

A regular meeting of the Bath Planning Board was called on 12-06-05 for the purpose of conducting regular business.

MEMBERS PRESENT

Jim Harper, Chair
Jim Hopkinson, Vice Chair
Bob Oxton
Robin Haynes
Bill Vahey
Andy Omo
Jennifer DeChant
John Underwood (non-voting student member)

MEMBERS ABSENT

Jonathan Dolloff (non-voting student member)

STAFF PRESENT

Jim Upham, Planning Director
Marsha Hinton, Recording Secretary

Mr. Harper, Board Chair, called the meeting to order in the third floor Council Chambers at 6:00 p.m. on Tuesday, December 6, 2005.

Minutes of November 15, 2005, meeting

MR. HOPKINSON MOVED, SECONDED BY MR. VAHEY, TO APPROVE THE MINUTES OF THE NOVEMBER 15, 2005, MEETING AS WRITTEN.

UNANIMOUS APPROVAL**Old Business:****Item 1**

Request for Setback Reduction in NRPO Zone – 161 Varney Mill Road; (Map 5, Lot 26) Ron Eder, applicant. (Continued from November 1, 2005, meeting.)

Mr. Eder explained that the setback has been measured from the boundary markers set by the abutter, Mr. Soule, and is more than the 25 foot requirement.

Mr. Harper opened the floor to members of the public who wished to comment on this agenda item.

Mr. Soule, abutter, asked that the Planning Board require that the characterization of the road on the plan be changed from “abandoned road” to “road” and described his personal experience during high tide that this area became a wetland.

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

The Planning Board discussed the setback, the designation of wet lands and status of the access road.

MR. OXTON MOVED, SECONDED BY DR. HAYNES, TO APPROVE THE REQUEST FOR SETBACK REDUCTION IN THE NRPO ZONE AT 161 VARNEY MILL ROAD FOR RON EDER, WITH THE CONDITION THAT THE APPROVAL WOULD NOT BE INTERPRETED AS A FINDING OF THE STATUS OF THE ROAD AS AN ABANDONED ROAD.

UNANIMOUS APPROVAL

Mr. Harper polled the Planning Board and it was unanimously decided to hear new business agenda item 1 next.

New Business:

Item 1

Request for Historic District Approval – modifications to the south side of the house; 938 Middle Street (Map 26 Lot 110); Jill Small, applicant

Ms. Small explained the proposal to move an existing window and door and to add another window.

The Planning Board discussed comments from Sagadahoc Preservation Inc, trim, size, and the history of this structure.

Mr. Harper opened the floor to members of the public who wished to comment on this agenda item.

There being no comment from members of the public present, Mr. Harper closed the public portion of the meeting.

DR. HAYNES MOVED, SECONDED BY MR. OMO, TO GRANT APPROVAL OF THE REQUEST FOR HISTORIC DISTRICT APPROVAL FOR MODIFICATIONS TO THE SOUTH SIDE OF THE HOUSE AT 938 MIDDLE STREET FOR JILL SMALL, WITH THE CONDITION THAT THE NEW WINDOW BE THE SAME SIZE WITH THE SAME TRIM AS THE EXISTING WINDOW AND DOOR.

UNANIMOUS APPROVAL

Old Business:

Item 2

Request for Site Plan Approval and Final Subdivision Approval – Evergreen Woods; Congress Avenue (Map 24 Lot 1); Tedford Shelter, applicant. (Continued from November 1, 2005, meeting.)

Mr. Omo recused himself from consideration and comment of this agenda item due to a conflict of interest.

Mr. Kniseley, Tedford Shelter, discussed some misinformation regarding this proposal and how this proposal would benefit the City of Bath and the immediate community. He also told the Board that Tedford Shelter would pay the City an amount of equal to what the taxes would have been.

Mr. Normand, representing Tedford Shelter, told the Board that, as done at previous meeting, he would be discussing both the Tedford and the UCC Church plans together. He discussed emergency vehicle access, the snow storage easement, under-story buffering along the south side of the UCC church's access drive, the tree protection plan, the repaving of Edgett Street, stormwater drainage, the sidewalk, the agreement with Bath Housing Authority to utilize their sidewalk to access Congress Street, recreation equipment, blasting plan, liability insurance, photometrics, endangered species, drainage easement, and use of the United Church of Christ's parking lot during construction activities.

