

A regular meeting of the Bath Planning Board was called on 07-11-06 for the purpose of conducting regular business.

MEMBERS PRESENT

Jim Harper, Chair
Jim Hopkinson, Vice Chair
Bob Oxton
Robin Haynes
Andy Omo
Jennifer DeChant
David King (joined the meeting @8:00)
John Underwood (non-voting student member)
Chelsea Hall (non-voting student member)

MEMBERS ABSENT**STAFF PRESENT**

Jim Upham, Planning Director
Stacy Reed, Recording Secretary

Mr. Harper, Chair, called the meeting to order in the third floor Council Chambers at 6:00 p.m. on Tuesday, July 11, 2006.

Mr. Harper explained to the public that they are welcome to speak during the public sessions. He asked that they speak into the microphone, first stating their name and signing in.

Mr. Harper welcomed Chelsea Hall, a new student member, to the meeting.

Minutes of June 6, 2006 meeting

MR. OMO MOVED, SECONDED BY MR. HOPKINSON, TO ACCEPT THE MINUTES OF THE JUNE 6, 2006, MEETING AS PRESENTED.

UNANIMOUS APPROVAL

Old Business: None

New Business:**Item 1**

Conditional Certificate of Occupancy- 400 Centre Street (Map 28, Lot 190); Elmhurst, Inc, applicant

Darlene MacKinnon, Executive Director of Elmhurst Inc. representing the applicant, told the Board that they would like to occupy a building that is under construction. Ms. MacKinnon explained that they cannot move into Phase 2 of their project (demolition of the existing building and landscaping) until they move into the new building, which is not yet totally complete.

Mr. Harper explained that the Board may grant Conditional Occupancy Permits providing that the Codes Enforcement Officer rules that occupying the building will not be a safety concern.

Mr. Upham pointed out that the Codes Enforcement Officer has not yet checked out the building, he will be doing that just prior to the move, so if occupancy is approved, he suggested that it be with the condition that the building must be approved by the Codes Enforcement Officer.

DR. HAYNES MOVED, SECONDED BY MR. HOPKINSON, THAT THE BOARD GRANT A CONDITIONAL CERTIFICATE OF OCCUPANCY AT 400 CENTRE STREET, ELMHURST, INC, WITH THE FOLLOWING CONDITION:

THE CODES ENFORCEMENT OFFICER INSPECTS AND REPORTS TO THE PLANNING DIRECTOR THAT THERE ARE NO SAFETY HAZARDS TO THE OCCUPANTS OR THE PUBLIC.

UNANIMOUS APPROVAL.

Item 2

Setback Reduction in C2 Zone-11 Spring Street (Map 32, Lot 44); CJC, LLC, applicant.

John Szczepanski, of White Pines Landscaping, representing the applicant, told the Board that the land owner would like to divide the lot and that a Setback Reduction would need to be approved by the Board to allow this. He said one lot would be residential, a two family home, and the other would be commercial. He explained the landscape plan, which if approved, would allow the reduced Setback and Yard Area.

Mr. Szczepanski asked on behalf of the applicant, for a waiver to the requirement that a landscape architect must create the landscape plan.

Mr. Szczepanski explained that they would be removing some trees to create a parking lot in one of the parcels and creating new green space.

Mr. Upham told the Board that the Setback requirements have been met, but noted that the parking lot for the 2 family home doesn't meet the size requirements for 4 cars. If it is approved it will need to have a condition that the parking lot meets the appropriate codes, but only the landscape plan is currently up for approval by the Board.

Dr. Haynes commented that her understanding is that the screening requirements need to be met now, not in the future when the greenery grows. She asked the City Arborist to look at the plans and determine if they would provide sufficient screening as is.

The Arborist recommended 6- to 8-foot trees, and stated that the current quantity of 14 is adequate.

Mr. Szczepanski agreed.

Mr. Harper asked for the Board's comments on the waiver for Section 10.31, that a landscape architect must create the landscape plan.

Mr. Upham stated that since the plan is detailed, and enforceable, he feels that it acceptable.

Mr. Harper agreed and asked for comments from the Board.

There being no further comments from the Board, Mr. Harper opened the floor to members of the public wishing to comment.

There being no public wishing to comment, Mr. Harper closed the public portion and returned to comments from the Board.

