

A regular meeting of the Bath Planning Board was called on 3-16-04 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, March 16, 2004.

**Minutes of March 2, 2003, meeting**

**RICHARD KLINGAMAN MOVED, SECONDED BY JAMES HOPKINSON TO ACCEPT THE MINUTES OF THE MARCH 2, 2003, MEETING AS SUBMITTED.**

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

None

**New Business:**

Jim Upham, City Planner, asked that the Planning Board reverse the agenda items for this evening's meeting.

Bob Oxtan polled the Planning Board and it was decided to reverse the agenda items for this evening's meeting.

**Item 2**

**Application for Historic District Approval Amendment** – change in façade to restore third story window, 94 Front Street, (Map 27, Lot 115); Kenneth Young, applicant.

Kenneth Young, applicant, stated that an old photograph from 1926 of the building at 94 Front Street showing the upper story has been discovered. Mr. Young explained that he believed that the fan-light windows were still there under some plywood and he would like to restore those windows. While he was not certain at this time that the windows were still there, Mr. Young assured the Planning Board that if the windows were not there he would install replicas of the historic windows and frieze work.

The Planning Board held discussion on insuring that the building was restored to its historic appearance if it were discovered that the windows and decorative work were no longer there.

**GORDON REED MADE A MOTION, SECONDED BY JAMES HOPKINSON TO APPROVE THE APPLICATION FOR HISTORIC DISTRICT APPROVAL AMENDMENT FOR A CHANGE IN FAÇADE TO RESTORE THIRD STORY WINDOWS, 94 FRONT STREET, (MAP 27, LOT 115); KENNETH YOUNG, APPLICANT, WITH THE CONDITION THAT IF THE WINDOWS AND DECORATIVE WORK SHOWN IN THE PHOTOGRAPH ARE NO LONGER PRESENT THAT SUITABLE HISTORICALLY ACCURATE WINDOWS AND DECORATIVE WORK AS APPROVED BY CITY STAFF BE INSTALLED.**

**UNANIMOUS APPROVAL.**

**Item 1**

**Subdivision Final Plan Review** – 9-lot Subdivision, 1524 Washington Street, (Map 13, Lot 44-1); ICS Realty, LLC – Robert Leblanc, applicant.

Jim Upham stated that the first order of business for the Planning Board with regard to this application was to find that it was a complete application. Mr. Upham pointed out that the code requires the permanent markers to be made of granite or concrete, but for ease of location over time the applicant is proposing that the markers on the back of the properties would be “rebar.”

The Planning Board held discussion on the use of rebar as apposed to granite markers or drilled hole markers and after being polled decided that this compromise was acceptable.

**JIM HARPER MADE A MOTION, SECONDED BY ROBIN HAYNES, THAT IN ACCORDANCE WITH SECTION 13.32, THE APPLICATION HAS BEEN FOUND COMPLETE WITH THE WAIVER OF SECTION 13.32, H, IN WHICH THE INTENT HAS BEEN ADEQUATELY MET.**

**UNANIMOUS APPROVAL.**

Robin Haynes stated, for the public, that this approval means that the Board can discuss the application and it does not mean anything else and that finding the application complete simply means that it can now come up before the Planning Board for full discussion.

Chris Belanger, of SiteLines, representing applicant Robert Leblanc, stated that this is a proposal for a nine-lot subdivision. Mr. Belanger showed the location of the monuments on the plan, easements, and property lines. Mr. Belanger pointed out notes that had been added to the plan with regard to Note 8, Note 9, and Note 10, as well as the tree

preservation plan dated March 2004. Mr. Belanger discussed changes to the street design made in response to comments by City Staff.

The Planning Board held discussion on monuments, agreement by the City of Bath with regard to the driveway culverts, notes on the plan for easements, additional deeds for clarity of easements, configuration of right-of-way adjustments, maintenance agreements, water and sewer lines, performance bonds, the definition of "River, stream, or brook" according to Title 38 and Wood Lot Alternatives conclusions as to whether this ravine or swale meets that definition, the tree preservation plan, drainage, water runoff quality and quantity during and after construction, blasting, comments from City Staff, declaration of covenants and restrictions, density, insecticides and herbicides, roadways, comments from City Staff in response to Arnold Clay's letter, driveways and specifying details for future homeowners.

Gordon Reed stated that while he personally feels that a reduction in number of lots on this site would be preferable, this Board operates as a matter of law and not opinion. Mr. Reed explained that the City of Bath has laws that govern what is acceptable and what isn't and this application as drawn meets those requirements. Also while a property owner should have the freedom to do with his property as he wants, Mr. Reed stated he is still wrestling with how this development in this neighborhood meets the guidance given by the Comprehensive Plan with regard to protection of the existing neighborhood.

There being no further comment from the Planning Board, Bob Oxtan, Chair opened the floor to members of the public present who wished to comment on this agenda item.

Arnold Clay, 3 Mast Lane, asked if as stated by the applicant there was a large granite ledge, how are the homeowners going to blast for construction. Mr. Clay also pointed out that being a resident of this neighborhood for many years, the stream is a stream that runs year round and right now was a frozen body of water. Mr. Clay added that the trees in that area compromised a forest within the City of Bath and he personally would like to see fewer lots to preserve the red oaks and white pines there now. Mr. Clay described the type of backed-up sewage that he has found on walks in the Harwood Street area, the width of Washington Street, the lack of any real benefit from the increase to the tax base, and asked how the utility, water and sewer lines would be engineered. Mr. Clay read the introduction to the Land Use Code and asked if there would be other opportunities to address this issue with the Planning Board.

