

PUBLIC NOTICE
Southwest Harbor Planning Board
June 2, 2011 @ 6:00 p.m.
Southwest Harbor Town Office

MINUTES

- I. Roll Call/Call to Order: The meeting was called to order at 6:00 p.m. Present: Ben C. Worcester, III, Michael Magnani, Christopher Rawls, Eric Davis, Ryan Donahue. Excused: Gordon Wissinger and Mike Mansolilli.

Visitors: Jean Marshall, Todd Hardy, Jim Vekasi, John Cardano

- II. Visitors to be heard not on the Agenda: The Chairman asked the Board to review the minutes for acceptance prior to Visitors to be heard. The Board agreed.

- III. Acceptance of Minutes for 5-5-2011: It was Moved (Magnani) and Seconded (Rawls) to accept the minutes of May 5, 2011 as presented. Vote: 5 – 0.

Visitors to be heard not on the Agenda: Jean Marshall, acting for Leslie Watson of the Mooring Inn, with John Cardano asked about conditions that had been discussed concerning the construction, parking and loading. She said the discussion was in the minutes and not in the conditions – however, Marshall asked to withdraw the request for reconsideration.

- IV. Permit application for additions to St Johns Church at 310 Main Street, Map 6, Lots 90 & 91: Todd Hardy spoke to the Board, and thanked the CEO for the guidance received in helping him through the process. Hardy said the church is trying to do a relatively simple project, to enhance the service that is provided – there is a desperate need for ADA and accessibility issues, a private conference area for the Rector and parishioners. The construction will attempt to reduce the non-conformity, pulling the building out of the side yard. Client is seeking approval of this concept, and a full set of plans will still have to go to the Fire Marshal and CEO. The Chairman read aloud the summary from the Code Officer which addressed the 16 site plan requirements for completion. The Board agreed the CEO summary was accurate. Rawls referenced the location of wells on the property asking that the locations of wells, although not applicable, should be on the map stating there often are cases in the future, where that knowledge might be needed. Fletcher and Hardy indicated there were no wells on that property or abutting properties. It was Moved (Davis) and Seconded (Donahue) that the application of St. Johns Church at 310 Main Street, Map 6, Lots 90 and 91 are complete. Vote: 5 – 0.

The Board reviewed the CEO memorandum (attached) concerning performance standards. The Board reviewed performance standards A through U. Item I was discussed and the Chairman asked if the additions were only used when the church is not in session – the contractor said this is a reconfiguration of what doesn't work or is too

small, and doesn't add a demand for additional parking – most of the change has to do with better access and reconfiguring the existing elements. There would be no addition of use. Donahue asked if there would be additional use from the conference room or an addition of functions that might occur on days other than Sunday. Contractor said the maximum occupant load is less than the church and for less than what is adequate for the 9 spots. CEO said that part of the construction only requires 2 parking spaces by the current LUO. Not applicable. Donahue asked if there was significant roof area increase to make the storm water runoff a problem. CEO said this is Zone A and the project will tie into the contour to the storm drains. It was Moved (Davis) and Seconded (Donahue) that performance standards A, B, C, D, F, H, J, K, L, M, N, O P Q, R, S, T, U are not applicable to this application. The CEO asked to amend the motion to include for the stated reasons in the CEO memorandum of May 25, 2011. It was Moved (Davis) and Seconded (Donahue) that the application is in conformance with the LUO general regulations and standards, and the following are not applicable for the stated reasons: A, B, C, D, H, J, K, L, M, N, O, P, Q, R, S, T, U. Vote: 5 – 0.

Applicable to the application:

E: Exterior lighting: include a recommendation that a condition of approval include all lights, whether existing or newly installed as required.

I: Handicapped access as condition, should be placed on this permit review to require a construction permit from the State Fire Marshal's Office prior to the issuance of a building permit.

G. Fire Protection: if a permit is required from the State Fire Marshal's (SFM) office, this permit review should include a structure construction permit from the SFM as it pertains to life safety requirements. If not required a confirmation from the SFM should be included. It was moved (Donahue) and Seconded (Magnani) to accept performance standards E, I and G as applicable for the stated reasons. Vote: 5 – 0.

Conditions: Developed and used only in accordance with the plans, docs and materials submitted, based on information provided for ownership – inspection by the CEO.

It was moved (Magnani) and Seconded (Davis) to approve the application for demolition and construction with the conditions 1, 2, 3, 4, and 5, listed on page 5 of the attached memorandum from the CEO dated May 25, 2011 and conditions E, I and G cited on page 4 of the same memorandum dated May 25, 2011 and that the project be developed and used only in accordance with the plans, documents and materials submitted, based on information provided for ownership, and with inspection by the Code Enforcement Officer. Vote 5 – 0.

Break at 7:00 pm and reconvene at 7:15 p.m. to review proposed LUO changes.

