

A regular meeting of the Bath Planning Board was called on July 10, 2018 for the purpose of conducting regular business.

MEMBERS PRESENT

Bob Oxton, Chair
James Hopkinson, Vice Chair
Russell Martin
John Sunderland
Andy Omo
Greg Johnson

MEMBERS ABSENT

Cal Stilphen

STAFF PRESENT

Ben Averill, City Planner
Karly Perry, Recording Secretary

Mr. Oxton, Chair, called the meeting to order in the third-floor Council Chambers at 6:00 p.m. on Tuesday, July 10, 2018.

Minutes June 5, 2018, meeting minutes

MR. HOPKINSON MOVED, SECONDED BY MR. OMO TO ACCEPT THE MINUTES OF MAY 1, 2018 AS PRESENTED.

Mr. Martin noted that Mr. Dewick's name was misspelled on pages 3 and 4 of the minutes.

MR. HOPKINSON MOVED, SECONDED BY MR. OMO TO APPROVE THE MINUTES AS AMMENDED.

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

Public Hearing – Land Use Code Amendment – Article 2 – Elizabeth Knowlton, applicant.

Mr. Averill reviewed previous discussion of this item from the June 5 Planning Board with a request to change the definition of Bed and Breakfast. Mr. Averill went on to review comparable ordinances from neighboring towns including those similar to Bath's ordinance and those that allow for a manager, also noting that he had discussed the issue with the Codes Enforcement Officer, who saw no issue changing the ordinance.

Mr. Martin reported that he had researched the State guidelines, which do not specify whether it must be owner run, only the number of rooms.

Mr. Oxton expressed his concerns as to the original spirit of the ordinance as a way to allow people an opportunity for a supplemental income in order to stay in (and maintain) their homes, further noting that he is against changing the ordinance from its original intent.

Mr. Sunderland noted that he was not around to speculate on the original intent of the ordinance, then went on to note that Brunswick may have changed their ordinance from a previous option allowing a manager to stay on site.

Mr. Hopkinson voiced his opinion previously stated at the June meeting that he is unsure of the planning objectives that the board should be focused on. Discussion followed regarding planning objectives and rezoning.

Mr. Sunderland asked if there was any public comment which may show or highlight any issues.

Mr. Omo discussed the possible future impact of changing the language, noting he did not think it would affect business, but questioned if it would open the City up to a commercial investor purchasing a property to run as a Bed and Breakfast.

Mr. Johnson agreed with Mr. Omo and reiterated Mr. Oxtan's concerns as well.

Mr. Oxtan opened the floor to public discussion.

Elizabeth Knowlton, applicant and owner of the Inn at Bath, expressed her intentions, explaining that she is making the property more marketable to potential buyers and noting that without this language an owner is unable to take a vacation. Ms. Knowlton went on to discuss Airbnb's that may already be in existence with no property oversight.

John James of Garden Street noted that his property used to be a Bed and Breakfast. He discussed the Comprehensive Plan in relation to Bed and Breakfasts as an important business to the City. Mr. James went on to endorse the change as insignificant, stressing the importance of good management.

Charles Spliedt of Middle Street agreed with Ms. Knowlton and Mr. James, adding that Bed and Breakfasts are a large investment that an owner would only entrust to an appropriate manager. Mr. Spliedt then went on to further discuss neighboring ordinances.

Jane Palmer of Front Street stated that she is Ms. Knowlton's neighbor and went on to say that she had never had any issues with any of the owners of the Inn at Bath, adding that without them it would be difficult to maintain the property.

Diane Moyer of Washington Street stated that she is Ms. Knowlton's neighbor as well, and that changing the ordinance is the sensible, pro-business move. Ms. Moyer also testified that living next to a Bed and Breakfast has been a pleasure and has had no negative impact on her.

Mr. Oxtan closed the public session.

Mr. Hopkinson commented that individuals who take pride in their property do well; but reflected on Mr. Omo's concerns of non-owners who may not have the same level of pride. Mr. Hopkinson stressed that he is not against change, but he does not have enough information to support this change.

Mr. Martin commented that a manager would need to reside at the property which would ensure responsibility. Discussion followed regarding the language regarding residency.

Mr. Hopkinson suggested that the change may possibly need to be workshopped.

