

MINUTES
BAR HARBOR PLANNING BOARD
May 19, 2010
6:00 PM
Council Chambers – Municipal Building
93 Cottage Street

I. CALL TO ORDER

Members Present: Kevin Cochary, Chair; Lynne Williams, Vice Chair; Buck Jardine, Secretary; Kay Stevens-Rosa, Member. Ms. Stevens-Rosa arrived late.

Also present: Anne Krieg, Planning Director; Brian Madigan, Staff Planner; Lee Bragg, Town Attorney.

II. ADOPTION OF THE AGENDA

Ms. Krieg suggested the order of the agenda be amended to allow the Board to review the items which require assistance from the Town Attorney first. She suggested moving both the Seabury Drive and West Street Hotel remands before Regular Business.

Mr. Jardine moved to amend the order of the agenda to hear both remand items to the top of the agenda so that they would be heard prior to regular business. Ms. Williams seconded the motion and the Board voted unanimously to approve the motion.

III. APPROVAL OF MINUTES

May 5, 2010

The Board tabled approval of these minutes to their next meeting.

April 13, 2010

Mr. Jardine moved to approve the April 13, 2010 Planning Board minutes. Ms. Williams seconded the motion and the Board voted unanimously to approve the motion.

IV. REGULAR BUSINESS

- A. Continuation of a Public Hearing – SP-09-08 – New Marshall Wing MDI Biological Laboratory**
Project Location: Old Bar Harbor Road, Bar Harbor Tax Map 208, Lot 003
Applicant: MDI Biological Laboratory
Application: Construct a 10,000 square foot, two story building which will include a basement.

Mr. Jardine moved to continue SP-09-08 to the June 2, 2010 Planning Board meeting. Ms. Williams seconded the motion and the Board voted unanimously to approve the motion.

- B. Public Hearing: Zoning Map Amendment Request-Witham Family Limited Partnership and Bryony LLC.**
Project Location: Rt 3 and Sand Point Road, Bar Harbor (Tax Map 208-Lots 89 and 91)
Applicant: Witham Family Partnership and Bryony LLC
Application: Expand the Ireson Hill Corridor Zoning District.
Provided aerial, staff would confirm current property zoning and discuss whether the LUO amendment would resolve, and submit site plan with owners names, as well as photo's. Revised exhibit 3.0.1 to clarify location of vacant land.

Ms. Krieg stated that a zoning map amendment had been passed at Town Meeting in 1991 that rezoned the neighboring properties to the currently proposed map amendment request as Ireson Hill Corridor. Ms. Krieg stated that it appeared that an administrative error occurred in 1999 when this change was no longer reflected on the Official Neighborhood District map, and instead shown as Ireson Hill Residential as it was prior to the map amendment.

The Board debated aspects of the proposed map amendment request such as potential impacts to the neighboring subdivision and buffering and screening requirements. The Public Hearing portion of the project review was opened, but no members of the public spoke.

The Board reviewed Section 125-9(C) and (D)(3) of the Land Use Ordinance for clarification on the process moving forward with the current proposal.

Ms. Williams moved to send the proposed amendment to the Town Council for their consideration, with the recommendation that the action be placed on the warrant for the Fall 2010 ballot. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion.

V. OTHER BUSINESS

- A. Planning Board Deliberation and Possible Action on a Remand from Hancock Superior Court to Planning Board on Seabury Woods Subdivision (SD-07-08)**

Ms. Krieg gave an overview of the findings made by the law court decision which remanded the decision back to the Planning Board for clarification. She noted that the judge had basically requested more information from the applicant which would support the Planning Board's decision. Ms. Krieg reviewed the findings of the judge and stated that at least one of the findings would require additional information from the applicant.

Ms. Krieg stated the judge had requested a copy of the site plan in order to determine where the driveways would cross a stream. This would also allow the judge to determine which design standards should apply to these driveways.

The Board began to debate the standards to which Seabury Drive was originally constructed. Ms. King stated she would prepare a list of outstanding documents and/or findings which the Planning Board should make or review based upon the judge's ruling.

Ms. Williams moved to continue to the Board's review of this remand to the June 16, 2010 meeting. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion.

B. Appeals Board docket AB-10-02: Remand to Planning Board regarding Denial of SP-09-02 West Street Hotel.

Mr. Cochary stated he was concerned that the original decision left out critical information regarding the dwelling space area in the hotel. He noted that the decision, as it stood, did not delineate clear measurements for the dwelling space on each floor of the hotel, or in total. He also stated that he did not feel the Code Enforcement Officer could issue a permit without knowing the floor space area that was used to calculate the total square footage that would be required for dwelling space.

Mr. Moore clarified that the area of the hotel above 35 feet is equal to 2,884 square feet. Mr. Moore then calculated the total area devoted to dwelling space which added up to 3,374 square feet, for a total of six dwelling units - two of which would be "affordable."

Ms. Krieg also noted that the heading "Additional Considerations" should be modified to read "Conditions of Approval."

Mr. Jardine moved that the Planning Board abide by the Appeals Board Decision in AB-10-02 which requires the Planning Board to "amend its decision to find the project would meet the height requirements of Section 125-24(G), and issue the applicant a permit." He added that the revised Decision should be amended to include the dwelling space calculations noted above. Ms. Williams seconded the motion and the Board voted unanimously to approve the motion

C. Continuation of a Discussion of Land Use Ordinance Amendments for June 2010 Town Meeting

i. Shoreland Commercial III

Ms. Krieg noted the reason for this discussion was to help staff understand what aspects of this order the Planning Board found unacceptable. She stated that this discussion would enable staff to understand which features of the order the Board would like to see changed or improved upon.