Mr. Hopkinson suggested that in the interest of maintaining the buffer, he would like to see a written set of maintenance requirements included in the lot requirements for Lot 1, for current and future owners of the property.

Mr. Harper asked for any further comments.

MR. HOPKINSON MOVED, SECONDED BY DR. HAYNES, TO APPROVE THE SETBACK REDUCTION IN C2 ZONE, 11 SPRING STREET (MAP 32, LOT 44); CJC, LLC, APPLICANT WITH THE FOLLOWING CONDITIONS:

- 1) THAT THE REQUEST FOR THE WAIVER OF THE REQUIREMENT THAT THE LANDSCAPE PLAN BE CREATED BY A LANDSCAPE ARCHITECT BE GRANTED.**
- 2) THAT THE LANDSCAPE BUFFER CONSIST OF 14, 6- TO 8-FOOT TREES.**
- 3) THE PARKING LOT FOR LOT 1 MEETS THE REQUIREMENTS FOR A TWO FAMILY HOME.**
- 4) WRITTEN REQUIREMENTS FOR MAINTENANCE AND CARE OF THE BUFFER BE SUBMITTED TO THE PLANNING DIRECTOR FOR APPROVAL, AND ONCE APPROVED ARE INCLUDED IN THE REQUIREMENTS FOR THE LOT.**

UNANIMOUS APPROVAL.

Item 3

Subdivision Amendment - Oak Grove Avenue (Map 15, Lot 46); Sewall Family Associates, LLC, applicant.

Ms. Sewall, representing the applicant told the Board that the applicant is requesting the following amendments to the Declaration of Protective Covenants and Common Easements for the Stonehouse Woods Subdivision:

- 1) Omit that each building on the lot must be stick built, on-site construction.
- 2) Remove "poultry" from the list of animals prohibited on the lot.
- 3) Add vinyl siding as an allowed siding material.
- 4) In Article II. 10 add "by lot owner," and
- 5) In Article II. 11 remove "exposed metal stove pipe flues."

Mr. Harper thanked the representative and asked for comments from the Board.

Dr. Haynes stated that on February 21, 2006, when permission was granted for this subdivision, the Board asked that a Tree Protection Plan be added to the Declaration.

Mr. Hopkinson added that a reference to sprinkler systems was also to be added.

Ms. Sewell explained that she thought this information was on the subdivision plan and it would not be a problem to include it in the declaration.

Mr. Harper asked for further comments from the Board. There being no further comments, he opened the floor to any members of the public wishing to comment.

There being no comments from the public, Mr. Harper closed the public portion.

MR. HOPKINSON MOVED, SECONDED BY MR. OMO, TO APPROVE THE REQUEST FOR A SUBDIVISION AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS AND COMMON EASEMENTS FOR THE STONEHOUSE WOODS SUBDIVISION - OAK GROVE AVENUE, (MAP 15, LOT 46); SEWALL FAMILY ASSOCIATES, LLC, APPLICANT, WITH THE FOLLOWING ADDITIONAL REVISION:

1) THAT THE TREE PRESERVATION PLAN AND SPRINKLER REQUIREMENTS BE INCLUDED IN THE DECLARATION AND SUBMITTED FOR APPROVAL BY THE PLANNING DIRECTOR.

UNANIMOUS APPROVAL.

Item 4

Site Plan and Historic District Amendment- 21 Bowery Street (Map 21, Lot 227); Richard Klingaman, applicant.

Mr. Klingaman told the Board he was requesting a Site Plan and Historic District Amendment for some minor architectural changes.

Mr. Klingaman explained that the original site plan included a curb along the city's right-of-way. During construction, it was discovered that there was a large concrete slab under the area and the curb needed to become a granite wall in order to support the street, create appropriate drainage, and prevent pedestrians from falling off of the street, due to the different elevations of the street and the property.

Mr. Klingaman outlined the changes: finish the exterior of the building in stucco instead of clapboards, build granite curbing for parking spaces, make some minor landscape changes along his front walk, add a lamppost, and changes some of the exterior pint colors.

Mr. Harper invited the Board to ask questions or make comments.

Dr. Haynes stated that the Board should see the plan for the light change on the property, and it was passed around for viewing.

Mr. Klingaman explained that his plan for the driveway, parking area, and marina included creating parking spaces for eight cars instead of the original 12 that were proposed, creating a raised pier to a float for 12 boats, and a garden house-type marina building to be built on an existing foundation

There was some discussion about the "Garden House," which has been also referred to a building for marina storage. Mr. Klingaman explained that it would be a storage building designed to look like a garden house.