Mr. Averill noted that procedurally this is not a request that would generally be workshopped as it is citizen request and not an issue brought forth by the City.

Mr. Omo asked how hiring a manager would affect profitability.

Ms. Knowlton agreed that hiring a manager is not necessarily more profitable, however it does allow more flexibility for owners. She further noted that a poorly run business will extinguish itself, then continued on to discuss the benefits of changing the language in the ordinance.

MR. SUNDERLAND, SECONDED BY MR. MARTIN, MOVED TO RECOMMEND TO CITY COUNCIL TO AMEND THE DEFINITION OF BED AND BREAKFAST IN ARTICLE 2 SECTION 2.02 OF THE LAND USE CODE AS PROPOSED

APPROVED WITH 4 IN FAVOR AND 2 OPPOSED

Item 2

Request for Site Plan Approval and Contract Rezoning – 8 State Road (Map 31, Lot 65); Mark Sewall, applicant.

Mr. Averill reviewed the presentation from the June meeting of the Planning Board, wherein the board requested additional information. Mr. Averill then reviewed staff comments provided to the board.

Mr. Sunderland asked that the applicant review changes to the project.

John Dewick of Pine Tree Engineering introduced himself to the board then went on to review changes which include moving the building to the back of the property, and the subsequent changes to the storm water plan. Mr. Dewick noted that moving the building site has resolved grading issues, then continued to detail the storm water plan which will utilize the existing retention area. In addition, the front area will also absorb storm water, while water from State Road will be collected in one single outlet at the property entrance. Mr. Dewick then continued on to discuss recommendations suggested by Public Works with regards to fittings for the drainage system.

Mr. Hopkinson asked about landscaping.

Mr. Dewick reviewed the current plan with landscaping separating the sidewalk from the parking area as approved by the City Arborist, further noting that the sidewalk will match the parking lot and connect with the adjacent property (also owned by the applicant).

Mr. Oxtton noted that the photometrics will require a waiver.

Mr. Omo asked if there were concerns about the light poles being on public property.

The board reviewed waivers with the applicant including a parking/loading waiver for landscaping as there is not enough space for the required lawn area (which will not be required after contract rezoning). The board further confirmed that a waiver would be required for landscaping/screening, as would a waiver be required for the dumpster area.

Mr. Hopkinson noted inconsistencies on the landscape plan in regards to light poles, confirming that the lights will be on the road side of the sidewalk and further noting that Public Works has approved their location.

Mr. Sunderland asked if storm water is part of the benefit to the City.

Mr. Averill responded that final benefits are typically completed during the City Council discussion; but will include lighting, sidewalks and the storm water catch basin.

Further discussion followed on the sidewalks and light poles.

Mr. Oxton opened the floor to public comment. Hearing none, Mr. Oxton closed the public comment session.

Mr. Oxton asked about DEP permitting, to which discussion followed.

MR. HOPKINSON, SECONDED BY MR. SUNDERLAND, MOVED TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL TO INCLUDE WAIVERS FOR THE PHOTOMETRICS PLAN AND THE LANDSCAPING AND SCREENING REQUIREMENTS; AND TO APPROVE CONTRACT REZONING WITH THE CONDITION OF APPROVAL TO INCLUDE AND RECOGNIZE THE INSTALLATION OF THE LIGHTS ALONG THE SIDEWALK, THE INSTALLATION OF THE CATCH BASIN AND RELATED STRUCTURES AND IMPROVEMENTS, AND THAT THE APPROVAL OF BOTH BE SUBJECT TO THE CONDITION THAT THE APPLICANT SUBMIT TO THE CITY PLANNER APPLICABLE DEP PERMITTING AND SPEC SHEETS FOR THE LIGHTING.

UNANIMOUS APPROVAL.

New Business

Item 1

Public Hearing – Request for Contract Rezoning – 137 Leeman Highway (Tax Map 28, Lot 54-1 and portion of Lot 53); Mike Pelletier, applicant.

Item 2

Request for Site Plan Approval – 137 Leeman Highway (Map 28, Lot 54-1 and portion of Lot 53); Mike Pelletier, applicant.

