

**Bar Harbor Planning Board
Wednesday, May 15, 2019
Council Chambers – Municipal Building
93 Cottage Street in Bar Harbor
4:00 PM**

I. CALL TO ORDER

Chair St. Germain called the meeting to order at 4:01 PM.

Call to order at 4:01
PM

Members present were Chairman Tom St. Germain, Vice Chair Joe Cough, Secretary Basil Eleftheriou, Jr., Member John Fitzpatrick and Member Erica Brooks.

All 5 members present

Town staff present were Planning Director Michele Gagnon and Code Enforcement Officer Angie Chamberlain.

II. ADOPTION OF THE AGENDA

Chair St. Germain asked for a motion to adopt the agenda for the meeting. Vice Chair Cough made the motion, seconded by Mr. Fitzpatrick. It then carried unanimously (5-0).

Agenda adopted

III. EXCUSED ABSENCES

Chair St. Germain noted no members were absent, so there were no absences to excuse.

No absences

IV. PUBLIC COMMENT PERIOD

Chair St. Germain then opened the public comment period. When no one came forward to speak, he then closed the public comment period.

No comment during
public comment period

V. APPROVAL OF MINUTES

Chair St. Germain asked if there were any corrections or additions to the minutes from the May 1 meeting. No one offered any, and Mr. Fitzpatrick then made a motion to adopt the May 1 minutes, which was then seconded by Vice Chair Cough. It passed unanimously (5-0).

Minutes from May 1
meeting approved

VI. REGULAR BUSINESS and

VII. ADOPTION OF THE AGENDA

There being no regular business on the board's agenda, the board then moved on to other business.

a. Dormitories

Dormitories was first on that list. Chair St. Germain said Planning Director Gagnon had prepared some draft language that was an aggregation of the board's past work and broken into three types of dormitories.

Dormitories

Planning Director Gagnon spoke to Vice Chair Cough's concerns from last time

about tracking of changes. She noted some particular changes that had been made (noting, for example, that "with or without meals" was taken out everywhere because it was superfluous). She also spoke about conditional use versus a combination of site plan review and beefed-up licensing. She recommended not taking the conditional use approach because the rules of the game are not always clear for developers.

Gagnon provides background

Secretary Eleftheriou asked for clarification on whether Gagnon was proposing taking conditional use out of all zones and she said yes, she was. Mr. Fitzpatrick asked whether the prohibition on conditional uses in the shoreland zone was a state requirement or local-only rule. CEO Chamberlain said it was a state rule that conditional uses are not allowed in the shoreland zones.

State prohibits conditional uses in shoreland zones

Chair St. Germain noted that although there was not a public hearing on the agenda, there were people present who wanted to talk about it. No one on the board voiced opposition to this idea.

David Witham from Witham Family Hotels was the first to speak. He noted there had been discussion on the subject for years and that he was excited that it could be voted on in the fall. He noted his and his company's interest in the subject, and said their interest is in getting out of neighborhoods and restoring them back to the way they should be and get hotel staff in a more appropriate area. He said he has met with the Island Housing Trust and is looking to form a partnership with it to act on what some of the new zoning might allow. Mr. Witham said he wants to see a win-win situation, freeing up housing for people who need it.

Witham offers his perspective

Mr. Witham turned to pages 8 and 9 in Exhibit C, and the three new categories that are created/defined. He pointed to employee dormitory in particular. He spoke about his company's reliance on the visa program for getting employees, and the particular challenges (i.e., transportation) visa employees face. He said Witham hotels along the Route 3 corridor into town (i.e., Best Western) average around eight employees that need housing. He noted the employee dormitory definition currently starts at 16 employees. He said that is more than what most businesses would need. He said if employee dormitory is not an option, then it would have to go to rooming house. He said that is a problem because there isn't the density bonus on lot coverage. He said starting at 16 for employee dormitory is too high and that it would be more usable/productive with a lower starting point, for his businesses and others, too.

Witham suggests lowering minimum number of employees required for employee dormitory

Mr. Witham shared a conceptual sketch with the board of possible housing he was considering that he said he could use in at least several locations if the starting point was 8, for example, rather than 16. He said that would open up more potential for his and other businesses. Referring to Planning Director Gagnon's comments on meals, he said it would be helpful for him to have clarification which uses are allowed to have shared cooking environments. He said it would also be helpful to have clarity on parking requirements.

Witham also looking for clarification on parking and cooking requirements

Mr. Eleftheriou asked what the cut-off point was for a hotel owner to consider housing employees off-site vs. on-site, in terms of size or numbers of rooms. Mr. Witham said as many as half of the employees are looking for housing, in areas such as housekeeping. Mr. Fitzpatrick said he thought Mr. Witham's points were valid.