Mr. Harper inquired about D.E.P. approval.

Mr. Upham stated that they have not yet approved these changes.

Mr. Klingaman stated that he would like to get Planning Board approval before D.E.P. approval.

Mr. Upham inquired about the ongoing D.E.P. discussions regarding contaminated soil in the wetlands on the property.

Mr. Klingaman explained that the D.E.P. is requiring a 6-foot high chain link fence surrounding the wetlands as well as "no trespassing" signs.

Mr. Harper asked if Mr. Klingaman had explored the option of a coated fence. He had and these options as well as the height (6-foot on the property lines and 4-foot around the wetlands) were being explored.

Mr. Harper asked for further comments from the Board. There being no further comments, he opened the floor to any members of the public wishing to comment.

There being no comments from the public, Mr. Harper closed the public portion.

MR. HOPKINSON MOVED, SECONDED BY DR. HAYNES, TO APPROVE THE SITE PLAN AND HISTORIC DISTRICT AMENDMENTS FOR 21 BOWERY STREET (MAP 21, LOT 227); RICHARD KLINGAMAN, APPLICANT, WITH THE FOLLOWING CONDITIONS:

APPLICABLE D.E.P., ARMY CORP. OF ENGINEERS, OR OTHER FEDERAL AND STATE APPROVALS ARE MET.

THE SUBMITTED PROPOSAL FOR A MARINA/GARDEN HOUSE BE CLARIFIED.

THE CHAIN LINK FENCE SURROUNDING THE WETLANDS ON THE PROPERTY BE BLACK UNLESS OTHERWISE DIRECTED BY THE FEDERAL AND STATE APPROVALS.

UNANIMOUS APPROVAL.

Item 5

Historic District and Site Plan Amendments – 44 Summer Street (Map 26, Lot 221); Shadi Towfighi, applicant.

Ms. Towfighi told the Planning Board that she was requesting Historic District and Site Plan Amendments to her property.

Ms. Towfighi stated that she has already changed her landscaping and two windows on the building. The windows, which have already been approved, were changed from sash windows to transom windows to create more privacy in the bathroom. The vegetation was changed from what was stated on the original site plan to accommodate the view of, and from, her screened in porch. She replaced Arbor Vitaes with Variegated Willows, Irish Shamrock bushes, and rose bushes.

Ms. Towfighi also stated that she has been trying to reach her landscape architect in order to present the Board with a detailed plan of the changes, but has been unable to reach him.

Mr. Harper clarified that a advisory, review committee has recommended approval for these changes, but they have not been reviewed by the Board yet.

Dr. Haynes stated that she did not feel that this plan could be approved without a more detailed landscaping plan.

Mr. Omo agreed with Dr. Haynes.

Mr. Harper states that the Board needs to see an enforceable plan by a landscape architect. To approve this request without such a plan is asking for a waiver. A waiver cannot be granted without a detailed plan.

Mr. Upham added that the applicant is also interested in opening a restaurant on her property, which will require further action and parking issues to be addressed in the future.

Mr. Harper opened the meeting to the public for comment.

There being no comments from the public, Mr. Harper closed the public portion.

Mr. Harper suggested that the amended landscape plan could be approved as a Minor Plan Revision.

Mr. Harper asked the Board for further discussion or a motion.

Mr. Upham reminded everyone that a landscape plan is a necessary item for a Setback Reduction and that its purpose is to provide a buffer that the Setback would otherwise provide. He understands that Ms. Towfighi is concerned about the view to her building, but the purpose of the landscaping is to provide a buffer.

There was further discussion about the need for a more detailed plan.

MR. HOPKINS MOVED, SECONDED BY DR. HAYNES, TO APPROVE THE REQUEST FOR HISTORIC DISTRICT AMENDMENT FOR THE CHANGE OF THE TWO WINDOWS.

UNANIMOUS APPROVAL.

Ms. Towfighi was concerned about delaying the opening of her business until she had a complete landscape plan from her landscape architect.

Mr. Harper explained that the Board was unable to grant a conditional request of occupancy at this time.

MR. HOPKINS MOVED, AND WAS SECONDED, TO CONTINUE THIS ISSUE AT THE NEXT MEETING, UNLESS IT IS RESOLVED PRIOR TO THAT SESSION.

