

**PLANNING BOARD**

**PACKET OF MATERIALS**

**MEETING JANUARY 3, 2018**

Cover page with date

Agenda

Minutes for approval

Applications

Supporting Documents

**Agenda  
Bar Harbor Planning Board  
Wednesday, January 3, 2018  
Council Chambers- Municipal Building  
93 Cottage Street  
6:00 P.M.**

**I. CALL TO ORDER**

**II. ADOPTION OF THE AGENDA**

**III. EXCUSED ABSENCES**

**IV. PUBLIC COMMENT PERIOD** *(The Planning Board allows up to 15 minutes of public comment on any subject not on the agenda and not a pending application before the Board, with a maximum of three minutes per person.)*

**V. APPROVAL OF MINUTES**

- a. December 20, 2017

**VI. REGULAR BUSINESS**

- a. **Public Hearing:** SP-2017-02 – Bar Harbor Masonic Building Association  
**Project Location:** 1378 State Highway 102, Bar Harbor Tax Map 227, Lot 011-000  
**Applicant:** Bar Harbor Masonic Building Association  
**Application:** The applicant is proposing to use the existing building for eleemosynary use.
- b. **Dormitory Use Land Use Ordinance Amendment** (Draft dated December 20, 2017)

**VII. OTHER BUSINESS**

- a. **Pending Applications**  
(Bar Harbor Inn SP-2017-06)

**VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA**

**IX. ADJOURNMENT**

**Minutes**  
**Bar Harbor Planning Board**  
**Wednesday, December 20, 2017**  
**Council Chambers- Municipal Building**  
**93 Cottage Street**  
**6:00 P.M.**

**I. CALL TO ORDER**

*The Chair called the meeting to order at 6:00 PM. Members present: Tom St. Germain, Chair; John Fitzpatrick, Member; Basil Eleftheriou, Jr., Secretary; and Alf Anderson, Member.*

*Also present: Angela Chamberlain, Code Enforcement Officer & Interim Planning Director.*

**II. ADOPTION OF THE AGENDA**

*Mr. Fitzpatrick moved to adopt the agenda as prepared. Mr. Eleftheriou, Jr. seconded the motion and the Board voted 4-0 to approve the motion.*

**III. EXCUSED ABSENCES**

*Mr. Cough was an excused absence.*

**IV. PUBLIC COMMENT PERIOD**

*There were none.*

**V. APPROVAL OF MINUTES**

**December 6, 2017**

*Mr. Fitzpatrick moved to approve the minutes of the December 6, 2017 meeting as prepared. Mr. Anderson seconded the motion and the Board voted 4-0 to approve the motion.*

**VI. REGULAR BUSINESS**

- a. Public Hearing - Statewide Timber Harvesting Provisions version dated November 1, 2017 - Land Use Ordinance Amendment.** The Planning Board will hold a public hearing for an amendment to the timber harvesting provisions in the Land Use Ordinance.

*Ms. Chamberlain explained the amendment.*

*The Chair opened the public hearing. No one spoke. The Chair closed the public hearing.*

*Mr. Fitzpatrick moved to recommend to the Town Council that the written request as submitted be placed on the June 12, 2018 warrant. Mr. Anderson seconded the motion and the Board voted 4-0 to approve the motion.*

- b. Public Hearing – Integration of Appendix C and Neighborhood District maps into Article III version dated November 1, 2017 - Land Use Ordinance Amendment.** The Planning Board will hold a public hearing for an amendment to relocate Appendix C into Article III and to insert individual Neighborhood District maps into Article III.

*Ms. Chamberlain explained the amendment.*

*The Chair opened the public hearing. No one spoke. The Chair closed the public hearing.*

*Mr. Fitzpatrick moved to recommend to the Town Council that the written request as submitted be placed on the June 12, 2018 warrant. Mr. Anderson seconded the motion and the Board voted 4-0 to approve the motion.*

- c. Public Hearing - Shoreland Zoning Corrections Required by Maine Department of Environmental Protection version dated November 1, 2017 – Land Use Ordinance Amendment.** The Planning Board will hold a public hearing for an amendment to specific shoreland zoning provisions in the Land Use Ordinance.

*Ms. Chamberlain explained the amendment.*

*The Chair opened the public hearing. Mike Rogers spoke and asked if this amendment was intended to have the same regulations as the state. It was answered yes. The Chair closed the public hearing.*

*Mr. Fitzpatrick moved to recommend to the Town Council that the written request as submitted be placed on the June 12, 2018 warrant. Mr. Anderson seconded the motion and the Board voted 4-0 to approve the motion.*

- d. Completeness Review: SP-2017-06 – Bar Harbor Inn**  
**Project Location:** 8 Newport Drive, Bar Harbor Tax Map 104, Lot 523-000  
**Applicant:** Witham Family Hotels  
**Application:** The applicant is proposing site improvements to the outside walkways, stairs, the outdoor kitchen area, and to construct new customer areas, a fire pit, and other outside improvements.

