

**SANFORD PLANNING BOARD MINUTES
MEETING – May 20, 2015 – 7:00 P.M.
City Hall Annex Third Floor Chambers**

MEMBERS PRESENT: John McAdam, Chair
Lenny Horr, Vice Chair
Lela Harrison, Secretary
Kelly Tarbox
Richard Bergeron
Lucas Lanigan
Dianne Connolly

MEMBERS ABSENT: None

STAFF PRESENT: James Q. Gulnac, AICP, Planning & Development Director
Michael Casserly, Asst. City Engineer

STAFF ABSENT: None

I. CALL TO ORDER

Chair McAdam called the meeting to order at 7:00 PM.

II. PUBLIC HEARING

There were no public hearing items.

III. NEW BUSINESS

1. File #04-15-R: David J. Winston, 1361 Branch Road, Wells, Maine.

Chair McAdam called for a representative to present the project.

James Gulnac, Planning Director described the background on this piece of property. An original approval was given to the Vachon's, owners of the property, to operate a hot dog truck. The following year, approval was given to a lessee to operate a mobile pizza stand in place of the hot dog truck. Last year, another change took place and instead of a food stand, a lessee requested using the property for shed sales. At this time, the Board stated any future activity on the site would be reviewed by the Board. All of these changes were done as a minor change to an approved site plan on the original file.

When Mr. Winston, along with the Vachons, met with staff member Gulnac, Mr. Gulnac stated Mr. Winston's request would have to be reviewed by the Planning Board. Mr. Winston has been working with staff to come up with a site plan that would accommodate their concerns. Staff member Gulnac granted the waiver of a formal submission of a minor site plan to get the application into the review process. Mr. Gulnac then told the Board Mr. Winston attended the Site Plan Review Committee (SPRC) meeting earlier in the day and he had forwarded his notes to the Board for their review at tonight's meeting.

Staff member Gulnac proceeded to inform the Board that Mr. Winston was presenting an updated site plan based on information and comments received from the SPRC meeting to them tonight.

David Winston, applicant handed out the updated site plan to the Board members. Mr. Winston told the Board he bought a trailer and put in a fire suppression system per fire requirements. He outlined what he wanted to do.

Staff member Gulnac stated to the Board that one of the issues with this lot is access. The property is located at a four-way traffic light; Mr. Gulnac then briefed the Board on the history of frontage and accessibility to this property.

Chair McAdam confirmed with Mr. Gulnac that the property owners of this lot have an easement from an abutting property owner.

Chair McAdam asked if there were any questions from the Board.

Board member Lanigan asked if the shed owners were going to be relocating some of their display buildings. Chair McAdam confirmed this was correct.

Board member Bergeron asked if the current business and the proposed business have a customer parking agreement. Mr. Winston replied his thought was to have customer parking for both businesses in the center, while his and the sheds salesperson's vehicles parked behind his lunch truck.

Vice Chair Horr asked if the building that is for sale beside this property would affect access onto this property if the building were to be sold or rented. Mr. Winston said there is a right-of-way onto the property, as well as the access from the traffic light. Discussion then took place on the ownership of the vacant property abutting the Vachon's property and the one to the north of the abutting property that is for sale.

Board member Tarbox had a question about the photo she had. Mr. Winston said the buildings shown in the photo were the sheds that would be relocated on the property and went on to describe where his truck would be located. Board member Tarbox confirmed there were going to be two separate businesses located on the property operated by two separate owners.

Staff member Casserly said the plan that was reviewed during the SPRC meeting showed a more accurate description of where the parking would be located. He then said that in planning for future development for either property, Mr. Casserly asked to have the parking changed so people backing out of the lot would not be backing out into the right-of-way. He then explained what he thought should be added to the plan to delineate where people would be eating and where they would be parking. His other concern was the porta-potty because the property is within the Kennebunk Kennebunkport Wells aquifer, explained why, and said sewer hook-up is available. Staff member Gulnac said this was discussed during the SPRC meeting this morning and the outcome of the discussion was there was not a major concern with this setup.