UNANIMOUS APPROVAL.

Item 6

Subdivision Sketch Plan Review, and Site Plan and Historic District Approval – Front Street (Map 21, Lots 231, 232 & 235); Old Shipyard Land, LLC, applicant.

Catherine Davis, representing the applicant, explained that she would like to submit for approval and review her plans to develop a two building, 20-unit residential condominium development on Front Street.

Mr. Harper stated that the Planning Board needed to determine if the application is complete in accordance with Article 12.

MR. OXTON MOVED, SECONDED BY MR. HOPKINSON, TO FIND THE APPLICATION COMPLETE IN ACCORDANCE WITH ARTICLE 12.

UNANIMOUS APPROVAL

Ms. Davis thanked the City Arborist for his comments and suggestions. She invited the Board to ask any initial questions.

Mr. Upham stated that he not yet received Public Works Directors final approval or the Fire Chief's approval in writing. He believes that the Chief has explored the property and plans, but nothing has been put into writing.

Ms. Davis explained that she would like to include "green building" concepts in the future. Her current plan includes two buildings built to maximize water views, preserve the existing vegetation as well as creating new greenery, create buildings that will blend well with the other structures in the neighborhood, create underground parking, use materials that are environmentally friendly, and meet the 4 principles of "Smart Growth."

Ms. Davis also explained that she intends that the building on Front Street will be similar in style and height to the others on the street, and the rear building will be designed to resemble buildings of the past.

Dr. Haynes states that she would like a better idea of the scale of the buildings, understanding what it will look like from different views.

Mr. Harper asked if the Board feels that a site walk is necessary for this decision. The Board agreed and a Site walk was set for 4:30 p.m. on August 1st.

The Board discussed whether the traffic studies needed to be reviewed by a peer reviewer.

Aaron Shaw, for James W. Sewall Co., consultant to Ms. Davis, requested a waiver for parking requirement In Section 10.06, B, 9—parking layout.

Mr. Upham explained that the requirements for the number of spaces have been met, but that the lot underneath building A did not meet requirements of Section 10.06, B, 9.

Mr. Harper noted that the Maine Historic Preservation Commission has written a letter expressing no concerns from a historic perspective.

Mr. Harper opened the meeting to public comments, reminding the public to state their names and sign in.

Members of the public who spoke included:

Hal Sreden, 406 Front Street; Ed Moll, 1043 Washington Street; Josh Goodman, 364 Front Street; Sandra Goodman, 370 Front Street; Richard Derector, 374 Front Street; and Rebecca Belanger, 390 Front Street.

The public comments concerned additional traffic caused by the development, stormwater flows from Front Street across the lot, any second phase of the project, on-street parking, construction vehicles, and safety of children in the area. There was discussion of how narrow Front Street is in the winter due to snow, and how narrow it is in the summer due to traffic and on-street parking.

Mr. Sreden mentioned a wildlife study that had been done and stated that there was no wildlife to be concerned with on the property, but claims that he and his neighbors have witnessed several animals in the area.

The size of the construction was the other major issue with the public. Many felt that such a large, long building detracts from the historic feel of the neighborhood. They were also concerned that such a long building blocks views of the river.

There were also comments about the lack of and need for a sidewalk in that area.

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

Mr. Harper commented that a traffic study has been conducted and will need to be examined and evaluated.

Mr. Harper noted the flood plain concerns.

Mr. Upham commented that if the site is in a flood plain, the Codes Enforcement Officer will need to examine the property and determine what is necessary for that issue.

Mr. Harper noted that the size and mass of the building is a concern, but reminded everyone that it does meet all of the Space and Bulk requirements of the Land Use Code.

Mr. Harper also noted that the Fire Chief will deal with fire safety issues.

Mr. Harper stated that he was not aware of the culvert that was mentioned and the Board will need to investigate that.

Mr. Harper stated that he understands the concerns about traffic and the traffic study (which was conducted one day on a week day) and expressed that the study is subject to peer review.

Dr. Haynes added that she would like to see pedestrians included in this study as well.

Dr. Haynes also expressed her concerns regarding the following:

- Recycling plan.
- Materials in the construction such as the railings.
- More evergreen buffering for the neighbors.
- Possibility of breaking up the building, or at least making it appear more broken up.
- The kinds of windows that will be used
- Why there is not a resume for the architect in the submittals.
- The issues raised by the historic district review committee and how Ms. Davis feels about them.