*Mr. Rogers introduced himself and explained the project. The Board reviewed the list of waivers. It was noted that there would be no new lighting installed.*

*Mr. Fitzpatrick moved to accept the waivers as requested except item 3A. because the applicant had supplied the deed. Mr. Anderson seconded the motion and the Board voted 4-0 to approve the motion.*

*There were no comments on completeness.*

*Mr. Fitzpatrick moved to find the application complete and schedule it for a public hearing on January 17, 2018. Mr. Eleftheriou, Jr. seconded the motion and the Board voted 4-0 to approve the motion.*

*Mr. Fitzpatrick asked the applicant to prepare information on how stormwater runoff would be managed during construction and to correct the 25' setback line which was not accurately shown on the site plan.*

**e. Dormitory Use Land Use Ordinance Amendment**

*The Board noted that the remaining outstanding items were kitchen requirements, parking, and the districts the use would be allowed in.*

*Mr. Eleftheriou, Jr. noted that he hoped that this could be an amendment on the June warrant but he didn't want to rush a proposal when the issues the Board still needed to make decisions about were such big elements of the amendment.*

*The Board agreed to put it on the next agenda.*

**VII. OTHER BUSINESS**

**a. Clarification on Public Hearing date for LU-2017-01**

*Mr. Fitzpatrick moved to postpone the public hearing from January 3, 2018 to January 17, 2018 because of quorum issues. Mr. Anderson seconded the motion and the Board voted 4-0 to approve the motion.*

**b. Final Review of Rules of Procedure**

*Mr. Eleftheriou, Jr. suggested that the language in item number 5 be modified to reflect that the agenda would be evaluated after 2 hours rather than at 8:00 PM because of the days that the Board meets at 4:00 PM. The Board agreed.*

*Mr. Eleftheriou, Jr. moved to approve the final draft of the rules of procedure with the amendment as stated above. Mr. Fitzpatrick seconded the motion and the Board voted 4-0 to approve the motion.*

**c. Pending Applications**

- i. Bar Harbor Masonic Building Association

**VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA**

*Mr. St. Germain noted that any suggestions were welcome for Polco questions.*

*Mr. Fitzpatrick asked Staff if they could find out where the Town Council was the marijuana issue.*

**IX. ADJOURNMENT**

*Mr. Anderson moved to adjourn at 7:54 PM. Mr. Eleftheriou, Jr. seconded the motion and the Board voted 4-0 to approve the motion.*

*Signed as approved:*

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**Basil Eleftheriou, Jr., Secretary  
Planning Board, Town of Bar Harbor**

**Date**



## Town of Bar Harbor Planning Department Staff Report

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**Application:**

SP-2017-01

**Meeting Date:**

December 6, 2017 – Completeness Review

January 3, 2018 – Public Hearing

**Applicant:**

Bar Harbor Masonic Building Association

110 Main Street

Bar Harbor, ME 04609

**Applicant's Representative:**

Earl Brechlin, Director

780 Eagle Lake Road

Bar Harbor, ME 04609

Michael Gurtler, Director

91 Norway Drive

Bar Harbor, ME 04609

Thomas Wheatley, Esquire

66 Main Street, Suite 304

Ellsworth, ME 04605

**Project Location:**

1378 State Highway 102

Map 227, Lots 011-000

**Land Use District:**

Town Hill Business

**Permitted Use:**

Eleemosynary

**Project Description:**

The applicant proposes to use the existing building for eleemosynary use.

**Applicable Laws:**

Bar Harbor Land Use Ordinance Section 125-66 lists all submission requirements the applicant is required to provide as part of the site plan/subdivision application.

Bar Harbor Land Use Ordinance Section 125-67 contains the General Review Standards the Planning Board shall use to verify site plan compliance.

**Staff Recommendation**

**Section 125-61 E, – Completeness Review:**

Staff has reviewed the application for completeness and determined that the following items are missing:

The application was found complete on December 6, 2017.

