

A regular meeting of the Bath Planning Board was called on 5-20-03 for the purpose of conducting regular business.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Marjorie Hawkes

**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, May 20, 2003.

**Minutes of May 6, 2003, meeting**

**RICHARD KLINGAMAN MOVED, SECONDED BY GORDON REED TO ACCEPT THE MINUTES OF THE MAY 6, 2003, MEETING AS WRITTEN.**

**UNANIMOUS APPROVAL****Old Business:**

No old business.

**New Business:****Item 1**

**Request for Site Plan Approval** – Amendment to plan to add Automated Teller Machine; 765 Washington Street (Map 27, Lot 84); Five County Credit Union, applicant.

Jim Upham, City Planner, informed the Planning Board that this was an amendment to a previously approved plan and as such did not require the Planning Board find that this was a complete application.

Ken Stockford, a vice president of Five County Credit Union, introduced Jim Schwartz from Royal Design who presented a sketch of the existing plan and then outlined how the proposal would change and improve current traffic flow issues. He highlighted the easing of congestion on streets and improved access to streets from parking areas.

Jim Harper questioned the fact that the canopy for the remote ATM did not reflect the appearance of the building and whether it was in compliance with the historic district criteria.

Discussion was held by the Planning Board on compliance with historic district criteria, the placement of traffic signs, frequency of use for outside and inside services and employee parking.

Jim Upham, Planning Director, apologized to the applicant and the Board, saying that he did believe that the amendment need Historic District Approval, but that staff had failed to informed the applicant of this requirement.

Bob Oxton, Chair, opened the meeting for public comment. None being seen Mr. Oxton closed the public portion of the meeting.

**JIM HARPER MADE A MOTION, SECONDED BY GORDON REED, TO CONTINUE THE REQUEST FOR SITE PLAN APPROVAL AMENDEMENT TO ADD AUTOMATED TELLER MACHINE SO THE APPLICANT COULD APPLY FOR HISTORIC DISTRICT APPROVAL; 765 WASHINGTON STREET (MAP 27, LOT 84); FIVE COUNTY CREDIT UNION, APPLICANT; UNTIL THE NEXT REGULAR MEETING OF THE PLANNING BOARD ON JUNE 3, 2003.**

#### **UNANIMOUS APPROVAL.**

#### **Item 2**

**Request for Historic District Approval** – Addition to existing enclosed porch; 360 Front Street (Map 21, Lot 15); Donald Pryor, applicant.

Donald Pryor, applicant, stated that he was before the Planning Board to request approval to build an addition to the existing home. He plans to change the substandard addition that is currently on the back of the house to a structure that will look more like the rest of the house. Mr. Pryor said he is proposing this change to improve the appearance of the property and to give his growing family more room. Mr. Pryor pointed out on a drawing changes he will make to the submitted plan in accordance with suggestions made by the Sagadahock Preservation Society with regard to the windows.

Robin Haynes asked that the applicant consider duplicating the frieze board that exists on the roof area of the house on this new structure, as well as putting a skirt on the balcony.

Bob Oxton, Chair, opened the meeting to comments from the public. Bob Oxton, Chair, read a letter dated May 20, 2003, from Ken and Laura Brill in support of this application. There being no further comment from the public, Bob Oxton, Chair, closed the public portion of the meeting.

The Planning Board held discussion on the skirting for the balcony, the frieze board, and the new window treatment.

**JAMES HOPKINSON MADE A MOTION, SECONDED BY RICHARD KLINGAMAN, TO APPROVE THE REQUEST FOR HISTORIC DISTRICT APPROVAL FOR AN ADDITION TO EXISTING ENCLOSED PORCH; 360 FRONT STREET (MAP 21, LOT**

**15); DONALD PRYOR, APPLICANT, SUBJECT TO A REVISED PLAN SHOWING A FRIEZE BOARD WITH SOFET TO MATCH THE EXISTING HOUSE AND THE UPDATED WINDOWS.**

**UNANIMOUS APPROVAL.**

**Item 3**

**Planning Board Discussion** – Various “house-keeping” amendments to the Land Use Code.

Jim Upham, Planning Director, called the Planning Board’s attention to the draft amendments to the Land Use Code. Mr. Upham explained that these were mostly “housekeeping” amendments consisting of corrections of typographical errors and clarification language. He went through each proposed amendments and invited the Planning Board to make input on each proposed change to the Land Use Code.