Hector Jaeger, 1519 Washington Street, pointed out what he felt was an irony that the City of Bath is agreeing to replace culverts on the driveways when they have not had the manpower to take care of the culverts that are currently in this neighborhood. Mr. Yeager asked if the sewer was already inadequate what makes it okay to increase a non-complying use by adding nine additional residences. Mr. Yeager also stated that he felt that increase to the tax base from this project would not benefit the neighborhood.

Joe Seigh, 1505 Washington Street, asked if there was any other area within the City of Bath that had the utilities and sewer lines over a culvert and what if any problems have been caused by that configuration.

Antoinette Bercadonte, 1530 Washington Street, asked how the current homeowners could be certain that damage to their homes would be documented accurately and how the homeowners could be certain that the different contractors who would be blasting for construction would be held to the same standard.

Max Dawson, 1417 Washington, discussed the problem with the raw sewage backing up approximately 3 times a year. Mr. Dawson asked that if the sewer system infrastructure was already inadequate to support the residences that are there currently how City Staff could say it would not be any worse. Mr. Dawson requested that the Planning Board, in combination with the Environmental Protection Agency, City Staff, and the residents, give this sewer system its due.

Chris Mann, 1569 Washington Street, recommend that the lots be reduced to a smaller number and that would make it more palatable to the current residents. Mr. Mann stated that if adding nine residences to the sewer line will not add to the problems with the sewer system, why not add the other residences in the area currently not on the line to that same sewer line.

Kathleen Jewett, 1492 Washington Street, discussed the long standing issues with Washington Street traffic and difficulties in getting deliveries because of the narrowness of the street.

Earl Bigelow, 1490 Washington Street, described how the area is frequented by runners, bike riders and walkers and pointed out that adding an additional traffic load would greatly impact that use of the area. Mr. Bigelow added that he felt that this increase in traffic would have a huge negative impact on this area and asked that the Planning Board take into consideration the collective wisdom of the residents in this area that this proposal is not a good idea.

Fred Hahnel, 1532 Washington Street, informed the Planning Board that he has seen the City of Bath working on the sewer in this area and that adding nine more houses would only make the problem worse. Mr. Hahnel asked if the City of Bath could guarantee that the line will not be blocked up because of this project.

There being no further comments from the members of the public present, Bob Oxtan closed the public portion of the meeting.

Chris Belanger, Sitalines, stated that he has been assured by City Staff that the sewer line is an 8-inch line and is able to handle multiple residences and that according to the traffic study performed the increase in traffic is within limits.

The Planning Board held discussion on the portion of Washington Street that was the subject of the traffic study, the need for a study on the north end of Washington Street,

the sewage issues discussed by the members of the public, the ability of that particular sewer line to handle the load, the culvert under the driveways, placement of utilities and sewer lines, waivers, street lights, safety of the culverts with regard to children, blasting protections, and the freezing of water service lines.

Robin Haynes stated that before the Planning Board could render a decision the applicant needed to provide specific information with regard to the following:

1. Discussion of why the "swale" does not meet the definition of stream according to Title 38, Section 480-B, 9.
2. Specific language with regard to the tree preservation area by identifying trees that are 10 inches or more in diameter, delineate the preservation area by distances and widths, and that plan being accepted by City staff as meeting requirements for a tree preservation plan.
3. Restrict use to organic herbicides and insecticides as recommended by the Maine Organic Farmers and Gardeners Association.
4. Finalize common driveway agreements.
5. A note on the plan that will specify the responsibility for the road maintenance whether or not it is accepted as a public road by City Council.
6. Additional information about hours of blasting and how to hold all contractors accountable for foundation and utilities blasting and duplicate video tapes to be held by the City of Bath.
7. Additional information on traffic patterns specific to Upper Washington Street north of Harwood Street.
8. Additional information with regard to the sufficiency of the existing sewerage system to support additional housing.
9. Language approved by the City Solicitor for an easement in the deed regarding the culverts which would allow the City a right to involve themselves in the maintenance but not the obligation to provide maintenance.

Gordon Reed stated that the requirements for a public hearing had been met by virtue of the notification of abutters and the public being allowed to speak for each step of this subdivision application process.

Bob Oxtan polled the members of the Planning Board and it was decided that the requirements for a public hearing on this application had been met.

**GORDON REED MADE A MOTION, SECONDED BY RICHARD KLINGAMAN, THAT THIS APPLICATION BE CONTINUED UNTIL THE APRIL 6, 2004 PLANNING BOARD MEETING.**

**UNANIMOUS APPROVAL.**

Other Business

Jim Upham welcomed and introduced Brandon Shaw and Jonathan Dolloff. Mr. Shaw and Mr. Dolloff will be filling the position of non-voting student members of the Planning

Board and with the agreement of the applicant will be participating in the discussion of applications to come before the Planning Board starting with the April 6, 2004, meeting.

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

**UNANIMOUS APPROVAL**

The meeting was adjourned at 9:00 p.m.

Minutes prepared by Marsha Hinton, Recording Secretary