

A regular meeting of the Bath Planning Board was called on 3-19-02 for the purpose of conducting regular business.

**MEMBERS PRESENT**

Bob Oxtan, Chair  
Jim Harper, Vice Chair  
David King  
Marjorie Hawkes  
Robin Haynes  
George Pollard

**MEMBERS ABSENT**

Paul Karass

**STAFF PRESENT**

Jim Upham, Planning Director  
Mary Jane Sullivan, Recording Secretary

Bob Oxtan, Chair, called the meeting to order in the third floor Council Chambers at 6:00 p.m. on Tuesday, March 19, 2002

**Minutes of March 5, 2002 meeting**

**ROBIN HAYNES MOVED, SECONDED BY MARJORIE HAWKES, TO APPROVE THE MINUTES OF THE MARCH 5, 2002, MEETING AS WRITTEN.**

**UNANIMOUS APPROVAL**

**Old Business: None**

**New Business:**

**Item 1**

**Pre-application Workshop** – Expansion of Plant Memorial Home, 1 Washington Street (Map 43, Lot21).

Art Mayo, President of Plant Memorial Home, and resident of Bath, spoke for the Plant Home, reporting that it was established in 1917 for people of limited means. He said that it needs renovation. It has 26-28 rooms, none of which have private baths. People now prefer a private bath. This reduces space and drives the need for the addition. They hope to break ground in the fall and have the foundation in before snow. He introduced John Chapman, Chair of the Building Committee, who also stated that their goal was to update to present standards of what people expect. Mr. Chapman introduced George McDonough of SMRT Architects & Engineers, of Portland.

Mr. McDonough said that the Plant Home currently has 23 residents and they will expand to 37 units. The plan is to isolate a 1.9 acre parcel and create a special

purpose overlay district and a contract zone on that parcel. They propose to keep it aesthetically pleasing and change as little as possible. They plan to have an area to park 34 vehicles and add additional landscaping. He presented a photo-simulation showing that the proposed addition would match the existing building to the best of their ability. He acknowledged plans are at the conceptual level.

Bob Oxton, Chair, asked if the Board had any questions. Marjorie Hawkes inquired if the same guidelines for admission to the Plant Home will continue. The answer was that the mission is unchanged. The applicant said that the addition will be paid for largely by low-income tax credits and the Plant Home Endowment Fund pays about 90% of the cost of running the home. There will be one bedroom apartments and efficiency units with minimal kitchen facilities. The common dining room will be retained. There will be more opportunity to take a husband and wife than before.

Jim Upham, Planning Director, pointed out that per Bath's Ordinance the Plant Home now is a Residential Care Facility and the modification will change it to what Bath's Ordinance calls a Congregate Care Facility.

Bob Oxton, Chair, opened the meeting for public comment.

Fred Dinson, who lives near the Plant Home, told the Board that he gets a power surge when the generator is used, and he expects it would affect him if they doubled the size of the generator.

Phil DeLeon, 23 Washington Street, spoke about being able to hear people talk when they are making early morning deliveries in front at the northerly end and in the parking lot. He said that from the vehicles lights face toward his house. He said he also hears the noise from the generator whenever it goes on.

Seeing no more members of the public wishing to comment, Bob Oxton, Chair, closed the public session, and again gave Board members opportunity to make comment.

Robin Haynes said she applauded the design, and asked about the materials they would use, about the view from the river, whether the small shed on-site would remain.

George McDonough answered that the building material will copy the existing vinyl siding. He said they would prepare an east elevation drawing. He also commented on the generator noise, saying that every day new ones get better and quieter. He said that the small shed will be eliminated and the new maintenance area will be within the new structure.

Discussion included need for archeological review by the State historic preservation office, and to the location of the shoreland zone, location of dumpster, location of parking and deliveries, necessary screening, and lighting changes, including keeping the lighting low with lower wattage bulbs and more fixtures, and curb cuts.

Jim Upham reminded the Board that the site is presently zoned R6, and neither the Residential Care Facility nor the Congregate Care Facility is a permitted use. He said that the Special Purpose Commercial Contract Overlay (SPCCO) District seems to be appropriate for this situation and that creating a contract zone would give the Planning Board review authority over the façade of the building. In addition he said that in order for this to work Article 18, section 18.13, D, 1, which does not allow additions to buildings in the SPCCO, will need to be amended.

## **Item 2**

**Request for Historic District Approval** - Addition to building at 993 Washington Street (Map 26, Lot 191); Diane Moyer, applicant.

Greg Moyer, 993 Washington Street, spoke about enlarging their dining area by two feet out by eight feet wide facing due north. He said the siding will be tan like the rest of the house and the windows will be similar with multiple panes. The rest of the side of the house will remain the same.

