

NOTICE OF PUBLIC HEARING – MAY 16, 2023
TOWN OF BAR HARBOR

STATE OF MAINE

County of Hancock, ss

To: A Constable of the Town of Bar Harbor

Greeting:

In the name of the State of Maine you are hereby required to notify and warn the inhabitants of the Town of Bar Harbor that the Bar Harbor Town Council will hold a public hearing in the Council Chambers, third floor of the Municipal Building on Tuesday, the sixteenth of May, in the year Two Thousand and Twenty-Three at six o'clock in the afternoon, then and there to hear public comment on the following articles placed on the secret ballot of the Annual Town Meeting to be held on Tuesday, the thirteenth of June 2023.

Article 2 – BOND - NEW ELEMENTARY SCHOOL– Shall the Town of Bar Harbor:

1. **Approve** the construction and equipment of a new elementary school to replace the existing Connors Emerson school buildings (the “Project”);
2. **Authorize** the Town Council, acting pursuant to the provisions of 30-A M.R.S.A. Section 5772, to provide by Order for the issuance of general obligation securities of the Town of Bar Harbor (with or without call provisions and with or without premium, and including temporary notes in anticipation of the sale thereof) in an aggregate principal amount not to exceed \$58,538,288 (the “Bonds”);
3. **Appropriate** the proceeds of the Bonds, including principal of up to \$58,538,288, as well as bond premium and investment proceeds, to provide for the costs of the Project, including issuance costs;
4. **Delegate** the discretion to fix the date(s), maturity(ies), interest rate(s), denominations(s), place(s) of payment, form and other details of said securities, including execution and delivery of said securities on behalf of the Town of Bar Harbor, and to provide for the sale thereof, to the Treasurer and Chair of the Town Council; and
5. **Accept** grants and donations for the Project (“Project Gifts”), if any

FINANCIAL STATEMENT
[30-A-M.R.S.A. §5772 (2-A)]
As of 6/13/2023

1. Total Town Indebtedness- Principal	
A. Bonds outstanding and unpaid	\$14,667,304
B. Bonds authorized and unissued	\$51,997,600

C. Bonds to be issued if this article is approved:	\$58,538,288
TOTAL	\$125,203,192

2. Costs

At an estimated interest rate of 4%, the estimated costs to finance this Project over a term of 25 years will be:

Principal:	\$58,538,288
Interest:	<u>\$31,610,520</u>
<u>Total Debt Service:</u>	<u>\$90,148,808</u>

3. Validity

The validity of the Bonds and of the voters’ ratification of the Bonds may not be affected by any error in the above statements. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the voters is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

/s/

Sarah M. Gilbert
Treasurer
Town of Bar Harbor

***Explanation:** The Town previously authorized the issuance of \$3,000,000 in bonds for the design of the replacement Connors Emerson School. This Article, if approved, authorizes the Town to issue Bonds to demolish the existing school buildings and to construct and equip a new consolidated school building. Project Gifts will be used to either reduce the amount of Bonds issued or to pay debt service on the Bonds, depending on when Project Gifts, if any, are received.*

Recommendations:

The seven-member Town Council recommends adoption by a vote of 4 to 2.

The 15-member Warrant Committee recommends adoption by a vote of 9 to 3.

Article 3 – LAND USE ORDINANCE AMENDMENT – Double Setback Distances – Shall an ordinance, dated December 8, 2022, and entitled “**An amendment to remove the double setback distances**” be enacted?

SUMMARY

This amendment would remove a standard in the Land Use Ordinance that requires principal buildings constructed in a subdivision where no lots are created be located so that the distance between the principal buildings is double the setback requirement for the district in which the subdivision is located.

EXPLANATION

This double setback distance requirement typically results in setback ranges between 50 feet and 150 feet. These additional setback distances between the principal buildings result in the buildings being located in a sprawling design, rather than clustered together.

An amendment to Article V

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.]

Chapter 125 , LAND USE ORDINANCE

Article V General Provisions

§ 125-67 General review standards.

