

A regular meeting of the Bath Planning Board was called on 10-29-02 for the purpose of conducting regular business (rescheduled from November 5, Election Day).

MEMBERS PRESENT

Robert Oxton, Chair
James Harper, Vice Chair
Marjorie Hawkes
Robin Haynes
Richard Klingaman
Mark Little

MEMBERS ABSENT

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, October 29, 2002. He introduced the two new members of the board, Mark Little and Richard Klingaman.

Minutes of October 15, 2002 meeting

JIM HARPER MOVED, SECONDED BY MARJORIE HAWKES, TO ACCEPT THE MINUTES OF THE OCTOBER 15, 2002, MEETING AS WRITTEN.

UNANIMOUS APPROVAL

Old Business: Item 2,

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

Jim Upham told the Board that the applicant had requested to have this continued to the November 19, 2002, meeting so that the new members could vote on the item. At that time they would begin their presentation from the beginning.

ROBIN HAYNES MOVED, SECONDED BY RICHARD KLINGAMAN, TO CONTINUE THE REQUEST FOR SITE PLAN APPROVAL FOR H. C. CROOKER & SONS TO THE NOVEMBER 19TH MEETING.

UNANIMOUS APPROVAL

Old Business:

Item 1

Request for Site Plan Amendment; to expand Building Construction Program into the existing parking lot; 800 High Street (Map 26, Lot 1); Bath Regional Vocational Center, applicant. (Continued from October 1, 2002, meeting.)

Maurice Bernier, Director of Bath Regional Vocational Center, summarized for the benefit of the new Board members, saying that the Center provides technical education in 11 trade areas, that students come from Lincoln Academy, Wiscasset High School, Boothbay Region High School, and Morse, and that the students from other high schools are bused to Bath. He told the Board that the Building Construction students have built several houses in Bath over the years, and currently are completing the Community Center at Lambert Park. He said they propose building modular houses on-site. He told the Board that students would arrive at 8:30 a.m., start working at 9 a.m. and continue to 1:30 p.m. He said that a close location maximizes the time the students can work at building the modules. He told the Board that if located in the parking lot on Maple Street there would be a loss of 13 parking places. He said it has good lighting and power for tools is provided on-site. He said replacement parking is available on Andrews Road. He told the Board that they have to meet OSHA requirements and would be no noisier than before when they were building sheds. He told the Board that there would not be an increase in deliveries, that roof trusses would be built on-site and installed manually. He said that some activities such as electrical, plumbing, and sheet rocking would be done by outside contractors with assistance from students who would learn from them. He told the Board that he has letters of support from the Morse High School principal and the Superintendent of Schools.

Mr. Bernier said he has looked at the alternative site proposed by the Planning Board at the last meeting but feels that the north side of the school is not suitable due to the steep grade.

He showed the Board an alternative site on the south side of the school building, off High Street. He told the Board he has done noise analyses at the property line on both sites and both are under 60 decibels.

Bob Oxtan asked if there were any initial Board questions.

Mark Little asked for clarification on the times of the morning and afternoon sessions and if there was a difference in the number of homes affected by the different locations.

Mr. Bernier said that the morning session is from 8:30-10:41, the afternoon session is from 11:15-2:00 p.m., and that cleanup begins at 1:30 p.m. as students need to get on buses by 1:45 p.m. He said that the number of homes impacted would be about the same.

Bob Oxtan opened the meeting to public comment.

Bruce Brennon, 47 Lincoln St., distributed to the Board information on sound and photos of the two sites. He told the Board he went to see the Biddeford Vocational Technical program. He said that the neighbors at the Biddeford location were ten times further away than the Bath situation. He reminded the Board that when the Bath Regional Vocational School was approved at the January 25, 1994, Planning Board meeting, Matt Eddy (Planning Director at the time) said "carpentry would be done in the building." He told the Board that the neighbors were concerned then about expansion and they were assured at the time that the school would not expand outside. He said that this is the wrong place for the home construction project. He also pointed out that parking is scarce on-site, that students don't want to walk from a remote location, and that presently illegally parked cars are routinely towed from the area.

