

PLANNING BOARD MINUTES
WEDNESDAY, JULY 21, 2021
MUNICIPAL COUNCIL CHAMBERS – 6:30 P.M.

Present: John Beckett, Michael Costello, Phil Ruck, Jud McIntosh, Lisa Buck, Christa Schwintzer, Ashley Case, Robert Bayer

Absent: Dave Thompson

Town Staff: Kyle Drexler, Jessica Chadbourne

Acceptance of the Agenda

Phil Ruck asked for a motion to accept the agenda.

Motion: John Beckett

Second: Michael Costello

The vote to accept the agenda passed with seven for, none opposed.

Approval of the Minutes of the May 19th Planning Board Meetings

Mr. Ruck asked for a motion to approve the May Planning Board Minutes.

Motion: Lisa Buck

Second: John Beckett

Mr. Ruck then asked for comments on or corrections to the May meeting minutes. After corrections had been noted, he asked for a vote. The vote to approve the May meeting minutes passed with seven for, none opposed.

New Business

Item A: A minor site plan review for Joseph Sprecher located at 163 Gould Rd, Tax Map 6-3 Lot 5, in the Forest and Agriculture District and Limited Residential Shoreland District. The application is for the addition of 98 cubic yards of gravel and 70 cubic yards of topsoil, as well as the creation of a driveway and parking area within the Shoreland Zone.

Mr. Ruck introduced the application and asked Mr. Sprecher to step up to the podium and introduce his project to the board. Mr. Sprecher explained the work that had been done on the property previously, and the circumstances that led to the original fill permit being appealed and overturned. Since then they have had a surveyor come in and create the site plan that was submitted to the Board, and have adapted their original plans for the property. Working with Code Enforcement they determined exactly the amount of impervious surface they were allowed to have, and will, per their application, be bringing in 70 cubic yards of topsoil so that they can reseed part of the previously cleared area, leaving a gravel parking area of about 7 spaces.

Mr. Drexler presented his report to the board, explaining that the original permit for the gravel would normally only require Code Enforcement approval. But the creation of a parking lot in the shoreland zone does require Planning Board review so that impacts on the shoreland can be examined. The original gravel parking lot would also have surpassed the 20% unvegetated surface allowed in a lot, or a portion of a lot, located in the shoreland zone. The process for the newly proposed parking area included merging the two adjacent lots that Mr. Sprecher owned to create a larger lot that would allow for a larger percentage of unvegetated surface. That left only a small portion of the original gravel

parking are that would need to be reseeded using the proposed 70 cubic yards of topsoil in order to bring the property into compliance with the ordinance.

The proposed parking area meets with all the dimensional requirements of the ordinance, including the 10 ft vegetated buffer area between the parking area and the road. It also meets the setback requirements by being located well over five feet from side and rear property lines. Erosion control was a concern raised by the appeal board regarding the original permit, so the applicants have been working closely with the Town Code Enforcement Officer, Pat Estey, to ensure that appropriate erosion control measures are taken both with the proposed parking area and with the portion of it that will need to be reseeded. Including the erosion control berm to be constructed on the Eastern side of the property to prevent soil from eroding in the direction of the shoreland.

Mr. McIntosh asked what the board was approving in light of what the appeals board had overturned. For example, if the board rejects Mr. Sprecher's suggested mitigation plan would he have to completely undo all the work that was done on the lot because the original permit had been overturned? Mr. Drexler confirmed that if Mr. Sprecher's new plan was rejected then he would have to take different steps to undo the now unpermitted work on the lot. His project should have gone through the Planning Board originally, and getting planning board approval now is the only way for him to continue forward.

Mr. Ruck opened the public hearing for comments or questions. Hearing none, the public hearing was closed and Mr. Ruck read in the proposed findings of fact (attachment A). There were no questions about or corrects to the proposed findings of fact, so Mr. Ruck called for a motion.

Motion: Mr. McIntosh motioned that the Board approve the minor site plan review for Joseph Sprecher located at 163 Gould Rd, Tax Map 6-3 Lot 5, in the Forest and Agriculture District and Limited Residential Shoreland District, with two conditions:

1. That the applicant obtains all necessary building permits from the Code Enforcement Officer prior to bringing in any additional material.
2. That the applicant follows the erosion control plan as outlined by the Code Enforcement Officer.