**Section 125-67 – Suggestions for Compliance:**

Staff has completed a preliminary compliance review of the proposed project. Staff recommends the Board request additional information from the applicant in the following areas:

1. There are none at this time.

**Staff Recommendation**

**Waivers** – The Board accepted the waivers on December 6, 2017.

**Completeness** - The Board found the application complete on December 6, 2017.

**Public Comment** – Staff recommends that the Board accept public comment concerning the merits of the application.



# TOWN OF BAR HARBOR

## PLANNING BOARD

93 Cottage Street, Suite I  
Bar Harbor, Maine 04609-1400  
Tel. 207-288-3329 Fax 207-288-3032

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### DECISION

**Date:** January 3, 2018

**Application:** SP-2017-01 Bar Harbor Masonic Building Association

**Project Location:** 1378 State Highway 102 (Map 227, Lot 011-000)

**Applicant:** Bar Harbor Masonic Building Association

**Application:** The applicant proposes to use the existing building for eleemosynary use.

**Zoning District:** Town Hill Business district

**Permitted Use:** Eleemosynary

***To the Code Enforcement Officer:***

Under the authority and requirements of the Land Use Ordinance Article V, Section 125-61. F, at the properly noticed public hearing on January 3, 2018, by a motion duly made and seconded, it was voted to approve the noted application.

**This approval is based upon the following submitted plans:**

1. "Site Plan", dated December 21, 2017 and prepared by Malcolm E. Harriman, Professional Land Surveyor.

**This approval is based upon the following FINDINGS AND CONCLUSIONS OF LAW:**

1. Based on the documents received, this application meets the requirements under the Land Use Ordinance Article V.
2. Based upon the documents received, and accepting the work of the professionals who have prepared the documents, this application meets the requirements of Section 125-67 as found below:

- a. The Board finds the use of the property for eleemosynary is a permitted use in the Town Hill Business district.
- b. The Board finds that the development will meet the minimum lot standards for the Town Hill Business.
- c. The Board finds that the minimum height requirements for the Town Hill Business district is not applicable to this project.
- d. The Board finds that the development will meet the requisite parking standards.
- e. The Board finds that the development will meet the minimum parking areas and driveways standards.
- f. The Board finds that the minimum loading requirements are not applicable to this application.
- g. The Board finds that the streets, sidewalks and access standards are not applicable to this project.
- h. The Board finds that the buffering and screening standards are not applicable to this project.
- i. The Board finds that the municipal water standard is not applicable to this project.
- j. The Board finds that the groundwater standards are not applicable to this project.
- k. The Board finds that the stormwater management standards are not applicable to this project.
- l. The Board finds that the municipal sewer facilities standard is not applicable to this application.
- m. The Board finds that the development will meet the sewage waste disposal standards.
- n. The Board finds that the development is located in an area where the soils are not rated severe or very severe for the proposed activity.
- o. The Board finds that the landscaping requirements are not applicable to this application.
- p. The Board finds that the development will not cause unreasonable soil erosion.
- q. The Board finds that the development is not located within a flood prone area.
- r. The Board finds that the development will not result in undue air pollution.
- s. The Board finds that the refuse disposal standards are not applicable to this application.
- t. The Board finds that the dangerous and hazardous materials and wastes standards are not applicable to this application.
- u. The Board finds that no vibration will be transmitted outside the proposed development.

- v. The Board finds that there are no significant spawning grounds or wildlife habitat located on this property.
- w. The Board finds that there are no rare and irreplaceable natural areas located on this property.
- x. The Board finds that the development will not cause radiant heat to be perceptible beyond the proposed development.
- y. The Board finds that the lighting standards are not applicable to this project.
- z. The Board finds that the proposed development will comply with the Bar Harbor Noise Ordinance.
- aa. The Board finds that the sign standards are not applicable to this application.
- bb. The Board finds that the development does not include the outdoor storage of materials.
- cc. The Board finds that the development will meet the utilities standard.
- dd. The Board finds that the development will not cause an unreasonable burden on the Municipal Fire Department.
- ee. The Board finds that the development conforms to the Comprehensive Plan.
- ff. The Board finds that the applicant meets the financial and technical capacity standard.
- gg. The Board finds that there is no registered farmland in Bar Harbor.
- hh. The Board finds that the Town is able to provide municipal services to the proposed development.
- ii. The Board finds that there are no known violations of the Bar Harbor Land Use Ordinance.
- jj. The Board finds that the legal documents standard is not applicable to the proposed development.
- kk. The Board finds that the site does not contain any historic and archaeological resources.
- ll. The Board finds that the utilization of the site standard is not applicable to the proposed development.
- mm. The Board finds that there are no natural features of interest located on the property.

**The applicant is advised of the following:**

1. No modifications shall be made to this approval including changes to the plans, accompanying documents, and conditions without a review for a modification under the requirements in Section 125-88 of the Land Use Ordinance.
2. This permit does not relieve the applicant from any other local, state or federal permits that may be required for this proposed development.
3. Please refer to Article VIII for standards conditions that will be applied to the construction of this project. No performance bonds are required.
4. Building permits are required for this project.