Mr. King expressed his concern about the size of the building, even though it meets all Space and Bulk requirements, he feels that it does not blend with the other structures on the street and does not meet Historic District approval criteria.

Mr. King also initiated a discussion about building on top of a sewer easement granted to the City. Ms. Davis stated that there is a plan to move the sewer as part of the subdivision.

Mr. Omo agreed with the concerns about the architecture and the sidewalk. He also inquired about the height of the elevator shaft.

Mr. Hopkinson added a concern about the general impact of the Kennebec River, and a desire to see a tree preservation plan.

The Board discussed plans for recreation, specifically extending the river walk to this area.

Due to a prior request, Mr. Harper opened the public session again.

Tina Goodman, 364 Front Street, expressed her concern about the flood plain.

Ms. Belanger expressed her frustration over the plan to move the sewer and that it was not stated in the original plan.

Mr. Sreden expressed concern about the soil contaminants and would like to know more about that.

Mr. Goodman expressed his concern about the effect that the development would have on the quality of life in the neighborhood. He also inquired about access to the development, whether it would be from Pearl or Front street and would like that to be considered.

Hearing no further comment from the public, Mr. Harper again closed the public portion.

Mr. Harper reviewed all of the concerns mentioned by the public and the Board.

MR. KING MOVED, SECONDED BY DR. HAYNES, TO CONTINUE THE REVIEW OF THE REQUEST FOR SITE PLAN AND HISTORIC DISTRICT APPROVAL FOR FRONT STREET (MAP 21, LOTS 231, 232, & 235); OLD SHIPYARD LAND, LLC, APPLICANT UNTIL AFTER THE SITE WALK SCHEDULED FOR AUGUST 1ST AT 4:30 P.M.

UNANIMOUS APPROVAL.

Mr. Harper reminded everyone that the site walk is a public meeting.

Item 7

Site Plan Approval – 11 State Road (Map 31, Lot 67); Richmond Company, applicant.

Mr. Upham told that Board that the applicant is now the landowner, Finast Properties, LLC and that the first item of business is to determine if the application is complete.

MR. OMO MOVED, SECONDED BY MR. OXTON, TO FIND THE APPLICATION COMPLETE.

UNANIMOUS APPROVAL.

Mr. Upham stated that the peer reviews on the traffic study and stormwater management plan are not yet complete.

Mr. Harper noted that without peer reviews the Board cannot make a decision on this request.

Jeff Aceto, SiteLines, representing the applicant, discussed the following changes made to the plans:

- The plan has been modified by creating an entrance in addition to the exit near State Road.
- Stormwater detention areas have been designed to help with the stormwater management.
- The applicant is requesting a waiver regarding exterior light illumination that exceeds 0.2 foot-candles in the streets rights-of-way.

Mr. Harper inquired about the existing vegetation on the property.

Mr. Aceto explained that there is an area on the back of the lot that will be preserved, and new vegetation will also be planted.

The Board discussed the option of creating a vegetative buffer between the sidewalk and State Road due to the speed of vehicles and for pedestrian safety.

The Board also discussed the traffic issues at the Congress Street intersection. Mr. Upham noted that the City is aware that the intersection is a high crash location, but there are no current plans to reconstruct it. Possibly a roundabout will be a solution in the future, but no decisions can be made until the peer review of the traffic report is finished.

Mr. Upham noted that the lot is sewed by a private line from this site to the VIP lot and then to Richardson Street where it enters the City's system. He said that this should be noted on the plan. He also said that a determination that the private portion of this system has capacity should be made.

The Board also discussed the need for the 72 parking spaces and if the applicant can prove the need for less parking, the Board would rather grant a waiver than create unnecessary paving.

MR. OMO MOVED, SECONDED BY MR. HOPKINSON, TO CONTINUE THE REQUEST FOR SITE PLAN APPROVAL FOR 11 STATE ROAD (MAP 31, LOT 67); FINAST PROPERTIES, LLC, APPLICANT, UNTIL THE NEXT PLANNING BOARD MEETING.

UNANIMOUS APPROVAL

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

UNANIMOUS APPROVAL

The meeting was adjourned at 9:08 p.m.

Minutes prepared by Stacy Reed, Recording Secretary.