

TOWN OF CUMBERLAND
PLANNING BOARD MEETING MINUTES
Tuesday, July 18, 2017 - 7:00 pm

A. Call to Order: Chairman Moriarty opened the meeting at 7 pm and noted that Gerry Boivin and Teri Maloney-Kelly are absent this evening leaving 5 members which is a quorum.

B. Roll Call: Present: Steve Moriarty - Chair, Paul Auclair, Jeff Davis, Joshua Saunders & Peter Sherr. **Absent:** Gerry Boivin & Teri Maloney-Kelly. **Staff:** Carla Nixon - Town Planner and Christina Silberman - Administrative Assistant, Bill Shane – Town Manager.

C. Approval of Minutes of the June 20, 2017 Meeting: Mr. Saunders moved to approve the minutes of the June 20, 2017 meeting as written, seconded by Mr. Auclair and **VOTED, 4 yeas, 1 abstained (Davis) - motion carries.**

D. Staff Site Plan Approvals: None.

E. Minor Change Approvals: None.

F. Hearings and Presentations:

1. Public Hearing: Planning Board Site Plan Review: Storey Time Learning Center and Afterschool Care for 20 children. 133 Middle Rd. Tax Map R01, Lot 28 in the Rural Residential 2 zoning district. Owner & Applicant: Jaime Kiesow.

Chairman Moriarty recused himself from participation on this item because his law partner Adrian Kendall is here to represent the applicant and he has a conflict of interest. Vice Chairman Gerry Boivin is not present this evening. Chairman Moriarty said that Peter Sherr is willing to serve as a temporary Chair on this item. Mr. Auclair moved to elect Peter Sherr as Temporary Chairman, seconded by Mr. Saunders and **VOTED, 4 yeas, 1 abstained (Sherr) – motion carries.**

Temporary Chairman Sherr introduced the item and disclosed that an abutter of the project that has raised some concerns is someone that Temp. Chairman worked with over 10 years ago, Be Shonewald. Temp. Chairman said it has been a few years since he has had any direct contact with Ms. Shonewald. Temp. Chairman does not feel this will influence his objectiveness on this project. Temp. Chairman asked if the Board had any concerns about this and no concerns were raised.

Temp. Chairman indicated that there is an updated site plan and Board members should have a copy.

Ms. Nixon explained that the project initially came to her for what is called Staff Site Plan Review which allows her, as Town staff, to review a proposal and make the determination if the project satisfies the ordinance criteria rather than going to the Planning Board for approval. Ms. Nixon said that before she got very far into the process, she started to receive comments from people in the neighborhood saying they were not aware of the project, hadn't been notified and wanted to be part of the process. The ordinance foresaw this type of situation and allows Ms. Nixon the opportunity to forward something to the Planning Board when this type of controversy comes up and this is what she did. Ms. Nixon said that this has been a challenging application in that a professional engineer was

not involved in the design of the project or preparing the packet. Ms. Nixon has been getting materials in a piecemeal fashion, including up to today when some final Town Engineers comments were received. There is a revised site plan that was provided yesterday that shows a proposed fence.

Jaime Storey Kiesow, 85 Middle Rd., said she has lived in Cumberland her entire life. Mrs. Kiesow currently operates Storey Smith Pediatric Clinic from her home and has for the past 18 years. Mrs. Kiesow said from 2004 to 2009 she owned an integrative preschool program at 50 Middle Rd. Over the course of 18 years running these businesses, Mrs. Kiesow has had very positive responses from neighbors and have not had any complaints or concerns regarding safety, traffic, noise or other issues. Mrs. Kiesow stated that she has expertise in the field and significant operational experience and knowledge on what it takes to run a safe daycare business along with being a good neighbor.

Mrs. Kiesow recently purchased 133 Middle Rd. initially to enable her children to reside on Middle Rd. in the future if they wish. After hearing from multiple sources in the town about the closing of a preschool and an aftercare program along with a significant need for such programs Mrs. Kiesow thought this would be a great purpose for this home. Mrs. Kiesow said she has been informed by the State about two more program closings within the next 2 years so there is a need.

Mrs. Kiesow went under contract for this property on May 11th and began meeting with the appropriate town employees to ensure procedures were followed. Mrs. Kiesow was informed that this would be an internal approval process due to the daycare being an approved use of a residence and the approval would take 7 – 10 business days and should be straight forward. 133 Middle Rd. is directly abutted by Rose Bradshaw and Peter Northrup at 137 Middle Rd. and a property at 131 Middle Rd. that is owned by Mrs. Kiesow's husband Walter Kiesow, Jr. Mrs. Kiesow closed on the property on June 23rd and learned on June 26th from Ms. Nixon that neighbors had concerns and the application could no longer go through the internal approval process. Mrs. Kiesow explained that because of the timing, she only had two days to prepare and submit the site plan with the application for tonight's meeting.

Mrs. Kiesow said when she learned that neighbors had concerns, she reached out to see if they wanted to discuss their concerns. Ms. Bradshaw initially said she did not have time to meet but later replied that she would like to meet. Mrs. Kiesow said they met with Ms. Bradshaw on July 13th and spoke many times after. Mrs. Kiesow said she believes Ms. Bradshaw's and Mr. Northrup's concerns have been addressed. Mrs. Kiesow has agreed to install 13 sections of 6' x 8' stockade fence on her side of the property line. Mrs. Kiesow will use reclaimed asphalt on the driveway to reduce dust.

Mrs. Kiesow contacted Be Schonewald of 129 Middle Rd. on June 30th and did not hear back from her until July 12th. Mrs. Kiesow and Ms. Schonewald met on July 13th & 17th and have not come to a resolution. Mrs. Kiesow has offered to do stockade fencing or to contribute \$250 towards landscaping for Ms. Schonewald to create a better screen. Mrs. Kiesow is trying to be a good neighbor and problem solve and resolve neighbors' concerns. Mrs. Kiesow reviewed the names of many other neighbors she met with and feels she was able to answer their questions and concerns about the permitted use of 133 Middle Rd.

Mrs. Kiesow explained that her intentions are to open a daycare and aftercare program and will never be caring for more than 20 children. Drop off times will range from 7 am to 9:30 am. Pick up times will range from 12 pm to 5:30 pm. The aftercare program will run from 3:30 pm to 5:30 pm and children will be dropped off by the school bus. The program will be licensed by the State and will comply with all State requirements and Fire Marshall Codes. The daycare hours will be Monday through Friday from 7 am to 5:30 pm year round. There may be events that occur for families with evening hours such as open houses, holiday dinners and graduation. Routine maintenance will be conducted on the weekends.