Ms. Williams stated that she would not want to see the ferry terminal become a large hotel. She discussed the need for allowing only water-dependant type uses within the shorefront. Ms. Williams stated that she believed the ferry terminal could be rezoned individually to allow the ferry terminal to become conforming.

Ms. Krieg stated that she was somewhat uncomfortable with Ms. Williams' suggestion. Ms. Krieg stated that she felt this action could leave the Town legally vulnerable to "spot zoning" allegations.

Ms. Krieg stated a second option would be to allow the more intensive uses that Board Members did not necessarily feel were appropriate in every case, as Conditionally Permitted Uses. Mr. Cochary noted that he was somewhat wary of this type of permitting system. He noted that he felt it allowed too much discretion on behalf of the Planning Board.

ii. Commercial Agriculture

Ms. Williams stated that she understood and sympathized with the need to allow commercial farms to expand in the number of services they are allowed provide. However, she stated that she, and several members of the public, were uncomfortable with adding this use to 15 new districts, where accessory uses such as a Bed and Breakfast might not necessarily be allowed. Ms. Williams stated that she continues to support the amendment of Commercial Agriculture in theory, however not the current language.

Mr. Jardine stated that he had understood the new Commercial Agriculture District would be applied to corridor areas. He stated that he did not necessarily agree that expanding this use into so many districts would be a wise decision.

Ms. Krieg reviewed the definition of accessory use and noted that it seemed there was a lack of faith that the current definition would provide the protection assumed. Mr. Cochary noted that the language is not clear that someone could construct a large hotel and then use five acres of tillable farm land to comply with the ordinance definition.

Ms. Krieg noted that she had conducted further research on how other towns regulate commercial agriculture. She acknowledged that some other towns require that the farm operation be established for a certain amount of time before they are allowed to construct other commercial components as accessory uses.

D. Discussion of Land Use Ordinances for November 2010

i. Bar Harbor Gateway District

Ms. Krieg introduced the purpose for tonight's discussion of ordinance amendments for the November Town Meeting. She stated that the Planning Board would hold a public hearing and notify property owners for the June 2, 2010 Planning Board meeting.

Mr. Madigan gave an overview of the major changes that would occur if the draft language were adopted. Mr. Jardine stated that he felt Design Review Board façade review would be critical as this area is the gateway to Bar Harbor. Ms. Krieg stated that the reason Design Review Board oversight is proposed for this area is because it is part of both the 1993 and 2007 Comprehensive Plan.

Mr. St. Germaine, a business and property owner this district, spoke in favor of alleviating some of the lot standards such as the front and side setbacks, as well as increasing lot coverage and decreasing parking requirements for restaurants.

Mr. David Bowden, a resident of Bar Harbor, also stated that he was uncomfortable with the recent addition in the language which would require streetscape improvements.

Mr. Adam Bowden stated that he felt a 75% lot coverage standard would be acceptable. He also stated that he did not feel Design Review Board should have jurisdiction over façade improvements in this district.

iii. Village Historic District

Mr. Madigan provided an overview of the proposed changes for this district. He noted that this ordinance would engulf areas that are currently zoned Bar Harbor Historic Corridor as well as Hulls Cove Historic.

iv. Village Residential District

Mr. Madigan gave an overview of the proposed changes. He noted that this ordinance amendment would incorporate a large portion of the area located south of downtown Bar Harbor which is currently zoned Bar Harbor residential. He noted that this language would incorporate several conditionally permitted uses.

v. Conditional Use Permit

Mr. Madigan gave an overview of the proposed ordinance which would adopt standards for the Planning Board to review conditionally permitted uses. Mr. Madigan stated that this provision would allow some variability in districts where certain uses may be acceptable in some locations, but not in others.

vi. Downtown Residential District

Mr. Madigan stated this map amendment would assign the Downtown Residential District to a small area around Pine Street.

vi. Mount Desert Street Corridor

Ms. Krieg gave an overview of the proposed language. She stated that she intended to provide property owners some relief on their setback requirements and ensure the historic properties are kept intact.

vii. Ordinance Enactment

Ms. Krieg gave an overview of this ordinance amendment. She stated that this amendment would clarify the process for both applicants, staff, the Planning Board and Town Council as to

the specific requirements and role each entity would play in reviewing and accepting map amendments for the warrant.

VI. PLANNING DIRECTOR'S REPORT

Ms. Krieg stated that she had two endorsements for the Planning Board. The first a minor subdivision for Chris Webster – MSD-10-02, and the other, Jack Pellitier's subdivision which required the Planning Board to sign for the registrar in order to officially record the subdivision.

The Planning Board signed and endorsed both plans.

VII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

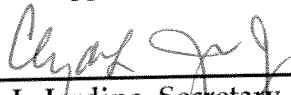
There were none.

VIII. ADJOURNMENT

Ms. Stevens-Rosa moved to adjourn the meeting. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion.

Minutes prepared by Staff Planner Brian Madigan, and reviewed by Clyde Jardine, for Planning Board Review at their June 16, 2010 meeting

Signed as approved:



Clyde L. Jardine, Secretary
Planning Board, Town of Bar Harbor

28 JUNE 2010

Date