The Planning Board members made the following recommendations for changes to the proposed amendments Land Use Code:

Article 3, Section 3.06:

**SECTION 3.06 ENFORCEMENT**

It is the duty and responsibility of the CEO to enforce the provisions of this Code together with any conditions of approval issued in conjunction with an approval issued under the Code. If the CEO finds that any provision or condition is not being met, then the CEO must notify in writing the person responsible for the violation, and, if the person responsible is not the owner, then the CEO must notify in writing the owner of the property upon which the violation has occurred. The notice must specify the nature of the violation and provision of the Code or condition which has resulted in noncompliance, the nature of the action necessary to correct, abate, or mitigate the violation, and a time frame during which the corrective or mitigated action must be completed. If after such notice and expiration of the time frame in the notice, the violation has not been corrected, abated, or mitigated, the CEO must commence appropriate legal action to terminate the violation and recover all appropriate penalties. The written notice, however, does not preclude, nor is it considered a condition precedent, to the City instituting enforcement action for any violation of the provisions or conditions relating to this Code.

The CEO has all powers available to a CEO to effect enforcement of Code provisions under State Law. The CEO specifically has the right to enter property at all reasonable hours and to enter any building with the consent of the owner and/or occupant, and, if necessary, to apply for and receive administrative warrants to conduct inspections. If the condition of the nonconformity is a threat or hazard to the health and safety of the public or the occupants of a building, then the CEO has the authority to close the building or prevent access to the property in order to mitigate any potential injury to occupants or the general public. If the nonconforming condition or use has created or

has the potential to create substantial environmental damage, then the CEO has the authority to terminate the activity and bar access to the site.

#### Article 6, Section 6.05, D

### SECTION 6.05 NONCONFORMING STRUCTURES

#### D. Enlargement

3. The provisions of Section 6.05, D 1, above, do not prevent the expansion or physical enlargement in the following situations:

a. The construction of a foundation under a building provided ~~the building is elevated no~~ the increase in elevation does not exceed more than 3 feet,

b. The change of a flat roof to a pitched roof provided there is no additional living or storage space created by the enlargement and no features, such as dormers and skylights constructed on or in the new roof.

The Planning Board requested that language be added to 6.05 D 3 b to allow the inclusion of flush mounted skylights that did not go above the building height.

#### Article 6, Section 6.05:

#### E. Change of Use

The use of a nonconforming structure may be changed to any permitted principal use or permitted accessory use in accordance with the provisions of Section 3.03 and Article 9, and from a nonconforming principal use or nonconforming accessory use ~~to another~~ a different nonconforming principal use or nonconforming accessory use in accordance with the provisions of Section 6.03, E, 2.

#### Article 8, Section 8.18, D, 1

### SECTION 8.18 NATURAL RESOURCE PRESERVATION OVERLAY DISTRICT-NRPO

#### D. <sup>1</sup>Waterfront Setback Reduction Plan

##### 1. Applicability

With respect to new single-family dwellings, additions to single family-dwellings, and structures accessory to such dwellings, the Planning Board has the authority to reduce the Setback and Yard Area requirements in Item C regarding water-body setbacks but to not less than 75 feet. The Planning Board will determine whether a reduction is appropriate in accordance with the following criteria. The burden of proof is with the party requesting the reduction. Adequate information must be provided that will allow

the Planning Board to offer findings of fact supporting the conclusion that all applicable criteria have been met.

The Planning Board may waive the necessity for any of the Minimal Submission Requirements provided the applicant requests the waiver, in writing, and the Planning Board finds that the criteria in 2 Section 8.18 D, 2 have been met.

## Article 11, Section 11.13

### SECTION 11.13 HOME OCCUPATIONS

Home occupations are uses that are clearly accessory, incidental, and secondary to the residential use of the dwelling unit. They are only allowed in single- and 2-family dwelling units. However, a Home Occupation - A is allowed in a multi-family dwelling. Only 1 Home Occupation - B is allowed per dwelling unit or building accessory to a dwelling unit. More than 1 Home Occupation - A is allowed per dwelling unit, including a dwelling unit that has a Home Occupation - B, provided that in total the home occupations do not exceed the criteria listed in the definitions contained in this Code and the standards in A through K, following. Home occupations must meet the applicable criteria listed in the definitions contained in this Code, and must meet the following standards:

The Planning Board felt that there was some ambiguity in the language that might be interpreted as allowing sixteen employees on one site. They asked that Mr. Upham clarify the language.

E. The home occupation must be conducted wholly within the principal building or within a building accessory to the principal building. Any accessory building that houses a home occupation may be no larger than 600 square feet in gross floor area, must meet the principal building-setback requirement of the Space and Bulk Regulations of the zone, and must be residential in appearance. However, any accessory building in existence on July 19, 2000, may be used for a home occupation provided that no more than 600 square feet of said building is used for a home occupation.

I. There may be no outdoor storage or display of equipment, materials, or items for sale, and no repairing of motor vehicles, recreational camping vehicles, or snowmobiles, and no repairing of small engines such as those for lawn mowers and chain saws.

