

A regular meeting of the Bath Planning Board was called on 4-15-03 for the purpose of conducting regular business.

MEMBERS PRESENT

Bob Oxtan, Chair
Jim Harper, Vice Chair
Marjorie Hawkes
Robin Haynes
Richard Klingaman
Gordon Reed
James Hopkinson

MEMBERS ABSENT**STAFF PRESENT**

Jim Upham, Planning Director
Marsha Hinton, Recording Secretary

Bob Oxtan, Chair, called the meeting to order in the third floor Council Chambers at 6:00 p.m. on Tuesday, April 15, 2003.

Minutes of April 1, 2003, meeting

JIM HARPER MOVED, SECONDED BY ROBIN HAYNES TO ACCEPT THE MINUTES OF THE APRIL 1, 2003, MEETING AS WRITTEN.

UNANIMOUS APPROVAL**Old Business:****Item 1****Request for Contract Rezoning, Zoning-map Amendment in Accordance with an Architect's Plan (Land Use Code Section 1.07, G), and Site Plan Approval --**

Construction of a 48,000 square foot supermarket; Route 1, Redlon Road, Richardson Street, Western Avenue, Lilac Street, Leonard Court (Map 28, Lots 46, 47, 49; Map 31, Lots 69, 71, 72, 73, 74, 75, 76); Hannaford Bros., Co., applicant.

(Continued from April 1, 2003, meeting.)

Bob Oxtan read a letter from James Canon dated April 14, 2003, expressing Hannaford's concern that Planning Board member Jim Harper may be biased against this application.

Jim Upham stated that the Planning Board needed to hear from Jim Harper at this time. Mr. Harper either needed to remove himself from consideration of the application, or state the reasons why he felt he could make an unbiased judgment. The Planning Board would then need to make a finding as to Mr. Harper's ability to make an unbiased judgment or meet in executive session with the city attorney over this issue. If the Planning Board were to decide to meet in executive session, the application process would stop at this point until the issue of Mr. Harper's ability to make an unbiased judgment was resolved. Mr. Upham also discussed bias and pointed out ways in which each Planning Board member had ties which could be perceived as bias one way or

another to this and other projects which have come before the Planning Board in the past.

Jim Harper stated that he has no fiduciary interest, is not a direct abutter, has a city-wide concern for the integrity of all neighborhoods in Bath and has no bias toward this application based upon his relationships with others. He added that he makes his own decisions based upon analysis of the facts and guided by the Comprehensive Plan and Land Use Code and will continue to do so. He requested to be allowed to continue in the review of this application.

Gordon Reed stated that he has grown to respect Mr. Harper's ability to adhere to the guidance of the Land Use Code in all decisions he has made. Mr. Reed stated that he votes to allow Mr. Harper to continue deliberation of this application.

James Hopkinson stated that he believes that Mr. Harper has the ability to make an impartial decision. Mr. Hopkinson added that he agrees with Mr. Reed and votes to allow Mr. Harper to join in consideration of this application.

Marjorie Hawkes stated that she believes Jim Harper to make honest decisions based upon close attention to details. Ms. Hawkes agreed to allow Harper to continue.

Richard Klingaman stated that he believes Jim Harper will be objective and vote in an objective way. Mr. Klingaman agreed that Mr. Harper remain as part of this review.

Robin Haynes point out that the Planning Board members are supposed to be from Bath. She stated that she also believes Mr. Harper will be objective and should remain as part of this review.

Bob Oxtan stated that the decision to allow Jim Harper to remain as part of this application process is unanimous. Mr. Oxtan then turned the floor over to the applicant.

James Cannon thanked the Planning Board for their consideration. Mr. Cannon then pointed out the various changes to the site plan that have been made in response to comments from the Planning Board and members of the public. Mr. Cannon showed on a map how Richardson and Lilac Streets would not become dead-end streets and Lilac would become one-way. He discussed how landscaping and other traffic calming methods would be used to control traffic in and out of the site. He also outlined how utilizing Old Route One (State Road) would decrease weaving on Route One and enable ease of access to the Holiday Inn. Mr. Cannon then read the April 15, 2003, letter to Planning Director James Upham in response to the traffic impact study dated April 11, 2003. Mr. Cannon pointed out that this was not urban sprawl, that the peak traffic was not constant and decreased substantially on either side of that peak timeframe, the site is currently an eyesore and that he felt they had met Section 10 of the Land Use Code. He complimented the Planning Board on the hard work they had done on a complex application and asked the Board vote in favor of this application.

