

A regular meeting of the Bath Planning Board was called on 12-1-09 for the purpose of conducting regular business.

MEMBERS PRESENT

Bob Oxton, Chair
James Hopkinson, Vice Chair
Amy Fitzpatrick
Robin Haynes
Kean McDermott (non-voting student member)
Drew Molbowski (non-voting student member)

MEMBERS ABSENT

Andy Omo
Paul Fraser
Donald Rogers

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 5:57 p.m. on Tuesday, December 1, 2009.

Minutes of the November 17, 2009, meeting

MR. HOPKINSON MOVED, SECONDED BY DR. HAYNES, TO ACCEPT THE PLANNING BOARD MINUTES OF NOVEMBER 17, 2009 AS PRESENTED.

UNANIMOUS APPROVAL

Old Business

Item 1

Public Hearing - Amendments to Land Use Code Articles 7, 8, 9, and 11 and Zoning Map to implement the Comprehensive Plan pertaining to the creation of a Plant Home Zone. (Continued from the November 17, 2009. meeting).

Mr. Upham outlined the changes to Article 2 to amend definitions; Article 7 to add the Plant Home District; Article 8 to add Space and Bulk regulations; Article 9 permitted uses, and deleting Section 11.17 -- Life Care Facilities.

Mr. Oxton opened the floor to members of the public who wished to speak.

Ms. Julie Rice, 27 Washington Street, asked what is the process after the public hearing, if the maximum lot coverage of 20 percent included the wetlands, what the setback would be from the wetlands, how would the high waterline be determined, guidelines for notification of abutters, how in-home lodging is defined, if Use Category 3.1.1 applied to non-residents, what types of uses would be included in Place of Assembly, why would a Bed and Breakfast be allowed, what is intended by Use Category 19.1.1 - Small Scale Utility Facility, and how is Temporary Use defined?

Mr. Upham explained that the Planning Board could vote tonight to recommend this amendment to the City Council for approval, if the City Council after two readings approved

these amendments they would then go to the Department of Environmental Protection for approval. Mr. Upham said that the maximum lot coverage would not include the wetlands. Mr. Upham explained that the wetlands and the river had a 75-foot setback and the determination of the high water mark would be determined by a wetlands scientist. Mr. Upham explained that certain things only needed a building permit and did not require notification of abutters. Mr. Upham said that if a doctor or lawyer or other professional had an office on-site that just provided services to the residents that would be an accessory use but if the professional served the community at large that would be a primary use and would not be allowed. Mr. Upham stated that a Bed and Breakfast required that the property owner live on site but a hotel or inn did not. Mr. Upham explained that the Small Scale Utility Facility would be a small switching station used by a telephone company. Mr. Upham added that Temporary Uses were things like portable classrooms or on-site construction trailers and that time limitations were placed on those types of structures. Mr. Upham said that Ms. Rice posed some very good questions.

Ms. Phyllis Bailey, 16 River Road, asked that three to six months be allowed before action is taken on this agenda item for a community discussion to create a local solution to allow people to age where they live. Ms. Bailey added that she had concerns with the feasibility of expansion of the Plant Home and the changes these proposed amendments would make to the neighborhood. Ms. Bailey pointed to assisted residential facilities that had vacancies and the poor economy.

Mr. Don Capoldo, Plant Home, stated that they would not move forward with any proposal without a market study and financial backing in place.

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

The Planning Board held discussion on the need for assisted residential facilities, marketability, definitions, triggers for notification of abutters, the reasons for taking this course of action regarding the creation of a new zone, size and scale of any construction, blocking views of the river, and more specific approval criteria.

MR. HOPKINSON MOVED, SECONDED BY MS. FITZPATRICK, TO CONTINUE THE PUBLIC HEARING ON AMENDMENTS TO LAND USE CODE ARTICLES 7, 8, 9, AND 11 AND ZONING MAP TO IMPLEMENT THE COMPREHENSIVE PLAN PERTAINING TO THE CREATION OF A PLANT HOME ZONE TO THE DECEMBER 15, 2009, PLANNING BOARD MEETING TO ALLOW TIME TO RESEARCH ADDITIONAL APPROVAL CRITERIA.

UNANIMOUS APPROVAL

New Business

Item 1

Request for Site Plan Approval - 82 Middle Street (Map 39, Lot 58); Angela Klein, applicant.

Ms. Kline stated that she was not aware that she needed site plan approval to keep chickens in town. Ms. Kline explained that she and her children had raised these chickens, kept the food in rodent proof containers, composted the manure to use on her garden, and had improved the fence to keep the chickens from escaping.

