

Minutes
Saco Planning Board
March 15, 2016

Members Present: Neil Schuster, Chairperson, Don Girouard, Rene Ittenbach, Michael O'Toole, Peter Scontras, and Bob Hamblen, City Planner. Absent: Donna Bailey, Marty Devlin

5:00 p.m. Workshop
Discussion of Contract Zoning

6:00 p.m. Regular Meeting

1. Minutes of March 1, 2016.

Peter: I move to accept the minutes with added comments from Thornton Academy's Mr. Kelly that are noted. Mr. Kelly said that it wasn't money driven. Seconded by Rene, and so voted, 5-0.

2. Public Hearing: conditional use review of a proposed Boarding House at 265 North Street. Applicant is H&S Real Estate. Tax Map 54, Lot 8. Zoned R-2.

Hamblen: The applicant, H&S Real Estate, seeks to establish a Boarding House on the property at 265 North Street, formerly occupied by York County Counseling and Services, Inc. This is a conditional use in the R-2 zone. The applicant operates a private school – an “academy style program” that “...would allow the student athletes to learn through online courses, or similar methods, comparable to a prep school. This would eliminate the current need for players to attend Old Orchard Beach High School.”

Code Enforcement Officer Dick Lambert, consulting with the City Attorney, has arrived at the conclusion that the use proposed for 265 North Street is that of a “boarding house,” defined as follows by the Ordinance:

Boardinghouse: A residential structure where lodging alone, or lodging in conjunction with meals are provided for compensation for a period of at least one week. There shall be no provisions for cooking in any individual guest room. Such terms as tourist homes, lodging houses, and terms suggesting a similar context shall be included under the term. However, this definition shall not apply to private homes used as lodging houses only, where no meals are served to guests, where no more than three rooms are let to the public.

The discussion began by considering the property and use as a “private school,” and as a dormitory for housing attendees. These notions were put aside in favor of “boarding house,” so review will focus on this use. Up to fifteen student-athletes would utilize the boarding house, and attend classes either on site or at the OA Sports Center at 15 Lund Road.

Sec. 901-1 of the Zoning Ordinance charges the Planning Board with finding "...that the use meets the standards of Section 901-4..." as found in the draft Findings of Fact. Staff's review indicates that these standards can be or are met by the applicant.

No new construction is proposed. Note that there is a "Proposed New Building" shown on the submitted site plan – it has not been built and is not proposed to be built. No new lighting, landscaping, roads or sidewalks are proposed. A handful of submission items are judged by staff to be 'Not Applicable.' If the Board is in agreement with this, then the application may be found complete. Suggested motion:

Rene: I move to find the application for a conditional use permit complete, seconded by Mike. Motion passes 5-0.

Seventeen parking spaces are required for the boarding house, at one space per guestroom plus one space per employee on the largest working shift. It appears that ample space is available, as 26 spaces are shown on the site plan.

The applicant states that the boarding house would not be open to the public, only to enrollees in the Heritage Academy program run at the OA Sports Center. Some additional information that's come to light since March 1:

- Two adults are proposed to live on site.
- Meals will not be served on-site, instead at the OA Sports Center.
- There is certainly adequate property here to build additional dorm buildings. However, that is not proposed. If it should be proposed in the future, that would necessitate a return trip to the Board.
- The boarding house would be utilized during the school year of September to June. The adult couple on site would be there over the summer, but as the applicant states, the building would "most likely be empty June-August."

Ben Poirier, applicant: This was built in 1935 and was called the Harrington House. After that, it was granted a use to be a clinic. H&S won't change it. They want to keep the institutional character. It is what attracted the applicant to this property. There were several businesses that were interested, but all fell thru for one reason or another, except for H&S, which liked it because of its unique nature and the fact that OA Sports Center is right down the street.

Sean O'Brien, H&S: they are part of the Heritage Academy out of Hilton Head, SC, which is known for being a rugby and golf academy. It attracts students from all over the world, who are focused and driven. It is not an elective course, but a core course. Academic classes are daily between 10:00am – 1:50pm. Classes have a 4-quadrant screen and collaboratively have classes at the same time as other campuses. There will be no cooking on site, but they will offer a continental breakfast. It will be no different than other dormitories. All are high school age, but they are exploring middle school ages.

Peter: Your programs are geared for athletes and once you get off the ground, you will be getting more students. You have space in the back of the building. Will you expand? Why Saco?