Mrs. Kiesow said they will use the existing house on the site and will not alter the size of the building. The garage will be converted to classroom space. A new driveway and turnaround will be installed. A natural playground will be located in the backyard. The children will enter and exit through the back of the house. There are currently exterior lights on the front of the house, the end of the garage, the back of the house and the detached garage and they don't plan to add any new lights. The lights will be on a timer.

Adrian Kendall of Norman, Hanson and DeTroy and Cumberland resident showed and aerial map of the property and reviewed the technical aspects of the project and compliance with the ordinance. Mr. Kendall explained that due to the recent reconstruction of Middle Rd. there will be height issues with the driveway and the applicant is requesting a waiver from the 3% grade requirement. The applicant will provide as close a grade as possible to the 3% to the satisfaction of the Town. Mr. Kendall explained that there is a requirement for parking areas in the front to be 15' from the front lot line and the applicant is seeking a waiver from this requirement. A proposed parking area is 18' from the road but only 3' from the lot line. Mr. Kendall said that exterior lighting is the existing lights and where these may not be deemed adequate a condition of approval could be added. The applicant does not plan for true night time use except for daylight savings time.

Temp. Chairman Sherr noted that in the Board's packet there were two site plans and a new site plan was submitted yesterday to the Town and the Town Engineer and this was utilized to address some of the final comments. There is an updated response from Dan Diffin, Peer Review Engineer, and an updated review of the findings of fact. In the most recent plan changes have been made to the entrance driveway and a 6' stockade fence has been added to the northern property line. A split rail fence will be around the play area and there will be a 15' buffer along both sides of the drop off area and the play area. Temp. Chairman noted that the applicant is requesting waivers for the setback to the parking area in the front of the property and a waiver on the 3% waiver transition on the entrance and Mr. Kendall concurred. Temp. Chairman suggested it would be prudent for the applicant to add a request for a waiver for the 15' buffering along the road and Mr. Kendall indicated he would like to add this.

Mr. Saunders asked if the applicant knows what the driveway grade will be if they are not meeting the 3% standard. Mr. Kiesow said in the first approximately 38' there is a 3' grade change that is there and has been there for some time. The next 136' to the back of the property has an overall elevation change of 9'. Mr. Kiesow proposes that roughly the first half of the driveway will be sloped and the rest will run with the natural contour. Mr. Kiesow does not know yet what the grade will be and he will have to follow up on this. Mr.

Saunders confirmed that staff site plan review and Planning Board review follow the same criteria and Ms. Nixon agreed.


Mr. Auclair said that pick up time is 5:30 and December through January it will be night time and he asked if there will be adequate lighting during this time for the pickup of the children. Mr. Kiesow replied that there are more lights than what is shown on the plan that are already existing and there are 7-8 lights on this side of the building. Mr. Auclair asked if the light timers will be set for 5:30 pm and if there are motion sensors. Mr. Kendall said that motion sensors are not planned and staff will be there a bit after 5:30. Mrs. Kiesow said the timers will be set for the lights to go off at 6 pm.

Temp. Chairman asked if ADA requirements apply to this project and Ms. Nixon said she asked the Town Engineer that question and he told her it does not apply.

Temp. Chairman Sherr opened the public hearing.

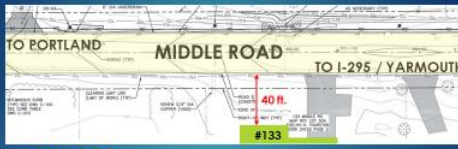
Be Shonewald, 129 Middle Rd., said she has lived in her home over 29 years, she is a professional engineer and runs her business from her home. Ms. Shonewald said she is the adjacent use and is the closest neighbor to the south of the development. Ms. Shonewald gave the following PowerPoint presentation and explained her concerns.

PRESENTATION FOR THE TOWN OF CUMBERLAND PLANNING BOARD PUBLIC HEARING ON THE APPLICATION FOR STOREY TIME LEARNING CENTER AND AFTERCARE
[CONVERSION OF RESIDENTIAL PROPERTY LOCATED AT 133 MIDDLE RD]



ISABEL V (BE) SCHONEWALD, P.E.
129 MIDDLE ROAD
[IMMEDIATE NEXT DOOR NEIGHBOR TO THE SOUTH]

CONCERN: IS THIS PORTION OF MIDDLE ROAD AN APPROPRIATE NEIGHBORHOOD FOR A NURSERY SCHOOL OR DAY-CARE?
(SAFE ENVIRONMENT; NOT DISRUPTIVE; INTEGRAL COMPONENT OF NEIGHBORHOOD LIFE?) [ORDINANCE 315-47]



SAFE ENVIRONMENT?

- MIDDLE ROAD IS ONE OF, IF NOT THE BUSIEST, ROADS IN CUMBERLAND
- DIRECT ROUTE BETWEEN PORTLAND AND YARMOUTH / TUTTLE ROAD – TOWN CENTER ACCESS / I-295 NORTH
- 35 MPH SPEED LIMIT; VEHICLES TRAVEL MUCH FASTER; NOT ENFORCED
- HEAVY COMMERCIAL TRAFFIC AND COMMUTER TRAFFIC
- EARLY MORNING TO LATE EVENING
- CURRENTLY CHALLENGING GETTING OUT OF DRIVEWAYS; RISKY AT TIMES
- PEDESTRIANS, LARGE BICYCLIST GROUPS

CONCERN: APPROPRIATE NEIGHBORHOOD FOR A NURSERY SCHOOL OR DAY-CARE? (CONT'D)
(SAFE ENVIRONMENT; NOT DISRUPTIVE; INTEGRAL COMPONENT OF NEIGHBORHOOD LIFE?) [ORDINANCE 315-47]

DISRUPTIVE?
BASED ON APPLICATION:

- UP TO 58 VEHICLES IN AND OUT OF DRIVEWAY PER WEEKDAY
- DROP OFF / PICK UP ANYTIME BETWEEN 7 AM AND 5:30 PM
- THREE OR MORE OUTDOOR PLAYTIMES PER DAY; NO SET SCHEDULE
- OLDER CHILDREN FOR AFTERCARE; UP TO 16 YRS OLD ALLOWED
- PROPOSES TO OPERATE 52 WEEKS / YEAR
- SUMMER PROGRAM NOT DEFINED

