

A regular meeting of the Bath Planning Board was called on 7-9-02 for the purpose of conducting regular business.

MEMBERS PRESENT

Bob Oxton, Chair
Jim Harper, Vice Chair
Paul Karass
George Pollard
David King
Robin Haynes

MEMBERS ABSENT

Marjorie Hawkes

STAFF PRESENT

Jim Upham, Planning Director
Mary Jane Sullivan, Recording Secretary

Bob Oxton, Chair, called the meeting to order in the third floor Council Chambers at 6:00 p.m. on Tuesday, July 9, 2002.

Minutes of June 4, 2002, meeting

PAUL KARASS MOVED, SECONDED BY ROBIN HAYNES, TO REMOVE THE MINUTES FROM THE TABLE.

UNANIMOUS APPROVAL

JIM HARPER MOVED, SECONDED BY ROBIN HAYNES, TO APPROVE THE MINUTES OF JUNE 4, 2002.

UNANIMOUS APPROVAL

Minutes of June 18, 2002, meeting

ROBIN HAYNES MOVED, SECONDED BY JIM HARPER, TO APPROVE THE MINUTES OF JUNE 18, 2002.

UNANIMOUS APPROVAL

Old Business:

Item 1

Request for Site Plan Approval and Contract Rezoning – for construction of new buildings; Leeman Highway (Map 28, Lots 53 and 54); Mark Sewall, applicant. (Tabled from the June 4, 2002, meeting.)

PAUL KARASS MOVED, SECONDED BY JIM HARPER, TO REMOVE THE ITEM FROM THE TABLE.

THREE VOTES FOR (KARASS, HAYNES, OXTON) AND ONE (KING) OPPOSED. MOTION CARRIED

Laurie Sewall, wife of the applicant, spoke on behalf of the applicant. She said the applicant would like to withdraw the application at this time. She said Mr. Sewall is working with Dunkin Donuts, and they will resubmit a new application when they are ready as one phase and not two phases.

BOB OXTON, ACKNOWLEDGED THAT THIS APPLICATION IS OFFICIALLY WITHDRAWN.

Item 2

Request for Site Plan Approval – Mining operations at North Bath Road (Map 6, Lots 1 and 2); H. C. Crooker & Sons, applicant. (Tabled from the June 4, 2002, meeting.)

DAVID KING MOVED, SECONDED BY ROBIN HAYNES, TO REMOVE THE ITEM FROM THE TABLE.

UNANIMOUS APPROVAL.

Jim Upham, Planning Director, reported that the applicant had requested this item to be tabled to the August meeting. He said they have made the corrections to the site that were required by DEP and are waiting for DEP inspection and approval.

DAVID KING MOVED, SECONDED BY PAUL KARASS, TO CONTINUE THIS REQUEST FOR SITE PLAN APPROVAL TO THE AUGUST MEETING PER THE APPLICANT'S REQUEST.

UNANIMOUS APPROVAL.

New Business

Item 1

PUBLIC HEARING – Request for Zoning Map amendment (R1 Zone to C2 Zone); 607 Middle Street (Map 32, Lot 94-2); Family Focus, applicant.

Lee Parker, Executive Director of Family Focus, passed out a new packet to Planning Board members and acknowledged the presence of Neil Vernon, Treasurer of the Board of Directors. She told the Board that the building at 607 Middle Street was used as a child care facility. She said that they would like to sell the property and that potential buyers are interested in commercial-type use.

She said the property has six parking spaces and uses part of Sup Ship parking lot. She told the Board that when sold, access to the Navy's parking will be denied.

She said she would be interested in only some of the C2 uses, and she listed those. She also told the Board that the playground area is a drainage easement for the Sup Ship parking lot and could not be built on because BIW would not allow it.

Bob Oxtan opened the meeting for public comment.

Joyce Koch, 610 Middle Street, told the Board that as a new owner, she is concerned because Middle Street is not very wide and that creased traffic would be bad. She said she is distressed to think that a business might be allowed there.

Dick Hill, 71 South Street, said it is not very common for the Board to change zoning to make it easier to sell a property. He told the Board that BIW has a glut of empty office space on Washington Street, and wants to tear down two historic buildings. He said he thinks these buildings could be moved onto this property. And that the building on the lot could be turned into two residences. He reminded the Board that there is no C2 zoning on Middle Street.

He said that if the commercial zoning comes to the east side of Middle Street it will impact the west side of the street as well and there will be demands to rezone the west side to a commercial zone. He told the Board that a street should have both sides residential or both sides commercial.

Robert Culver, personal representative of the estate of Edith Owens, owner of the property that abuts the Family Focus property (601 Middle Street), spoke and told the Board that Middle Street has always been residential. He said he does not want to see this piece of property zoned commercial.

Joyce Johnstone, 68 South Street, spoke and told the Board that she bought her home in March, 2002. She said that the neighborhood does not need more traffic. She told the Board it is hazardous to cross South Street now, especially at BIW shift change, and, she said, the neighborhood does not need more parking lots to shed water. She told the Board that the neighborhood needs more people to upgrade homes.