Gale Harvey, 39 Lincoln St., told the Board she is an abutter to the school. She said she agreed that students need more educational opportunity but that this was not the right solution. She reminded the Board that in 1994 neighbors were told to expect disruption while the construction was happening, but were told that it would not continue. She said that she endures the current noise, but that the idea of listening to construction 5 days a week, 9 months a year forever, is different than when a home is built in the area. She told the Board that this proposed activity is not appropriate in a high density residential area, and that it is an insult to previous school administrators who assured the neighborhood that the school would be a good neighbor.

Tim Harvey, 39 Lincoln St, told the Board that he lives immediately behind the alternative location. He said he believes that the Codes Enforcement Officer has misinterpreted the code. He said that the impact on the community would be the same as a manufacturing operation, which is only allowed in an industrial zone. He told the Board that the plans only show the building footprint, not the actual area impacted. He said that subcontractors would need places to park and that there would be a large negative visual impact associated with the home building project. He told that Board that he would expect a professional testing would show that 60 decibels would be consistently exceeded, and that the estimate given was extremely unrealistic. He pointed out that when the noise test was done the "skill" saw was running but that it was not sawing wood. He said that it would be louder when cutting. He told the Board that he has located five alternative sites within a five-minute drive, all owned by the city, one being the site on Congress Avenue soon to be vacated by the City Park and Cemeteries Department. He urged the Board to reject the proposal in the presently proposed locations.

There being no other members of the Public who wished to speak, Bob Oxtan closed the Public Session.

Mark Little said he was concerned about space for trucks, buses, and snowplowing.

Bob Oxtan said that the site to the South of the school was not feasible. He said he was on the Planning Board in 1994 and agrees that the Plan did indicate that it would not expand. He said that he thought the Parks and Cemetery site seemed ideal.

Jim Upham told the Board that the City is supportive of the idea of having this activity at the soon to be vacant Parks and Cemeteries maintenance building location.

JIM HARPER MOVED, SECONDED BY MARJORIE HAWKES, TO CONTINUE THE REQUEST FOR SITE PLAN AMENDMENT; TO EXPAND THE BUILDING CONSTRUCTION PROGRAM OF BATH REGIONAL VOCATIONAL CENTER TO THE NOVEMBER 19, 2002 MEETING OF THE PLANNING BOARD.

UNANIMOUS APPROVAL.

New Business:

Item 1

Request for Site Plan Approval – Construction of a park; Washington Street (Map 32, Lot 165); Bath Iron Works, Applicant.

Jim Harper and Bob Oxtan both told the Board that they work for BIW but feel they can be impartial. They asked the Board and the applicant if there were any concerns with them participating. Neither the Board members nor the applicant indicated any concerns.

Joe Comeau, Director of Facilities Engineering at Bath Iron Works, spoke for the applicant. He said that this is the culmination of a four-year project. He said the plan is to create a park to mitigate the loss of views that the neighbors had of the Kennebec River. He said the “park” would actually a green field. He told the Board that the closure of the site had to meet DEP requirements. He said that two divisions at DEP had not agreed to the closure plan until recently, thus the lateness in presenting the plan to the City. The plan, he said, is to cap the six-acre parcel to protect the public from any known or unknown hazards by covering with 18 inches of clay-soil plus six inches of loam and then a seeding, which it is hoped will germinate this year. He told the Board that in the application some waivers were requested relative to landscaping and buffering, and lighting. He said that BIW would provide 15 parking spaces. He told the Board that this was Phase 1 and that they would be coming to the Board for the 4-acre, Phase 2 sometime in the future.

Jim Harper said he feels that the waivers requested are appropriate since this is a passive park with no buildings and therefore no Setbacks. Jim Upham added that the Yard areas were met.

JIM HARPER MOVED SECONDED BY ROBIN HAYNES, TO FIND THE APPLICATION COMPLETE, WITH THE WAIVERS.

UNANIMOUS APPROVAL.

Mark Little inquired if the soil had been tested for heavy metal. Joe Comeau said that DEP tests showed acceptable levels.

Jim Upham asked whether the discarded equipment located between the site and Washington Street would be removed. Mr. Comeau indicated it would.