INTEGRAL COMPONENT OF NEIGHBORHOOD LIFE?
MIDDLE ROAD NORTH OF APPROXIMATELY TOP KNOT FARM / CHENERY BROOK HAS UNIQUE CHARACTER:

- OLDER HOMES; CLOSER TO STREET
- PERSONAL SPACES DEFINED THROUGH DESIGN AND INVESTMENT
- MANY NEIGHBORS ARE RETIRED OR WORK OUT OF THEIR HOMES
- FEW YOUNG OR EXTENDED FAMILIES

CONCERN: PLAY YARD PROXIMITY TO MY PROPERTY
(NEIGHBOR ASSUMING LIABILITY FOR BUSINESS OPERATIONS)



RESOLUTION / CONDITION:
FENCE TO BE INSTALLED BY APPLICANT AROUND PLAY YARD FOOTPRINT ("OPEN" FENCE – LOW SPLIT-RAIL WITH WIRE MESH)

CONCERN: LOSS OF PRIVACY AND PERSONAL SPACE / ADVERSE VISUAL IMPACT – DROP-OFF / PICK UP & PLAY AREAS

PRIMARY ENTRANCE & OUTDOOR LIVING SPACE

SUMMER AND WINTER VIEWSHEDS

CURRENT COMPROMISE OFFER TO APPLICANT:
 APPLICANT PURCHASE FIVE (5) EVERGREEN TREES (7 FT TALL); I PAY TO HAVE THEM PLANTED ON MY EDGE OF FIELD AND I MAINTAIN THEM

CONCERN: EXTERIOR LIGHTING / ADVERSE VISUAL IMPACT

PROPOSED LIGHTS (3)

VIEWSHED

RESOLUTION / CONDITION:
 APPLICANT INSTALL TIMERS ON ALL EXTERIOR LIGHTS (NOT MOTION SENSORS); TIMERS SET FOR ½ HOUR BEFORE TO ½ HOUR AFTER HOURS OF OPERATION

CONCERN: ADVERSE NOISE IMPACTS

- SLOWING AND TURNING TRAFFIC; CAR DOORS; GREETINGS (CHILDREN AND ADULTS); CHILDREN IN PLAY YARD
- DISTRACTING; COMPROMISE MY ABILITY TO WORK IN HOME PROFESSIONAL OFFICE
- I-295 TRAFFIC NOISE IS WHITE NOISE
- EXAMPLE OF BEACH – CHILDREN CLEARLY AUDIBLE OVER CRASHING SURF

RESPONSE:
 APPLICANT BELIEVES THERE WILL BE NO ISSUES, CITING I-295 TRAFFIC NOISE AND CHILDREN ARE TAUGHT TO BE “QUIET”

POSSIBLE PERMIT CONDITION:
 IF ISSUES, APPLICANT TO ADDRESS IN TIMELY MANNER; ENFORCEABLE

CONCERN: TRAFFIC

- INGRESS INTO AND EGRESS FROM COMMERCIAL DEVELOPMENT IS DISRUPTIVE TO NEIGHBORHOOD
- NO PARKING AREA AND INADEQUATE STANDING AREA FOR CLIENTS' VEHICLES FOR DROP OFF / PICK UP
- POSSIBLY RESULT IN UNSAFE QUEUING ON MIDDLE ROAD OR USE OF SHOULDERS FOR PARKING WHILE DROP OFF/ PICK UP
- IMPACTS ABILITY OF NEIGHBORS TO EXIT DRIVEWAYS SAFELY
- DARK DURING DROP OFF AND/OR PICK UP TIMES FOR MUCH OF SCHOOL YEAR; CAR LIGHTS SHINING INTO NEIGHBORS' RESIDENTIAL SPACE
- NOISE (VEHICLES; CAR DOORS)
- AIR QUALITY (IDLING VEHICLES; DUST)
- OVER 4,000 SQ FT OF LAWN CONVERTED TO UNSIGHTLY IMPERVIOUS AREA

RESPONSE:
 APPLICANT BELIEVES THERE WILL BE NO ISSUES

POSSIBLE PERMIT CONDITION:
 IF ISSUES, APPLICANT TO ADDRESS IN TIMELY MANNER; ENFORCEABLE



SOME CLOSING THOUGHTS

- APPLICANT IS PLEASANT AND OUTGOING
- APPLICANT IS AN EXPERIENCED BUSINESS PERSON IN THE CHILD CARE/CHILD DEVELOPMENT INDUSTRY
- SUPPLY AND DEMAND - APPLICANT IS PROVIDING A SERVICE; HER CLIENTS' WANTS WILL ULTIMATELY DICTATE BUSINESS OPERATIONS; THAT HAS BEEN THE UNDERLYING CAVEAT OF OUR DISCUSSIONS
- I HAVE A SUCCESSFUL HOME BASED PROFESSIONAL ENGINEERING PRACTICE; MY WORK REQUIRES ME TO BE ABLE TO FOCUS
- MOST IMPORTANTLY, I HAVE INVESTED TIME AND HARD WORK IN MY HOME OF 24 YEARS TO CREATE INVITING, BUT PRIVATE, INDOOR AND OUTDOOR LIVING SPACES, AND A CREATIVE AND EFFICIENT WORK SPACE; PERSONAL SPACE IS VERY IMPORTANT

TAKE AWAY:

- PERMIT CONDITIONS OF APPROVAL SUCH THAT SUBSEQUENT BUSINESS DECISIONS AND OPERATIONS ARE RESPECTFUL OF THE NEIGHBORS

Ms. Shonewald said having people that she does not know have a view into her living space is unsettling and intrusive and she hopes they can work out the buffering issue.

