

**BRUNSWICK PLANNING BOARD
MAY 21, 2013**

MEMBERS PRESENT PLANNING BOARD: Chair Charlie Frizzle, Vice Chair Margaret Wilson, Bill Dana, Dale King, Richard Visser and Steve Walker

STAFF PRESENT: Anna Breinich, Jeremy Doxsee

A meeting of the Brunswick Planning Board was held on Tuesday, May 21, 2013 at the Municipal Meeting Facility at Brunswick Station, 16 Station Ave. Chair Charlie Frizzle called the meeting to order at 7:00 P.M.

Public Hearing: The Board will hold a public hearing to hear public comment and take action regarding the following:

- a. A proposed zoning amendment to revise in its entirety Section 216, Village Review Zone (VRZ Overlay District) of the Town of Brunswick Zoning Ordinance. Proposed revisions include:
 - i. General reformatting and revisions to the entire Section 216;
 - ii. Establishing a classification-based review system for contributing and noncontributing resources within the VRZ; and
 - iii. Establishing the basis for a minor and major activity and their applicable review processes for new construction, additions, alterations, relocation and demolition of existing structures.
- b. A proposed amendment to the Town of Brunswick Zoning Map, expanding the geographic boundaries of the Village Review Zone as recommended in the Town's adopted 2008 Comprehensive Plan Update, map attached.

Anna Breinich began by reviewing what the Town Council had asked, at their October 2012 meeting adding: that the Planning Board draft an amendment to Section 216 of the Brunswick Zoning Ordinance pertaining to demolitions in the Village Review Zone. Anna stated that at that time, Charlie Frizzle asked that Council consider an interim approach which is what the Village Review Board has been working under since late November, 2012, with the understanding that a more comprehensive amendment to Section 216 could be completed by June 1, 2013. Anna stated that there have been several joint workshops between the Planning Board and the Village Review Board. Anna stated that in the workshops they discussed different review criteria and the language was drafted from these comments. Anna reviewed some of the major changes including:

- Establishment of a classification based review system; contributing and non-contributing
- Addition of definition key terms
- 90 day waiting period on contributing structures with an optional 90 day delay period on non-contributing based on location and other factors
- Non-contributing structures not visible from a public right-of-way would not require a Certificate of Appropriateness for demolition or relocation.
- Establishment of Major and Minor Activities.
- Changes in the Review Standards for all activities.

- Map included in packet that highlights the expansion of the VRZ is taken from the 2008 Comprehensive Plan

Anna Breinich reviewed the comments made by Attorney Pat Scully and stated that Section 216.4.a needs to include a list of contributing resources within the district and any that are considered significant listed as an appendix.

Margaret Wilson stated that for clarification on page 82, Subsection b, they should state that the 90 day delay period starts after the application is found complete. On page 84, Section 216.9.B.F.4 Margaret suggested that should read that any energy source should be screened unless it interferes with the system. Margaret asked when Section 216.9.D.1.b was added; Anna Breinich replied that it comes from the existing ordinance language and noted that it was not included in the last draft, but was in an earlier draft. Margaret asked if the Board still wants to include this as the Town does not have a maintenance ordinance. Charlie Frizzle stated that he would like to table the discussion until after the public hearing.

Chair Charlie Frizzle opened the meeting to public hearing.

David Chittim, owner of 11 Potter Street, stated that he moved to Brunswick 63 years ago and lived in the Chamberlain House. Mr. Chittim stated that he and his wife own 11 Potter Street which was built sometime between 1844 and 1849 by William M. Corbett and has had 16 distinct owners over the past 160-odd years. Mr. Chittim stated that he has personally known every owner and resident since 1949. For example, Bill Root bought the house at auction from Bowdoin College for \$7,600 on August 10, 1950 and he moved in 30 days later. Mr. Chittim stated that the history behind the house given is to exemplify that he is not lacking in interest in or appreciation of the past, nor are the general goals of the Village Review Ordinance inimical to our own, but stated that it is the particulars that trouble him. Mr. Chittim stated that even though he may agree with the opinions of the Boards, he will resist the right of imposition.