Half of the hotel employees need housing

Chair St. Germain said he thought employee dormitory and rooming house should be combined with a smaller limit, so that it would basically become anything above 5. On parking, Chair St. Germain said his understanding is that an employee dormitory is seen as an accessory structure and that therefore it would be exempt from parking (whereas a workforce dormitory would be a standalone, principal structure that would need parking).

Eben Salvatore spoke next. He asked whether the licensing suggested by Planning Director Gagnon was a change to the land use ordinance. Chair St. Germain said licensing has come out of the land use ordinance and more into Chapter 190, which creates greater flexibility (Town Council making changes, vs. having to go to a town vote). Mr. Salvatore said that sounded good to him, as did the proposed shift with conditional use mentioned earlier. He said he generally liked what he had heard as far as the proposed changes were concerned.

Salvatore likes the changes being considered

With regard to kitchen requirements, Chair St. Germain said the general idea is for the Planning Board to take a hands-off approach (leave it out of land use and take care of it with licensing) so that employers can figure out what works for their own staff. Mr. Salvatore agreed with this approach. In response to a question from Mr. Eleftheriou, Mr. Salvatore said his company houses about 50 percent of its employees (more than 400 of its more than 800 employees).

Chair St. Germain noted the public hearing for dormitories is scheduled for June 19. He asked if there was an opportunity to make any changes before then. Planning Director Gagnon and CEO Chamberlain conferred and said the board could do so next Wednesday (May 22). Planning Director Gagnon said the board could continue this meeting until that time.

Donna Karlson spoke next. She said though she serves on the Warrant Committee she was there at the meeting as a private citizen. She said her only concern about licensing was if the Town Council did not address it prior to a vote and possible approval on the land use changes.

Karlson speaks, has a concern about licensing and when it would be addressed by the Town Council

Vice Chair Cough asked about Chair St. Germain's idea of combining rooming house and employee dormitories into one (employee dormitories). Mr. Fitzpatrick asked why not just reduced the minimum from 16 to 8, and Chair St. Germain said he would be comfortable with that as well. Chair St. Germain said he was generally skeptical about the reception the rooming house use might get

Discussion of whether to reduce the minimum number for employee dormitories

from the public when voted on, however.

Planning Director Gagnon said she believed just reducing the number was the simplest way to address the issue, because of different uses being allowed in different zones and the difference between one being an accessory use and the other not. Vice Chair Cough said he was OK with 8 as a minimum starting point, but would be uncomfortable with going lower than that. Mr. Fitzpatrick asked whether a minimum was necessary at all. Chair St. Germain said he agreed with that point, and that it would increase the incentive to do the dormitory approach.

Chair St. Germain said he thought the board should have a series of motions so that there would be a concrete trail of what has been done.

Chair St. Germain said so far the board had looked at changing the definition of rooming house (building rather than single-family house) and the limits on employee dormitories. Mr. Fitzpatrick added striking conditional use for the three uses in question.

Vice Chair Cough spoke about the density bonus. He asked if there was any language there that would allow the first-floor of a multi-story hotel being used for dormitory purposes while the upper-floors were used for hotel purposes, and also how it related to lot coverage. Mr. Fitzpatrick said there had been discussion on this previously, and he said it will need to be addressed through licensing, too. More discussion followed.

Chair St. Germain asked the board whether it wanted to address parking standards for rooming house or workforce dormitory uses. Mr. Fitzpatrick said his recollection was that for rooming house, parking requirements were tied to what was stipulated in a particular zone and for employee dormitory there was nothing because it was an accessory use. For workforce dormitory, he said there was one spot because it was assumed there was an on-site manager and then a ratio of something like one spot for every 10 beds. Chair St. Germain said he thought the board should make an affirmative statement that it is not requiring any parking for an employee dormitory because it is an accessory use.

Mr. Fitzpatrick asked Mr. Witham and Mr. Salvatore what percentage of their employees who need housing have their own vehicles with them. An answer came back that it was perhaps 10 percent.