- A. Permitted uses. Any proposed use must be a permitted use with site plan approval, as determined by reference to Article III for each district in which it is proposed.
- B. Lot standards. Except as modified by the provisions for planned unit developments set forth in § 125-69M and S, as applicable, any proposed structure or lot must comply with the lot size, area per family, road frontage, lot width, and front, side and rear setback requirements, and the shoreland zone lot standards in § 125-68B as determined by reference to Article III for each district in which it is proposed subject to the following:

- (1) Any yard adjacent to a street shall be considered a front yard.
- (2) Front setback distances shall be measured from the center line of the traveled way in all districts except the Village Historic, Mount Desert Street Corridor District, Downtown Village, Downtown Residential, Hulls Cove Business, Village Residential and Shoreland General Development I Districts where setback distances shall be measured from the edge of the lot line.
- (3) ~~In any subdivision in which lots are not created, the distance from the side of one principal building to the side of another principal building shall be no less than twice the distance of the side yard setback in the district; the distance from the side of one principal building to the front of another principal building shall be no less than twice the distance of the front yard setback in the district; the distance from the side of one principal building to the back of another principal building shall be no less than twice the distance of the rear yard setback in the district; the distance from the front of one principal building to the front or back of another principal building shall be no less than twice the distance of the front yard setback in the district; and the distance from the back of one~~

~~principal building to the back of another principal building shall be no less than twice the distance of the rear yard setback in the district.~~

(4)(3) Off-street parking.

(a) No off-street parking or loading or maneuvering space for off-street parking shall be located within the front or side setbacks of any district. This requirement shall not be construed to prohibit parking in any area of any driveway associated with single-family dwellings; provided, however, that in no event may a vehicle, in any district, be parked within five feet of a residential structure located on an abutting property in different ownership.

Recommendations:

The seven-member Planning Board recommends adoption by a vote of 5 to 0.

The 15-member Warrant Committee recommends adoption by a vote of 12 to 0.

Article 4 – LAND USE ORDINANCE AMENDMENT — Floor Area Ratio – Shall an ordinance, dated December 8, 2022, and entitled “**An amendment to remove the Floor Area Ratio requirement**” be enacted?

SUMMARY

This amendment would remove all references in the Land Use Ordinance to Floor Area Ratio.

EXPLANATION

Floor Area Ratio is defined in the Land Use Ordinance, is referred to in a section regarding nonconforming lots, and is a dimensional standard in the Downtown Residential District.

An amendment to Article V

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.]

Chapter 125 , LAND USE ORDINANCE

Article III Land Use Activities and Standards

§ 125-22 Downtown Residential

A. Purpose.

B. Dimensional standards.

- (1) Minimum lot size: 5,000 square feet.
- (2) Minimum road frontage and lot width: 50 [feet].
- (3) Minimum front setback: 15 [feet].
- (4) Minimum side setback: five [feet].
- (5) Minimum side setback for accessory, nonresidential structures: five [feet].
- (6) Minimum rear setback for principal structures: 15 [feet].
- (7) Minimum rear setback for accessory, nonresidential structures: five [feet].
- (8) Maximum lot coverage: 75%.
- (9) Maximum height: 40 [feet].
- (10) Minimum area per family: 2,500 square feet.
- ~~(11) Maximum floor area ratio: the greater of either the median or the mean value of the FARs for all of the lots within the district within 300 feet of the subject property.~~

Article IV Nonconformity

§ 125-56 Nonconforming Lots

A single parcel of land, the legal description or dimensions of which are recorded on a document or map on file at the Hancock County Registry of Deeds, which lawfully existed immediately prior to the enactment of this chapter or any subsequent amendment and which, as a result of the enactment of this chapter or any amendment, does not meet the lot size, minimum area per family, road frontage, ~~floor area ratio~~, lot coverage, shore frontage, or lot width requirements, or all seven, in the district in which it is located, and which does not adjoin another vacant parcel in common ownership, may be built upon without the need for a variance, but only subject to the following:

Article XII Construction and Definitions

§ 125-109 Definitions

FLOOR AREA RATIO (FAR)

~~The decimal representation of the gross floor area of all principal structures on a lot divided by the total lot area. Both the mean and the median values used to determine maximum floor area ratio are calculated using the FARs for all properties within the district within 300 feet of the subject property.~~

A. The mean is the sum of all values in the set of FARs divided by the number of values in the set. For example, the mean, or average, of the set {1, 3, 5, 7, 9, 11} is 6.

