

A regular meeting of the Bath Planning Board was called on 11-03-09 for the purpose of conducting regular business.

**MEMBERS PRESENT**

Bob Oxton, Chair  
Andy Omo  
Paul Fraser  
Donald Rogers  
Amy Fitzpatrick  
James Hopkinson, Vice Chair  
Robin Haynes  
Drew Molbowski (non-voting student member)

**MEMBERS ABSENT**

Kean McDermott (non-voting student member)

**STAFF PRESENT**

Jim Upham, Planning Director  
Marsha Hinton, Recording Secretary

Mr. Oxton, Chair, called the meeting to order in the third floor Council Chambers at 6:00 p.m. on Tuesday, November 3, 2009.

**Minutes of the October 20, 2009, meeting**

Dr. Haynes requested the following corrections to October 20, 2009, Planning Board Minutes:

Mr. Oxton, Chair, called the meeting to order in the ~~second~~ third floor conference room at 6:00 p.m. on Tuesday, October 20, 2009.

Mr. Ed Rogers, applicant, discussed the plans to improve the current façade by incorporating windows that could be opened for a more open air feel to the restaurant. Mr. Rogers pointed out that the proposed changes would actually return the facade to a more historic appearance. Mr. Rogers informed the Planning Board that the proposal would be a phased plan to eventually include handicapped accessibility and interior work. Mr. Rogers added that the applicants were open to any suggestion the Planning Board may have.

**DR. HAYNES MOVED, SECONDED BY MR. ROGERS, TO ACCEPT THE PLANNING BOARD MINUTES OF OCTOBER 20, 2009, AS AMENDED.**

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

**Request for Site Plan Approval - 51 High Street (Map 45, Lot 8); Catherine Skove, applicant.**  
(Continued from October 20, 2009, meeting.)

Mr. Upham stated that Public Works Director, Peter Owen, was uncomfortable recommending this application with the amount of fill proposed on a proposed slope this steep. Mr. Upham

said that the applicant requested continuation until a date uncertain. Mr. Upham added that he is not comfortable with an indefinite extension on this application.

The Planning Board discussed the need for more specific engineering given the amount of fill and the grade of the slope being proposed, as well as the applicant's ability to come back before the Planning Board to request an extension of the continuance.

**MR. HOPKINSON MOVED, SECONDED BY MS. FITZPATRICK, TO CONTINUE THE REQUEST FOR SITE PLAN APPROVAL AT 51 HIGH STREET (MAP 45, LOT 8) FOR CATHERINE SKOVE, APPLICANT, FOR A PERIOD OF TIME NOT TO EXCEED ONE YEAR.**

## **UNANIMOUS APPROVAL**

### **New Business**

#### **Item 1**

**Public Hearing** - Amendment to the Bath Land Use Code, Article 6, Section 6.04, E – Multiple Structures on a Legally Nonconforming Lot.

Mr. Upham explained the desire of the City of Bath to sell properties considered to be surplus property. Mr. Upham added that the first property identified for this process is a property commonly known as the Nunnery and was part of the Catholic School. Mr. Upham stated that this property legally shares a lot with the Donald Small School but is functionally separate from the Donald Small School. Mr. Upham said that in order to sell the Nunnery Section 6.04 E of the Land Use Code would have to be amended.

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

None being seen Mr. Oxton closed the public portion of the meeting.

The Planning Board discussed the need for specific language pertaining to the drawing of the property lines such that each building meet setback requirements to the greatest extent practicable, the need for each building to be independent from the other (i.e., separate septic and separate water supply), and a list of properties that would be impacted by this amendment.

**MR. HOPKINSON MOVED, SECONDED BY DR. HAYNES, TO CONTINUE CONSIDERATION OF THE AMENDMENT TO THE BATH LAND USE CODE, ARTICLE 6, SECTION 6.04, E – MULTIPLE STRUCTURES ON A LEGALLY NONCONFORMING LOT, TO THE NEXT PLANNING BOARD MEETING.**

## **UNANIMOUS APPROVAL**

**Item 2**

**Request for Site Plan Approval - Front Street (Map 21, Lots 231, 232, 233 & 235); Old Shipyard Land, LLC, applicant.**

Mr. Upham informed the Planning Board that this application was not for a new project, adding that this project had received Site Plan Approval on November 7, 2006, and an amendment was approved on May 6, 2008. Mr. Upham explained that while Historic District Approval does not expire and that Subdivision Approval lasts for five years, Site Plan Approval expires after six months if a building permit is not obtained within that time. Mr. Upham stated that the Planning Board can approve a six month extension. Mr. Upham explained that because there are new members on the Planning Board he provided the Planning Board with the Notice of Planning Board Approval that explains how the site plan in 2006 met the approval criteria.

