

SANFORD PLANNING BOARD MINUTES
MEETING July 11, 2012 – 7:00 P.M.
Town Hall Annex Third Floor Chambers

MEMBERS PRESENT: Kelly Tarbox, Chair
Lela Harrison, Vice Chair
Joseph Herlihy
John McAdam
David Mongeau, Secretary
Robert Hardison

MEMBERS ABSENT: Matthew Treadwell (w/notice)

STAFF PRESENT: James Q. Gulnac, AICP, Planning & Development Director
Shirley Sheesley, Codes Enforcement Officer

STAFF ABSENT: Charles Andreson, P.E., AICP, Town Engineer (w/notice)
Michael Casserly, P.E., Assistant Engineer (w/notice)
Barbara Bucklin, Administrative Assistant (w/notice)

I. CALL TO ORDER

Chair Tarbox called the meeting to order at 7:00 P.M.

II. PUBLIC HEARINGS

1. **File #06-12-T: Greg Moran, Aubuchon Realty Company Inc.,** c/o John Hutchins, Corner Post Land Surveying, Inc., 2 Mill Street, Springvale, Maine.

Chair Tarbox called for a representative to present the project.

John Hutchins, Corner Post Land Surveying, representing the applicant said Aubuchon is requesting to change the zoning on two properties they own, tax map K21 lots 7 & 9 from Single Family Residential to Urban Business zone so they can use the property as part of their existing business to locate a propane tank storage location and eventually other outside storage of goods to be sold.

Chair Tarbox asked if anyone present wished to speak in favor of this application; there was no one.

Chair Tarbox asked if anyone present wished to speak against this application.

Wendy Batchelder, owner of property directly behind the two lots being proposed for the zoning change said she is opposed to the zoning change. She moved to her home in 2006, during the Mother's Day flood. She said that during this storm Marjorie Avenue was flooded. During other rain storms, Marjorie Avenue has water flowing down the street into an existing brook. Since the 2006 storm, a culvert has been put in, but it does not prevent the runoff of water that occurs. Ms. Batchelder then said that the embankment, which is now void of vegetation, is littered with construction debris, pallet wrap, and old fences from the previous owner of the property.

Ms. Batchelder continued by stating she hears Aubuchon's fork lifts and cars parking in the lot right now, and that is currently without this back lot being used. She also gets the reflection of the security light located at the top of Marjorie Avenue through her window, even when her curtains are closed. She said if Aubuchon's request is approved, she has some requests:

- A privacy fence as high as allowed.
- If another security light is added, she wants it facing the store's business, not towards her house.

She doesn't understand why the propane storage can't be placed in the front of the property, and went on to explain why:

- Believes this is a safety issue
- Doesn't feel the gradient has been properly considered
- Believes there is an alternative location in the front of their property for the propane storage

Ms. Batchelder told the Board that she feels all the storage should be kept on the current location already zoned UB. She said the applicant has been doing outside storing overnight, which is against code and has only recently started bringing merchandise indoors at closing time.

Chair Tarbox thanked Ms. Batchelder for her comments, but wanted to remind the Board that they were only approving a change of zone, not propane installation at this time. If the zone change request is approved, any proposal would need to conform to current code standards and may even need further review and/or conditions placed on any future approval.

Ms. Batchelder said she was aware that tonight was only reviewing the zone change request, but if the change is approved it would allow for future expansion of the applicant's current business.

Chair Tarbox asked Ms. Batchelder if the security light she mentioned was put on by Aubuchon or if it was used by Miller Ford. Ms. Batchelder said she wasn't aware of this security light being used by Miller Ford. Ms. Batchelder then thanked the Board for hearing her concerns.

Chair Tarbox asked if there was anyone else who would like to speak against the application.

Before anyone else spoke, Board member Herlihy said he was going to abstain from voting on this request because the applicant, Aubuchon Hardware, was a recent tenant of his. He felt it would be best to prevent his vote being viewed one way or another. Discussion took place in regards to Board member Herlihy continuing on with voting on the project. It was determined that since Mr. Herlihy has no financial gain/loss by the zone change request he could continue on as a voting member.

Board member McAdam informed the other Board members that he is within the 500' range of the request and received an abutter letter from the Town so he would be abstaining from the vote. Board member Herlihy said he may also be an abutter, but it was determined that his property was out of the 500' range.

Jack Webb, an abutter, asked if this project would definitely go to site plan.

Staff member Gulnac said in the process of a zone change, the Board gives their recommendation to the Town Council. The Board could include in their recommendation suggestions of conditions to be placed upon any approval, such as any development on this site would need Planning Board approval. Without specific conditions to the approval, any development would fall under the process of the ordinance to determine level of approval. Mr. Gulnac went on to state that this property is also within the shoreland zone, and one of the advantages of this would be that any development on this site would have to follow the strict standards of the shoreland zone, which would require vegetative buffers, etc. Mr. Gulnac explained the Board could send their recommendation with specific conditions, pro or con and the council could put conditions specific toward future development on the property if the zone change is approved; but regardless of conditions put on the approval, any type of development would have to follow shoreland zone restrictions.

