



# CITY OF SACO, MAINE

**Planning**  
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Minutes  
Planning Board  
May 2, 2017

## Attendance Record

✓ = Present / A = Absent / E = Excused

- |                            |                     |
|----------------------------|---------------------|
| ✓ Neil Schuster, Chair     |                     |
| ✓ Don Girouard, Vice-Chair |                     |
| Michael O'Toole -- E       | ✓ Marty Devlin -- E |
| ✓ Rene Ittenbach           | ✓ Peter Scontras    |
|                            | ✓ Vangel Cotsis     |

**NOTE: Meeting is audio recorded. These audio records will be posted on the City's website and available for public review within one week of the meeting.**

5:00 p.m.  
Regular Meeting

1. Minutes of April 18, 2017 – **motion by Peter to accept the minutes as amended, seconded by Rene, and so voted, 5-0.**
2. Public Hearing: conditional use review of a proposed Eating Establishment at 9-11 Beach Street. Applicant is CIA Café Saco, LLC. Tax Map 32, Lot 97. Zoned B-7. Item was tabled at April 20 meeting.

Hamblen: the Board found the application complete, held a public hearing, and voted to table this conditional use application at its April 18 meeting, asking that the parking situation be resolved prior to it being considered for approval. Since the 18<sup>th</sup>, a Parking License has been submitted, allowing café customers to park in the Dyer Library parking lot for a period of 120 days. Staff believes that this meets the intent of Sec. 708-3(2), which allows off-site parking within 500 feet of the use in question. During the next four months, City staff will pursue amendments to off-street parking requirements found in Sec. 708 of the Zoning Ordinance – the Council reviewed draft amendments during a workshop and a First Reading last night, May 1. If approved, the parking that the applicant is able to provide on-site, plus some legislated flexibility would result in a new Eating Establishment that satisfies parking requirements.

**As previously reported:** Applicant CIA Café Saco, LLC, represented by Bill and Jeannie Dunnigan, proposes to convert the first floor space at 9-11 Beach Street into a café; what the Ordinance views as an Eating Establishment. The first floor encompasses 2,016 s.f. of floor area and indoor seating for up

to 48 patrons. The concept is based on the original CIA café in the Knightville section of South Portland, a leading factor in the renaissance of that neighborhood.

**Don: I move to open the public hearing, seconded by Rene, and so voted, 5-0.** Wendy Marcotte, 206 Ferry Road: it's a great idea. **Vangel: I move to close the public hearing, seconded by Rene, and so voted, 5-0.**

Vangel: is the Council inclined to approved the parking amendments? Bob: yes. Vangel: If there's a concern, it's the level of activity at that corner. Saco Middle School kids are picked up and dropped off by the bus right there. Bob will bring the drop-off of kids issue to the Police Chief's attention, and to the School Department if warranted.

**Don: I move that approval be granted for a Conditional Use permit for an Eating Establishment at 9-11 Beach Avenue, under the provisions of the Saco Zoning Ordinance, Article 9, Conditional Uses, based on the Findings of Fact and Conditions of Approval dated May 2, 2017, seconded by Peter, and so voted, 5-0.**

3. Public Hearing: preliminary plan review of the proposed Clarks Hill Lane five lot subdivision off Ferry Road. Applicant is JW Group, LLC. Tax Map 18, Lot 8. Zoned R-1a. Item was tabled at April 20 meeting.

Hamblen: this 5 lot subdivision (one existing house, four new lots) was reviewed as a sketch plan by the Board on Oct. 4, 2016. Applicant JW Group, LLC is represented by Josh Waterhouse, who calls 202 Ferry Road home – the subdivision is taking place at 210 Ferry Rd. Members may be aware that there has been recent activity at 202 – the applicant has created a back lot, and constructed a single family home this past summer and fall. That activity is separate from the subdivision, though the back lot is proposed to receive access from the proposed street.