**MR. HOPKINSON MOVED, SECONDED BY DR. HAYNES, TO FIND THE REQUEST FOR SITE PLAN APPROVAL AT FRONT STREET (MAP 21, LOTS 231, 232, 233 & 235) FOR OLD SHIPYARD LAND, LLC, APPLICANT, COMPLETE.**

**UNANIMOUS APPROVAL**

Ms. Catherine Davis stated that they were moving forward with the project but had encountered time delays related to the collapse of financial institutions back in 2008.

Mr. Oxton, Chair, opened the public portion of the meeting to members of the public who wished to comment on this agenda item.

None being seen, Mr. Oxton closed the public portion of the meeting.

**MR. HOPKINSON MOVED, SECONDED BY MR. ROGERS, TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL AT FRONT STREET (MAP 21, LOTS 231, 232, 233 & 235) FOR OLD SHIPYARD LAND, LLC, APPLICANT, SUBJECT TO THE FOLLOWING CONDITIONS:**

**THAT THE SAME CONDITIONS CONTAINED IN THE NOVEMBER 7, 2006, APPROVAL AND THE MAY 6, 2008, AMENDMENT APPLY;**

**THAT IF THERE IS SOME DISCREPANCY BETWEEN THOSE APPROVALS AND WHAT WAS PRESENTED TO THE PLANNING BOARD ON NOVEMBER 3, 2009, THEN THE ORIGINAL PLAN AND THE MAY 6, 2008, AMENDMENT THEREOF CONTROL; AND THAT**

**THAT ANY CHANGES TO THE ORIGINAL PLANS MUST COME BEFORE THE PLANNING BOARD OR CITY STAFF AS APPROPRIATE FOR APPROVAL.**

**UNANIMOUS APPROVAL**

**Item 3**

**Request for Site Plan Approval - 45 Floral Street (Map 28, Lot 177); Bath Area Seniors Activity Center Inc, applicant.**

Mr. Jerry Little, representing the applicant, described the need for an onsite storage building at the Bath Area Seniors Activity Center for paper, seasonal items, yard-sale donations, and similar items. Mr. Little stated that the proposed storage building would be unheated, contain no plumbing, would be 26 feet by 30 feet with a truss attic for additional storage space, and that the building would not contain hazardous materials.

Mr. Oxtan opened the meeting to members of the public who wished to comment on this agenda item.

None being seen Mr. Oxtan closed the public portion of the meeting.

**DR. HAYNES MOVED, SECONDED BY MR. HOPKINSON, TO FIND THE APPLICATION TO REQUEST SITE PLAN APPROVAL AT 45 FLORAL STREET (MAP 28, LOT 177) FOR BATH AREA SENIORS ACTIVITY CENTER INC, APPLICANT COMPLETE WITH THE WAIVER OF J, K, L, M, N, O, AND P.**

**UNANIMOUS APPROVAL**

**MR. HOPKINSON MOVED, SECONDED BY MR. ROGERS, TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL AT 45 FLORAL STREET (MAP 28, LOT 177) FOR BATH AREA SENIORS ACTIVITY CENTER INC, APPLICANT.**

**UNANIMOUS APPROVAL**

**Item 4**

**Request for Site Plan Approval - 967 Middle Street (Map 26, Lot 127); Laura Hiestand, applicant.**

Mr. Omo declared that his parent's owed property across the street from this site but that would not contribute in any way to his consideration of this agenda item.

Mr. Oxtan polled the members of the Planning Board as well as the applicant and it was unanimously agreed that Mr. Omo could fairly hear this agenda item.