The Planning Board made the suggestion that small engine repair might be a reasonable home occupation under certain conditions and asked that Mr. Upham and the Codes Enforcement Officer explore that possibility.

## Article 11, Section 11.19

### SECTION 11.19 MINOR EARTHMOVING ACTIVITIES

The following minor earthmoving activities do not require a permit:

A. The removal or filling of less than 50 cubic yards of material from or onto any lot in any 1 year, unless located in the Shoreland Zone.

B. The removal or fillings of less than 10 cubic yards of material from or onto any lot in any 1 year, if any part of the lot is in the Shoreland Zone.

~~B. C.~~ C. The removal or filling of material incidental to construction, alteration, or repair of a structure, or in the grading and landscaping incidental thereto, unless it exceeds 500 cubic yards.

~~G. D.~~ D. The removal, filling, or transfer of material incidental to construction, alteration, or repair of a public or private way, or essential services, such as fire pond, unless located in the Shoreland Zone.

Other earthmoving, processing, and storage in any district requires Site Plan Review from the Planning Board.

The Planning Board asked Mr. Upham to find out why the City of Bath is excluded from meeting this criteria.

Article 12, Section 12.08

## SECTION 12.08 SUBMISSION REQUIREMENTS

The applicant must submit 15 copies of ~~building and site plans~~ (drawn to a scale of not less than 1 inch = 50 feet) and supporting information. ~~The building plans must show, at a minimum, the first floor plan and all elevations, and indicate the proposed construction materials.~~ The site plan and supporting submissions must include the following information:

A. the proposed use according to the Land Use Table

B. evidence of right, title, or interest in the site of the proposed project

C. a location map of the site with reference to surrounding areas and existing street locations

D. the name and address of the owner and site-plan applicant, together with the names of the owners of all contiguous properties, and property directly across the street, ~~and within 100 feet of the applicant's property~~, as shown by the most recent tax records of all municipalities in which such properties lie

E. lot lines

F. locations of all existing buildings and structures, streets, easements, driveways, entrances, and exits on the site and within 100 feet thereof

G. locations and dimensions of proposed buildings and structures, roads, access drives, parking areas, and other improvements

H. Lines on the site plan indicating Setbacks and Yard Areas

I. all existing physical features on the site and within 100 feet thereof, including streams, watercourses, existing vegetated areas and an indication whether the vegetation will be removed or preserved, ~~woodlands, and existing trees at least 8 inches in diameter as measured 4½ feet above grade~~; soil conditions (e.g., wetlands, rock ledge, and areas of high water table) as reflected by a medium-intensity survey also must be shown (the Review Authority may require a high-intensity soils survey where it deems necessary)

J. Topography showing existing and proposed contours at 5-foot intervals for slopes averaging 5 percent or greater and at 2-foot intervals for land of lesser slope. A reference benchmark must be clearly designated. Where variations in the topography may affect the layout of buildings and roads or stormwater flow, the Review Authority may require that the topographic maps be based on an on-site survey.

K. parking, loading, and unloading areas must be indicated with dimensions, traffic patterns, and curb radii

L. improvements such as roads, curbs, bumpers, and sidewalks with cross sections, design details, and dimensions

M. locations and designs of existing and proposed stormwater systems, sanitary waste disposal systems, potable water supplies, and methods of solid-waste storage and disposal

N. landscaping and buffering showing what will remain and what will be planted, and indicating botanical and common names of plants and trees, dimensions, approximate time of planting, and maintenance plans

O. lighting details indicating type of standards, location, direction, wattage, radius of light, and intensity

P. location, dimensions, and details of signs

Q. demonstration of technical and financial capability to complete the project; sensitive, financial, and technical information may be submitted on a proprietary basis and will not be treated as public information

R. evidence in site-plan, text, or report form explaining how the development meets the applicable general performance standards of Article 10 and applicable performance standards, specific activities and land uses, of Article 11

S. where the applicant requests in writing and the Review Authority finds that due to special circumstances of a particular plan the submission of any information listed in this section is not required in the interest of public health, safety, and general welfare, or is inappropriate because of the nature of the proposed development, the Review Authority may waive such requirements, subject to appropriate conditions

The Planning Board suggested that all exceptions to the Land Use Code Sections be complete citations for clarity, that before a section of woodland was cleared the City Arborist be consulted with regard to the preservation of larger old growth trees, and that a hierarchy of standards and regulations be included in the Code in order to prevent confusion as to which regulation applies in the event of undiscovered unclear or uncorrected language or citations in the Land Use Code.

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

### **UNANIMOUS APPROVAL**

### **APPROVAL**

The meeting was adjourned at 8:10 p.m.

Minutes prepared by Marsha Hinton, Recording Secretary