Sean: A turf field would be a great addition in the back, but they have no plans. That is what attracted them to the property. We own the OA facility on the Lund Rd., which is state of the art.

Better than anything he has ever seen. This is a unique town, where you feel safe. The area is nice, so that makes it very marketable to people who are from away.

Don: We should get a handle on the number of students and add it to the conditions of approval.

Sean: Not everything is going to be at that site. It will be more like a Prep School setting. This is not a program that focuses on the Junior Pirates. These kids are here for a purpose. International kids are more focused. This will not be a frat party. We want to be good neighbors.

Don: He is interested in knowing what the “house rules” will be? **Sean:** they will hire a director. A typical day, students will be gone by 8:00am every morning. Some students will come back on campus for classes; some will have their classes at OA. It is very similar to Thornton Academy. There is a study hall every day from 7-9:00pm. From 9-10:30pm would be their free time, then lights out at 10:30pm.

Don: On a typical day, we need to know how many students. Maybe you could give a parameter for the next 5 years. **Sean:** Today he only sees 3 or 4 people. They will slowly grow into it. That 15th person they won't have for at least 2 years. They are growing this program very slowly.

Ben: They met with Fire and Code, and Dick won't allow more than what the building can handle.

Mike O: If schools are allowed in this district, then they don't need to know, but he agrees about knowing the number of students. **Rene:** If another building is proposed on the site, they would have to come before the planning board again.

Don: I move to open the public hearing, seconded by Mike. Motion passes 5-0.

Al Sicard, 259 North Street: He abuts the property to the left. He can look into their parking lot. He is concerned about the use, because a Van Hertel property abuts to the right, which is a halfway house for adults getting off drugs and alcohol. There are always people coming and going. Are we going to allow other homes to be given a conditional use? What are we opening the door to? This is a good project, but what is the adults to minors ratio? Are you opening this up to females? If so, you will need female and male residents. He would like to have a privacy fence installed.

Jessica Sicard: What is your weekend schedule? Will there be schooling throughout the year?

Sean: some of the students will travel, some will stay. Academics would be year round. The property will not be dormant.

Joe Corriveau, 250 North St: His questions have already been answered. He thinks it is a great idea.

Philip Prince, 267 North St: His concerns have been addressed as well. He welcomes it.

Neil asked Bob to explain the definition of a Conditional Use, which Bob provided.

Don: I move to close the public hearing, seconded by Peter. Motion passes. 5-0

Peter: This is a great use for this property. **Don:** I don't think we need to attach a lot of conditions. He came back to whether to limit the number of students if it changes. Does the ordinance allow if the number of students changes? The applicant could come back to Bob as a minor condition. **Rene:** I don't think that we need to limit the students, because it would be limited by the capacity of the building and Code.

Peter: Move that approval be granted for a Conditional Use permit for a Boarding House at 265 North Street, under the provisions of the Saco Zoning Ordinance, Article 9, Conditional

Uses, based on the Findings of Fact and Conditions of Approval dated March 15, 2016, seconded by Rene. Motion passes 5-0.

3. Public Hearing: Final plan review of the proposed Heath Overlook subdivision off Buxton Road. Applicant is J. Thomas Scrivener, LLC. Tax Map 88, Lots 14 and 14-2. Zoned R-1d.

Hamblen: The Board granted approval for the preliminary subdivision plan for Heath Overlook at its Jan. 19, 2016 meeting. As suggested by DPW, the road has been shortened so that it ends, for the time being, on the near side of the Deep Brook crossing. With the northerly portion of this parcel, beyond the brook, comprising 2/3 or more of the overall developable acreage, it's anticipated that a second phase will involve the stream crossing and more road/lot, with the potential for a turn eastward to the adjacent parcel also owned by applicant Tom Scrivener. An eventual connection to Sullivan Lane and Jenkins Road is possible.

An obvious issue given the location of the project on busy Rte. 112 is that of traffic impacts, and the nearby intersection of Rte. 112 and Jenkins Road. As was the case for the Ryan's Farm II, Warren Woods, and Willow Grove subdivisions, the location of this project qualifies it for an impact fee that may be utilized by the City for future improvements to the intersection: signalization and a turning lane in Rte. 112. This is included as a condition of approval.