Ms. Laura Hiestand stated that when she built the chicken pen she was unaware that she was violating City ordinance. Ms. Hiestand shared the results of her research into ordinances in other communities, the concern with attraction of rodents and other pests, the food containers, the structure the chickens were housed in and how manure would be stored and disposed. Ms. Hiestand pointed out that a more appropriate venue for this type of application might be a Health Code.

Mr. Oxtan opened the floor to members of the public who wished to comments on this agenda item.

Mr. Gene Wiemers, abutter, stated that the structure enhanced the neighborhood, the neighbors had no complaints, and the chicken pen was actually in keeping with the historic nature of the area. Mr. Wiemers added that while he would not be happy with pigs that were also kept historically in Bath he has no problem with Ms. Hiestand keeping chickens.

There being no further comment from members of the public Mr. Oxtan closed the public portion of the meeting.

The Planning Board discussed the number of chickens; whether there would be roosters; how the chickens were feed; how the feed was stored; the issue of rats and other pests; how manure would be stored and disposed; Section 11.03, C, 3 and 4, the topographic separation between the chickens' pen and the closest neighboring dwelling unit, and the waiver of the 100-foot setback; whether the chickens would be locked up at night; health concerns; and size of the pen and building housing the chickens.

**MR. HOPKINSON MOVED, SECONDED BY MR. ROGERS, TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL AT 967 MIDDLE STREET (MAP 26, LOT 127) FOR LAURA HIESTAND, APPLICANT, WITH THE FOLLOWING CONDITIONS:**

**THAT THE REQUIREMENT FOR A 100-FOOT SETBACK FROM THE CHICKEN PENS TO ONE OF THE NEIGHBORING DWELLING UNITS BE WAIVED AND A 75-FOOT SETBACK BE ALLOWED;**

**THAT THE PLANNING DIRECTOR CONSULT WITH THE ANDROSCOGGIN VALLEY SOIL AND WATER CONSERVATION WITH REGARD TO PROPER STORAGE AND DISPOSAL OF MANURE AND THAT THIS BE THE REQUIRED METHOD. IF NO CLEAR RECOMMENDATIONS ARE MADE BY THE ANDROSCOGGIN VALLEY SOIL AND WATER CONSERVATION THEN THE PLANNING DIRECTOR WILL DEVISE AN APPROPRIATE COMPOSTING PLAN IN CONJUNCTION WITH THE CITY ARBORIST;**

**THAT THE NUMBER OF ANIMALS ALLOWED BE LIMITED TO 12 HENS;**

**THAT THE FOOD CONTAINERS MUST BE RODENT AND PEST PROOF;**

**THAT THE APPROVAL ONLY APPLY TO THIS APPLICANT AS LONG AS SHE IS THE OWNER OF THIS PROPERTY;**

**THAT FEEDERS BE USED THAT PREVENT FOOD FROM DROPPING ON THE GROUND;**

**THAT BIRDS BE KEPT INSIDE AT NIGHT; AND**

**THAT SICK CHICKENS BE PROPERLY TAKEN CARE OF AND DEAD OR DISEASED CHICKENS BE PROPERLY DISPOSED OF.**

**SIX IN FAVOR (MR. HOPKINSON, DR. HAYNES, MS. FITZPATRICK, MR. FRASER, MR. OMO, AND MR. ROGERS) ONE OPPOSED (MR. OXTON)**

Mr. Hopkinson recommended that the applicant contact the City Arborist with regard to composting of the manure.

**Item 5**

**Planning Board discussion** - of draft "Smart Growth" criteria and possible amendments to Land Use Code Article 11.

Mr. Upham explained that there was nothing to report at this time and asked for a continuance until the next meeting.

**MR. HOPKINSON MOVE, SECONDED BY MR. FRASER, TO CONTINUE PLANNING BOARD DISCUSSION OF DRAFT "SMART GROWTH" CRITERIA AND POSSIBLE AMENDMENTS TO LAND USE CODE ARTICLE 11 UNTIL THE NEXT MEETING.**

**UNANIMOUS APPROVAL**

**Other Business**

None.

**Adjournment**

There being no further business before the Board, **MR. HOPKINSON MOVED, SECONDED BY MR. FRASER, TO ADJOURN THE MEETING AT 7:05 PM.**

**UNANIMOUS APPROVAL**

Minutes prepared by Marsha Hinton, Recording Secretary