Marjorie Hawkes asked where the clay was coming from. Mr. Comeau indicated that the contractor has sufficient clay in the Topsham area for this job.

Robin Haynes asked if the City had the financial means to complete the comprehensive plan for the park.

Jim Upham said that there were ideas about how the plan that Terry DeWan helped design a year ago would be constructed. He said that while he thought BIW was required by the Board of Environmental Protection (BEP) to create that park, the Planning Board could only review the plan to determine if the applicable requirements of the City's Codes, not the BEP order, were met.

Bob Oxtan opened the meeting for public comment.

Fred Hagan, 449 Middle St, told the Board that he lives two blocks up and over from the site. He said he walks that way frequently, and served on Jim Upham's park design subcommittee. He said his biggest concern was the safety of the public on the existing pier. He said that while the foundation of the pier is good there are no railings to keep people from falling off.

There being no other members of the Public who wished to speak, Bob Oxtan closed the Public Session.

Discussions between Mr. Comeau and the Board revealed that the pier was built by the land level contractor, and is 25 feet wide and 60 feet out into the river. Mr. Comeau said that BIW wants to deed the park to the City this Autumn. He said that BIW does not want to have the liability for the public being on the site. He said that BIW would not put a railing on the pier but would fence it so the public could not have access to it.

Mr. Comeau also told the Board that he would work with the City Arborist, Tom Heath, regarding the amount of thinning to take place between the site and Washington Street and that they would work with Peter Owen, Public Works Director, to design and construct the drainage at the front of the site. He also said the proposed amphitheatre-shaped area on the river side of the site would be graded and shaped prior to being capped.

There being no further discussion **JIM HARPER MOVED, SECONDED BY ROBIN HAYNES, THAT THE PLANNING BOARD APPROVE THE PLAN DATED 10/28/02 WITH THE MODIFICATION OF THE WASHINGTON STREET FENCE ENTRANCE DETAILED ON THE 8½ X 11 DRAWING WITH THE FOLLOWING CONDITIONS:**

- **CULVERT MODIFICATIONS BE DETAILED TO CITY PUBLIC WORKS DIRECTOR AND DEEMED ADEQUATE**

- **THE CONCRETE SLAB BE REMOVED FROM THE SITE ALONG WITH ALL NON-ORGANIC DEBRIS, WITH THE EXCEPTION OF THE EXISTING LIGHT POLE THAT HAS AN OSPREY NEST**
- **REMOVAL OF EXISTING VEGETATION BE IN AGREEMENT WITH THE CITY ARBORIST**
- **THAT THE SEEDING BE DONE WITH AN APPROPRIATE "PARK MIX."**
- **THAT THE PIER BE FENCED TO PREVENT PUBLIC ACCESS.**

Marjorie Hawkes recommended some guarantee of reseeding if needed in the spring. Bob Oxtan suggested that this should be placed in the hands of the City's and BIW's legal representatives.

UNANIMOUS APPROVAL

Item 2

Request for Site Plan Amendment and Approval of a Setback Reduction Plan – in the C2 Zone; construction of security fence and parking lot expansion; Washington Street, Russell Street, Bath Street, Middle Street (Map 32, Lot 94); Bath Iron Works, Applicant.

Jim Harper and Bob Oxtan both told the Board that they work for BIW but feel they can be impartial. They asked the Board and the applicant if there were any concerns with them participating. Neither the Board members nor the applicant indicated any concerns.

ROBIN HAYNES MOVED, SECONDED BY MARK LITTLE, THAT THE BOARD FIND THE REQUEST FOR SITE PLAN AMENDMENT AND APPROVAL OF A SETBACK REDUCTION PLAN COMPLETE WITH A WAIVER OF THE SETBACK AND YARD AREA ONLY BECAUSE IT IS A FENCE, NOT A BUILDING, AND CAN BE PUT ON THE PROPERTY LINE.