Mr. Chittim stated that the section of the Ordinance of particular and personal interest is the 5-year plan. He stated that he does not intend to step on toes, but noted that he has been in the position of drafting ordinances and policies many times in his career and he recognize the difficulty of writing ordinances while being specific and broad in coverage. Mr. Chittim stated that the Comprehensive Plan speaks of expanding VRZ to the Chamberlain Museum; the proposed expansion exceeds that by adding 25 additional properties. Mr. Chittim stated that public notice of this expansion may have been provided, but he was not aware of any. Mr. Chittim stated that the February 12 joint meeting minutes talk about expanding zone to Noble Street, but noted that the May 7 meeting minutes do not talk of expansion.

Mr. Chittim stated that:

- Section 216.1.A, Purpose, the architectural context for Potter Street and other neighborhoods has not yet been developed in the Design Guidelines

- Section 216.3.B, Village Review Board Membership, states that only one member is required to live within the zone and asked if residents of Topsham, West Bath and Harpswell should have positions on the Brunswick Planning Board since they are all in Sagadahoc County. Mr. Chittim noted that legally the VRB is composed of seven members, but at this time there are only four incumbents and asked what happens to a project if there is no quorum and how can the timetable in the ordinance be honored?
- Section 216.4, Classifications, contributing resource is defined later in the ordinance, but that definition may or may not be overridden by the classification section. Mr. Chittim asked if a structure is not a contributing resource by definition, is it then forced into the classification by virtue of being eligible for listing?
 - Section 216.4.A.2, refers to eligible properties. Mr. Chittim stated that MHPC maintains a database of properties eligible for this listing and asked if this section refers to properties currently on that list or to properties that may be listed after a request by the Town? Process can take up to a month.
 - Section 216.4.A, 3 and 4 define a contributing resource as a contributing resource and both are redundant.
 - Item B breaks a cardinal rule of lexicography by defining a word with itself.
- Section 216.5, Certificate of Appropriateness, Mr. Chittim stated that he recently replaced a leaking asphalt roof, visible from Page Street with a metal roof and noted that this activity did not require a building permit, but it would require a Certificate of Appropriateness issued by the Village Review Board, not by the Director. Mr. Chittim stated that he and his neighbor erected a fence with no involvement from the Town. He has removed and replaced a front walk with no Town involvement and pointed out that all of these activities would require review by either staff or the VRB.

Mr. Chittim asked if a Certificate of Appropriateness was ever issued for the building that burned at the corner of Mason and Maine as Sub-section C requires it.

- Section 216.7, Application for Certificate of Appropriateness, the Application form for a COA indicates that the applicant shall submit the historic building survey, but the code says that staff will do so. Copies of the surveys are already in the Town's possession.
 - Section E requires interior and exterior photographs. Mr. Chittim stated that he finds this particularly intrusive.
- Section 216.8.B.2.b.4, Application Review Process allows the board to require peer review at a cost to the applicant. Mr. Chittim stated that many applicants are not for-profit developers and stated that this might be appropriate in the case of a commercial project, but is an onerous imposition on a homeowner.
 - 216.8.B.2.c.1.a.ii refers to *the* 30-day appeal period. Mr. Chittim stated that this is an appeal of a staff decision to the board, and is not applicable to major projects. Mr. Chittim asked if this is another 30-day appeal period unmentioned elsewhere in the ordinance.

- Section 216.12, Definitions, the definition of “Contributing Resource of Local or Regional Significance” and “Project of Special Public Merit” are nowhere used in the Zoning Ordinance or the revision of Section 216 and asked why define it?

Katherine Ferdinand, of Bowdoin College, reviewed and read aloud her Memo to Anna Breinich dated May 20, 2013.