Mr. Averill reviewed the request to build a 790 square foot structure for a drive-through coffee business with walk-up window. Mr. Averill went on to point out the packet of information on contract rezoning with waivers, as well as staff comments, noting that the applicant is currently working to purchase a Right of Way to Court Street from the City of Bath. This purchase has not yet been finalized. Mr. Averill also presented staff comments received by the board at the time of the meeting, summarizing that all comments conclude with staff approval.

Discussion followed on whether the application can be found complete without finalization of the purchase of the Right of Way.

Mike Pelletier, applicant, introduced himself and reviewed his other franchise properties of Aroma Joes, adding that he was approached by the company to open this location. He further acknowledged the spirit of Bath and his desire for the business to be involved in the community.

Mr. Dewick of Pine Tree Engineering reintroduced himself to the board and continued to review the project, wherein the existing area is currently a concrete slab. Mr. Dewick reviewed the current entrance sites, noting that the plan is to redesign these points. The structure is small and not open to the public, with most business interaction through the drive-through entry. The applicant is asking for a parking waiver as four spaces are required, however the plan only allows for two spaces, with the intent of off-site employee parking. Mr. Dewick also reviewed a retaining wall to match the neighboring CVS property.

Mr. Sunderland confirmed that the Right of Way does not extend into the paved area.

Mr. Dewick continued to describe the addition of crosswalks, stop signs and sidewalk improvements that will narrow Quimby Street (as approved by City Staff). Trash pickup will be outside of business hours.

Mr. Oxton noted that lighting will require state approval.

Mr. Sunderland asked how many vehicles will be able to queue on the property.

Mr. Pelletier explained the metric for measuring vehicles and surmised that about 10 cars will be able to line up after ordering (Aroma Joes typically recommends space for 8 cars in this size franchise). Discussion followed on maneuverability by larger vehicles including delivery vehicles.

Mr. Dewick continued on to describe the grading plan which will also require a waiver for the Quimby Street entrance. There will be 5 catch basins to collect storm water and drain into the city system. Utilities, including existing sewer, will be discontinued as will the Court Street water main, and in addition electricity will connect underground. Landscaping screening will require a waiver as the City Arborist's recommendation of shrubs was determined by the landscaper to not be able to survive, however the landscaper has added variety to plantings per the suggestion of the City Arborist. Mr. Dewick concluded by reviewing the simple architecture of the building including patio, pitched roof and mechanical deck.

Mr. Martin confirmed that the 14'x14' patio would include tables and chairs, and that the mechanical deck is open and would be an entrance for deliveries.

Mr. Pelletier expanded that food is delivered frozen and warmed on site, therefore there is no prep work for the donuts, scones, breakfast sandwiches and other offerings.

Mr. Martin asked about employee parking.

Mr. Pelletier explained that off-site employee parking is not uncommon in cities. He added that the CVS property has the exact amount of required spaces, and therefore the Shaw's plaza will be the most likely site. Mr. Pelletier added that if necessary, the patio could be removed to add two additional spots, however that is not his preferred option.

Mr. Johnson asked if there is any concern by the City on snow removal. Discussion followed regarding staff comments and salt treatment for retaining walls.

Mr. Omo and Mr. Hopkinson reviewed recommendations by the Police Department regarding crosswalks, which the engineer described as dimpled steel. The board confirmed that the Police Department is asking that signage be added to crosswalks.

Mr. Hopkinson asked if there had been a traffic study from Route 1 traffic.

The applicant replied that because ordering takes place on the Route 1 side of the building, this will alleviate any traffic concerns.

Mr. Dewick stressed the importance of approving the contract rezoning in order to continue progress on the property and asked the board to consider a conditional approval.

Mr. Oxtan opened the floor to public comment. Hearing none, Mr. Oxtan closed the public comment session.

Mr. Omo asked for clarification on waivers for contract rezoning and discussion followed regarding the benefits and conditions of rezoning.

Mr. Hopkinson asked for details on the retaining wall, confirming that the color scheme would remain as show.

Mr. Oxtan reviewed locations of lighting as well as the flood light for the dumpster area, which the applicant agreed may not be necessary.

