

**BRUNSWICK PLANNING BOARD
MAY 27, 2014**

MEMBERS PRESENT: Chair Charlie Frizzle, Vice Chair Margaret Wilson, Dann Lewis, Richard Visser, Dale King, Bill Dana, and Soxna Dice

MEMBERS ABSENT: None

A meeting of the Brunswick Planning Board was held on Tuesday, May 27, 2014 in Council Chambers, 1st Floor, 85 Union Street. Chair Charlie Frizzle called the meeting to order at 7:00 P.M.

Zoning Amendment Public Hearing:

Jeremy Doxsee, Town Planner, explained that the purpose of this hearing is to remedy concerns that our current Political Sign Ordinance is unconstitutional and violates free speech with regards to the length of time signs are allowed on private property. A request for a legal opinion was submitted to the Town Attorney, Steven Langsford, and his opinion was submitted to Councilor Benet Pols in a letter dated April 28, 2014. Based on a review of prior case law it is his opinion that the Ordinance is in fact unconstitutional and recommends the town should not limit the amount of time a sign can be displayed on private property. Zoning Amendments go to Planning Board, they hold a Public Hearing, and then the item goes back to Town Council to hold their own Public Hearing. Jeremy Doxsee read the current language and proposed language. The proposed language reads (in the 2nd sentence) “Political Campaign Signs are permitted on private property and shall be limited to 8 (eight) square feet in size.” Any reference to time duration has been taken out.

Chairman Charlie Frizzle asked the Board if they had any questions, there being none, he opened up the hearing for public comments.

Michelle Small, resident of 34 Stanwood St., identified herself as the resident who brought this to the attention of the Council and cited previous court decisions that addressed this issue. Ms. Small indicated that she is a strong supporter of the 1st Amendment but does feel that there should be a time limit for political signs following an election. Based on other similar cases it has been found that several courts have ruled that a ten day time limit for taking down signs following an election is within the constitutional bounds.

Chairman Charlie Frizzle asked if there were any additional comments from the public, hearing none, the public hearing was closed. Charlie then asked the Board if they had any questions pertaining to this amendment. Vice Chair Margaret Wilson asked Codes Officer, Jeffrey Hutchinson, if the word “temporary” caused any issues with enforcing the sign ordinance and if more or less guidance is needed to assist with the enforceability of the ordinance. Vice Chair Wilson and Richard Visser asked about a specific time frame rather than using the word

“temporary”. This was discussed. Jeffrey indicated that there have not been issues regarding temporary sign enforcement. Chairman Frizzle explained that the next step in the process is for a recommendation to be forwarded to the council for their public hearing. As part of the recommendation the Planning Board would like to suggest to the Council a timeframe of 10 days from the date of the Election for removal.

MOTION BY RICHARD VISSER TO MOVE THE LANGUAGE AS PRESENTED TO THE BOARD. SECONDED BY DALE KING, APPROVED UNANIMOUSLY.

MOTION BY MARGARET WILSON TO MAKE A SUGGESTION TO THE TOWN COUNCIL THAT THEY CONSIDER A TERMINATION TIME PERIOD OF 10 DAYS FOLLOWING THE ELECTION FOR THESE SIGNS. SECONDED BY BILL DANA, ALL IN FAVOR WITH THE EXCEPTION OF SOXNA DICE.

Public Hearing, Case # 14-003 – Coastal Enterprises Inc., Professional Office Building:
The Planning Board will hold a Public Hearing and take action on a Major Development Review Final Site Plan application submitted by Coastal Enterprises, Inc., regarding their proposal to redevelop the lots located at 28-30 Federal Street, including construction of a two-story 10,800 s.f. footprint (net 20,775 s.f.) professional office building with associated site improvements. (Assessor’s Map U13, Lots 149 & 150, in the Town Center 1 (TC1) Zoning District.)