Bob Oxtan, Chair, asked Mr. Tom Errico, Senior Traffic Engineer of Wilbur Smith Associates to comment.

Mr. Errico stated that on points eight, nine, ten, and twelve in the April 15, 2003, letter that the responses by the applicant were reasonable and on points thirteen and fourteen the applicant had done all they could with regard to those. However on points one, three, five, six, seven and eleven in the April 15, 2003, letter Mr. Errico stated that he is not convinced that the responses are adequate and would like to see more information on those. On point two in the April 15, 2003, letter he informed the Planning Board that something would need to be done because the congestion would just get worse at the High Street/Route One off ramp. Point four of the April 15, 2003 letter was a subject that Mr. Errico did not have information on and therefore could not make a comment.

The Board held discussion on sidewalks, alternative ideas for traffic control, how traffic would find a way around the site and increase in volume on Richardson Street.

There being no further comment from the Board, Bob Oxtan Chair opened the meeting to any members of the public who wished to speak.

Bob Oxtan read a letter from Betsy McInnis, 40 Farin Street, dated April 11, 2003, in opposition to the project.

Bill Quimby, 28 Farin Street, stated that this project does not fit the neighborhood, does not correct traffic issues, is not neighborhood friendly, and is not making improvements because of goodwill but because the applicant is required to make these improvements. He encouraged the Planning Board to vote for the neighborhood and against big corporate profit.

Wayne Fortier, Richardson Street, reminded the Planning Board of the difficulty emergency vehicles already have getting down Richardson because of traffic and the city-wide gridlock that was caused by an accident on the Carlton Bridge. He also pointed out that unless the City of Bath took steps to prevent it the City would have traffic lights at every intersection as is found now in the Town of Brunswick. He expressed his concern that his neighborhood was under attack by a large corporation. He urged the Planning Board to vote against this application.

Angela Woodbury, 65 Richardson, stated that she, like Mr. Fortier, had grown up in Bath and has fond memories of playing on Corless Street. She stated that she had purchased a home in this neighborhood because it reminded her of Corless Street. She asked the Planning Board to vote against this proposal so that she would be able to provide her children with the same quality of life growing up that she had experienced.

Nannette Stueck, 377 Middle Street, pointed out to the Board that with this proposal she would encounter six stops in the one mile it would take her to go to Morse High School from her home. She agreed that this site needs to be developed, but stated that it needs to be something that will fit into the site and added that Hannaford does not.

Amy Fitzpatrick, 23 Marshall Avenue, stated that the responsibility of the Planning Board is to make sure applications fit in within the guidelines of the Comprehensive Plan. She pointed out that this application does not fit those guidelines. She asked that the Planning Board vote against this application.

Elena Vandervort, 2 Grove Street, spoke in support of this project stating that she felt it would improve traffic flow, would improve the site and would improve the gateway into Bath. She asked that the Planning Board vote in favor of this application.

Carolyn Aberg, 37 Western Avenue, wanted to point out to the Planning Board how the proposal had returned to the original 130 trips into the site from Richardson. She encouraged the Planning Board to look to the comments of the traffic engineer for guidance and not to allow an increase in the C4 zone because it will only have a negative impact on the neighborhood.

David Desmond, 638 High Street, stated that at first he was in favor of having a Hannaford store come into the community, but after he saw the size of the project he changed his mind because it just didn't fit. He told the Planning Board that he had confidence in their integrity and that the Board will make the proper decision. He stated that his hope was that the decision would be against this application.

There being no further discussion, Bob Oxtan, Chair, closed the public portion of the meeting.

Jim Upham, Planning Director, stated that while he thinks that the applicant has done a good job with the application and has met most of the requirements of Article 10 of the Land Use Code, he could not at this time state that this application has met all of them. He said that the traffic problems associated with this application were not ones he felt the applicant would be able to overcome and that he in good conscience could not recommend this application for approval. Mr. Upham agreed with Mr. Desmond's comment that this project just does not fit.

Robin Haynes complimented the members of the public and the applicant on their participation and their patience. She also thanked the city staff, in particular the Planning Director without whose help this application would be more difficult to analyze. She stated that the geography of Bath defines Bath and finding the balance between preserving neighborhoods and providing for development so that the City of Bath could preserve those neighborhoods is difficult. She stated that there is some flexibility in moving the C4 zone line for this application but that this proposal was stretching that flexibility to the point of breaking and therefore she could not vote in favor of this project.

Richard Klingaman stated that he could not vote in favor of this application because of his concerns about the amount of traffic coming into the site from Richardson and the negative impact that would have on the neighborhood.