Anna Grace, 39 Bath Street, spoke and told the Board she was pleased with the child care facility, but that she is not in favor of having any other commercial use.

Joe Kendzia, 47 Bath Street, told the Board that he lives diagonally across from Family Focus and is oppose to changing the zone to commercial. He said he liked the daycare and that his daughter went there. He told the Board that it is a good time to reclaim this for residential use as BIW backs off.

Darlene Molboski, 72 South Street, spoke and told the board that she has a 9-year old son who walks past the daycare to visit a friend now. She said she wants it to stay residential because commercial would bring more traffic.

Bruce Goodwin, 71 Russell Street, said he is not necessarily opposed, but that according to the Comprehensive Plan performance standard needs to be looked at as well as impacts on the neighborhood.

Bob Oxtan asked if there was anyone else wishing to speak, thanked the public for their participation and closed the public session. He recognized the applicant who wished to respond to the public comments. Lee Parker said that it is not possible to split that building in two, and it is not possible to put any other building on that lot due to the drainage easement.

DAVID KING MOVED, SECONDED BY PAUL KARASS, THAT THE PLANNING BOARD RECOMMEND AGAINST THE ZONING MAP AMENDMENT.

This was followed by discussion by Planning Board members. They said that from the Comprehensive Plan and public meetings that Middle street must be preserved as residential on both sides, and that the Board was opposed to a special overlay zone for that property since that would only encourage further encroachment into the residential uses.

Bob Oxtan called for the vote.

UNANIMOUS TO RECOMMEND AGAINST APPROVAL.

Jim Upham explained to the public that the Planning Board's recommendation goes to City Council and the City Council makes the final decision.

Item 2

Request for Site Plan Approval Amendment and Contract Rezoning – Midcoast Center for Higher Education; 1356 Washington Street (Map 14, Lot 96; and Map 20, Lots 93, 112, and 113); City of Bath, applicant.

John Bubier, Bath City Manager, introduced Tom MacDonald, project manager, and Rick Goduti, architect. Robin Haynes pointed out that there were no elevations views of the building in the packet the Board has. Tom MacDonald passed out elevation views of the building. Mr. Bubier explained that when the hospital left the City 1 ½ years ago, the City was left with a 84,000 sq ft building in the middle of an R2 zone. He told the Board that the building used to employ 250 people. He said the City wanted it to continue to be a useful building, not a derelict. He told the Board that the City offered anyone putting together a business to take over the site but that no one wanted it. He said a neighborhood meeting considered the idea of a community college. He told the

Board that access to affordable education at all levels is important to the people of Maine.

Mr. Bubier reminded the Board that site plan for the change of use has already been approved. He said that at this meeting he wanted to talk about the aesthetics of the building and safety issues.

Rick Goduti described how the project evolved. He said he was asked to develop a plan for two schools needing approximately 20,000 square feet of space. He said that the Davenport Circle side was all improved and in good shape, but the Park Street side was not improved. He told the Board that parking codes and turning radiuses were violated on the Park Street side. He said he began to research how to improve the whole situation and create a nice landscaped entrance on the Park Street side. He pointed out the circular turn around for buses, cars, and emergency vehicles, a drop-off area with 15" minute parking space, and handicapped parking. He said the college would use the existing parking lot on Park Street, which he said City plans to improve with paving and new light fixtures. He said the City will discontinue part of Winship Street to make it a dead-end and much safer. He said all technical issues such as snow removal and lighting have been addressed. He told the Board that the plaza entrance with its arched metal band is designed to capture the disjointed pieces of the building and invite people into the building.

Bob Oxton opened the meeting for public comment.

Muriel Conlan, 16 Park Street, asked for an explanation of what will happen to Winship Street as it enters into Park Street.

John Bubier said it would make it safer. He pointed out that there now are too many accesses. He said a "hammerhead" turnaround will be created where Winship Street will dead-end and a street light will be moved to that area. He said the City swapped some land with the abutting land owner to make this possible.

Paul Karass asked how fire trucks would get to Winship Green. Jim Upham said Fire Chief Hinds presently runs along High Street all the way to Winship Street now and that this will not need to change.

Robert LePage, 14 Park Street, spoke and told the Board he has attended both prior meetings. He said that as a neighbor, he believes the plan has evolved a position which is least invasive to the neighborhood.

Paul Karass asked about the estimated number of students present at one time. John Bubier said he estimates 150 students would be the maximum. He said that it might be possible to have 200 people at one time, but high volume classes would be in the evening when the other parking for the doctors is not being used. He told the Board there are 14 classrooms, some for a class size of 8, some for 14.

Robin Haynes asked if either of the colleges had submitted a schedule yet. The answer was no.

Jim Harper encouraged offsetting classes so students have 15 minutes to leave before the next classes need to enter, thus allowing better use of the parking.

John Bubier told the Board that the directors of the college will solve problems as they exist. He said that for now, an ugly area will be visually attractive and safer.

Paul Karass asked when they would like to start. Mr. Bubier said they want to have students in by January 2003.

Jim Harper observed that the small emergency exit mentioned is not indicated on the plan. Rick Goduti showed where it was on the plan. Jim Harper said it should be identified as such.