Second: John Becket.

The vote to approve the minor site plan for 163 Gould Rd passed seven for, none opposed.

Item B: A contract zone request by Garrett Randolph and Dara McIntire to create contract zone for 163 Forest Avenue, Tax Map 18 Lot 6, to change the zoning of the lot from Low-density Residential to Economic Development Zone to allow for a medical office/counseling office within the existing structure on the lot and to include other restrictions which would limit the scale of development on the lot to that consistent of the surrounding area.

Mr. Ruck asked the applicants to step up to the podium and present their request to the Planning Board. Garrett Randolph and Dara McIntire introduced themselves to the board and explained their vision for their proposed practice on Forest Ave, and why they wanted to locate their facility there. Mr. Randolph referred to the privacy and sense of sanctuary of a more rural lot, while still being in a location that would be easy for their clients to access. He explained that they do not handle extreme diagnoses like those treated at Acadia hospital, to which Ms. McIntire added that neither do they treat sex offenders or people recommended by the court. Their clientele would in large part be people dealing with depression, anxiety, and a host of similar conditions.

They would probably have one sign on the side of Forest Ave at the beginning of the driveway. Mr.

Randolph indicated that it would most likely be something low to the ground and unobtrusive. And Ms. McIntire explained that a number of their clients make their appointments via telehealth and would not be physically traveling to the proposed office.

Mr. Ruck then invited Mr. Drexler to provide his report to the Board. Mr. Drexler explained that the need for the contact zone change stems from the designation of the neighborhood as a low density residential district, intended for residential use. The previous use of the property had been as a two family home, and all interest in the property prior to the applicants had been from developers interested in creating additional housing on the lot, which would be an allowable use under the current zone. However the natural conditions of the lot made most proposed developments unfeasible. The counseling facility being proposed by the applicants, on the other hand, though not an allowable use in the LDR, involves no additional development of, or construction on, the lot, which does seem to fit within the scale of what the LDR is going for.

The next step was to consider the surrounding area, an important aspect in determining the viability of a contract zone, and Mr. Drexler pointed out that across the street is the Kiwanis lot, which is also not a residential use. To the right is the interstate, on the other side of which is a church. Behind the lot at 163 Forest there is some undevelopable resource protected shoreland. Beyond that there is existing economic development zoning. The only surrounding residential property abuts 163 Forest on the western side and, as is visible from the satellite imagery provided to the Board, there are substantial setbacks on both properties, much of which is wooded.

Mr. Drexler also reminded the board that any contract zone change has to meet the goals of the Town comprehensive plan, and in his report he highlighted ways in which he believes the proposed project can be said to meet those goals.

1. The comp plan requires that the Town assure blocks of open lands that support a variety of wildlife and that would preserve natural plant communities, and the proposed counseling center, unlike other proposed developments of the lot, would not change the footprint of the existing building or further develop the lot in a way that might impact wildlife habitats.
2. The plan also encourages the extension of the EDZ district into selected adjacent parcels, and while this property is not directly adjacent to the existing EDZ because of the shoreland zone buffer, it is very near to it.
3. The plan recommends contract or conditional zoning in these unique circumstances.

Mr. Drexler then walked the Board through the contract zone agreement, pointing out that the draft agreement language specifies that going forward the only allowed use on this lot, aside from the residential uses allowed in the LDR, would be medical office. In limiting the future uses of the lot in this way, and in limiting the footprint of the medical office to 2500 sq ft (only slightly larger than the footprint of the existing structure, the agreement would prevent any future development from being of a use or scale that would be incompatible with the neighborhood. Though large scale facilities are allowed in the EDZ, they would not be allowed on this particular property.

The LDR and the EDZ have different dimensional requirements and allowances, and the contract zone agreement also ensures that the property would be constrained to the dimensional requirements of the LDR district, not those of the EDZ. This would require any future developers interested in reverting the property to a residential use to abide by the more stringent requirements of the LDR. For instance, multi-family housing is allowed in the EDZ, but would not be allowed at 163 Forest Ave.