Mr. Fitzpatrick asked if Shoreland II was omitted purposefully for employee dormitory, as Shoreland I and Shoreland III were included. Planning Director Gagnon said it was not in the draft that she was working with. Mr. Fitzpatrick said he thought it was an inadvertent omission. Planning Director Gagnon found a version that did have Shoreland II. Chair St. Germain said he thought Shoreland II should be included. Mr. Fitzpatrick asked about the district that includes the ferry terminal site. Discussion ensued. Planning Director Gagnon

Recap of what board had talked about so far

Cough wants the density bonuses to be exclusive to dormitory

Discussion of what the parking requirements should be for a workforce dormitory

Question about how many employees have vehicles

Discussion of different Shoreland Zoning Districts and what is allowed where

asked if the board wanted all three uses being discussed allowed in Shoreland II. There was discussion among board and audience members about the specific parameters of the Shoreland II zoning district. There was discussion among board members whether workforce dormitory was an appropriate use for the Shoreland II district.

Chair St. Germain asked if anyone would make a motion to remove each of the three uses being discussed from conditional use. Vice Chair Cough asked if it had already been removed. Planning Director Gagnon said they had.

Mr. Fitzpatrick moved to eliminate the conditional use from being applied to employee dormitory, rooming house, and workforce dormitory acceptable uses toward site plan whether major or minor going forward. Mr. Eleftheriou seconded the motion. The motion carried unanimously (5-0).

Eliminate conditional use from being applied to employee dormitory, rooming house, and workforce dormitory

Mr. Fitzpatrick moved to remove the words “for more than 16 persons” from the proposed definition of employee dormitory, and to eliminate “single-family dwelling” and replace it with “a building” in the rooming house definition. Mr. Eleftheriou second the motion. The motion carried unanimously (5-0).

Remove 16-person minimum from employee dormitory definition, replace SFD with building in rooming house definition

Mr. Fitzpatrick moved to add employee dormitory as an allowed use to Shoreland General Development II. Mr. Eleftheriou seconded the motion. The motion carried unanimously (5-0).

Add employee dormitory as allowed use in Shoreland Gen Dev II

Mr. Fitzpatrick moved to allow employee dormitory as an acceptable use in the Maritime district. Vice Chair Cough seconded the motion. The motion carried unanimously (5-0).

Allow employee dormitory in Maritime district

Mr. Fitzpatrick moved to address parking standards for the three definitions going forward, as follows: to affirmatively state that employee dormitories require no parking; to affirmatively state that rooming houses would follow the single family housing parking requirements for the district in which it is situated; and to affirmatively state that workforce dormitory will be required to have one parking space minimum and one for every 10 beds constructed. Parking will round up with fraction thereof. Mr. Eleftheriou seconded the motion. A long discussion ensued pertaining to making sure that density bonus does not benefit other uses than the employee dormitory. It was agreed to get legal input. A vote was not taken.

Parking standards addressed – no parking needed for employee dormitory, rooming houses follow SFD rules in a given district, and formula as spelled out for workforce dormitory was the proposed motion, but no vote taken

A discussion followed regarding the possible dormitory licensing that would complement the land use language for dormitory. There was a request to ask legal counsel if the council could pass licensing language contingent upon having the land use amendment voted on by the town.

Can the council pass licensing language contingent upon a LUO amendment passing later

b. Review Procedure

The planner explained the proposed changes. The Code Enforcement officer explained that the change would result in the material being available to the public earlier than it is under the present ordinance. It was agreed that the last sentence in 125-61 E1 did not work and needed to be cleaned up.

Mr. Fitzpatrick vote to ask staff to refine the draft LUZO amendment review procedure for formal review at the continuation of this meeting on Wednesday, May 22. Vice Chair Cough seconded the motion. The motion carried unanimously (5-0).

Review Procedure amendment to be reviewed on May 22

c. Calendar

Mr. Fitzpatrick left the meeting at 6:03 PM.

Fitzpatrick leaves the meeting at 6:03 PM.

Vice Chair Cough motioned that the first time the board implement this schedule is for the meeting of July 10, 2019. Mr. Eleftheriou seconded the motion. The motion carried unanimously (4-0).

New Calendar – one monthly meeting

Cough motioned to continue the meeting on Wednesday, May 22 at 4:00 PM. Ms. Brooks seconded the motion, and it carried unanimously (4-0).

Meeting continues to May 22, 2109 at 4:00 PM

May 15, 2019 Planning Board meeting reconvened on May 22, 2019

Meeting reconvened at 4:00 PM on May 22, 2019.

The meeting from May 15, 2019 was reconvened on May 22, 2019 at 4:00 PM at the Bar Harbor municipal building. Members present were Chair St. Germain, Vice Chair Joe Cough, Secretary Basil Eleftheriou Jr., and Member Erica Brooks. Member John Fitzpatrick was not able to attend as he was out of state.

Mr. Fitzpatrick absent

Town staff present was Planning Director Michele Gagnon.

There were no members of the public present.