Jim Upham said that the review committee of the Sagadahoc Preservation has looked at the drawing and believes that the addition will be in keeping with the character of the buildings in the vicinity.

Robin Haynes asked if the Planning Board needed to consider distance to property line. Dave King indicated that the enlargement faces the common area of the condominium, not the property line. Jim Upham said it was okayed by the code officer.

Bob Oxton, Chair, opened the public session. There was no public comment on this item.

**DAVID KING MOVED, SECONDED BY GEORGE POLLARD, THAT THE PLANNING BOARD FINDS THAT THE PROPOSED ADDITION MEETS THE APPROVAL CRITERIA OF LAND USE CODE SECTION 8.12, H, AND TO GRANT HISTORIC DISTRICT APPROVAL FOR THE ADDITION TO THE BUILDING AT 993 WASHINGTON STREET, WITH THE CONDITION THAT THE SIDING BE THE SAME COLOR AS THE REST OF THE HOUSE.**

**UNANIMOUS APPROVAL.**

## **Item 3**

**Request for Site Plan Approval** – Mining operations at North Bath Road (Map 6, Lots 1 and 2); H. C. Crooker & Sons, applicant

Jim Upham reminded the Board that the first order of business is for the Board to determine if this is a complete application.

Jim Upham stated that soil conditions weren't shown on the first plan but that the second submittal includes soils information. He also said that earlier in the day Board member King had asked if the short stream shown on the plan needs a 200-foot setback. He said that it is the Code Officer who determines this and he is on vacation. His initial response to the plan was that it met space and bulk standards.

**DAVID KING MOVED, SECONDED BY JIM HARPER, TO FIND THE APPLICATION FOR SITE PLAN APPROVAL BY H. C. CROOKER COMPLETE, WITH THE POSSIBILITY OF THE NEED FOR A 200-FOOT SETBACK AROUND THE SMALL STREAM SHOWN ON THE PLAN.**

**UNANIMOUS APPROVAL.**

Bob Oxton, Chair, recognized Shawn Frank, civil engineer with Sebago Technics, consultant for the applicant. Mr. Frank introduced Tom Sturgeon of Crooker & Sons, and Walter Taggart, landowner, also present. He displayed a map with the area already used in green and the 10 additional acres proposed in yellow. He said the applicant is proposing to mine one acre per year for the next 10 years, with the same restrictions of the permit issued in 1995. The material mined is mostly clay and mostly used for the Bath landfill cover. He said that there is a small drainage ditch on the site and he called it a stream on the site plan. Mr. Frank said that the pit will have a 4 to 1 slope and that it will be internally drained, with the drainage flowing in not out. He said the erosion control and reclamation plan is in place.

Marjorie Hawkes said that when the activity first started the stream to the north of the mining site turned muddy. She said she would like to table this item until the Planning Board has a chance to go out and review the area.

Bob Oxton, Chair, asked if she meant to table it before discussion. She said that discussion should take place now, but that the Board should go visit the site before a decision on the application is made.

Bob Oxton, Chair, opened the meeting for public comment.

Kathleen Edwards, 335 North Bath Road, said she moved there during the winter and nobody mentioned the parade of trucks past their house during the summer. She said she would like to see it closed, not expanded. She said that no one would want to buy her home if they saw all the trucks coming by in the summer.

Kevin Gaughan, 291 North Bath Road, spoke and told the Board he is opposed to the mining activity. He said it contradicts the Comprehensive Land Use Plan. He also said the trucks are 50 to 100 tons. He said that the applicant has not done what he agreed to when the Board bent over backwards to allow him to mine one acre. And, he said that the mining is wrecking a beautiful rural area.

Bill Truesdell, 165 Whiskeag Road, read a portion of the Land Use Code, Article 14 regarding mining use. There is potential for ecological damage he told the Board, and careful control is needed. He told the Board of the history of how the mining activity started. He said it was authorized by a prior city planner, and stopped by the codes officer because it was against the Land Use Code and illegal. He said the applicant came to the Zoning Board for a conditional use permit but was turned down because the ZBA felt the activity was inappropriate. He said that then, to avoid a lawsuit, there was an attempt by the City to establish a code which would result in responsible action, reviewable every year. He said that a lot of promises were made. He said that the experiment has failed. He asked if an outside expert has ever evaluated the environmental impact. He said that because of its size, it is exempt from State environmental laws.

Patty Guerette, 306 North Bath Road, told the Board that she has studied the minutes of the Board meeting in November, 1995, and the table of uses in Article 9. She cited the same problems as others: noise, road damage, and lack of safety. She said that others spoke of only 12 trucks per day. However, she said, in a 10 hour day, 60-120 trucks have used the road. She said a culvert was destroyed by the weight of the trucks, and, she said, the trucks don't obey the speed limits. She told the Board that the operation needs monitoring far more often. She said that this is supposed to be a low density residential area, not an area of commerce. She said R3 areas are not supposed to allow high volume traffic, and a commercial business in a residential area lessens quality of life. She asked the Board to remove this commercial business from this area.