The Board had a meeting scheduled for Feb. 21 that included review of the preliminary plan for this project. However, only three members were able to attend, thus no quorum and no meeting. The project was rescheduled for March 14. Due to a snowstorm, City Hall closed at 12:30 that day, and the meeting was postponed to the next evening. On March 15, a public hearing was held and the Board granted approval for the preliminary plan.

On April 18, the project was scheduled for review of the final subdivision plan. During the public hearing, abutter John DeSimone voiced his concern about not being noticed for the March 15 meeting, thus having only the April 18 meeting as an opportunity to voice concerns and ask questions. The Board recognized the validity of this claim, and tabled consideration of the final plan, asking that the City Attorney be consulted about any due process concerns.

Staff contacted both the City Attorney and the MMA legal staff. Tim Murphy was inclined to believe that the City acted reasonably and in good faith. The MMA felt that, even with the reasonable explanation provided for the sequence of events, the failure to advertise and notify abutters for the March 15 meeting could be viewed as a violation of Maine's Right to Know Law. Tim saw the wisdom in that stance.

Thus, this evening's meeting is a legally noticed review of the preliminary subdivision plan for the Clarks Hill Lane subdivision. Apologies to the applicant, as if any harm comes from the loss of two month's progress, it probably falls on him, through no fault of his own.

Lots would be served by public sewer and water, and underground electric, cable, and telephone. Project engineer Paul Gadbois has designed a stormwater management plan that incorporates capturing runoff from roof drip edges, a Best Management Practice promoted by the Maine DEP, and a filter pond just east of the turn-around at the end of the street.

**Peter: I move that the Board find the application for the Clark's Hill Lane preliminary subdivision plan to be complete, seconded by Rene, and so voted, 5-0.**

Hamblen: the applicant is requesting a waiver of two standards for street construction found in the Subdivision Regulations. Note in Joe's comments that DPW is supportive of the waivers:

- Sec. 11.11: a five foot wide esplanade is required between curb and sidewalk. Mr. Gadbois is requesting that the Board allow the esplanade to be reduced to zero so as to reduce wetland impacts.
- Sec. 11.8.1: "Embankments outside of the street right of way shall be evenly graded and pitched at a slope of not greater than three (3) horizontal to one (1) vertical..." Mr. Gadbois is requesting that the Board allow the side slopes to be reduced to 2:1, again to reduce wetland impacts.

**Don: I move that the Board waive Sections 11.11 and 11.8.1 as requested in order to reduce wetland impacts, said waivers having no discernible impact on the public health, safety and welfare as required by Article 11 of the Subdivision Regulations, seconded by Rene, and so voted, 5-0.**

Hamblen: actually, the suggested motion in the memo referencing Article 12 is correct, as that's where authority for waivers of standards is found. With that, **Don: I move to reconsider the motion, seconded by Rene, and so voted, 5-0. Don: I move that the Board waive Sections 11.11 and 11.8.1 as requested in order to reduce wetland impacts, said waivers having no discernible impact on the public health, safety and welfare as required by Article 12 of the Subdivision Regulations, seconded by Rene, and so voted, 5-0.**

**Don: I move to open the public hearing, seconded by Rene, and so voted, 5-0.** Jerry Marcotte, 206 Ferry Road: we live on the back lot behind Josh's house. I have brought up my concerns to Josh and Paul about disruption of service as the street is built. I'll continue to discuss with Josh, but we're in favor of the project. **Rene: I move to close the public hearing, seconded by Don, and so voted, 5-0.**

**Don: I move that the Board grant approval under the provisions of the Saco Subdivision Regulations for the preliminary plan submitted for the five lot subdivision proposed by applicant JW Group LLC, based on the Findings of Fact and Conditions of Approval dated May 2, 2017, seconded by Peter, and so voted, 5-0.**

4. Public Hearing: contract zone review of a proposed seasonal Eating Establishment at 139 McKenney Road. Applicant is Michael Whitmore. Tax Map 125, Lot 17. Zoned C-1.