Temp. Chairman Sherr said regarding Chapter 315 of the Zoning Ordinance, the disruptiveness and acceptable use has been reviewed by Town staff and staff have made the finding that the project is an acceptable use. Mr. Sherr referenced buffering and asked Ms. Shonewald to clarify what was offered for a fence. Ms. Shonewald said she was offered three 8' sections of stockade fence or a \$250.00 plant allowance. Mr. Sherr noted that the fence is not acceptable to Ms. Shonewald due to the visual impact and she prefers a vegetative buffer and Ms. Shonewald agreed. Ms. Shonewald explained that because her house sits higher than the development, a six foot fence really doesn't cut off her view of their turnaround and parking. Mr. Sherr confirmed that Ms. Shonewald has requested

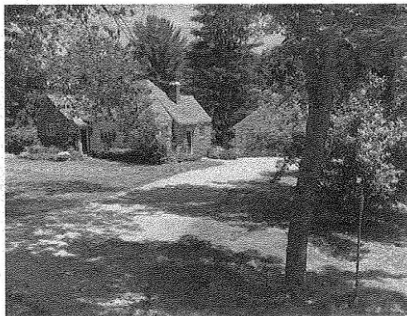
five 7' evergreen trees. Ms. Shonewald agreed and said she will pay for the trees to be delivered and planted and she will maintain them on her property. Ms. Shonewald is asking the applicant to pay for the trees in lieu of a fence. Mr. Sherr asked Ms. Shonewald if it is safe to assume that the biggest outstanding item is the compromise for the buffering and Ms. Shonewald said yes. Mr. Auclair asked what the cost of the trees would be and Ms. Shonewald replied about \$300.00 per tree for a 7' tree.

Chris Neagle, 76 Orchard Rd. and former Planning Board Chairman, commented that the Board's job is to review the project against the review standards. Mr. Neagle does not think that the Board has any authority to tell people to plant trees on someone else's property.

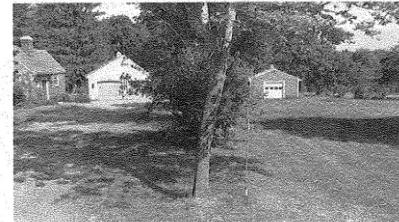
Peter Claypoole, 137 Middle Rd., indicated he and his wife, Rose Bradshaw, live next door to the proposed Storey Time Learning Center. Mr. Claypoole said that he and his wife have no reason to think that Mrs. Kiesow does not do excellent work with a child care type facility. Mr. Claypoole reviewed the following PowerPoint presentation and reviewed his concerns.

Overview of 137 Middle Road Property

- Road frontage of approximately 173 feet
- 2.5 Acre Lot
- Primary entrance is located 46 feet from 133 Middle Rd. south property line
- Both entrances are oriented to face 133 Middle Rd.
- Kitchen and Dining room windows face 133 Middle Rd.

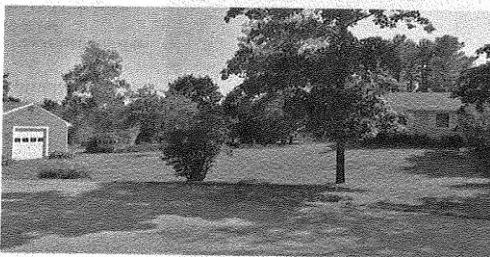


Street View of 137 Middle Rd. Abutting Property Line
Proposed Location of 24 Ft. Driveway & 50 Ft. Turnaround



Concern: Safety and noise related to close proximity of proposed driveway

View from 137 Middle Rd. Primary Entrance of Proposed 50 Ft. Turn Around



Concern: Very limited buffering...loss of privacy and security.

View of 133 Proposed 24 Ft. Driveway from 137 Middle Rd Primary Entrance



Concern: Vehicle traffic noise and head light glare into main living space inside house at 137 Middle Rd. (kitchen, dining and living rooms)

Services Provided & Number of Children/Families

- 20 Child Licensed Day Care and 15 After School Care Facility
- Day Care Children ages 3-6
- After Care Children K-3rd grade
- Maximum number of children served at any one time will be 20
- Maximum total number of families served 35

Hours and Days of Operation

- Services to be provided 52 weeks a year
 - School Year program
 - Summer Program
- Hours of operation 7:00 am -5:30, Monday-Friday
- Sessions Offered
 - 7:00 am-9:00 am (early care)
 - 9:00 am-12:00 pm
 - 9:00 am-1:30 pm
 - 9:00 am-3:00 pm
 - 9:00 am-5:00 pm
 - 3:30 pm-5:30 pm (after care)

Vehicles Coming and Going

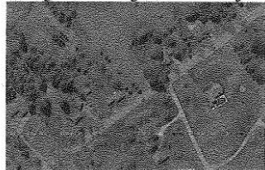
- Pick Up and Drop Off Schedule
- Morning Drop Off to be staggered 7:00 am to 9:30 am
- Pick Ups and Drop Offs throughout the day are at 12:00 pm, 1:30 pm, 3:00 pm, 5:00 pm, 5:30 pm
- School Bus Drop Off 3:30 pm
- *Concern: Congestion and queuing on Middle Rd., especially during drop off and pick times*

Lighting and Buffering

- 3 exterior lights to be placed on timers coinciding with hours of operation
- Screen fencing between 133 Middle Rd. and 137 Middle Rd. property line
 - A tentative agreement has been made for a 6', pressure treated, stockade fence, to be placed, between 133 Middle Rd. and 137 Middle Rd. properties. The fence will placement and length will be as agreed upon with the smooth side facing 137 Middle Rd. Stakes have been placed to represent fence placement and length.
- Parking lot Buffering
 - A tentative agreement has also been made to offer the Kiesows a 5' waiver allowing for clearance of the red maple tree at the front of 133 Middle Rd. property. This is limited only to what is necessary to save the red maple tree. The 15' buffer will be maintained in every other aspect.
 - *Concern: noise, exterior lights, vehicle head light glare into main living spaces inside house at 137 Middle Rd. (kitchen, dining and living rooms)*

Disruptive vs. Integral

- 315-47 Daycare Centers and Nursery Schools
 - Purpose. It is the intent of these provisions to allow the location of day-care centers and nursery schools in healthy and safe environments in a manner that will not be disruptive to neighborhoods. Such uses should be considered integral components of neighborhood life.
- *Concern: The business proposed for 133 Middle Rd. is disruptive to the neighborhood. Is it integral to neighborhood life?*



Events Outside Normal Hours of Operation

- Maximum of 4 special events outside regular hours of operation
- Conducted on weekdays and concluded by 7:00 pm
 - Thanksgiving
 - Christmas
 - Graduation
 - Family Gathering
- There will be no weekend services other than the Kiesows providing property maintenance (lawn mowing etc.)