Board member Lanigan asked if there was already a porta-potty on site for the shed sales business and confirmed with staff member Gulnac no additional porta-potties would be added to the site. Discussion took place on the following:

- Who's responsibility the porta-potty fell under – *shared responsibility between the business owners*
- If the lunch truck would stay on the property year round – *the trailer would be removed during the winter months*
- The number of months the lunch truck would operate – *ten (10) months*
- If the shed business operated year round – *last year it did not open during the winter months*

Vice Chair Horr asked if there were any issues with codes regarding the number of picnic tables and seating. Mr. Winston replied the seating vs. number of restrooms was inside seating; picnic tables were different.

Board member Tarbox confirmed that there would be stones along the edge of the parking area and would be on the Vachon property. She then asked if the porta-potty could be shielded a bit to make the site more attractive. Mr. Winston said this could be done.

Board member Connolly asked if the area is plowed during the winter and, if so, would the stones be in the way. It was determined the stones would not be.

Board member Lanigan asked if any signage would be put up; Mr. Winston replied no additional signs other than the sign on his truck.

Board member Connolly asked if there was any need for a handicap spot; Mr. Gulnac replied there was not.

Chair McAdam asked if the Board needed to go into work session to further discuss the application or if they were ready for a vote. The Board felt no further discussion was needed.

Board member McAdam called for a motion.

Staff member Gulnac suggested that during the motion the Board may want to refer to the checklist when approving the waivers requested by the applicant. (Mr. Gulnac was referring to a court case that stated Planning Boards need to take action on all waivers being requested individually. Mr. Gulnac referred to this a couple of times during Mr. Winston's application review and this topic will be further discussed later tonight.) Mr. Gulnac also suggested the Board add to the Finding of Facts the acceptance of the narrative and revised drawing, that was given to the Board tonight by the applicant, because this is the plan they were approving and any conditions can be included on the plan tonight.

Staff member Gulnac reminded everyone that this approval was for a minor site plan, not a yearly approval. The approval was for both the shed business and the lunch truck. If a third business was added to the site, another Board review would be needed; if a request came through to replace one of the businesses with another one, a formal review may not be required.

Board member Tarbox asked Mr. Winston about the state's provisional license he included in his packet until the permanent license was processed by the state. Discussion took place.

Board member Tarbox made a motion that the Planning Board confirm the Finding of Facts (see attached), including the request for the waiver to prepare a site plan, and adds to the Finding of Facts the revised site plan and narrative generated on 5/20/15 and presented at the meeting; the plan, at the meeting, revised to further delineate parking flow per the engineer's recommendations and approve the requests from David Winston to operate a lunch truck and Bobby Miller to operate his rent-to-own business on tax map R18A lot 20C and recommend the issuance of a permit subject to the following conditions:

1. That any and all outstanding review fees are paid.

2. That waivers are granted for the requirement of a site plan prepared under Chapter 272-1-8 as shown on the checklist for the engineer's report and further grants a waiver for the inspection escrow requirement.
3. That the applicant complies with any and all requirements of the CEO.
4. That the applicant complies with any and all requirements concerning the establishment of water service and sewer service.
5. That the applicant complies with any and all local and state building and fire safety codes.

Board member Harrison seconded the motion.

A vote was taken, and the motion passed 7-0.

IV. OLD BUSINESS

There were no old business items.

V. APPROVAL OF MINUTES – April 1, 2015

Board member Tarbox said the minutes looked fine.

Board member Tarbox then asked if Board member Harrison could sign the minutes if she wasn't at the April 1 meeting. It was determined that Board member Harrison could sign the minutes but she could not vote on the motion for the minutes.

Board member Tarbox made a motion to approve the minutes as written.

Board member Bergeron seconded the motion.

A vote was taken and the motion passed 5-0-2. (Board members Connolly and Harrison did not vote on the minutes as they were absent from the meeting.)

VI. PLANNING DIRECTOR'S REPORT

1. Discussion on Finding of Facts procedures.

Chair McAdam called for the discussion.