**Item was withdrawn prior to the meeting.**

5. Public Hearing: conditional use, site plan, and Site Location of Development review of a proposed Self-Service Storage Units facility at 8 Industrial Park Road. Applicant is Life Storage, LP. Tax Map 69, Lot 12. Zoned I-2.

Hamblen: the former Uncle Bob's self-storage at 6 Industrial Park Road is now Life Storage, and is in the process of acquiring the abutting 1.29 acre parcel at 8 Industrial Park Road. They propose a three story, climate controlled self-storage building with a footprint of 14,280 s.f.

As reported in the submitted Site Law application, existing total disturbed area on the combined site is 2.3 acres. An additional 1.01 acres of disturbed area is proposed. The 3.31 acre total crosses the threshold for a Site Location of Development permit, which the City will conduct based on the review authority delegated to it by the Maine DEP. The Site Law permit includes a Stormwater Law permit.

Proposed wetland impacts fall just shy of 0.1 acre, at 4,262 s.f., so no NRPA permit is required. The wetlands delineation will be reviewed by Normandeau Associates on the City's behalf. Given the proposed curb cut setup, the City Engineer has recommended that a traffic engineer take a look at the proposed site circulation, including vehicles entering and exiting the site. Gorrill-Palmer is reviewing the plans and will comment by the meeting.

"Self-service storage units" are a conditional use in the I-2 zone, and an application has been submitted. Find exterior elevations in the plan set, as the building is subject to design review; the applicant's responses to design standards are found on p. 2 of the project narrative in the bound site plan application. Lindsey Barbee, P.E., of Greenman-Pedersen, Inc., is the project engineer, accompanied by Tim MacVittie of Life Storage, LP.

**Don: I move that the Board find the application for conditional use review to be complete, seconded by Rene, and so voted, 5-0. Don: I move that the Board find the application for site plan review to be complete, seconded by Rene, and so voted, 5-0. Don: I move that the Board find the application for design review to be complete, seconded by Rene, and so voted, 5-0. Don: I move that the Board find the application for Site Location of Development review to be complete, seconded by Rene, and so voted, 5-0.**

Tim: about 300 storage units. Lindsee: easement on east side of parcel includes wetlands, and will not be touched.

**Don: I move to open the public hearing, seconded by Vangel, and so voted, 5-0. No comments. Don: I move to close the public hearing, seconded by Vangel, and so voted, 5-0.**

The applicant's proposal for 11 new spaces, and a total of 15 for the combined 6-8 Industrial Park Road facility, was discussed and found to be reasonable, as no category for self-storage units is found in Table 708-2. After discussion of the status of the Site Law permit, City Engineer Joe Laverriere recommended taking no action until more history of the site can be uncovered, and a determination as to whether the

new parcel or the entire parcel would require a stormwater permit. The Board indicated its willingness to act on the conditional use permit, then to table.

**Don: I move that the Board grant approval under the provisions of the Saco Zoning Ordinance for a conditional use permit for the proposed expansion of the Self-Service Storage Units use at 8 Industrial Park Road, based on the Condition of Approval and Findings of Fact dated May 2, 2017, seconded by Peter, and so voted, 5-0.**

**Don: I move to table further consideration of site plan and Site Law review, seconded by Peter, and so voted, 5-0.**

6. Public Hearing: proposed amendments to Sec. 708 of the Zoning Ordinance pertaining to off-street parking.

Hamblen: The City's off-street parking requirements date back to 1995, and have probably become somewhat dated. What is an acceptable parking situation on Rte. 1 north of I-195 may be a very different matter in downtown, and the current standards do not recognize differences between the two.

Also, the Ordinance gives little recognition to on-street parking. As part of the motoring public, many of us recognize that the availability of on-street parking is a vital part of everyday living. Dropping by the bank, attending a planning board meeting, picking up a "dog, fries and a choc" at Rapid Ray's – odds are that one is pulling into an on-street, public parking space – and yet the Ordinance doesn't account for the availability of such spaces in the downtown. Should it?