DR. HAYNES MOVED, SECONDED BY MR. HOPKINSON TO FIND THE APPLICATION FOR REQUEST FOR SITE PLAN APPROVAL AT 82 MIDDLE STREET (MAP 39, LOT 58) FOR ANGELA KLEIN, APPLICANT, COMPLETE.

UNANIMOUS APPROVAL

Dr. Haynes stated that this was not the proper venue for this type of use and felt that there should be a licensing fee to offset the cost of inspection for these types of uses.

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

Mr. Robert Brewer, 45 Robinson, stated that he was not in support of his neighbor keeping chickens. Mr. Brewer explained that the chickens had escaped and come into his yard, destroying his garden and lawn. Mr. Brewer pointed out the noise created by the chickens, his concerns with sanitation, the small size of the lot, and rats.

Ms. Emily Sample, 76 Middle Street, stated that she was in support of Ms. Kline being able to keep chickens. Ms. Sample stated that the chickens kept down the tick population, that she has not noticed skunks, rats, or other animals being drawn in by the chickens, that the problem with the escaping chickens has been resolved by a higher fence, and she has not noticed any noise issues.

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

The Planning Board discussed setbacks, noise buffering, more specificity with regard to food storage, sanitation, and standards for disposal of chicken manure.

MR. HOPKINSON MOVED, SECONDED BY DR. HAYNES, TO CONTINUE THE REVIEW OF THE REQUEST FOR SITE PLAN APPROVAL AT 82 MIDDLE STREET (MAP 39, LOT 58) FOR ANGELA KLEIN, APPLICANT, TO ALLOW THE APPLICANT TIME TO ADDRESS ISSUES WITH REGARD TO NOISE, FOOD STORAGE, AND DISPOSAL ISSUES.

TWO IN FAVOR (MR. HOPKINSON, MR. OXTAN)

TWO OPPOSED (MS. FITZPATRICK, DR. HAYNES)

MOTION FAILS

DR. HAYNES MOVED, SECONDED BY MS. FITZPATRICK, TO DENY THE REQUEST FOR SITE PLAN APPROVAL AT 82 MIDDLE STREET (MAP 39, LOT 58) FOR ANGELA KLEIN, APPLICANT.

TWO IN FAVOR (MS. FITZPATRICK, DR. HAYNES)

TWO OPPOSED (MR. HOPKINSON, MR. OXTON)

MOTION FAILS

DR. HAYNES MOVED, SECONDED BY MS. FITZPATRICK, TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL AT 82 MIDDLE STREET (MAP 39, LOT 58) FOR ANGELA KLEIN, APPLICANT.

TWO IN FAVOR (MR. HOPKINSON, MR. OXTON)

TWO OPPOSED (MS. FITZPATRICK, DR. HAYNES)

MOTION FAILS

APPLICATION FOR REQUEST FOR SITE PLAN APPROVAL AT 82 MIDDLE STREET (MAP 39, LOT 58) FOR ANGELA KLEIN, APPLICANT DENIED.

Item 2

Planning Board discussion - of the establishment of the new Neighborhood Commercial Zone to implement the Comprehensive Plan.

Mr. Upham requested that this agenda item be continued.

MR. HOPKINSON MOVED, SECONDED BY DR. HAYNES, TO CONTINUE THE PLANNING BOARD DISCUSSION OF THE ESTABLISHMENT OF THE NEW NEIGHBORHOOD COMMERCIAL ZONE TO IMPLEMENT THE COMPREHENSIVE PLAN UNTIL THE DECEMBER 15, 2009 PLANNING BOARD MEETING.

UNANIMOUS APPROVAL

Item 3

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

Mr. Upham requested that this agenda item be continued.

DR. HAYNES MOVED, SECONDED BY MS. FITZPATRICK, TO CONTINUE THE PLANNING BOARD DISCUSSION OF DRAFT "SMART GROWTH" CRITERIA AND POSSIBLE AMENDMENTS TO LAND USE CODE ARTICLE 11 UNTIL THE DECEMBER 15, 2009 MEETING.

UNANIMOUS APPROVAL

Other Business

None.

Adjournment

There being no further business before the Board, **MS. FITZPATRICK MOVED, SECONDED BY DR. HAYNES, TO ADJOURN THE MEETING AT 7:27 PM.**

UNANIMOUS APPROVAL

Minutes prepared by Marsha Hinton, Recording Secretary