James Hopkinson agreed that the applicant had done a great job with this application and worked very hard to resolve the concerns expressed. He pointed out that the

Comprehensive Plan does not anticipate that every neighborhood will remain static, but felt that the traffic issues in this application were ones that would prevent him from moving to the next step. He stated that he would have to vote against this application.

Marjorie Hawkes said that at the last meeting she had stated that the traffic was too much for this neighborhood and that she still feels that way. She can not vote in favor of this application.

Gordon Reed stated that the duty of the Planning Board was to review applicability of an applicant to a standard, to ask the question does the applicant meet the standard of the Comprehensive Plan and the Land Use Code.

Mr. Reed went on to state that, "After reviewing the plans, the traffic report, and listening to presentation by the applicant, their traffic consultant, our traffic consultant, and the public I cannot find that the applicant has demonstrated that all of the standards of Article 10 have been met. Most importantly, Section 10.02, G. This standard requires 'The street to which an access drive connects and the streets that are expected to carry traffic to the use served by the access drive must have traffic-carrying capacity and be suitable improved to accommodate the amounts and types of traffic generated by the proposed use.' This Section goes on to say that a project can't reduce an intersection or street to a Level of Service of 'E' or below.

"The applicant has told us that the intersection of Western Avenue and High Street might not be adequate and might need a traffic signal, but the intersection should be monitored. The applicant has not demonstrated that this standard – Section 10.02, G – has been met.

"According to the Traffic Report the project will likely require changes to the High Street on-ramp and Route 1 intersection. This says to me that the intersection is not adequate. The applicant has not demonstrated that this standard has been met with respect to this intersection.

"The traffic report says that left-turns onto High Street from the Route 1 off-ramp currently operate at a Level of Service 'F' and the project will exacerbate this congestion. The applicant has suggested that the up-coming Route 1 Study is expected to address this area. However, the applicant has not demonstrated that this standard has been met with respect to this intersection.

"Our traffic consultant has said that the intersection of Old Route 1 (or State Road) and Route 1 is a High Crash Location and that the new lane proposed by the applicant may not be adequate to solve this problem. This says to me that the intersection is not adequate. The applicant has not demonstrated that this standard has been met with respect to this intersection.

"Also of concern, but less so than Section 10.02, G, is the Exterior Lighting standard, Section 10.27, B, which requires there be no more than .2 foot-candles of light at property lines. This is an important standard. Light pollution can have a real negative

impact on surrounding properties. The report from the applicant does not demonstrate that this standard will be met.”

GORDON REED MOVED, SECONDED BY RICHARD KLINGAMAN TO DENY SITE PLAN APPROVAL (MAP 28, LOTS 46, 47, 49; MAP 31, LOTS 69, 71, 72, 73, 74, 75, 76); HANNAFORD BROS., CO., APPLICANT.

UNANIMOUS APPROVAL

New Business:

Item 1

Historic District Approval – Replacement of 12 stained-glass windows, 906 Washington Street (Map26, Lot 178), Beth Israel Congregation, applicant.

Peggy Brown stated that she was filling in for Janice Povich who had submitted this application for Historic District Approval. Ms. Brown said that the Beth Israel Congregation was seeking the Planning Board’s approval to remove the old energy inefficient windows and to replace them with new insulated windows. Ms. Brown also stated that while the building was not being used as the synagogue but as an educational building and meeting place that the scenes depicted on the current stained glass windows were not representative of the religious beliefs of the Beth Israel Congregation. She added that the windows would be clear or frosted glass set in white vinyl.

The Board held discussion on what type of window would be appropriate.

Robin Haynes stated that she had no problem with clear glass windows, but felt that frosted glass except where needed for privacy would not be appropriate. She also recommend to the applicant that the stained glass windows be photographed both full length and in detail and that any maker’s marks be photographed and that those photographs be donated to the Patten Free Library.

Richard Klingaman stated that before he could approve this application he would need to see some photographs or architect’s sketches of the proposed windows.

JIM HARPER MOVED, SECONDED BY JAMES HOPKINSON, TO CONTINUE THE REQUEST FOR HISTORIC DISTRICT APPROVAL, BETH ISRAEL CONGREGATION, UNTIL THE MAY 6, 2003, PLANNING BOARD MEETING.

UNANIMOUS APPROVAL

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

UNANIMOUS APPROVAL

APPROVAL

The meeting was adjourned at 8:35 p.m.

Minutes prepared by Marsha Hinton, Recording Secretary