Joshua Hutt, 102 Bedford St., told the Board that his grandmother lives on Rocky Ridge Rd and he spends a great deal of time out there. He said the trucks are horrendous, and that the roads have gone from very smooth to pot-hole filled. He told the Board that mining of this type wrecks the area.

Sam Lambert, 149 North Bath Rd, asked what type of material was being taking out. And he wanted to know how deep the operation was going. He told the Board that he has a fisheries degree, and that he is concerned about what is happening to the ecosystem and the ground water. He also questions the timing of the operation. He said that his house rumbles when the trucks go by.

Susan Reed, Fairhaven Inn at 118 North Bath Road, told the Board that she is an abutter. She said she is very concerned about safety and hours of operation. She said that trucks start at 7 AM, and that this is not good for a bed and breakfast. She told the Board that hours should be based on neighborhood issues and concerns and that 10 or 12 hours a day is not reasonable. She said that trucks drive above the speed limit and hit their "jake" brakes all the way around the curve by her business. She told the Board that Mr. Crooker needs to keep his promises or not get an extension.

Mary Truesdell, 165 Whiskeag Rd, told the Board that she has lived there since 1976 and that it always felt like country until Mr. Crooker got the pit opened. She said that

everybody is impacted, the trucks are huge, the roads are a mess, and that the applicant has not kept his promises. She said the extension should not be allowed.

Walt Taggart, owner of the property told the Board he was not at the meeting to argue with his neighbors. He said it was the Board's responsibility to consider the whole community. He said that no load went out of the pit except to the Bath landfill and that two of the last five years the pit was not used at all. He told the Board that some people call him saying that the trucks were driving too slow. He said the pit has been managed as agreed and that Scott Davis has free access and has been there to inspect.

Ardenne Haines, told the Board he lives in North Bath next to Whiskeag Creek. He said that there is a fish hatchery at each end of Whiskeag Creek. He said he can't see the fish now, because it's so muddy.

Bob Oxtan, Chair, closed the public portion seeing no one else wishing to speak.

David King inquired if they kept records of the days the pit is in operation. Tom Sturgeon, who works for Crooker, said that they don't keep daily records. He said that contracts with the City are lump-sum contracts so they don't bill by amount of material. He told the Board that when in use, the pit is used hard, but there are periods of time when Crooker doesn't use it at all. He said use is dictated by contracts with the City.

Board members requested a rough idea of times of operation and rough volume. Mr. King suggested putting teeth into the speed limits by radar checks.

Jim Upham told the Board that the City has traffic counters that can count vehicles, differentiate between cars and trucks, tell speed, and time of day.

Robin Haynes said sound level tests need to be repeated, and an environmental study needs to be done. She said that the Board could ask for a performance bond. She asked if the Board could give conditional approval for one year. The answer was that since the request is for a 10-year extension, the Board can only approve or deny.

Marjorie Hawkes asked if there ever was sludge hauled in.

Tom Sturgeon said that sludge was not hauled in, but that topsoil for the reclamation was.

There was further discussion by the Board about where the mud has come from and whether the hay bale erosion control has been replaced or stabilized at least yearly, and if the monitoring well that was removed was ever replaced. It was observed that the creek was not evaluated prior to 1995.

The Public Works Director will be asked to review the video tape taken of the road in 1995 and evaluate the comparative condition of the road. It was suggested that Scott Davis give a yearly report to the Planning Board instead of only having Crooker come

back each year. Enforcement action could be taken if it were found that Crooker was not operating according to the terms of the approval.

**Bob Oxton, Chair, called for a site walk meeting to be held at the site of the mining operation, Thursday, March 28, 2002, at 4:00 PM.**

**JIM HARPER THEN MOVED, SECONDED BY MARJORIE HAWKES, TO TABLE THE REQUEST FOR SITE PLAN APPROVAL FOR MINING OPERATIONS AT NORTH BATH ROAD (MAP 6, LOTS 1 AND 2); H. C. CROOKER & SONS, APPLICANT, TO THE APRIL 2, 2002, MEETING.**

**UNANIMOUS APPROVAL.**

It was clarified that the site walk on March 28 is a Planning Board meeting. Jim Upham will take notes and record who is there, but no decisions will be made.

**GEORGE POLLARD MOVED, SECONDED BY JIM HARPER, TO ADJOURN THE MEETING.**

**UNANIMOUS APPROVAL**

The meeting was adjourned at 8:03 p.m.

Minutes prepared by Mary Jane Sullivan, Recording Secretary