Staff has surveyed comparable communities for their off-street parking requirements. The results:

Saco – 1 space per 75 s.f. total floor area

Auburn -- 1 space per 3 seats

Augusta – 12 spaces per 1,000 s.f. gross floor area (or, 1 space per 83 s.f. floor area)

Bangor – 1 space per 4 seats

Biddeford -- 1 space per 3 seats

Kennebunk – 1 space per 4 seats

Portland -- 1 parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area not used for bulk storage or food preparation.

South Portland – 1 space per 3 employees and 1 space per 4 patrons and 1 space per lounge seat

Scarborough – 1 space per 4 tables, and 1 space per 2 bar seats, and 1 space per each 60 s.f., and 0.3 spaces per seat

As written, as the Board knows, there is no waiver authority and no flexibility with the parking standards found in Section 708. The Board is asked to consider adding some of both. The amendments as drafted:

Vangel: seats more accurately reflect parking needs than do square footage. One parking space per four seats works for CIA. The Board should consider the surroundings, i.e., whether on-street spaces are available. Is parking available on-street in front of Pepperell Park, along Beach Street? Don: it's up to the PB to decide. I look forward to evidence being submitted by the applicant. The Board reviewed Sec. 708-1.3, and suggested changes. It was suggested that "excessive congestion" be deleted from the third

standard, and be replaced with “hazardous and unsafe conditions,” as stated in Sec. 901-4.6, the standard related to traffic and parking for a conditional use permit.

- 1) Sec. 708-1.3. Notwithstanding other provisions of this section requiring on-site parking, existing buildings in the B-3 and B-7 districts, north and west of the Boston and Maine Railroad only, and in the MU-1 district may receive a parking waiver in whole or in part from the Planning Board, when a structure is expanded, when a change of use requires additional parking spaces be provided, or when an existing building or use undergoes internal expansion. Such expansion includes the reuse or rehabilitation of unused or underutilized space. The Planning Board shall hear the application for the parking waiver as a conditional use and before approving it shall make a finding that it meets the following standards, ~~as well as the conditional use standards of § 901-4:~~
- A. On-site parking is not available;
  - B. Off-site parking as described in § 708-3-2 is not available;
  - C. The lack of on-site parking will not create excessive congestion in the neighborhood.

The Board reviewed Sec. 708-2 and found the amendment acceptable. Don recalled Peter Morelli’s study of parking in the downtown area from around 2012, which identified “plenty of spaces.”

## 2) 708-2. SPECIFIED USES AND OFF-STREET PARKING SPACES REQUIRED

The minimum number of off-street parking spaces required for different uses shall be as shown in Table 708-2. When the required number of spaces arrived at is not a whole number, fractions of parking spaces shall be rounded up to the next whole number. In the B-3 district, north and west of the Boston and Maine Railroad, and the MU-1 district and B-7 district, the parking requirements of Table 708-2 are reduced by 50 percent.

In Don’s opinion, the number of required spaces for restaurants should all be based on seating. We don’t want to see buildings being demolished in order to provide parking. It was suggested that 1 space per four seats in the MU-1, B-3 and B-7 zones would be acceptable, and that 1 space per 3 seats would work in all other zones.

- 3) Amend the “Eating and Drinking” parking requirement of 1 space per 75 s.f., found in Table 708-2.