Mr. Webb asked where this type of review would take place. Mr. Gulnac said that if the council put conditions on the approval stating subject to Planning Board review, it would not make a difference. Mr. Webb asked specifically if it would go through site plan review. Mr. Gulnac responded that site plan review is a step to get to planning board, and explained the process.

Mr. Webb asked John Hutchins, representing the applicant how much usable space there is of each lot due to shoreland zone restrictions. Mr. Hutchins said that all of lot 7 is within 75' of the brook, and it looks like about 2/3 of lot 9 is outside of the shoreland zone. Mr. Hutchins said that he didn't work on this portion of the plan because the project is only going through zone change review so these are just estimates; if the zone change is approved, more thorough calculations would be done for site plan review.

Mr. Webb said he was aware that the Board was not concerned with the propane installation, but since the application references the propane tank Mr. Webb wanted to know if this reference implied the same size tank that was at their previous location or would it be larger. Chair Tarbox said this is an issue that would be addressed when the actual application for use was reviewed. Discussion took place.

Chair Tarbox asked Mr. Gulnac if a propane-filling operation is allowed should the Board recommend the zone change. Mr. Gulnac referred the question to Shirley Sheesley, Codes Enforcement Officer, and expanded the question to include parking and indoor/outdoor storage. Ms. Sheesley said the ordinance has a category for accessory uses so these examples would probably be classified as accessory uses to the retail business and would either be permitted or permitted with review, depending on the level of activity.

Chair Tarbox asked who owned the river/waterway/ditch. Mr. Gulnac said whoever owns the lot would own Chapman Brook. He then said that this area has just been reviewed in another recent application and the town is aware of the drainage issues. Mr. Gulnac also briefly talked about how fencing and buffering are standard requirements in site plan, and he was going to ask the CEO to check out the security light issue immediately.

Board member Hardison said that he wouldn't approve the zone change request unless he has Mr. Hutchins agreement that the embankment along the river would be cleaned up immediately, clearly stated that any further development of this property needs to come back for Planning Board review, and the Board should consider putting conditions that a buffer be put in place now instead of waiting for some future process. Mr. Hardison feels that in exchange for the zone change the applicant needs to take some responsibility for the use, the upkeep, and appearance of this lot to the abutting property owners.

Chair Tarbox asked Mr. Gulnac if it was appropriate to place a condition that any further development comes back for Planning Board review upon the zone change recommendation.

Board member Herlihy made a recommendation that the Board take a vote on the zone change request before adding any conditions on the approval to see where the Board stands on whether or not the zone should be changed.

Staff member Gulnac recommended closing the public hearing and continue discussion in work session.

Chair Tarbox asked if anyone else would like to comment on this application; there was no one.

Chair Tarbox closed the public hearing.

The meeting moved into work session to discuss the public hearing item at 7:26 P.M.

2. File #07-12-S: Robert Gendreau, 19 Eon Way, North Waterboro, Maine.

Chair Tarbox called for a representative to present the project.

Robert Gendreau said he has a document that pertains to the impervious surface, which was requested by staff member Gulnac, and he also has a letter from Maine Manufacturing Housing regarding sprinklers.

Staff member Gulnac reminded the Board that they have no authority over the sprinkler system. Mr. Gulnac told the Board that the sprinkler issue was discussed during the Site Plan Review Committee (SPRC) meeting held earlier in the day and more information was requested; however, the sprinkler remains a separate issue that the applicant has to work out with the fire marshal. Mr. Gulnac then explained to the Board why more information was requested regarding impervious surface coverage.

Mr. Gendreau wanted to show the Board the information about the sprinkler system even though the Board has no authority on this. Board member Hardison explained to Mr. Gendreau that he has to work any issues out with the state and the local fire marshal and the Board would not review any information about sprinkler systems.

Chair Tarbox asked if anyone present wished to speak in favor of this application; there was no one.

Chair Tarbox asked if anyone present wished to speak against this application. Again, there was no one.

Chair Tarbox closed the public hearing.

Board member Hardison asked Chair Tarbox if this item could be voted on at this time instead of going into work session to discuss it.

Staff member Gulnac told the Board that the information received regarding impervious surface was close to the threshold so the Board may want to consider placing conditions on any approval regarding this. He went on to say that the park expansion will not endanger the private water system that exists for the park. These new sites are well out of the 300' radius and the planning office has received the paperwork backing this statement up.

Chair Tarbox asked Mr. Gulnac if there was feedback on the road width and construction material. Mr. Gulnac replied that the proposed width is consistent with the ordinance but the road is a private way that will be subject to the private way standards in the ordinance. Discussion took place.

Chair Tarbox asked Board members if they were comfortable taking action on this application at this time; the Board members said they were.

Chair Tarbox called for a motion.