Mr. Jamison, housing director at Tedford Shelter, explained the plan to educate the residents on recycling and the use of appropriate receptacles.

Mr. Harper opened the floor to members of the public who wished to comment on this agenda item. Mr. Harper asked those wishing to comment to limit their comments to the information presented this evening.

Mr. Mike Goodine, Edgett Street, explained that he wished to comment on things that were not presented at this meeting. Mr. Goodine raised the question of what he called code violations with regard to Land Use Code § 10.06 A (4), 10.06 A (4) (7.2), 10.06 B 11, 10.06 B 8, 10.18 G, 11.09 C (1&2), 13, 10.03 C, and 10.06 C. Mr. Goodine also discussed his concerns with regard to adequate inspections prior to blasting, limitations on reimbursement for damage to homes as a result of the blasting, the confusing nature of hearing agenda items 2 and 3 together, parking, traffic, the width of Edgett Street, the multiple uses of the Church building, the lack of contact to abutters regarding code violations from City Staff, stormwater, drainage, snow removal, tree preservation, the transfer of the land to the Jacques, emergency vehicle access, lack of fencing for the day care, and non-compliance of this proposal with the Comprehensive Plan. Mr. Goodine read an article from the Booth Bay Register.

Mr. William Edgett, 2 Edgett Street, also stated that he wished to bring up things not addressed during the presentation and discussed endangered species specifically

noting Lady Slippers, a fatal accident at the intersection of Edgett and Congress Streets, lack of concern from the Police Chief for traffic on Congress Street, the standing stormwater and problems with West Nile mosquitoes and lyme disease ticks, snow storage, drainage, trash enclosures, handicapped parking arrangements, lack of parking, what he called code violations of § 10.18 and 13.15.02, the Anchorage residents, an article in the Portland Press Herald entitled "Watch your Stormwater," and a letter to the editor in the Times Record published on December 5, 2005.

There being no comment from members of the public present, Mr. Harper closed the public portion of the meeting.

Mr. Upham explained to the Board that what Mr. Edgett and Mr. Goodine were calling code violations were differences of interpretation of the Land Use Code.

The Planning Board discussed liability insurance for blasting, the fact that agenda items 2 and 3 are contingent upon each other, determination of primary use of the Church building, adequacy of parking, consultation with city staff, enforcement, buffering, existing conditions, fencing, determination of whether the day care is a day care or a school, emergency vehicle access, transfer of the land to the Jacques, the Comprehensive Plan, the scale of the site plan, blasting, width of Edgett Street, the sidewalk, reduction in traffic, photometrics, snow storage easement, agreement with Bath Housing Authority for use of their sidewalks, drainage, and Pink Lady Slippers.

MR. HOPKINSON MOVED, SECONDED BY MR. OXTON, TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL FOR EVERGREEN WOODS ON CONGRESS AVENUE FOR THE TEDFORD SHELTER, WITH THE FOLLOWING CONDITIONS:

- **THAT THE APPROVAL IS CONTINGENT UPON APPROVAL OF THE REQUEST FOR SITE PLAN AMENDMENT FOR THE UNITED CHURCH OF CHRIST;**
- **THAT IN ADDITION TO THE REQUIREMENTS OF THE ORDINANCES THAT ANY BLASTING ONLY TAKE PLACE BETWEEN THE HOURS OF 9 AM AND 5 PM MONDAY THROUGH FRIDAY AND ANY LIABILITY INSURANCE MEET THE LEVEL OF THE PROPOSAL FROM MAINE DRILLING AND BLASTING;**
- **THAT AN AGREEMENT TO THE SATISFACTION OF THE CITY SOLICITOR AND IF NECESSARY TO THE CITY COUNCIL THE STATUS OF LEGAL RIGHT-OF-WAY FOR THE SIDEWALK AND USE OVER EXISTING WALKS ON THE BATH HOUSING AUTHORITY PROPERTIES TO PUBLIC STREETS;**
- **THAT THE APPLICANT ESTABLISH FOR ITS RESIDENTS A RECYCLING PLAN;**