Other Concerns

- *Signage should be as far away from 137 Middle Rd drive as possible to assure safe view for entering and exiting of 137 Middle Rd.*
- *Cars should not be allowed to cue or park in a manner that blocks view for safe entering and exiting of 137 Middle Rd, even on special event days.*
- *Proposed reclaimed bituminous asphalt may be noisy, and may produce significant dust due to continuous traffic through the day. Occupant of 137 Middle Rd. suffers from significant asthma and other breathing related health concerns. Loose material from this surface spilling onto Middle Road may cause damage to road and a hazard to cyclists (we have a lot of them on Middle Rd.)*
- *Snow removal should not physically block access or obstruct view for safe entering and exiting of 137 Middle Rd.*

Mr. Claypoole noted that his concerns have been more or less addressed.

David Crowley, 142 Middle Rd., said the applicant has done a thorough, complete job. Mr. Crowley said this project changes the nature of this section of Middle Road from primarily residential to commercial area. The project may be allowed within the zoning and asked that the Board take a serious look at the zoning to see if something can be done to ensure that additional commercial development does not occur on this end of Middle Rd.

Walter Burt Kiesow, noted that when the opportunity came up for Mrs. Kiesow to buy 133 Middle Rd. he quickly noted the adjacent lot that has already gone through engineer review to have two residential properties on it in the future in the RR2 and Mr. Kiesow purchased this lot. The natural buffering from Mr. Kiesow's lot to Ms. Shonewald's lot will grow when the lot is developed in the future.

John Knowles, 158 Middle Rd., said that both abutters deserve a good buffer and he thinks evergreens are a small price to pay and he hopes this gets resolved.

Temp. Chairman Sherr added that 5 letters were received in the Board's packet along with 2 additional letters that came over the last few days that were provided to the Board tonight. These were all letters of support for the project and were from; Bill & Melissa Bunton, Gretchen Sullivan, Darcey James, Louie & Jean Spear, Lisa Gilbert, Derek Soule and Frankie Oulton.

Mr. Kendall said an understanding has been reached with Ms. Shonewald about buffering. Ms. Shonewald confirmed that the applicant will provide an adequate allowance towards purchasing trees and Ms. Shonewald will pay for planting the trees on her property and she is pleased with this.

Temp. Chairman Sherr closed the public hearing.

Mr. Saunders asked if MDOT permits are needed and Ms. Nixon said this is a Town road and a driveway opening permit will be required. Mr. Saunders asked if a driveway opening permit should be a condition of approval and Ms. Nixon agreed. Mr. Saunders asked if the ordinance says anything about a property needing to be residential with someone living there for it to be a permitted use. Ms. Nixon replied that there are a couple of classifications for daycare and one is a daycare home and the other is a daycare center. A daycare center is when the owners don't live there. These are permitted uses.

Mr. Auclair inquired about waivers. Temp. Chairman Sherr reviewed 3 proposed waivers as follows; waive the 15' distance requirement from the lot line to any parking, waive the buffering requirement for the parking area and waive the requirement for a road grade of 3% or less in the first 40 feet of the driveway.

Mr. Saunders moved that due to the unique characteristics of the site, the Board waive the 15' distance requirement from the lot line to any parking, seconded by Mr. Auclair. Mr. Davis asked if there was any consideration for moving the employee parking to the rear of the property. Mr. Kiesow responded that they are trying to achieve as minimal a disturbance as possible and the existing driveway will become the employee parking area. They are not adding to the impervious surface and will turn the existing paved area into an employee parking area. Mr. Davis asked if they had considered loaming and seeding this area and adding the employee parking in the rear. Mrs. Kiesow said originally they looked at having the parking in the rear but she was informed by the Town that the Town would prefer instead of parking spaces to have a roundabout for drop off and pick up. Mr. Davis indicated that this is not a major concern to him. Mr. Davis asked how the applicant will accommodate parking for the 4 yearly family type events. Mr. Kiesow said he owns the lot at 131 Middle Rd. and he will allow parking on his lot for these events. The motion was then **VOTED, 4 yeas – motion carries.**

Mr. Saunders moved that due to the unique characteristics of the site, the Board waive the buffering requirement for the parking area, seconded by Mr. Auclair and **VOTED, 4 yeas – unanimous, motion carries.**

Mr. Saunders moved that due to the unique characteristics of the site, the Board waive the requirement for a road grade of 3% or less in the first 40 feet of the driveway, seconded by Mr. Auclair. Mr. Saunders said he is worried without knowing what the grade will be to waive this requirement unilaterally. The Board will add a condition of approval that a grading plan will be submitted and approved by Town Staff. The motion was then **VOTED, 4 yeas – unanimous, motion carries.**

The Board reviewed the proposed findings of fact and recommended some changes. Mr. Saunders moved to adopt the findings of fact as amended, seconded by Mr. Auclair and **VOTED, 4 yeas – unanimous, motion carries.**

Findings of Fact: Section 229-10, Approval Standards and Criteria

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

A. Utilization of the Site. The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation. **The proposed daycare will utilize an existing one story house and garage. The garage will be renovated for additional classroom space. There will be no excavation required for buildings, but a 18' wide access drive, turn-a-round and parking area (with reclaim asphalt) will be added. The Planning Board finds the standards of this section have been met.**

B. Traffic, Circulation and Parking:

1. Traffic Access and Parking. Vehicular access to and from the development must be safe and convenient.

a. Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.

b. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

c. The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.

d. The intersection of any access/egress drive or proposed street must function:

1. at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or

2. at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

e. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.

f. Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.

g. Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

h. The following criteria must be used to limit the number of driveways serving a proposed project:

1. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.

2. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

Waivers have been granted for the driveway grading and the parking area setback. With the approved waivers the Planning Board finds the standards of this section have been met.

2. Accessway Location and Spacing. Accessways must meet the following standards:

a. Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured

from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

b. Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

The proposed entrance location complies with the standards of this section. The Planning Board finds the standards of this section have been met.

3. Internal Vehicular Circulation. The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

- a.** Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- b.** Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- c.** The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- d.** All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

As stated above, the three employee parking spaces will be located off the entrance drive. The driveway is 2 cars wide which will allow for a car to move beside a parked car that is dropping off a child. The existing entrance, driveway and parking meet the above standards. The Planning Board finds the standards of this section have been met.

4. Parking layout and design. Off street parking must conform to the following standards:

- a.** Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
- b.** All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

c. Parking stalls and aisle layout must conform to the following standards;

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" 2-way
60°	8'-6"	10'-6"	18'-0"	16'-0" 1-way
45°	8'-6"	12'-9"	17'-6"	12'-0" 1-way
30°	8'-6"	17'-0"	17'-0"	12'-0" 1 way

d. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

e. Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

f. Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

There is parking for the employees and adequate space for cars to park in the driveway with room for other cars to pass by. The Planning Board finds the standards of this section have been met.