Board member Hardison made a motion that the Planning Board accept the comments from the SPRC and confirm the Finding of Facts (see attached) and after consideration of the public comments and those of the staff, find that the request of Robert Gendreau, 19 Eon Way, North Waterboro for an amendment to an approved subdivision to expand his existing mobile home park, Marsh Brook Estates, by four (4) lots on property owned by the applicant and located at the end of Saw Tooth Lane in Sanford has been prepared in conformance with the Town of Sanford Land Use codes and the laws of the State of Maine and grants approval subject to the following conditions:

- a. That any and all outstanding fees be paid.
- b. That the applicant complies with any and all local and/or state code requirements.
- c. That the applicant notes that any future development on that lot could approach the maximum of 20,000 SF and the codes enforcement office will have to review building permits along those lines.

Vice Chair Harrison seconded the motion.

A vote was taken, and the motion passed 6-0.

III. NEW BUSINESS

The meeting was called to order for voting purposes at 7:58 P.M.

1. **File #06-12-T: Greg Moran, Aubuchon Realty Company Inc., c/o John Hutchins, Corner Post Land Surveying, Inc., 2 Mill Street, Springvale, Maine.**

Chair Tarbox called for a motion for this application.

Board member Hardison made a motion that the Planning Board accept the finding of facts (see attached) and, after consideration of the public comments and those of the staff, find that the requested change to rezone tax map K27 lots 7 & 9 from SFR to UB is consistent with the goals and objectives of the comprehensive plan and recommend that the change be forwarded to the Town Council for their review and adoption with the following conditions:

- a. The lots are brought up to any/all standards within the shoreland zone.
- b. Any future development of either lot is brought back before the Planning Board for review.

Vice Chair Harrison seconded the motion.

A vote was taken. The motion failed 3-2 due to lack of the necessary 4 affirmative votes to consider the motion passed by the Planning Board. The breakdown of the member votes is as follows:

- Voting in the affirmative: members Tarbox, Harrison, and Hardison
- Voting in the negative: members Mongeau (he didn't agree with expanding a business into a residential zone and felt that it was against the goals of the comprehensive plan) and Herlihy (felt that it should be set as precedent that applicants take care of things that are fully within their power before asking to do more)
- Abstention: member McAdam (was within the 500' abutter zone required on a zone change application)
- Absent: member Treadwell

The recommendation will be forwarded to the town council for their review and action.

IV. OLD BUSINESS

There were no old business items.

V. APPROVAL OF MINUTES – May 30, 2012

Chair Tarbox called for approval of the minutes.

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

Vice Chair Harrison seconded the motion.

A vote was taken, and the motion passed 6-0.

VI. PLANNING DIRECTOR'S REPORT

There was no report for tonight; however, staff member Gulnac gave a quick update to the Board on what would be on the next agenda.

VII. ADJOURN

The meeting adjourned at 7:37 P.M. A work session followed. The voting meeting adjourned at 8:06 P.M.

Attachment to July 11, 2012 Minutes

Finding of Facts for Public Hearing Item #1 File #06-12-T: Aubuchon Zone Change

- The applicant owns the property in question and has the right to request the zone change per Section 280-14 of the Sanford Zoning Code.
- The applicant, in their application prepared by Corner Post Surveying, Inc. dated May 17, 2012 has provided the information required in Section 280-14 B of the Sanford Zoning Code.
- The proposed change in zone would make the whole parcel into a single zone (UB) and is consistent with other parcels along the Main Street corridor.
- The Planning Board after deliberation and review of the request determined that it was in the best interests of the town to rezone the lots from SFR to UB.
- The zone change will not change the shoreland zoning on the parcels; lot 7 is almost completely within the 75' buffer (shoreland zone) and any activity on that parcel would need to be in compliance with the shoreland zoning.
- The section of the Town of Sanford municipal code is Chapter 280-32 Official Zoning Maps.
- The section of the Town of Sanford municipal code which authorizes the change is Chapter 280-14 Amendments.

Finding of Facts for Public Hearing Item #2 File #07-12-S: Marsh Brook Estates Expansion

- The applicant has provided proof of ownership of the property in question and has standing to make the application.
- The application is presented as an amendment to an approved plan named Marsh Brook Estates. The original concept plan for the mobile home park indicated a total of 61 lots. A total of 28 lots have been approved with the last update completed in 1996.
- The application is being reviewed using the revised review process with a mandatory pre-application meeting, and scheduling both Site Plan Review Committee and Planning Board public hearing and work session on the same day.
- By definition the project is classified as a subdivision but also needs to be reviewed as a mobile home park under Section 280-90 Manufactured housing in the zoning ordinance and Section 272-2-24-F of the new site plan ordinance. The restriction for mobile home parks within the Airport Overlay Zone was removed by a zoning amendment.
- The property is also in the shoreland zone and any development will need to be in conformance with any applicable sections of that code.
- The applicant has demonstrated that the plan meets any and all stormwater management requirements and does not pollute a public water supply or aquifer.
- The applicant provided a calculation of the creation of new impervious areas to be less than 20,000sf therefore no MDEP permit is required for this application. Any additional new impervious cover will require Planning Board review.
- The applicant should also provide information detailing the proposed traffic impact that the four lots will have.