Some fairly substantial review comments have come in from Stantec (March 4) and from Joe Laverriere (March 8) in the past week. The revised plans for the meetings reflect responses to these memos. The applicant is represented by project engineer Shawn Frank, Sebago Technics.

The conditions of approval will be subject to change.

- Connectivity to abutting parcels will be addressed in the next phase of the subdivision, north of the crossing of Deep Brook. Provisions in the Subdivision Regulations that have some bearing on this include:
10.8.5 Where topographic and other conditions allow, provision shall be made for streets to be extended later to adjoining land and nearby streets in order to provide for future improvements in traffic flow.
- A peer review of the wetlands delineation was completed in 2007.
- The amount of traffic generated does not trigger a traffic impact study. An impact fee of \$1,050 per lot will be assessed, if the Board adopts the draft conditions of approval.
- Saco likes sidewalks. The conditions of approval require an impact fee of \$32.50 per linear foot ($352.99 \times \$32.50 = \$11,472.17$) for the development of future sidewalk along Buxton Road – in the City's specified Growth Area, near the middle school, with expanding neighborhoods nearby. This section of Saco will only get busier, and sidewalks along Rte. 112 will be regarded in future years as a given, not an oddity.
- Open space proposed: none. A fee is proposed instead.

Don: Have Joe's comments been added to the conditions?

Bob: 2 of the 5 have been added. The impact fee for traffic and the Open Space and Recreation fee. The other 3 have not. **Don:** Why aren't those fees updated periodically? **Bob:** No reason why they shouldn't.

Rene: I move that the Board find the application for final subdivision plan review to be complete, seconded by Don. Motion passes 5-0.

Shawn Frank, Sebago Technics: the big change was that the hammerhead was pulled back. They will have a deep sewer and a pump station. They are comfortable that they can make the changes that Joe brought up in his review comments. Sewer stub will be provided to the abutting property.

Peter: Lots 1, 2 and 3 all affected by high water table. Abutter Mr. Boothby, was concerned his property would be impacted. **Shawn:** the project will not impact the under drain that is in the road. **Neil:** Will the wetlands on Lots 1, 2, and 3 be marked with monuments? **Sean:** He doesn't have any documentation, but they could add pins with caps stating that they are wetlands, which will be noted on the plan. **Don:** Deeds should depict wetland markers. An addendum to a deed should have a sketch plan showing graphics where on the lot the markers are. **Bob H:** I think that granite documentation should go on either side of the Resource Protection zone at Deep Brook. **Don:** there is a stream that goes right through the hammerhead. Is it permitted and is that a problem?

Joe Laverriere: Sean has done everything that they have asked. Their preference is not to have a driveway off a hammerhead. We reached out to the schools and they said that the bus will pick up the children so walkers would not have to cross Buxton Road to the middle school. **Bob:** No reasonable alternative, unless otherwise deemed by the planning board.

Neil: this is the beginning of many things to come. Construction could go on for a long time for the first lots. Will Sullivan Lane residents get a notice that their dead-end street will no longer be a dead-end? Buyers need to be made aware of the length of time of construction.

Tim Murphy, City attorney: The 50ft ROW access needs to be shown on the plan as the future connector, so buyers know of the potential build out. **Joe:** Should we add to the plan that the hammerhead near Lot 7 will be removed? **Tim:** yes, and that the land be conveyed to Lot 7.

Mike: I move to open the public hearing, seconded by Rene. Motion passes. 5-0.

Adam McAughton He will be buying either Lot 9 or 10, and doesn't yet know where his driveway might go. **Sean:** There is a 2ft drop where his driveway will go. **Joe:** He explained the tying into the City's sewer system.

Mike: I move to close the public hearing, seconded by Rene. Motion passes 5-0

Rene: I move that the Board grant approval for the final subdivision plan submitted by J. Thomas Scrivener, LLC for the Heath Overlook subdivision based on submissions to date and the Findings of Fact and Conditions of Approval dated March 15, 2016, with the added conditions that the wetlands on Lots 1, 2, and 3 be marked, that monumentation be marked 75ft on either side of Resource Protection, notes on plan to remove the hammerhead, and that remaining property be retained by the buyer of Lot 7, deeds to note Site Location of Development and DEP approval, a note shall state no further development with Planning Board approval, and that Joe Laverriere's Feb. 29, 2016 comments be added to the Conditions of Approval, seconded by Mike. Motion passes 5-0.