- **THAT THE TREE PROTECTION PLAN REVISIONS DISCUSSED BY THE APPLICANT AT TONIGHT'S MEETINGS BE FORMALLY SUBMITTED TO THE PLANNING STAFF;**
- **THAT THE CONSTRUCTION OF THE DRAINAGE FOR THE SIDEWALK NEAR THE INTERSECTION OF EDGETT STREET BE APPROVED BY THE PUBLIC WORKS DIRECTOR; AND;**
- **THAT THE APPLICANT MAKES VOLUNTARY PAYMENTS IN LIEU OF PROPERTY TAXES EQUAL TO WHAT THE TAX WOULD HAVE BEEN.**

**SIX IN FAVOR (MR. HARPER, MR. HOPKINSON, MR. OXTON, DR. HAYNES, MR. VAHEY, MS. DECHANT)
ONE ABSTAINED (MR. OMO)**

MR. HOPKINSON MOVED, SECONDED BY MS. DECHANT, TO APPROVE THE REQUEST FOR FINAL SUBDIVISION APPROVAL FOR EVERGREEN WOODS ON CONGRESS AVENUE FOR THE TEDFORD SHELTER WITH THE FOLLOWING CONDITIONS:

- **THAT A FINAL SUBDIVISION PLAN BE SUBMITTED TO THE PLANNING BOARD FOR SIGNATURE AND APPROVAL;**
- **THAT THE SUBDIVISION PLAN SHOWS THE METES AND BOUNDS DESIGNATIONS FOR THE SNOW STORAGE EASEMENT AREA;**
- **THAT THE SUBDIVISION PLAN SHOWS THE METES AND BOUNDS DESIGNATION FOR THE CONVEYANCE TO THE JACQUES;**
- **THAT THE SUBDIVISION PLANS CONTAIN SPECIFIC REFERENCE TO THE TREE PROTECTION PLAN AS BEING ON FILE WITH THE CITY OF BATH;**
- **THAT THE PROPOSED EASEMENT TO THE CITY OF BATH FOR SNOW STORAGE BE SUBMITTED TO AND APPROVED BY THE CITY SOLICITOR AND THEN THE CITY COUNCIL AS NEEDED; AND**
- **THAT THE ORDINANCE REQUIREMENT FOR THE STREET WIDTH BE WAIVED TO PERMIT THE USE OF EDGETT STREET WITHOUT BEING WIDENED.**

**SIX IN FAVOR (MR. HARPER, MR. HOPKINSON, MR. OXTON, DR. HAYNES, MR. VAHEY, MS. DECHANT)
ONE ABSTAINED (MR. OMO)**

Item 3

Request for Site Plan Amendment – Congress Avenue (Map 24 Lot 1): United Church of Christ, applicant. (Continued from November 1, 2005, meeting.)

Mr. Omo recused himself from consideration and comment of this agenda item due to a conflict of interest.

MR. HOPKINSON MOVED, SECONDED BY DR. HAYNES TO APPROVE THE REQUEST FOR SITE PLAN AMENDMENT FOR CONGRESS AVENUE FOR THE UNITED CHURCH OF CHRIST WITH THE FOLLOWING CONDITIONS:

THAT A DETERMINATION BE OBTAINED FROM THE CODE'S ENFORCEMENT OFFICER AS TO WHETHER THE CHILDREN'S EDUCATIONAL FACILITY AT THE UNITED CHURCH OF CHRIST IS A DAY CARE OR SCHOOL AND IF IT IS FOUND TO BE A DAY CARE FACILITY THAT THE SITE PLAN BE APPROVED WITH THE CONDITION THAT FENCING BE PROVIDED AROUND THE DAY CARE AND DETAILED ON THE PLAN;

THAT THE TREE PROTECTION PLAN BE INCORPORATED IN THE SITE PLAN APPROVAL; AND

THAT AS FAR AS IT NEEDS TO BE THE APPROVAL IS CONTINGENT UPON THE APPROVAL GRANTED TO THE TEDFORD SHELTER.