5. Building and parking placement.

a. The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform to the rural character of the area. If the parking is in front, a generous, landscaped buffer between the road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

b. Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five to 10 feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

There is an existing house and attached garage on site that will be used for the daycare center. Three new parking spaces are shown on the site plan. A waiver has been granted for buffering and with the approved waiver the Planning Board finds the standards of this section have been met.

6. Pedestrian Circulation. The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site.

The drop-off location is close to the main entrance to the daycare which is located on the rear of the building, away from Middle Road. No new pedestrian facilities are required. The Planning Board finds the standards of this section have been met.

C. Stormwater Management and Erosion Control.

1. Stormwater Management. Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

a. To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

b. Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

c. The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.

d. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

e. The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.

f. The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

g. The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

Based on the new site plan and response to Town Engineer's comments the stormwater for the property and the driveway will be graded such that stormwater will discharge to the rear of the property and not to abutting properties to the north or south. The Planning Board finds the standards of this section have been met.

2. Erosion Control.

a. All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

b. Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

(Editor's Note: See also Ch. 242, Stormwater Management.)

The applicant has noted that Storey Brothers will be contracted and will use standard construction best management practices necessary during the construction as needed.

The Planning Board finds the standards of this section have been met.

D. Water, Sewer and Fire Protection.

1. Water Supply Provisions. The development must be provided with a system of water supply that provides each use with an adequate supply of water. 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 of distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

The daycare will utilize public water. A letter from the Portland Water District indicating that they have adequate capacity to serve the project has been received. The Planning Board finds the standards of this section have been met.

2. Sewage Disposal Provisions. The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.

There is an HHE-200 and an approved permit from the local plumbing inspector for an existing septic system that will adequately serve the needs of the proposed use. The Planning Board finds the standards of this section have been met.

3. Utilities. The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

There is existing overhead power to the building that will be used. The Planning Board finds the standards of this section have been met.

4. Fire Protection. The site design must comply with the Fire Protection Ordinance. The Fire Chief shall issue the applicant a "Certificate of Compliance once the applicant has met the design requirements of the Town's Fire Protection Ordinance.

There is public water to the site. There is a fire hydrant in front of the property.

The Planning Board finds the standards of this section have been met.

E. Water Protection.

1. Groundwater Protection. The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

The proposed use complies with the above requirements. The Planning Board finds the standards of this section have been met.

2. Water Quality. All aspects of the project must be designed so that:

a. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

b. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

There will be no hazardous materials stored on site that would affect water quality. The Planning Board finds the standards of this section have been met.

3. Aquifer Protection. If the site is located within the areas designated as aquifer protection (AP) on the Official Aquifer Protection Map, a positive finding by the board (if Staff Review, The Town Planner or Staff Review committee) that the proposed plan will not adversely affect the aquifer, is required in accordance with the standards set forth in Chapter 315, Article V, Aquifer Protection, of this Code.

N/A

F. Floodplain Management. If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

According to the FEMA Flood Insurance Rate Map the subject property is located in Zone C (area of minimal flooding.) The Planning Board finds the standards of this section have been met.

G. Historic and Archaeological Resources. If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

The site had been developed as a residence with an attached garage and unattached garage and shed. There are no apparent historic or archaeological resources on the site. The Planning Board finds the standards of this section have been met.

H. Exterior Lighting. The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. All exterior lighting must be designed and shielded to avoid undue glare, adverse impact on neighboring properties and rights - of way, and the unnecessary lighting of the night sky.

With the proposed Condition of Approval on the lighting plan the Planning Board finds the standards of this section have been met.

I. Buffering of Adjacent Uses.

1. Buffering of Adjacent Uses. The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and / or a combination of these or other techniques.

The Applicant has proposed to buffer the abutting property to the north with a screen fence and the property to the south with existing vegetation. The Planning Board finds the standards of this section have been met.

2. Landscaping. Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

There are existing trees and plants between the daycare center building and play area and abutting properties. The Planning Board finds the standards of this section have been met.

J. Noise. The development must control noise levels such that it will not create a nuisance for neighboring properties.

The proposed use will have hours of operation of 7:00 a.m. to 5:30 p.m. Monday through Friday. Children will be outside in the play area during limited times and they will be under full supervision by staff.

The Planning Board finds the standards of this section have been met.

Trash will be stored inside. There will be no dumpster on site. There are no safety hazards on the site. The Planning Board finds the standards of this section have been met.

K. Storage of Materials.

1. Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

2. All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

3. Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

L. Capacity of the Applicant. The applicant must demonstrate that he / she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

Financial Capacity is evidenced by a letter dated 7/12/17 from Bath Savings Institution stating that they will provide a line of credit for the cost of the renovations required.

Technical Capacity is evidenced by the utilization of an attorney.

The Planning Board finds the standards of this section have been met.

M. Design and performance standards.

1. Route 100 Design Standards (if applicable). All development in the Village Center Commercial, Village Office Commercial I and II, and the MUZ Districts shall be consistent with the Town of Cumberland Route 100 Design Standards; in making determination of consistency, the Planning Board may utilize peer review analysis provided by qualified design professionals. **N/A**

2. Route 1 Design Guidelines (if applicable). All development in the Office Commercial North and Office Commercial South districts is encouraged to be consistent with the Route 1 Design Guidelines. **N/A**

The Board reviewed the proposed conditions of approval. Mr. Saunders moved to approve Site Plan Review for Storey Time Learning Center and Afterschool Care for up to 20 children and 3 employees at 133 Middle Rd., tax map R01, lot 28 in the Rural Residential 2 zoning district subject to the Limitation of Approval, the Standard Conditions of Approval and the six proposed (6) Conditions of Approval, seconded by Mr. Auclair and **VOTED, 4 yeas – motion carries.**

Conditions of Approval

1. That all fees paid prior to issuance of a building permit.

2. That all requirements of the Cumberland Fire Chief and Maine State Fire Marshall's office be complied with.

3. Hours of operation shall be limited to Monday through Friday from 7:00 am to 5:30 pm.

4. The grading plan with details will be submitted by the applicant and reviewed and approved by the Town Engineer prior to the installation of the driveway, parking and turn around areas.

5. An exterior lighting plan will be submitted to the Town Planner for final review and approval to note 3 lights, lights will be on a timer set to shut off at 6 pm. Exterior lights will be full cut off fixtures.
6. The applicant will provide adequate parking for up to 4 evening events per year.