1. 216.6 Limitation on Granting of Other Permits - page 79

If project review by two separate boards is required, concurrent review will increase the efficiency of the review process and reduce costs to the applicant of preparing for duplicative reviews.

Recommendation: Amend the second sentence to read: “Where an application requires both a Certificate of Appropriateness and Development Review, the applications ~~may be~~ *shall be* concurrently reviewed.”

2. 216.8 B.2.c.(1)(a)i. Additional Processing Requirements for Relocation and Demolition Activities: General – page 82

The statement “Demolition or relocation of contributing resources within the Village Review Zone should be avoided whenever possible” appears to be a statement of intent versus a processing requirement.

Recommendation: Consider moving the statement to the introduction.

3. 216.8 B.2.c (1) (b) ii. 1 and 2 Additional Processing Requirements for Relocation and Demolition Activities: Review Process - page 82-83

As drafted, an applicant is required to consult with the VRB, Maine Preservation and “other civic and preservation organizations”. We believe that there should be a choice by the applicant. In addition, there could be a conflict in consulting with the VRB because it is the decision-making body.

Recommendation: Amend language as follows: “1. Consult with Village Review Board, and Maine Preservation, Maine Historic Preservation Office, or other civic and preservation organizations.”

Similarly, the proposed ordinance in section 2 requires that notice of the proposed demolition be sent to “other civic organizations”. This requirement seems overly broad, is unclear and gives the applicant no guidance as to how to meet the requirement.

Recommendation: Omit the requirement that notice be sent to other civic organizations or make it optional, “and may be sent to other civic organizations”.

4. 216.9 D.1.b. Review Standards - page 85

To objectively determine economic feasibility for restoration, renovation or rehabilitation the applicant and the VRB must consider the costs associated with the restoration/rehabilitation and the estimated real estate value assuming the restoration/rehabilitation occurred. Additionally, costs associated with demolition must be considered for comparison. In the most recent draft, the standard limits the VRB’s review to the opinion of a professional experienced in historical rehabilitation. This limitation may reduce the efficacy of the standard because professionals experienced in historic rehabilitation may not be qualified to give an opinion of market value of real estate, or costs of demolition. Determining economic feasibility may require more than one professional opinion.

Recommendation: Replace the last sentence of this section with: “Opinions shall be provided from an architect, developer, real estate consultant, or appraiser and from a professional experienced in historic rehabilitation, as to the economic feasibility for restoration, renovation, or rehabilitation of the contributing resource versus demolition or relocation of same.”

5. 216.12 Definitions - page 86

We could not find a definition for the term “person of standing” in the ordinance and suggest including a definition of this term to the list in this section.

Thank you for your consideration of these comments.

Emily Swan, Chair of the Village Review Board, in response to Margaret Wilson’s question on whether to keep Section 216.9.D.1.b, stated that the joint Boards did discuss at length about the condition of properties and demolition by neglect. Emily stated that the Village Review Board enjoyed working with the Planning Board and that she is pleased with what is in front of the Planning Board. Emily replying to David Chittim’s comments of photo documentation, that when the Town loses a structure which has been deemed a contributing structure, you want to be able to show what was once there. Emily stated that photo documentation is preserving history. Emily replied that in terms of process, the VRZ process is usually quick, doesn’t require much or excessive materials, but stated that the new process is streamlined and more efficient and useful.

Chair Charlie Frizzle closed the public comment period.

Margaret Wilson, in addressing David Chittim's question about whether or not a Certificate of Appropriateness (COA) was issued for the building that was damaged by fire and once stood at the corner of Maine and Mason Street; Margaret stated that the permit almost seems unnecessary. Anna Breinich replied that she did discuss this section with the Codes Enforcement Officer and the Town Attorney and both agreed that the process does work and noted that there was a Certificate of Appropriateness issued for Mason Street and also for the Brunswick Universalist Church and the house on Oak Street. Margaret asked why and Charlie Frizzle replied that in the case of the church, it was not totally demolished. Margaret replied that it seems silly to make an applicant with a completely demolished building to come back for a certificate within 30 days; members agreed that a completely demolished building should not require a COA.