V. Discussion how to better inform residents of pending proposals:

VI. Workshop Ordinance Review: Chairman referred the Board to the list of proposed changes from the CEO saying most of the items are very simple, and it

would not be necessary to call a special election for any of the items. The Board should prepare their work and send it to the Town Clerk. There is no rule as to how early a public hearing could be held.

1) Section I: Introduction; B, (2)

Provide for LUO to reflect Comp Plan of Nov 2, 2010: Donahue asked if there was a document that could be crafted that would explain in more detail an ordinance change. Chairman said MMA interpretations is the ordinance should stand on its own, and even changing from a comma to a period needs to go to the voters. Regarding the proposed change to the Introduction, Marshall asked if there was a reason to have the date. Chairman suggested changing the wording to say “reflects the most current approved Southwest Harbor Comprehensive Plan” which would avoid changing the date each time the plan is revised. Chairman asked the CEO if there needed to be any further discussion.

2) Section II: General Regulations and Standards B, (1), c, (1);

Clarify dimensional standards for principle structures and uses: adding “if more than one structure is constructed on a single property which is not in common ownership, both dimensional and structural standards shall be met for each structure.” CEO said there may be something not in common ownership on one piece of land. This clarifies meeting the dimensional standards when structures on a piece of land (such as condominium homes) are built. Chairman said there needs to be another statement that says structures in any combination on a single lot under separate ownership, which explains in more detail. The CEO and Chairman will work on some changes to this proposal.

3) Section Zone B:

Change ‘availability’ to ‘serviced by’ and exclude seasonal water lines from lot size requirements. Referring to private utilities, this change will require service to the lot in order to build within those parameters, as opposed to the utilities being available in the area of the lot, but not necessarily utilized.

4) Section VIII: Permit Review (H), Issuance of Building Permit

Change effective date of permit: Permit will be subject to subsequent changes to the LUO if the permit is not issued within 6 months of approval. It will be effective for two years from the date of issuance. Marshall expressed concern with the 6 months clause. CEO said that if a permit hasn’t been issued by the 6 month deadline, the Planning Board conditions would still stand, but if there were any changes to the LUO within that time, those conditions would apply to the permit. Discussion was held concerning allowing the permitting of an approved application to be extended to 4 years. Opinions differed on this approach. Donahue felt that a second fee for a later permit should be avoided. Chairman felt the 6 month issue was too short, although he agreed with the CEO’s concept. Davis suggested going out four years, and after that the entire process would need to be started over again. CEO wanted to eliminate “issue a building permit upon site plan approval”. He said it could take 6 – 12 months to get bank financing after approval. The CEO will work up language to the effect that an applicant has 4 years from the date of site plan approval to establish substantial start of a project before having to re-apply to the Board.

Marshall said the Planning Board is giving their authority over to the CEO. All areas not within the exceptions of all the other zones, will be Zone B. For clarity eliminate Zone C and put in Zone B. Zone C is deleted on that page and there is a note that says 'if enacted the provisions of this Ordinance shall be applicable to all pending proceedings, applications and proceedings after the date of filing this initiative in the Town Clerk's Office of the Town of Southwest Harbor'.

5) Section XII: Appendix; Definitions of Zones and Map

Change definitions and map to reflect revisions in LUO: This will bring the definitions up-to-date and to bring the map up-to-date. This includes changes from prior years up to and including the current year, and on-going.

6) Section XI, Procedure for amending the Ordinance: Marshall said she didn't understand G, H, A & B. CEO said these items came out of State Statute, and we need to have this in the Ordinance so we may react. If something happens, for example, near Mt. Desert Spring water, they need to be noticed. Chairman said the primary one is H – as the process has become more and more complicated, and it assists in getting the process down right without having to look up the State Statutes. Board will review subsection 9 to make it clearer.

7) Planning Board By-Laws: CEO said there is a change to "meetings". This gives the Chairman the discretion to change or cancel a meeting without a vote of four members. CEO will get this ready to go to the Selectmen

Rawls said he has discussed a zone entitled "Fernald Point Road Zone". It may open up things that may be done in the Harbor Zone. Chairman said once the Board has something to discuss, it would be wise to bring in the neighborhood. Rawls said it is an entrance to Acadia National Park, and doesn't have Town Sewer; the road is narrow with granite boulders along a great deal of the road. CEO cautioned going to review Harbor Zone prior to removing the Shoreland Zoning from the LUO. Chairman said the Board should have discussions about that. CEO also asked if the Board would also consider parking. He will list the next agenda with items separately, as the last agenda was published. There is one application up-coming for the next meeting. Marshall suggested a general statement for construction noise during the tourist season. Chairman said the Board would have that discussion. Rawls suggested adjusting the Index to reflect accurately what is in the LUO.

VII. Other Business – Meeting Schedule: June 16, 2011; The Board discussed having two meetings in July and August. The Board agreed on July 7 and August 4. There will be no second meeting during July and August.

VIII. Adjournment It was Moved Donahue and Seconded Rawls to adjourn the meeting at 8:30 p.m. Vote: 5 – 0.

The Board reserves the right to add items to the agenda and to take agenda items out of order.