The property would also be limited to smaller scale signage, up to 24 sq ft, per the LDR, as opposed to the 300 sq ft of signage allowed in the EDZ. The contract also proposes that parking on the

property be limited to the existing gravel parking area, and to no more than 15 total parking spaces. Again this is to allow the proposed use for the property, but only to the extent that it does not overly impact the residential quality of the neighborhood.

Discussion of the contract zone was then opened up to members of the Planning Board. Ms. Schwintzer asked about the clause in the agreement that states that if the property owner violates the contract zone agreement the Town and/or their neighbors can take them to court. She asked if that was standard, and how it would play out with regards to the neighbors taking them to court. Mr. Drexler explained that there would have to be an official notice of violation from the town that they were not meeting one of the standards of the ordinance, from there it would be the same as with any developer who had a site plan review but failed to meet the standards the Board had set for approval, and that then went uncorrected. The language is standard in all Town contract zone agreements, and reviewed by the town attorney, but Mr. Drexler said that in review of the final draft it could be possible to revisit that language.

Mr. Ruck asked about the parking situation on the property, specifically the 15 spaces limit which he believed sounded excessive for a residential setting. Mr. Drexler explained that the 15 parking spaces represent the existing gravel parking area on the property. When asked, Mr. Randolph stated that it was unlikely that they would ever use all 15 spaces at once.

Mr. McIntosh asked about the allowable square footage being proposed, and whether it allowed for someone to knock down the existing structure and build a one story structure with a larger footprint. Mr. Drexler clarified that the footprint of the existing building's first floor was already 2100 some feet not, as Mr. McIntosh had thought, some 500 sq ft with the other 500 some sq ft being the second floor.

Mr. Ruck asked the applicants about their proposed signage, and what they anticipated that would look like. Mr. Randolph described it as a low, probably wooden sign that would just say "Orono Counseling". Big enough to be seen clearly from the road, but not big enough to be obtrusive.

Mr. Ruck opened the public hearing, and the applicants' sole residential neighbor stepped up to the podium. Shari Kinnison lives at 165 Forest Ave. She generally approved of the proposed project, but expressed her concern about future uses on the property that might disrupt the feel of the neighborhood. Mr. Drexler reiterated that there was language in the contract zone agreement that prohibited the use of the property for anything other than the residential uses allowed in the LDR or the medical office use that would be permitted under the contract zone if it were approved.

There were no additional public comments, so Mr. Ruck closed the public hearing and asked for a motion to recommend the contract zone agreement to council.

Motion: Mr. McIntosh motioned that the board recommend the contract zone request for 163 Forest Avenue, Tax Map 18 Lot 6, to change the zoning of the lot from Low-density Residential to Economic Development Zone to allow for a medical office/counseling office, with the recommendation that the language regarding violations of the agreement and the resulting possible legal action be revisited.

Second: Lisa Buck

The vote to recommend the contract zone agreement to council passed seven for, none opposed.

Item C: A draft Land Use Ordinance amendment to amend the permitting process for mobile food vendors within the University District.

Mr. Ruck asked Mr. Drexler to present his proposed amendment to the board. Mr. Drexler explained

that the original mobile food vendor ordinance had included two levels: Mobile Food Vendor 1, for occasional placement of a food truck at a given location for a given period/event, and Mobile Food Vendor 2, for those food trucks operating on a more regular basis, which would be treated more like a small restaurant. Mobile Food Vendor 2's are required under the current ordinance to get approval from the Planning Board, including those food trucks located in the University District. However, in recent months conversations with Campus Life and the University have raised the possibility of bring food trucks to campus on a more frequent basis, which led Mr. Drexler to consider whether, as with other ordinances, exceptions should be made to the ordinance for the University District.

The proposed change is meant to match the way the ordinance treats mobile food vendors with how it treats other retail spaces, restaurants, and businesses on campus. A vendor would still be required to meet all the requirements of the mobile food vendor ordinance, but could be permitted by the Code Enforcement Office rather than having to be approved at the Planning Board level.