MR. HOPKINSON, SECONDED BY MR. OMO, MOVED TO APPROVE THE REQUEST FOR CONTRACT REZONING AND SITE PLAN APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:

- **THAT THE APPLICANT COMPLETE THE PURCHASE OF TOWN-OWNED LAND TO THE SATISFACTION OF THE CITY SOLICITOR**
- **THAT THE APPLICANT SUBMIT TO THE CITY PLANNER SATISFACTORY STATE APPROVAL FOR INFRASTRUCTURE IMPROVEMENTS UPON ROUTE 1**
- **THAT THE APPLICANT SUBMIT FOR APPROVAL AND INSTALL CROSSWALK SIGNAGE TO THE APPROVAL OF THE CHIEF OF POLICE**
- **THAT THE SPOTLIGHT BE ELIMINATED**
- **THAT THE FINAL PLANS BE SUBMITTED TO THE CITY PLANNER**
- **THAT THE PROPOSED PUBLIC BENEFITS SUBMITTED BY THE APPLICANT BE ACCEPTED BY THE CITY COUNCIL**

UNANIMOUS APPROVAL.

Item 3

Request for Historic District Approval – 26 Garden Street (Map 26, Lot 142); Beth Clifford, applicant.

Mr. Averill reviewed the application requesting approval for structure modifications.

Beth Clifford, applicant, reviewed the history of the building including previous revisions to include two apartments which have since been reincorporated to the original single-family dwelling. The emergency exit structure from the previous apartments will be removed and the applicant is proposing a walkway and a covered porch.

Mr. Sunderland clarified that the front portion will be repurposed as an enclosed mudroom and inquired as to the façade of the structure.

Ms. Clifford confirmed that she has decided not to alter the horizontal siding on the back of the house, but will complete vertical siding on the front, further clarifying that there will be no modification to the barn. Ms. Clifford then presented photos of comparable buildings in the area showing the consistency of the planned improvements and noting that the mudroom will include reclaimed windows in the same style as the rest of the house as well as reclaimed building materials for historical accuracy.

Mr. Oxtan opened the floor to public comment. Hearing none, Mr. Oxtan closed the public comment session.

MR. OMO, SECONDED BY MR. HOPKINSON, MOVED TO APPROVE THE REQUEST FOR HISTORIC DISTRICT APPROVAL WITH THE CONDITION THAT FINAL PLANS BE SUBMITTED TO THE PLANNING DIRECTOR SHOWING THE BARN CLADDING AND HALF-DOOR AS DESCRIBED BY THE APPLICANT.

UNANIMOUS APPROVAL.

Item 4

Request for Site Plan Approval – 243 Washington Street (Map 38, Lot 11 & 13-17); Maine Maritime Museum, applicant.

Mr. Averill described the application previously reviewed on July 11, 2017 in a pre-application workshop. The applicant is proposing a redesign of the entrance parking lot with a request for extension of approval to allow for fundraising and permitting. Staff has reviewed and approved the plan.

Amy Lent, Executive Director for Maine Maritime Museum, reviewed the history of the current project, noting that there has been no negative comment from neighbors, stating that the driving force for improvements is handicap accessibility as well as parking and traffic issues. Ms. Lent also addressed the south end parking lot landscaping, which will become a more attractive public area. The current goal is to start work in November, fundraising permitting. The extension is

requested in order to construct a proposed boardwalk in the wetlands area, which will require DEP approval and permitting.

Mr. Hopkinson asked Mr. Averill to review unresolved staff comments.

Mr. Averill confirmed that all modifications have been made with staff approval.

Discussion followed as to extension requests.

Mr. Oxtan opened the floor to public comment.

William Oravetz of Washington Street testified to traffic issues resulting from the Museum and encouraged the board to approve the project.

Mr. Oxtan closed the public comment session.

MR. HOPKINSON, SECONDED BY MR. SUNDERLAND MOVED TO FIND THE APPLICATION COMPLETE.

UNANIMOUS APPROVAL.

MR. HOPKINSON, SECONDED BY MR. OMO, MOVED TO APPROVE THE APPLICATION AS SUBMITTED WITH THE APPLICANTS REQUEST FOR TWO YEAR EXTENSION SUBJECT TO THE CITY PLANNER'S APPROVAL

Other Business - None

MR. HOPKINSON MOVED TO ADJOURN, SECONDED BY MR. JOHNSON.

UNANIMOUS APPROVAL

MEETING ADJOURNED AT 8:46 PM.

Minutes prepared by Karly Perry, Recording Secretary.