Charlie Frizzle, in response to David Chittim's comments pertaining to the definition of contributing versus non-contributing, asked staff if they were going to revise the definitions to reflect what the Historic Preservation uses. Anna Breinich replied yes and stated that Kurt Mooney has reviewed this Section of the ordinance.

Richard Visser stated that the charges by Bowdoin College seem reasonable. Charlie Frizzle replied that he disagrees with the first one requiring that there be parallel application review because some applicants prefer a step by step review. Margaret Wilson agreed and stated that the option should be available but not required. Charlie asked Anna Breinich if she had any concerns with respect to the recommendations that Bowdoin is making. Anna replied in the consultation, there could be a conflict with the VRB because it is a decision making body. Anna stated that any applicant can ask for a consultation before a Board, prior to submittal, and is meant as assistance to the applicant and nothing more than that. Anna stated that regarding definition for "persons with standing" is also a change the Town Attorney had asked for.

Charlie Frizzle asked how members felt about Margaret Wilson's earlier suggestion to generalize rooftop screening. Anna Breinich replied that it is not only energy producing devices and asked if they could just put energy devices in the list.

Margaret Wilson, referencing Section 216.9.a (page 83), asked if the wording could be changed from "additional guidance available" to "additional non-binding guidance available". Anna Breinich replied that the Town Attorney suggested "In meeting the standards of this ordinance applicant can obtain additional guidance from the US Secretary of Interior Standards and the Village Review Zone Design Guidelines." Margaret asked that the word "can" be changed to "may".

Margaret Wilson asked, in terms of process, in contributing versus non-contributing, if there a difference in something requiring a Major or Minor Review; the ordinance needs to reflect this. Anna Breinich replied that "it was felt that Major Reviews, and this was where it comes into play the contributing versus non-contributing resources visible from a public right-of-way, that those resources would be considered" Major Review. If it was something on the building such as a change/renovation and it was not visible but still contributing or non-contributing and wasn't visible from a public right-of-way, then it would be a Minor Review; this is codifying what the Board has been doing. Anna stated that when it comes to demolition and relocation that is where

the contributing and non-contributing being visible from a public right-of-way comes into play more. Emily Swan replied that Minor Review does not only involve changes that are not visible from a public right-of-way, but replacement of existing exterior siding, windows or doors which do not alter historical character which can be visible from the public right-of-way. Emily stated that this comprises a huge portion of what the Planning Staff reviews right now.

Steve Walker suggested using the word structure instead of building. Anna Breinich replied that there is a difference, but that she will need to confirm the wording. Anna stated that they do not have a definition for structure and this would be a good time to add one. Steve replied that if a wrought iron fence is truly not a structure then using the word *object* will capture this; Anna agreed that using object would capture the fence but using the definition that is in the National Registry. David Chittim stated that he objects and stated that a fence is a structure by definition of the code. Mr. Chittim added that a mailbox, sidewalk, house, barn and a weathercock are structures, but noted that Codes Enforcement may have a distinction that is not shared with the public.

Charlie Frizzle stated that he was comfortable allowing Planning Staff to incorporate the changes suggested into the draft amendment and move forward to Town Council; Margaret Wilson agreed. Richard Visser suggested that the Chair and Vice Chair review Anna's changes prior to submittal to Town Council.

Motion by Bill Dana to recommend this ordinance change, as modified at the 5/21/13 meeting, and including the Village Review Zone expansion, to town council. Seconded by Dale King, approved unanimously.

Other

- Anna Breinich stated that an anaerobic digest project for Final and Sketch review will be coming to the Board.

Minutes

Motion by Richard Visser to approve the minutes of 2/12/13. Seconded by Margaret Wilson, approved unanimously among those present.

Adjourned

This meeting was adjourned at 8:25 P.M.

Attest



Tonya D. Jenusaitis
Recording Secretary