5. There is an appeal period for any interested party of 30 days to appeal this decision of the Planning Board. It is the risk of the applicant to commence construction during this period.
6. Violations of any conditions placed upon this approval are subject to enforcement per Article IX, Section 125-100 B of the Land Use Ordinance.

***Signed as approved:***

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Tom St. Germain, Chair  
Planning Board, Town of Bar Harbor

Date

***Appeals of this decision may be made to the Board of Appeals pursuant to section 125-103 of the Bar Harbor Land Use Ordinance within 30 days of this date of this decision.***

# Order

Of the Bar Harbor Town Council  
For the XXXXX Town Meeting

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot.

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## Warrant Article

**LAND USE ORDINANCE AMENDMENT: Dormitory** – Shall an Ordinance dated XXXX, 2017 and entitled “An amendment to add a Dormitory definition and standards, and to amend **Appendix C, the Table of Permitted Uses**” be enacted?

**Commented [A1]:** This will be changed to reflect the format of the LUO if the relocation of Appendix C passes.

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## Dormitory Ordinance

**An amendment to add a Dormitory definition and standards, and to amend **Appendix C, the Table of Permitted Uses**.**

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is stricken. New language is underlined.]

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## Chapter 125 , LAND USE ORDINANCE

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### ARTICLE XII Construction and Definitions

#### § 125-109 Definitions

DORMITORY – A building or space in a building in which group sleeping accommodations are provided for more than 5 persons who are not members of the same family in one room, or a series of closely associated rooms, under joint occupancy and single management, with or without meals.

§ 125-69 Standards for Particular Uses

125-69 W. Dormitories. All dormitories shall meet the following standards:

- (1) Each dormitory shall provide one communal kitchen, which contains a kitchen sink and facilities for the preparation and cooking of food, for every 10 occupants.
- (2) The maximum number of occupants originally approved in the application shall not be exceeded without approval from the jurisdiction having authority.
- (3) Dormitories are subject to the regulations contained in Chapter 64, Disorderly Houses, in the Bar Harbor Town Code.
- (4) An annual inspection of the dormitory shall be conducted during the months of July or August each year by the Fire Department and the Code Enforcement Division.
- (5) One parking space shall be required for every X bedrooms for dormitories located in all districts.
- (6) On site supervision by single management.
- (7) Density Bonuses...Meal plan?
- (8) The dormitory shall have no less than 150 square feet of gross floor area per person.

**Key to Appendix C**

Permissibility of Use

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b = Activity or structure requires approval through site plan review process before it may be commenced or built.

c = Activity or structure requires a permit issued by the Code Enforcement Officer (CEO) before it may be commenced or built.

cu = Activity or structure requires approval through conditional use review process before it may be commenced or built.

Changes to Appendix C

**Commented [A2]:** Just a visual aid to use to determine what districts you want to allow the use in and what permitting authority for each district.

District	Dormitory
Bar Harbor Gateway	CU
Downtown Village I	CU
Downtown Village II	CU
Downtown Residential	
Educational Institution	CU
Emery	
Hulls Cove Business	CU
Hulls Cove Residential Corridor	
Hulls Cove Rural	
Indian Point Residential	
Indian Point Rural	
Industrial	
Ireson Hill Corridor	CU
Ireson Hill Residential	
Marine Research	CU
McFarland Hill Residential	
McFarland Hill Rural	
Mount Desert Street Corridor	CU*
Otter Creek	
Resource Protection	
Salisbury Cove Corridor	
Salisbury Cove Residential	
Salisbury Cove Rural	
Salisbury Cove Village	
Schooner Head	
Scientific Research	CU
Shoreland General Development I	
Shoreland General Development II	
Shoreland General Development III	
Shoreland General Development IV	
Shoreland Limited Residential	
Shoreland Maritime	
Stream Protection	
Town Hill Business	
Town Hill Residential Corridor	
Town Hill Residential	
Town Hill Rural	
Village Historic	CU*

**Commented [A3]:** I made all the allowed districts conditional use, but you can certainly discuss and change. The three asterisk indicate districts that may need more discussion.

Draft Version 12/20/17

Village Residential	CU*
Village Transitional	CU

**Effective Date**

This ordinance shall become effective on XXXXX, 2018

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**EXPLANATION:**

To provide more housing stock for employees, address overcrowding and safety concerns by allowing and regulating housing for employees, and other individuals housed in a group setting. Noise issues would continue to be regulated under the Town's Noise Ordinance and Disorderly House Ordinance.

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Given under our hands and seal at Bar Harbor this XXXX day of XXXX, 201.

**Municipal Officers of the Town of Bar Harbor**

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