Mean = sum total of values divided by the number of values

$$\text{Mean} = (1+3+5+7+9+11)/6$$

$$\text{Mean} = 36/6$$

$$\text{Mean} = 6$$

B. The median is the middle value of the set of FARs ranked in ascending order. To find the median, use the formula $(n+1)/2$ th value, where “n” equals the number of values in the set. When there is an even number of values in a set, the median is the average of the two middle values.

(1) Example of a set with an odd number of values:

Set: {1, 3, 5, 7, 8}

There are five values in this set.

Median = $(n+1)/2$ th value, where n = the number of values in the set

$$M = (5+1)/2$$

$$M = 6/2$$

Median = 3, the third number in the set.

The median value is 3.

(2) Example of a set with an even number of values:

Set: {1, 2, 3, 5, 7, 8}

$$M = (6+1)/2$$

$$M = 7/2$$

$$M = 3.5$$

The two middle values are 3 and 5.

The median value is the average of these two numbers, or 4, i.e. $(3+5)/2$.

Recommendations:

The seven-member Planning Board recommends adoption by a vote of 5 to 0.

The 15-member Warrant Committee recommends adoption by a vote of 12 to 0.

Article 5 – LAND USE ORDINANCE AMENDMENT – Conversion to Multifamily Use –
Shall an ordinance, dated December 8, 2022, and entitled “**An amendment to remove the Conversion to Multifamily Use Requirements**” be enacted?

SUMMARY

This amendment would remove standards in the Land Use Ordinance specifically for the conversion of existing structures into multifamily dwelling units I and II.

EXPLANATION

These standards for the conversion of existing structures into multifamily dwelling units I and II go beyond the minimum standards required for the construction of new multifamily dwelling units. These requirements for the conversion of existing structures into multifamily dwelling units I and II are more restrictive than those of the locally adopted building codes, and address subjects covered in other areas of the Land Use Ordinance.

An amendment to Article V

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.]

Chapter 125 , LAND USE ORDINANCE

Article V General Provisions

§ 125-69 Standards for particular uses, structures or activities.

B. Cabins and cottages. Cabins and cottages shall be treated as transient accommodations; provided, however, that any lot containing cabins and cottages shall contain at least 20,000 square feet.

C. Campgrounds. All site plans for proposed campground development shall demonstrate that:

- (1) The applicant has obtained all required state permits and licenses.
- (2) Each recreational vehicle, tent, or shelter site shall contain a minimum of 5,000 square feet of suitable land in shoreland areas and 2,500 square feet of suitable land in inland areas, not including driveways and roads, for each site. Land supporting wetland vegetation and land below the normal high water line of a water body shall not be included in calculating land area per site.
- (3) The area intended for placement of the recreational vehicle, tent or shelter site and utility and service buildings shall be set back a minimum of 50 feet from the exterior lot lines of the camping area, 100 feet from the normal high water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet from the normal high water line of a tributary stream, upland edge of a wetland or any other body of water.
- (4) The campground shall be screened from all abutting areas.
- (5) Each recreational vehicle, tent or shelter site shall be provided with a trash receptacle.

D. ~~(Reserved) Conversion to multifamily use. Conversion of existing structures into multifamily dwelling units I or II will be permitted only on the following conditions:~~

~~(1) Off street parking will be provided in accordance with the requirements of § 125-67D(3)(a).~~

~~(2) Written approvals of conversion plans by the Fire, Electrical, and Plumbing Inspectors are submitted at the time of application.~~

~~(3) Each dwelling unit shall be at least 500 square feet in area for one bedroom units, plus 150 square feet for each additional bedroom, and all such space shall comply with FHA standards.~~

~~(4) Each dwelling unit shall have its own toilet and kitchen facilities, and no dwelling unit will share these facilities with any other dwelling unit.~~

Recommendations:

The seven-member Planning Board recommends adoption by a vote of 5 to 0.

The 15-member Warrant Committee recommends adoption by a vote of 12 to 0.