**SIX IN FAVOR (MR. HARPER, MR. HOPKINSON, MR. OXTON, DR. HAYNES, MR. VAHEY, MS. DECHANT)
ONE ABSTAINED (MR. OMO)**

Item 4

Public Hearing – Request for Site Plan, Final Subdivision, Historic District Approval and Contract Rezoning – Complete demolition and rebuild of 99 Commercial Street; (Map 26, Lot 272); New BathPort LLC, applicant. (Continued from November 15, 2005, meeting)

Mr. Harper asked the applicant if a workshop to discuss the height issue be held instead of hearing new information regarding this proposal.

Mr. Hall agreed to allow the Planning Board to hold a workshop to discuss the height issue.

The Planning Board discussed the need for a view shed being the reasoning behind the 35 foot height limit on the east side of the street, the unlimited height restriction on the west side of the street, ways to maintain access to the river, the lack of a view shed at the site now, how the 35 foot height limitation would not insure a view shed and may restrict development, and consideration of scale and proportion instead of height.

Mr. Hall and Mr. Rogers discussed the evolution of this project, the new proposal's reduction in height, opportunity costs, proportionate compatibility with downtown Bath, and the provision of a view shed to the river that does not exist at the site currently.

Mr. Hopkinson stated that he did not feel this proposal was out of line with the area and that it meets the requirements of the comprehensive plan.

Mr. Omo stated that he felt the new architectural details softened the building.

Dr. Haynes stated that she felt the design was still very institutional and reminded the Planning Board that this would be a landmark structure.

Mr. Harper thanked the applicant.

Mr. Harper then asked for a vote on continuing the meeting after 9:00 pm.

SIX IN FAVOR (MR. HARPER, MR. HOPKINSON, MR. OXTON, DR. HAYNES, MR. VAHEY, MR. OMO)
ONE OPPOSED (MS. DECHANT)

Mr. Fish, applicant, requested a new vote because this evening's hearing was critical to whether they would go forward with this project.

The Planning Board voted unanimously to continue with the meeting after 9:00 pm conditioned upon the applicant being brief in his presentation.

New Business:

Item 2

Request for Revised Subdivision Sketch Plan Review – 141 unit subdivision; off High Street (Map 40 Lots 9, 12, 13, 14 and Map 42 Lot 35); Seguin Brothers, LLC, applicant.

Mr. Fish thanked the Planning Board for allowing this agenda item to be heard this evening. Mr. Fish stated that they have reduced the impervious surface and road length, increased the number of units, and eliminated three wetland crossings. Mr. Fish asked for the Planning Board's input on the tree protection plan, the connector to the lot to the south, the entrance road's median strips, the water supply booster pump station, and an elimination of the height requirements for three multi-unit buildings.

The Planning Board agreed that marking the trees in the building envelope was sufficient and that the Department of Environmental Protection's decision on the connector would be acceptable. The Planning Board discussed restrictions in the R2 Zone on granting waivers on height, and the noise from the booster pumps and backup generators.

There being no further comment from the Planning Board, Mr. Harper opened the floor to members of the public who wished to comment on this agenda item.

Ms. Baker, 161 High Street, expressed her concerns with regard to traffic, enforcement, the impact on the existing neighborhood, stormwater, an increase in taxes to pay for additional services to this subdivision, blasting, the impact on the schools, and the appearance of a "shoo-in" because of their connections with the City of Bath.

There being no further comment from members of the public present, Mr. Harper, closed the public portion of the meeting.

The Planning Board discussed stormwater, schools, traffic, and curbing.

Mr. Fish strongly recommended that any members of the public, and especially abutters, who wished to contact him directly, do so without any hesitation.

There being no further business to come before the Board, **DR. HAYNES MOVED, SECONDED BY MR OMO, THAT THE MEETING BE ADJOURNED.**

UNANIMOUS APPROVAL

APPROVAL

The meeting was adjourned at 10:05 p.m.

Minutes prepared by Marsha Hinton, Recording Secretary