



# TOWN OF HOPKINTON

## OFFICE OF THE PLANNING BOARD

TOWN HALL  
18 MAIN STREET  
HOPKINTON, MASS. 01748  
(508) 497-9755

April 12, 2006

### DECISION OF SITE PLAN REVIEW

Application for Amendment to a Decision of Site Plan Review filed by Christine Martin, Sunshine Preschool, 1 Briarcliff Drive, Hopkinton, MA, for Sunshine Preschool at **1 Briarcliff Drive**, Hopkinton.

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The Planning Board held a public hearing on the application submitted by Christine Martin, Sunshine Preschool (the "Applicant") for an amendment to a Decision of Site Plan Review on February 27, 2006, continued to March 7, 2006 and April 10, 2006, pursuant to Article XX of the Zoning Bylaw, Site Plan Review (the "Bylaw"). The proposal requests elimination of condition #13 of the Planning Board's Site Plan Review Decision dated September 18, 2002.

Under the Town of Hopkinton Zoning Bylaws, Site Plan Review is an administrative review of site design for uses that are allowed in the underlying Zoning district, and is not a review of a proposed or existing use.

The site currently contains the Sunshine Preschool and was the subject of a Site Plan Review Decision of the Planning Board dated September 18, 2002. The approval was subject to several conditions, including condition #13, as follows:

*13. The preschool calendar shall mirror that of the Hopkinton public schools with regard to holidays, snow days, and vacation days. This shall not prevent the preschool from closing on more days than the public schools are closed.*

The Applicant's request included the following: 1) requested the option to be open in the summer months; 2) that the school has run camp sessions for half days from 8:30 am to 12:30 pm in June until the public school year has ended and would like to consider being open for a longer time during the summer months for programs such as the camp sessions; 3) the school would probably not be open the entire summer as this time is also used for maintenance, cleanup and setup for the fall school year. It was requested that the Planning Board modify its condition of approval to accommodate possible year-round operation. The Applicant indicated that there are no current plans to have the summer program, and if it were to occur, it would likely not be before the summer of 2008. The Applicant requested that the condition be removed, noting that it is not one of the "reasonable regulations" listed in MGL c.40A § 3 (the "statute") which can be regulated by the community. The Applicant noted that she voluntarily offered condition #13 at

the original Site Plan Review, but now would like the option to consider a summer program. The applicable provision of the statute is as follows:

*“No zoning ordinance or bylaw in a city or town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.”*

### **Review Standards**

The Decision Criteria for approval of a Site Plan are contained in Section 210-136 of the Zoning Bylaw and are as follows:

- A. The Site Plan conforms to the purpose and intent of the bylaw and proposes an appropriate and beneficial development of this site;
- B. The surrounding area will be protected from the proposed use on the site by provision of adequate surface water drainage, buffers against light, sight, sound, odors, dust and vibration and the preservation of adequate light and air;
- C. The convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas and public ways is ensured;
- D. Environmental features of the site and surrounding areas are protected;
- E. The Site Plan is consistent with the Master Plan;
- F. The proposed building scale and/or site development plan is consistent with the surrounding neighborhood;
- G. All variances or special permits required from the Zoning Board of Appeals have been granted;
- H. Notwithstanding the above, regulation of uses and structures referred to in MGL c.40A, §3 shall be limited to the extent allowed under said section of the General Laws.

The Bylaw further states that Site Plan approval may be made subject to conditions, modifications and restrictions as the Planning Board may deem necessary.

Site Plan Review is for uses permitted in the underlying zoning district, and is not a review of the use but of the design of the site to serve a permitted use. In this case the use of the site is one referred to in MGL c.40A, Section 3, so criterion 210-136.H applies.

### **Discussion at the Public Hearing and Information Received**

The Board received letters of comment and recommendation from residents of the community and the Hopkinton Police Chief.

At the hearing, residents of the neighborhood expressed concerns with the current volume of traffic to the premises and the increase in traffic that would be present in the summer for an extended program. Residents stated that with neighborhood children home from school in the

summer, there would be greater risk for accidents involving people and vehicles. Residents also stated that the children playing outside at the school are noisy and disturb residents. Several cited complaints relative to the number of people who do not obey the Wild Rd./Briarcliff Rd. Stop signs, with residents stating that most or all of those who do not stop at the signs are those going to the school.

The Applicant stated she has no current plans for a summer program, but would work with the neighbors and inform them if she plans to begin one. She noted that the school regularly reminds parents of the need to obey the traffic laws and the drop-off and pick-up procedures at the school. She noted that the children play outside for 20 minutes in the morning session and 20 minutes in the afternoon session when the school operates during the school year. In response to a request of the Planning Board for information, the Hopkinton Police Chief wrote the Board that: 1) there were no reports on file of traffic delays; 2) there were two accidents on Briarcliff Dr., one in October 1995 and one in November 2004, neither of which appeared related to the preschool; and 3) the Police Department has received occasional requests for traffic enforcement at the Wild Rd./Briarcliff Dr. Stop signs and one citation was issued in October 2004. A member of the Planning Board stated that she visited the site one day recently to observe the traffic and noted that several people did not obey the Stop signs, but none of them came to or from the school.

The Board stated that it understood and was sympathetic to the concerns of residents, but noted that its actions were limited by the provisions of the statute which does not give the Town the authority to regulate what times of year the preschool can operate. The Board encouraged the Applicant and the residents to work together to alleviate any problems or issues that arise in the future.

### **Findings and Votes of the Board**

The Planning Board conducts its review of Site Plans in accordance with the Decision Criteria contained in the Bylaw. However, the Board must also be mindful of the provisions of the statute, which lists specific items that may be regulated by a community with respect to this use. For this reason, the Bylaw does contain provisions pertaining to the exempt uses listed in the statute, including criterion H, which recognizes the special status of these uses and the limitations of municipal regulation.

After discussion and consideration of the information presented at the public hearings, the Board voted at its meeting on April 10, 2006 to remove condition #13 from the Sunshine Preschool Site Plan Review decision dated September 18, 2002.

On the Motion to remove condition of approval #13 from the Site Plan Review Decision, the vote of the Board was as follows:

Mark Abate	Abstain
Sandra K. Altamura	No
Evan Ballantyne	Abstain
John H. Coolidge	Yes
R. J. Dourney	Yes

Jaime Goncalves      Yes  
Brian Herr            Yes  
Claire Wright        Yes

Any person aggrieved by this Decision may appeal in accordance with Article XX, Section 210-135 F. of the Hopkinton Zoning Bylaw within 30 days of the filing of the decision with the Town Clerk.

Mark A. Abate  
Chairman

Cc:    Director of Municipal Inspections  
      Police Chief