UNANIMOUS APPROVAL

Joe Comeau said this amendment is an application for a fence and expansion of parking area. He told the Board that the parking would need approval by the Board of a Setback Reduction Plan. He said that since September 11, 2001, there has been heightened security across the nation and that requirements in the Home Land Security rules demand heightened security wherever Navy personnel are placed. He said that the concrete barriers now in place are required by the Navy and Federal government and that the fencing with access gates manned and turnstiles for foot traffic with badge access will replace these concrete barriers. He told the Board that the fence would be black metal. He also told the Board that the plan for the parking areas would be accompanied by appropriate landscaping.

Bob Oxtan opened the meeting for public comment.

Ruth Guth, 595 Middle St, told Board that lives directly behind the “pre-com” building. She said that she appreciates the thought that went into the fencing and understands the need for security, however, she is concerned about the “no-man’s land” between the two fences behind her home. She said that teenagers now hang out there. She asked that the new fence about the existing fence.

Peter Kelley, owner of the home at 43 Russell Street, asked if the fencing behind his property and that of his neighbor would be affected.

Allen Elwell, 27 Bath St, asked why BIW didn’t maintain the fence they have now.

There being no other members of the Public who wished to speak, Bob Oxtan closed the Public Session.

Joe Comeau admitted that BIW has had difficulty with care and upkeep. He said they have overhauled their maintenance, but may still need enforcement.

Bob Oxtan asked about the queuing space for vehicles between Washington Street and the security fence.

Mr. Comeau said that it would remain open and gates would only be closed if ordered to go to heightened level of security or if unmanned on the weekend. He said that floodlights 6 inches off the ground are proposed to illuminate the underside of vehicles and are appropriately shielded, and lights on top of gate would be used to illuminate the tops of vehicles when security feels it is needed.

Jim Upham said that police, fire, public works, and the forestry committee have all seen the plans and see no need for change.

JIM HARPER MOVED, SECONDED BY DICK KLINGAMAN, THAT THE REQUEST FOR SITE PLAN AMENDMENT AND APPROVAL OF A SETBACK REDUCTION PLAN IN THE C2 ZONE FOR THE CONSTRUCTION OF SECURITY FENCE AND PARKING LOT EXPANSION BY BIW BE APPROVED WITH THE FOLLOWING CONDITIONS:

- **THAT LIGHTING BE ANNOTATED ON THE PLAN**
- **THAT GATES BE MARKED AS EMERGENCY**
- **THAT DETAILS REGARDING THE FENCE BEHIND THE HOUSES AT 593 AND 595 MIDDLE STREET BE REVIEWED BY STAFF AND MOVED IF POSSIBLE.**

UNANIMOUS APPROVAL

Other Business:

Election of Officers

Jim Upham reminded the Board that in order to start a new agenda item after meeting beyond three hours, the Board must vote to continue.

ROBIN HAYNES MOVED, SECONDED BY DICK KLINGAMAN, TO CONTINUE THE MEETING.

UNANIMOUS APPROVAL

Jim Upham said that the floor was opened for nominations for Chair.

JIM HARPER NOMINATED BOB OXTON FOR CHAIR FOR THE COMING YEAR, SECONDED BY ROBIN HAYNES.

THERE WERE NO OTHER NOMINATIONS.

BOB OXTON WAS ELECTED.

Jim Upham said that the floor was open for nominations for Vice Chair.

ROBIN HAYNES NOMINATED JIM HARPER FOR VICE CHAIR FOR THE COMING YEAR, SECONDED BY BOB OXTON. THERE WERE NO OTHER NOMINATIONS.

JIM HARPER WAS ELECTED.

Robin Haynes publicly declared her thanks to David King, George Pollard, and Paul Karass for their years of service to the Planning Board. She said they were very encouraging when she first joined the Board eighteen months ago. She also wished that the process of appointing members to the Board would grow in openness and civility. She said she is sure that the gentlemen joining the Board would help the Board maintain the high standard of efficiency, thoroughness, and thoughtfulness set by Paul, George and David.

There being no further business to come before the Board, **JIM HARPER MOVED, SECONDED BY MARJORIE HAWKES, THAT THE MEETING BE ADJOURNED.**

UNANIMOUS APPROVAL

The meeting was adjourned at 9:45 p.m.

The Planning Board's next meeting will be Tuesday, November 19, 2002.

Minutes prepared by Mary Jane Sullivan, Recording Secretary