table of Uses, Section 190-36. Mr. Currier said by beginning this daycare operation officially as a major in-home occupation of twelve children, it will not create undue traffic congestion or unduly impair pedestrian safety, it will not overload public water, drainage, sewer or other municipal systems.

Mr. Currier stated that the special regulations, six of those, they have already been discussed in the testimony, and with nine, the six criteria are met, and it will not impair the integrity or be out of character with the neighborhood, or be detrimental to the health, morals or welfare of the residents.

Mr. Currier said the special conditions are that there will be up to one full-time and one part-time employee, the hours of operation would not exceed 7:00 am to 6:00 pm, Monday through Friday, and that outdoor play would not occur before 9:00 am, or after 4 pm, and that the age group would be infants through five year-olds. Mr. Currier said that the rear fence would be changed from an open chain-link fence to a solid fence, per the Nashua code, just to clarify, we're not stipulating that's part of the code, but the applicant will adhere to that anyways.

SECONDED by Mr. Reppucci.

Ms. Vitale asked to clarify about the employees, she said if the motion is for nine children, it may not be one full-time and one part-time.

Mr. Currier said the motion was up to one full-time and one part-time. He said he is persuaded by the letter from the

abutter, about not having a sign, because a lot of daycares are word of mouth.

MOTION CARRIED UNANIMOUSLY 4-0.

OTHER BUSINESS:

REGIONAL IMPACT:

The Board did not see any items of Regional Impact on the next agenda.

MINUTES:

February 10, 2009:

MOTION by Mr. Currier to approve the minutes, waive the reading, and place the minutes, as presented, in the file.

SECONDED by Mr. Reppucci.

MOTION CARRIED UNANIMOUSLY 4-0.

The Board briefly discussed the mandatory training, as required by the Ordinance.

Mr. Currier said that on October 6, 2009, there will be a training session here at City Hall. He also said on May 2nd, there will be another training session.

ADJOURNMENT:

Mr. Currier called the meeting closed at 9:50 p.m.

Robert Shaw (Sean Duffy acting Clerk)
Clerk

CF
Taped Hearing