Eating and drinking, Eating, and Drinking Establishments	1 space per <del>400</del> 75 square feet of total floor area <u>in the MU-1, B-3 and B-7 zones</u> 1 space per 300 s.f. total floor area all other zones
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Don: the key is on-street parking; if it’s available, then the number of required off-street spaces could be reduced. The Board suggested the following changes:

- 4) Amend the sentence that is found at the end of Table 708-2 in the Ordinance, as follows:

Where a proposed use cannot be reasonably fit into one of the above categories, the Planning Board shall prescribe the required number of off-street parking spaces. When an applicant demonstrates to the Board’s satisfaction that the number of off-street parking spaces is adequate for a proposed use, the Board may find that a lesser number of spaces than is prescribed in Table 708-2 is acceptable, but only upon making a finding that the following standards have been met:

- A. On-site street parking is inadequate or not available within a reasonable distance ;
- B. Off-site parking as described in § 708-3-2 is not available;
- C. The lack of on-site parking will not create hazardous and unsafe conditions excessive congestion in the neighborhood.

The Board took no action on the following section.

5. 708-3(2) Off-site Parking: Required off-street parking for all land uses shall be located on the same lot as the principal building or facility or within 500 feet measured along lines of access. However, in the B-3 district, north and west of the Boston and Maine Railroad, and in the B-7 and MU-1 districts, this is increased to 1,200 feet. The Planning Board may approve off-site parking or the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that said parking facility would substantially meet the intent of the requirements because there is sufficient space, or because of a difference in the probable time of maximum use by patrons or employees of such establishments. A long-term lease or other arrangement satisfactory to the Planning Board is required for any off-site parking. The Planning Board as part of a site plan review may permit contiguous properties to construct shared parking areas that extend over property lines without regards to five foot setback requirement for parking areas. The Board may require adequate plantings and other landscape treatments if necessary to buffer such shared parking.

**Don: I move to open the public hearing, seconded by Rene. No comments. Don: I move to close the public hearing, seconded by Rene, and so voted, 5-0.**

**Don: I move to forward a positive recommendation to the City Council for amendments to the sentence found at the end of Table 708-2, as follows:**

Where a proposed use cannot be reasonably fit into one of the above categories, the Planning Board shall prescribe the required number of off-street parking spaces. When an applicant demonstrates to the Board's satisfaction that the number of off-street parking spaces is adequate for a proposed use, the Board may find that a lesser number of spaces than is prescribed in Table 708-2 is acceptable, but only upon making a finding that the following standards have been met:

- A. On-street parking is available within a reasonable distance ;
- B. Off-site parking as described in § 708-3-2 is not available;
- C. The lack of on-site parking will not create hazardous and unsafe conditions in the neighborhood.

**Seconded by Peter, and so voted, 5-0.**

6. Public Hearing: proposed amendments to Article 2, Sections 2.1.1 and 2.2.2 of the Subdivision Regulations regarding statutory references.

Hamblen: Board members discussed this item briefly during an April 4 workshop session. It has come to staff's attention that statutory references found in Article 2 of the Subdivision Regulations

are outdated. Below, find the suggested updated statutory references, as well as the recommended deletions.

## ARTICLE 2

### AUTHORITY AND ADMINISTRATION

#### 2.1 AUTHORITY

2.1.1 These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., Section 4403 ~~Section 4956, Subsection 3~~.

2.1.2 These standards shall be known and may be cited as "Subdivision Regulations of the City of Saco, Maine," and are referred to herein as "these regulations."

#### 2.2 ADMINISTRATION

2.2.1 The Planning Board of the City of Saco, hereinafter called the Board, shall administer these regulations.

2.2.2 The provisions of these regulations shall pertain to all the land proposed for subdivision as defined in Title 30-A M.R.S.A., Section 4403 ~~Section 4956, Subsection 1~~, within the boundaries of the City of Saco. These regulations may also be applicable when cited by reference in other city regulations and ordinances.

**Don: I move to open the public hearing, seconded by Rene. No comments. Don: I move to close the public hearing, seconded by Rene, and so voted, 5-0.**

**Don: I move that the Board find the proposed amendments to Article 2 of the Subdivision Regulations to be acceptable, and approved as presented, seconded by Peter, and so voted, 5-0.**

Meeting was adjourned at approximately 8:30 p.m.

Submitted by,

Bob Hamblen, City Planner