Jim Upham said the applicant—the City—has already given away many C1 uses not appropriate in this neighborhood. And he said the amendment to the Contract Zoning will allow additional signage. He also reminded the Board that the applicant has asked for waivers of Article 10, Section 10.02, A, B, C, E; 10.03C; and 10.06, B, 8. He said these relate to access drives and the location of parking. He said Paragraph A (of Section 10.02) allows only one access drive and the proposal is to have a two-curb-cut circular drive. Paragraph B, he said, requires access drives to be separated by 75 feet and Paragraph C requires the access drive not be wider than 30 feet at the point of intersection with the street. He said that while these are not met, the plan as proposed is a vast improvement to Park Street, when compared to the existing situation. He said that the existing, wide-open, hazardous curb cut will be replaced with an organized, circular drive. He also said that Paragraph E allows lots to have access to only one street but that this situation is existing.

Jim Upham explained that Section 10.03, C says that storm water should be managed so it does not drain into the street. He pointed out that the proposal is for less to drain into the street than is the situation presently, but some will. He told the Board that Peter Owen has approved the plan. He also explained that Section 10.06, B, 8, the “anti-shopping center look” standard, which prohibits parking lots between the building and the street, is not being met. He told the Board he thinks the proposed plan is a vast improvement over the existing situation. He pointed out that the plan as proposed will have fewer cars between the building and Park Street and the cars will be buffered by landscaping.

Jim Upham said he believes these are reasonable waivers. He also said the whole plan is contingent on part of Winship Street being discontinued by the City Council. He told the Board that if they vote to approve the Plan, the approval should be contingent on discontinuance of the portion Winship Street by the City Council.

Robin Haynes pointed out that the emergency exit shown as a blower duct needs to be corrected on the Plan.

It was also pointed out that snow storage and emergency lighting to the west of the handicapped space should also be on the new plan which could be reviewed by staff.

David King said he is still concerned about parking, even though it meets code. He said that perhaps more parking could be added and have less green space. John Bubier responded that the issue of beautification is important to the neighborhood, and that it would be better to revisit later. He said the City has complied with the letter and spirit of the law. He also said that any changes in uses come back to the Board. He said illegal parking would be heavily enforced and that granite curbing, installed when the street is rebuilt, will keep cars off people's yards.

PAUL KARASS MOVED, SECONDED BY ROBIN HAYNES, THAT THE REQUEST FOR SITE PLAN APPROVAL AMENDMENT AND CONTRACT REZONING BE APPROVED, WAIVING LAND USE CODE SECTIONS 10.02, A, B, C, E; 10.03, C; AND 10.06, B, 8, CONTINGENT ON DISCONTINUANCE OF WINSHIP STREET BY THE CITY COUNCIL AND SUBJECT TO NEW PLANS SHOWING THE EXIT DOOR, SNOW STORAGE LOCATION, AND LIGHTING BEING APPROVED BY THE PLANNING DIRECTOR.

UNANIMOUS APPROVAL.

Item 3

Planning Board Discussion – Correctional Facility – definition and zones where permitted.

Board member David King said that he was concerned about a newspaper article that indicated the Sheriff's department was thinking of locating a portable or temporary jail facility behind the Courthouse.

Jim Upham told the Board that the Sheriff had been advised by the Codes Enforcement Officer that this would be considered an accessory use to the Courthouse.

David King said he is concerned about the possibility of having a modular jail facility, possibly with razor-wire fencing, in the Courthouse parking lot. He said the Board needs to make it clear that a correctional facility would not be an accessory use to the Courthouse. He also said that Bath is unique in having the County Courthouse in a residential neighborhood. Other County Court Houses are more in the downtowns, he said.

Jim Upham reminded the Board that the courthouse and the police station both have holding cells, but that persons could only be held for short periods of time. David King said in the code a "correctional facility" is not allowed in any zone. He said that perhaps

the Code should be amended to say that anything not allowed (i.e. correctional facility) in any zone is not allowed as an accessory use.

Jim Upham said if the Board wants to go forward and amend, he will advertise for a public hearing and come up with a definition that can be massaged at that time.

Jim Harper said he wants to explore making it clear that if a use is not allowed in any zone, then it cannot be allowed as an accessory use.

It was decided to have a public hearing to begin the process of amending the Code relative to the definition of "correctional facility" at the meeting in August.

Jim Upham reminded the Board of the meeting with the City Council, Monday, August 12th. The agenda would include a status report on development and growth, census information, and comprehensive plan updates. Let Jim Upham know of other items to put on the agenda. Paul Karass requested that Jim Upham send a memo to the Planning Board regarding this meeting.

There being no more business to come before the Board,

JIM HARPER MOVED, SECONDED BY DAVID KING, TO ADJOURN THE MEETING.

UNANIMOUS APPROVAL

Bob Oxtan asked Jim Harper, Vice Chair, if he would chair the Planning Board meetings on the nights of July 23rd and August 6th as he will be on vacation.

The meeting adjourned at 8:00 p.m.

Minutes prepared by Mary Jane Sullivan, Recording Secretary