4. **Public Hearing: proposed amendment to Articles 9, 10, and 11 of the Zoning Ordinance related to procedures and appeals.**

Hamblen: attached to your packets are revisions made to articles, 9, 10, and 11 in the zoning ordinance. The changes were requested by the Board. City Attorney Tim Murphy has provided his rationale for the amendments: The idea of tracing and confirming all matters as either de novo or not de novo, led me to conclude there was still a bit of ambiguity on a couple points (how ZBA treats a variance request in general for instance) and so I attempted to address that issue (all variances are reviewed de novo in this set up) and resolve all ambiguity on appeals for any matter that is subject to further review.

This exercise also led me to realize that Article 10 was to set out in the most logical order and that's likely because new parts of the ZO (Historic Preservation and Shoreland Standards) got added after original Article 10 on Board authority got drafted. So, I proposed to clarify Section 1003-1 thru 6, and clearly lay out the types of various matters before the ZBA, i.e. the jurisdiction of the Board. In doing this work, it became evident that a good deal of existing 1003-6 concerns "process" points truly belonging below in Section 1004. So process and procedure points found in Section 1003 have been proposed to be relocated to their more logical position within Article 10 which is in section 1004. New/revised section 1003 sets out the matters the Board addresses, while revised section 1004 explains how parties invoke Board review.

I have also tried to standardize some terminology which treats a variance request as an "application" versus what's it sometimes called now, an "appeal". Along these same lines in some sections the Board's "Clerk" is discussed while in others it's the Board's "secretary". This inconsistency should be addressed at some point as well, but has not been corrected yet given I was unsure of PB preference on this point.

Over-all I think both Boards will better understand the flow of any appeal or review, where it goes, based on which ZO provisions, and whether they handle the matter as de novo or not.

Don: He did some earlier review of the articles and submitted changes/additions for the Board to consider. **Tim Murphy, city attorney:** He could implement Don's comments along with his changes and come back to do it all at once. **Don:** He pointed out section 901-10 regarding minor conditional uses. It will add one more step to go back to the planning board. Sec. 901-12 is making it the same for Site plan. **Mike:** Does the ZBA hear Conditional Use appeals from the planning board? **Bob:** Yes. **Don:** should we add in language so as not to be remanded? Like the court did on the disc golf project. The Board directed Tim to take both comments from Don and Tim, and meld/combine together and then come back. **Tim:** We might want to get a second set of eyes from MMA.

Mike: I move to open the public hearing, seconded by Rene. Motion passes 5-0. No comments from the public. Peter: I move to close the public hearing, seconded by Rene. Motion passes 5-0.

5. Public Hearing: proposed amendments to Article 4 of the Zoning Ordinance related to setbacks in the I-2 zone.

Hamblen: Board members discussed the requested contract zone for the Sure Winner property at 2 Lehner Road at the March 1 meeting, and were in agreement that a relatively low key amendment to the Zoning Ordinance would be preferable to this applicant pursuing a contract zone.

Suggested approach is as follows: add a footnote to Table 412-1 allowing the front yard setback for parcels in the I-2 zone, to be reduced to 25ft if fronting on streets that are not North Street, Industrial Park Road, or Lund Road.

The I-1 district is fairly limited in area, and includes only four streets either within or abutting: Lehner Road, North Street, Industrial Park Road, and Lund Road. The amendment affects two parcels: 1 Lehner Road, and 2 Lehner Road.

The amendment would add a new entry to the list of footnotes for Table 412-1:

30. In the I-2 zone, the front yard setback may be reduced to twenty-five (25) feet for parcels with frontage on City streets other than North Street, Industrial Park Road and Lund Road.

Don: Visual impact on front yard setback on Lund Road. Do we care? Are we restricting ourselves too much? Is it important with the lots on the Industrial Park Road?

Mike: I move to open the public hearing, seconded by Rene. Motion passes 5-0. **Shawn Frank, Sebago Technics:** Right now the 50ft setback is wasted space. **Mike:** I move to close the public hearing, seconded by Rene. Motion passes. 5-0.

Don: I move that the Board forward a positive recommendation to the City Council for an amendment to Table 412-1 that would reduce the front yard setback for parcels with frontage on Lehner Road from 50 to 25 feet, seconded by Rene. Motion passes 5-0.

Meeting adjourned at 9:00 p.m

Respectfully submitted by,

Maggie Edwards, Board Secretary