Article 6 – LAND USE ORDINANCE AMENDMENT – Underground Utilities – Shall an ordinance, dated December 8, 2022, and entitled “An amendment to remove the requirement that all utilities be installed underground” be enacted?

SUMMARY

This amendment would remove a standard in the Land Use Ordinance requiring that all site and subdivision plan projects must install utilities underground.

EXPLANATION

This underground utilities standard adds additional costs to construction projects and has often been modified by the Planning Board at the request of applicants. Removing this standard would not prohibit developers from electing to install utilities underground; rather, it would no longer be mandatory.

An amendment to Article V

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.]

Chapter 125 , LAND USE ORDINANCE

Article V General Provisions

§ 125-67 General review standards.

CC. Outdoor storage or displays. All site plans shall demonstrate that any materials or merchandise to be stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats or other vermin. Except for merchandise sold at farmers' markets and as otherwise provided by the Town Code, no merchandise shall be displayed or stored outside of any business establishment located within the Design Review Overlay District until a certificate of appropriateness has been approved by the Design Review Board pursuant to Article XIII, Design Review.

~~DD. (Reserved.) Utilities. Except for within mobile home parks, utilities shall be installed underground except as otherwise approved by the Planning Board. Underground utilities shall be installed prior to the installation of the final gravel base of the road. Any utility installations remaining above ground shall be located so as to have a harmonious relation to neighboring properties and the site. All utilities, poles and streetlights shall be installed in conformity with the approved plan.~~

EE. Fire protection.

(1) Detailed building plans for commercial developments in the Downtown Village and Shoreland General Development I Districts, transient accommodations, nursing homes, convalescent centers, retirement communities, private compulsory schools, multifamily dwellings and hospitals shall be approved, in writing, for compliance with Life Safety Codes by the State Fire Marshal's Office or by the Bar Harbor Fire Chief.

(2) No subdivision which has access to a public water supply shall be developed such that any building lot is more than 500 feet from a fire hydrant which has a capacity of 750 gallons per minute.

(3) No subdivision which lacks access to a public water supply shall be developed so that any building lot is more than 2,000 feet from a fire pond having a capacity of 45,000 gallons or a dry hydrant with a capacity of 750 gallons per minute for 60 minutes or some other water source acceptable to the Fire Chief.

(4) All site plans shall demonstrate that the proposed development will not cause an unreasonable burden on the Town's ability to deliver fire protection services.

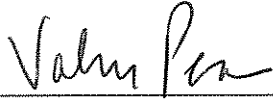
Recommendations:

The seven-member Planning Board recommends adoption by a vote of 5 to 0.

The 15-member Warrant Committee recommends adoption by a vote of 12 to 0.

Given under our hands this eighteenth day of April, 2023.

Municipal Officers of the Town of Bar Harbor



Valerie Peacock, Chair



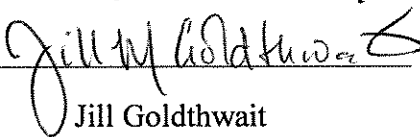
Matthew A. Hochman, Vice Chair



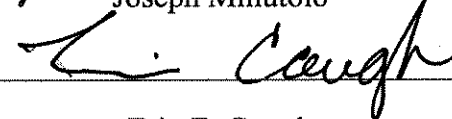
Gary Friedmann



Joseph Minutolo



Jill Goldthwait



Erin E. Cough



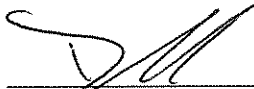
J. Clark Stivers

Attest:

A true copy _____
Town Clerk of Bar Harbor, ME

CONSTABLE'S RETURN

By virtue of the within Warrant to me directed, I have warned and notified the inhabitants of the Town of Bar Harbor to assemble at the time and place and for the purposes therein named by posting attested copy of the within Notice on the Bulletin Board, Municipal Offices, being conspicuous public place within said Town on the 19 day of April in the year Two Thousand and Twenty-Three.

Attest: 
Constable of the Town of Bar Harbor

Attest: A true copy _____
Town Clerk of Bar Harbor, ME

Handwritten text, possibly a signature or name, located in the center of the page.