Staff member Gulnac apologized to the Board for adding a second item to his report on short notice and said he would like to discuss the second item first. (See #2 below)

Staff member Gulnac briefly summed up the court case, Hartwell vs. Ogunquit, regarding the Finding of Facts determination by Planning Boards for submission items as opposed to review items. He then explained the 2 steps on how he reviews an application once the planning department receives an application. The first is a checklist that informs the applicant on what is to be submitted with the application. By ordinance, if a submittal does not contain all the information in the checklist it is considered incomplete. Each municipality has a different approach on how to review incomplete applications – Sanford chooses to review the application and determine during the meeting if the missing information is needed to make a clear determination. Mr. Gulnac then outlined the changes that have been gone through to make the city's review process more streamlined and efficient for an applicant. Some of these changes may make it easier for an approval to be challenged in court; therefore, he is presenting a recommendation to the Board to prevent this from

happening. Mr. Gulnac is requesting the Board approve a new 2-page application and modified checklist for a consensus approval/staff review and explained how the new process would work.

Board member Tarbox asked if the Board would have to go over each item in the checklist individually. Staff member Gulnac replied he thought the Board could do a single vote but reference them by detail.

Discussion took place on why the Hartwell vs. Ogunquit case went to courts, which was the abutters didn't agree with the applicant's proposal and Planning Board's approval. Staff member Gulnac stated that if the Planning Board/municipality was going to be challenged, he wanted the challenge made on the substance of the decision and explained why.

Discussion followed on the proposed new staff review application and process, the steps to get the new application approved if the Planning Board accepted the proposal, and the fees to go along with the new process.

Board member Lanigan asked if the applicant would have grounds to go to court if the Planning Board denies an application based on their information. Staff member Gulnac responded that should a Board member vote against an application, the Board member must state which finding of facts caused him/her to vote against a proposal. Discussion followed.

At the end of discussion, it was decided to proceed with the new application and checklist for staff review applications. Staff member Gulnac felt this was the best option to ensure the finding of facts/waiver requests were covered in a proper manner.

2. Late Payments

Staff member Gulnac said there has been a concern about uncollected fees for a while. He said the amount of uncollected fees totals between \$6,000 and \$7,000. He said at one time it was double that amount but the planning department has been able to collect some of the outstanding fees. He went on to say after a while, businesses and individuals start ignoring attempts to collect and that is where we are at now.

Mr. Gulnac said the planning department met with other city staff to determine if the city has a policy in place where if you have outstanding bills to the city, you can't get permission to do anything. It was determined there was not one in place.

Staff member Gulnac went on to say he then met with the city manager and representatives from the city council to address this issue. The outcome of the discussion was to add one sentence in three different places in our ordinances where we speak of their obligation, which basically states that no one who owes money to the city for outstanding review fees will be able to apply for a permit. Mr. Gulnac explained the timeline of public hearings and readings for both the Planning Board and City Council.

Mr. Gulnac said one question that was brought up that he will have to ask the council is whether or not the amended ordinance will be retroactive on the current accounts or would it be good only on new accounts.

Staff member Gulnac asked the Board if he had their support in pursuing this and they replied he did.

VII. ADJOURN

The meeting adjourned at 8:22 P.M.

**Non-agenda item: Staff member Gulnac passed a handout on parking/transportation. The following are topics discussed:

- Changing the way planning thinks about parking: urban design for people instead of cars.
- Chair McAdam spoke with Bob Hardison about transportation – would like to schedule a work shop on June 3 to discuss the transportation section of the comprehensive plan.
- Need to get in touch with Cumberland Farms regarding their building design to provide a rendering with the building in brick to the city based on language in the design review guidelines.
- Mr. Gulnac reminded the Board that in their motions they are not approving or issuing permits, other than conditional use permits that require Planning Board approval.
- Discussion took place on how the transportation section of the comprehensive plan was chosen to be updated versus multiple sections of the plan.
- Presentation that will be held on road preservation, repaving, and overhead utilities.

Attachment to May 20, 2015 Minutes

Finding of Facts for New Business Item #1
File #04-15-R: Winston Lunch Truck

- The owner, Robert Vachon has signed the application and named David Winston as the agent.
- The applicant has requested a waiver from the requirement to prepare a site plan per Section 272-1-7. The Planner allowed the waiver subject to the review and approval of the Planning Board. The Planning Board needs to review and advise as to the waiver request.
- The applicant has provided no information concerning either water service or sewer service.
- This application would amend and supersede File #24-11-R.