Ms. Schwintzer asked about the S/P notation in the table of uses, which implies that a mobile food vendor 2 might still be required to get site plan approval in the University District. Mr. Drexler explained that there was a footnote to the table stating that whether site plan review or a permit is required for approval is determined by the performance standard section of the mobile food vendor ordinance. When she asked why it could not just be "P", Mr. Drexler pointed out that there are certain lots in the University District that don't belong to the University of Maine where it would be desirable to still have Planning Board oversight of any mobile food vendor placement.

Mr. Ruck opened the public hearing and asked for questions. Hearing none he then closed the public hearing and asked for a motion.

Motion: Mr. McIntosh motioned that the Board recommend to Council the amendment to the mobile food vendor section of the land use ordinance to exempt the University of Maine.

Second: Michael Costello

The vote to recommend the mobile food vendor ordinance amendment to the Council passed seven for, none opposed.

Other New Business

There was no other new business.

Old Business

There was no old business.

Discussion

Mr. Ruck asked about forthcoming projects that may make their way to the Planning Board next month. Mr. Drexler gave the board a brief overview of the Orono Economic Development Corporation's proposed Caribou Bog Trail Center project, which will likely be presented in August.

Adjournment

Mr. Ruck asked for a motion to adjourn the July meeting of the Planning Board.

Motion: Michael Costello

Second: John Beckett

The motion to adjourn the meeting passed seven for, and the meeting was adjourned at 7:38 pm July 21, 2021.

Attachment A

**FINDINGS OF FACT
JOSEPH SPRECHER
SITE PLAN REVIEW
July 21, 2021**

Pursuant to Article VI, Section 18-177, and Article IX, Section 18-275, of the Orono Code of Ordinances, the Orono Planning Board has considered the application of Joseph Sprecher for the creation of a parking area in the Shoreland Zone and an earth-moving activity located at Tax Map 6-3 Lot 5 in the Forest and Agriculture District and Limited Residential Shoreland District, and, based on all evidence presented by the applicant, reviewing agencies, town departments, and the public, found the following:

1. **Requirements of the district:** That the parking area is an allowable use in the Forest and Agriculture District and Limited Residential Shoreland District.
2. **Compliance with Town ordinances and codes:** That the proposed use meets the provisions of applicable regulations of the Town, including all pertinent sections of Chapter 18, Land Use Ordinance.
3. **Utilization of the site:** That the proposed use reflects the natural capabilities of the site; and that no buildings are proposed, and environmentally sensitive areas will be avoided to the maximum extent.
4. **Traffic and pedestrian access:** That the proposed use is a residential parking area designed to accommodate a single-family dwelling and will not generate any traffic beyond that of the residential use.
5. **Storage of materials:** That there will be no exposed storage of materials.
6. **Stormwater management:** That the existing water flow is not proposed to be changed, and any stormwater runoff will be kept on site due to the level topography of the site.
7. **Erosion control:** That the applicant has provided an erosion control plan for the addition of the soil, and that the Maine DEP's best management practices for erosion and sediment control will be followed.
8. **Water supply and sewage disposal:** That the site does not require water supply or sewage disposal.
9. **Utilities:** That the proposed use does not require any utilities.
10. **Natural features:** That the proposed use will involve the revegetation of a portion of the existing gravel parking area which will meet the Ordinance requirement for the allowable amount of unvegetated area within the shoreland area.
11. **Groundwater and surface water quality protection:** That the proposed development and use will not adversely impact the quality or quantity of groundwater available to abutting properties or to public water supply systems.

- 12. Hazardous, special, and radioactive materials:** That the proposed use does not involve the handling, storage, or use of hazardous, special, or radioactive materials.
- 13. Shoreland relationship:** That the site is within the Limited Residential Shoreland District, and that the proposed use is in conformance with the requirements of Section 18-274 of the Land Use Ordinance and will not result in water pollution, erosion, or sedimentation to surface waters.
- 14. Solid waste management:** That the proposed use does not require any solid waste management.
- 15. Historic and archaeological resources:** That the site is not known to contain historic or archaeological resources.
- 16. Financial capacity:** That the applicant has the financial capacity to carry out the project.
- 17. Noise and lighting:** That there are no proposed lighting additions, and there are no proposed activities that would fail to meet the noise standards stated in the Ordinance.