No public present

VII. OTHER BUSINESS

b. Review Procedure (taken out of order)

Review Procedure

Planning Director Gagnon went through the changes and explained that Attorney Ed Bearor reviewed the change and he had no comments. It was noted that a public hearing had been scheduled for June 19, 2019.

Mr. Eleftheriou motioned to accept the warrant article Land Use Amendment Review Procedure with one minor change of strike through on the "Prior" which should not be placed on the capital P and send it forth to a June 19 Public Hearing. There was discussion prior to getting a second. The chair called for a vote without a second. The motion passed unanimously (4-0).

Review Procedure finalized

a. Dormitories (taken out of order)

Dormitory

Chair St. Germain moved that the proposal in front of the board, this proposed warrant article [Article III] be scheduled for public hearing, as written, with the exceptions of including rooming house in, on page 9, in Shoreland General [Development] I which was considered in the past that I, in parenthesis, and adding rooming house in Shoreland General Development III on page 10, as written. Ms. Brooks seconded the motion. There was discussion prior to having a second. Chair St. Germain amended his motion so that workforce dormitory would be included in the clause in 125-17 D1 that includes parking garages so that workforce dormitory would be, along with parking garages, covered by Design Review. Ms. Brooks seconded the amended motion. The motion carried unanimously (4-0).

Article III finalized

Planning Director Gagnon read what the proposed revised language in Article III would be per the earlier motion. The board discussed and worked on the proposed amendments to Article V.

Vice Chair Cough motioned that [in Article V] the word "once" be changed to "one" and "after thereof" and adding the words "rounded up." The second thing is on 125-69W, it would read Density Bonus: "Employee dormitories, and provided parking and necessary accesses, are exempt from lot coverage calculations. All other uses, activities, and structures, on the lot, shall be subject to meeting lot coverage requirements. A use or an activity taking place on or over the employee dormitory shall result in the loss of the density bonus and shall be subject to meeting the requirements of this chapter." Also number 5, bullet number 5 would be added in the same section and it would read "parking benefitting from the density bonus shall be used exclusively by the occupants of the employee dormitory." Mr. Eleftheriou seconded the motion. Vice Chair Cough amended his motion to read "Density Bonus: Employee dormitories, and provided parking and necessary accesses, are exempt from lot coverage calculations. All other uses, activities, and structures, on the lot, shall be subject to meeting the requirements of this chapter. A use or an activity taking place on or over the employee dormitory shall result in the loss of the density bonus and shall be subject to meeting the requirements of this chapter." Mr. Eleftheriou seconded the amended motion. The motion carried unanimously (4-0).

Article V finalized

The board discussed and worked on the proposed amendments to Article XII.

Chair St. Germain motioned that [for employee dormitory] to strike the yellow part referring to 16 people that is already kind of stricken and striking all of the last part that says "under joint occupancy and single management." Family is being left alone. Under rooming house, adding "a building." After the word sleeping, delete "but not for cooking and eating purposes." Basically, that definition ends at the word sleeping. The workforce dormitory definition, the part "under joint occupancy and" will be stricken and "under single management" will be left in. Vice Chair Cough seconded the motion. The motion carried unanimously (4-0).

Article XII finalized

Planning Director Gagnon explained that the changes pertaining to shoreland were sent to the Maine DEP for review and approval, per state law.

VII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

Discussion ensued regarding the citizen petition Article #5 pertaining to the May 21, 2019 council vote directing the Planning Board to develop language to prohibit the berthing of ships at the Ferry Terminal. Vice Chair Cough pointed out that the council motion did not refer to cruise ships but to ships and therefore he feels it needs to be corrected before the Planning Board considers working on the matter.

Discussion regarding cruise ship berthing prohibition

Chair St. Germain questioned if the Design Review Board has the right to amend their area of jurisdiction which is a pure land use amendment. The Planning Director was directed to look into this with the town attorney.

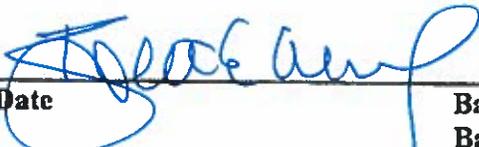
Discussion on DRB expansion of jurisdiction

IX. ADJOURNMENT

Mr. Eleftheriou motioned to adjourn last Wednesday's meeting tonight. Ms. Brooks seconded the motion. The motion carried unanimously (4-0) and the meeting adjourned at 6:54 PM.

Meeting adjourned at 6:54 PM

Minutes approved by the Bar Harbor Planning Board on June 5, 2019:

Date	
	6:54 PM Basil Eleftheriou Jr., Secretary Bar Harbor Planning Board