Temp. Chairman Sherr called for a 10 minute recess. Mr. Saunders was excused from the remainder of the meeting. Chairman Moriarty returned to the dais and the meeting resumed.

2. Public Hearing: Sketch Plan Review: 9 or 10 Lot Residential Subdivision. 74

Orchard Road. Tax Map R 08, Lot 59 B in the Rural Residential 2 zoning district. Owner and Applicant: TZ Properties; Representative: Gorrill Palmer Consulting Engineers.

Chairman Moriarty introduced the item and explained that sketch plan review is the beginning stage of the subdivision review process and no final or preliminary approval will be given by the Board tonight. This is an initial rollout of a proposed plan and a lot can, and often does, happen between what is seen tonight and what will be presented for final approval at some point.

Will Haskell, Gorrill Palmer, showed a map of the property at 74 Orchard Rd. The property is roughly 26 acres. Mr. Haskell showed a boundary plan of the property. He identified a two acre parcel that was split off within the past 5 years from the parent parcel and explained that the acreage of this lot was included in the net residential density calculation. Mr. Haskell said the parcel abuts residential land to the north and east, undeveloped land to the south and an apple orchard to the west. Mr. Haskell has submitted two plans as required by the ordinance, a standard (traditional) plan and a cluster plan. The applicants prefer the cluster plan.

Mr. Haskell showed the standard plan and pointed out the wetlands and streams on the site. Mr. Haskell said one reason they like the cluster plan better is that it is easier to configure the smaller lots so that the wetlands are more aligned along the lot lines rather than extending through the middle of the lot. Mr. Haskell said that the wetlands have been delineated by TRC, wetland scientists, and there are roughly 2.3 acres of wetland area that have been taken into account in the net residential density calculation. The soils are almost all hydrologic soils group c which are fine sandy loam type soils that are generally are supportive of septic systems. Mr. Haskell said there is not public water or sewer on this site so there will be private wells and septic systems. The speed limit on Orchard Road is 35 mph and the subdivision road is located to provide adequate site distance.

Mr. Haskell said the minimum lot size for the traditional type is 2 acres and for the cluster type it is 60,000 sq. ft. Lot frontage for the traditional is 200' and 100' for a cluster. Setbacks are 50' in the front, 75' for the rear and a 35' minimum side setback with a combined side setback of 75'. Net residential density calculations are provided for both the traditional and cluster plans. Calculations for the traditional plan come out to 11 lots and for the cluster plan it comes out to 16 lots. The cluster subdivision has a requirement for 25% open space. The street design is for residential access greater than 50 vehicles per day. The residential access street will have a paved width of 25' with gravel shoulders. Mr. Haskell said he would like feedback on sidewalks and paved shoulders.

The traditional layout has 10 new lots that are 2 acres or more each. The road alignment in the traditional layout is straight with one bend.

Mr. Haskell showed the cluster plan with 9 lots and is the plan the applicant prefers. The open space is about 6.5 acres and will extend to the road frontage. The first lot in the cluster plan is about 300' in from Orchard Rd. The open space will provide some nice buffering. The road length in both plans is roughly 1,500'. The cluster plan has lots with a minimum of 100' of frontage and some lots have more. Mr. Haskell identified a potential connector easement shown on the plan near the back of the parcel to potentially developable land to the southwest.

Chairman Moriarty asked who will own the open space and Mr. Haskell replied that his understanding is that the open space will be owned by a homeowner's association. Chairman Moriarty asked if there will be a private road or a public way and Mr. Haskell said he believes the road will be designed to be a public street.

Mr. Sherr asked if the wetlands shown on the plan include the setbacks or if they are the limits of the wetlands that have been identified. Mr. Haskell said the gray areas are just the wetlands without setbacks and the stream areas show the DEP 75' setback. The building envelope lines do not show the setback to the wetlands. Mr. Sherr suggested that in future plans, the building envelopes should be shown to not include the wetland areas.

Chairman Moriarty opened the public hearing.

Chris Neagle, 76 Orchard Rd., pointed out his home on the plan. Mr. Neagle said about 3 years ago he served on a committee that discussed conservation subdivisions. Mr. Neagle said that this plan is another example of the good land being developed and the crappy land being put in open space. Chairman Moriarty said that there is currently a Conservation Subdivision Committee. Mr. Neagle said he prefers the cluster plan. Mr. Neagle said he would like there to be tree cutting restrictions in the open space behind his lot. Mr. Neagle noted that due to nearby apple orchards, he has an arsenic filter system on his property because the well water was contaminated with arsenic. Mr. Neagle also has a high radon reading.

Chairman Moriarty asked what the applicants thoughts are about maintenance of the open space. Mr. Haskell said his understanding from his clients is that they do not intend to clear the open space except for any dead or dying trees and they intend to keep the open space the way it is.

Amanda Stearns, 65 Orchard Rd., said she lives across the street. Ms. Stearns said that Orchard Rd. is a commuter road and also serves as a neighborhood street with walkers and cyclists on the road quite often. Ms. Stearns said this section of Orchard Rd. by vehicles that like to accelerate. Driving up the hill and around the bend there is a limited sight distance and Ms. Stearns routinely sees near accidents between vehicles and pedestrians. Ms. Stearns recommends that the speed limit be lowered and the road striping be narrower. Ms. Stearns asked that the Town consider some traffic calming measures along this section of Orchard Rd. Ms. Stearns said the location of the entrance road and the geometry of Orchard Rd. should be taken in consideration of the project. Ms. Stearns asked that the proposed subdivision street not be opposite her living room window. Ms. Stearns asked that if there is a lot on the Orchard Rd. frontage that the driveway be accessed from the new street and not from Orchard Rd. Ms. Stearns said that she prefers the cluster plan.

Zack Davis, 74 Orchard Rd., said he supports the cluster plan.

Nate Crooker, 20 Orchard Rd., said he is downhill from this project and the wetland waters filter into a stream that runs through his property. He would like to see how this project will impact this body of water. Mr. Crooker is concerned with the density on the road, use of the road and impacts on this. Mr. Crooker said the fewer lots the better and this is a benefit with the cluster plan.

Chairman Moriarty closed the public hearing.

Mr. Auclair said from what he has heard and seen he prefers the cluster subdivision and asked if lot 1 does not encumber the wetlands as suggested by Mr. Sherr would it be possible to have a lot here. Mr. Haskell said they will still be able to get a lot here.

Mr. Sherr said he prefers the cluster. Mr. Sherr noted that he and Mr. Auclair are on the current Conservation Subdivision Committee and he hopes the Town moves forward in this direction. Mr. Sherr noted that new road standards were approved about 1 year ago.

Mr. Auclair asked if Mr. Haskell can tell them where the road will be in relation to Ms. Stearn's driveway. Mr. Haskell said he will have to take a look at this and they do have flexibility relative to where the road will come out.

Mr. Sherr noted that consideration of the public's comments tonight is prudent.

Chairman Moriarty said he supports the cluster concept.

Mr. Davis said he echoes Board members comments and is a fan of the cluster plan. He would like some of the bigger trees to be maintained.

Mr. Sherr moved to recommend to the applicant before the Board for Sketch Plan Review for a residential subdivision at 74 Orchard Road, tax map R08, lot 59B in the Rural Residential 2 zoning district to move forward with a cluster subdivision site plan and noted comments during the public meeting tonight, seconded by Mr. Auclair and **VOTED, 4 yeas – unanimous, motion carries.**

3. TABLED ~~Public Hearing: Sketch Plan Review: Major Subdivision and Site Plan Review for 9 multiplex units~~ at 251 Gray Road, Tax Map U 21, Lot 18 in the Village Office Commercial 1 zoning district. Owner: Denise Morgan; Applicants: Denise Morgan, Megan Morgan and Nathan Pelsinski. Representative: Nancy St. Clair, P.E., St. Clair Associates. This item was tabled prior to the meeting.

4. Public Hearing: Recommendation to the Town Council to amend Article I (Definitions), Article III (Overlay Districts) and Article VI (General Regulations) of Chapter 315 (Zoning) of the Cumberland Code to establish a Senior Housing Community Overlay District and to adopt definitions and regulations related thereto.

Chairman Moriarty introduced the item and said that this is a matter that has been before the Town Council Ordinance Committee for some time now.

Town Manager Bill Shane said that two committees have looked at this proposal. The Land Use Advisory Committee looked at this and they are focused on growth areas in Town and the proposal tonight is in a growth area. They also worked with the School Board to look at what types of housing the Town should look at.

The ordinance before the Board tonight for a recommendation is for the Senior Housing Community Overlay District. Mr. Shane explained the two types of senior housing and said this ordinance will allow both types.

Mr. Shane said the senior housing overlay will allow congregate housing, residential care facilities, nursing homes, continuing care retirement, community living arrangements, single family homes and duplex dwellings.

Mr. Shane said this ordinance will allow assisted care and something in between independent living and assisted care, which is greatly needed in the community.

Mr. Shane said they originally had a workshop where they looked at this as a floating district that could be allowed to occur in areas with public water and suitable soils for septic. They have reduced this to be a trial area.

Mr. Shane outlined a map of the proposed overlay district and said there will be a 5 acre minimum lot size. Mr. Shane described the surrounding areas. Mr. Shane said 25% of homes in Cumberland send students to SAD #51 and this is a small number. Cumberland has started to become a gray community and the age diversity is shifting to the senior side. It is important for a healthy community to have a healthy balance.

Mr. Shane said that the Town Council, as part of a future RFP, would like to get developers involved to look at an affordable type housing project and market to Cumberland residents to turn over their existing properties. Mr. Shane said the median age of Cumberland residents is 50 and this is 10-11 years higher than the average in Cumberland County. Mr. Shane said that the Town has to do something soon and can encourage residents to stay in the community by encouraging seniors to move this type of development, we can hopefully be successful in turning over homes to young families.

Mr. Shane said Cumberland is now the safest community in the State and also the most educated community in the State and are first or second in affluence in the State. Mr. Shane noted that the Town has to figure out a mechanism for affordable housing.

Mr. Shane showed a master plan of a senior housing community.

Mr. Davis asked if this could be only for Cumberland residents and Mr. Shane said the Town cannot legally do that. Mr. Shane would propose that it be marketed to Cumberland residents first. Mr. Davis said this could be filled up by people not from Cumberland and then the turnover really doesn't happen. Mr. Shane said this is a concern.

Mr. Shane said when the Town gets through the DEP process and finds a developer, he hopes to be back with a proposal in January for this proposed master plan.

Chairman Moriarty explained that the Board is scheduled tonight to make a recommendation to the Town Council that is non-binding and he opened the public hearing.

Gigi Sanchez, resident of Shady Run, said she is Chair of the School Board and is here in her personal capacity. Cumberland school enrollment is at 25% and this is not good. Ms. Sanchez said the Town needs to attract 30-40 year olds. Ms. Sanchez asked Mr. Shane why this couldn't just be affordable housing and she understands for development purposes there needs to be an age restriction. The rental properties that have been built on Route 1 have produced very few families with children. Ms. Sanchez said there is a need for diversity with respect to age in town and middle income with affordable housing.

Chairman Moriarty said the advantage to a very small overlay is that to some extent it will be experimental. Mr. Sherr noted that it is part of the Comprehensive Plan to increase diversity in Town and to provide opportunities for affordable housing.

Tom Simmons, 135 Longwoods Rd., said he is concerned if the overlay district will abut his property. Mr. Shane clarified the location. Mr. Simmons said he is interested to see how the development progresses and it is right in his backyard.

Sam York, 1 Fox Run Rd., said years ago the war cry was that people all come here for the schools and then leave when the kids are out of school because the taxes are too high and now the people with kids aren't coming. Mr. York asked if this is because the taxes are too high. The Town is now encouraging older folks to stay in Town and Mr. York wonders if the Town has the right formula and said this should be considered.

Chairman Moriarty closed the public hearing.

Mr. Sherr moved to make a recommendation to Town Council to amend Article I (Definitions), Article III (Overlay Districts) and Article VI (General Regulations) of Chapter 315 (Zoning) of the Cumberland Code to establish a Senior Housing Community Overlay District and to adopt definitions and regulations related thereto, seconded by Mr. Auclair and **VOTED, 4 yeas — unanimous, motion carries.**

G. Administrative Matters/New Business:

H. Adjournment: Mr. Auclair moved to adjourn the meeting at 10:35 pm, seconded by Mr. Davis and **VOTED, 4 yeas – unanimous, motion carries.**

A TRUE COPY ATTEST:

Stephen Moriarty, Board Chair

Christina Silberman, Administrative Asst.