Jeremy Doxsee introduced the project and reviewed the application process and steps taken to date. Jeremy stated that this project has been looked at by various professionals, as well as town staff, and they feel this application has been thoroughly vetted. Jeremy gave the applicant an opportunity to give an overview of the project and answer any questions the board may have. David Latulip from Priority Real Estate Group gave an overview of issues that were raised at the neighborhood meetings and how concerns were addressed with regard to appearance and tying the new building in with the neighborhood. An effort was made to meet all the requirements of the Village Review Board without a request for any variances or waivers. David then introduced Will Conway to explain the changes to the plan that have occurred since the Board last reviewed the plan. The only major change to the structure is the addition of a public entrance on Federal Street. Will explained the neighborhood benefits this project brings, such as improving the streetscape with additional street trees, creating a sidewalk that connects Federal St to the public parking area and the addition of a crosswalk on Federal St. for pedestrian connectivity, and it has been agreed to by Coastal Enterprises Inc. that during off hours, evenings and weekend hours the parking will be available to complement the adjacent municipal lot.

Jeremy Doxsee pointed out a discrepancy in square footage that was found in the storm water narrative; the actual square footage for the first floor is 10,800 ft and the total increase in the impervious area is 3.8%.

Margaret Wilson asked for clarification regarding the non-conformity issue that the Village Review Board addressed. Anna Briench, Director of Planning and Development, explained that during a review of the finding of facts and as a condition of approval we were requested to talk with the town attorney to get his opinion on the reading of the non-conformity section relating to the side yard parking applied. Basically the parking lot is considered a structure and because of the ordinance language itself Section 216.9.B.1.f(1) in cases where parking configurations already exist, and this being an existing parking configuration, that a parking area shall be screened from the public right of way with landscaping or fencing. Our Attorney agreed that is the case and we were able to interpret that the current parking can be rehabilitated with necessary screening per the ordinance even though the principal structure will be new construction. Rehabilitation of the parking area is allowed because the areas already exist and are structures.

Charlie Frizzle, Chairman, asked if anyone else on the Board had any questions or comments; there being none, he opened the public hearing.

Jane Millett, resident of 10 Franklin Street and Town Councilor of District 6, asked for better clarification on the discrepancy in the square footage of the building. Jeremy explained this issue. Another area of concern that she feels needs to be addressed is the contradiction of new construction in-fill occurring without having to conform to either the Maine Historic Preservation or the National Preservation District. Another contradiction that needs to be addressed is the inconsistency between our Village Review Board and the Maine Historic Preservation guidelines.

Cory Theberge, 13 Federal St, wanted to make sure the building was quiet.

Chairman Charlie Frizzle asked if there was anyone else who wished to comment, hearing none, he closed the public hearing portion of the meeting.

MOTION BY BILL DANA THAT THE BOARD DEEMS THE APPLICATION TO BE COMPLETE. SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY.

Charlie Frizzle asked if there were any comments on the draft finding of facts as presented; the board had no comment but Charlie asked staff to make a clarification to one of the conditions of approval, so there were no questions in the future.

Ben Walter, CWS architect, discussed the architectural style, elevations, and materials and how it related to Federal St. styles.

MOTION BY DALE KING THAT THE MAJOR DEVELOPMENT REVIEW IS APPROVED WITH THE FOLLOWING CONDITIONS. SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY.

1. That the Board's review and approval does hereby refer to these finding of facts, the plans and materials submitted by the applicant and the written and oral comments of the applicant, its representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval are otherwise approved by the Director of Planning and Development as a minor modification shall require review and approval in accordance with the Brunswick Zoning Ordinance.
2. Prior to issuance of a building permit the Town Arborist shall approve the landscaping plan.
3. Prior to issuance of a building permit the Town Engineer shall approve the storm water utility access and maintenance agreement.
4. Prior to the issuance of a building permit the Town Engineer shall approve the lighting plan.

Public Hearing: Case # 14-015 – Bowdoin College Solar Array Facility: The Board will hold a Public Hearing and take action on a Minor Development Review application and a Special Permit application submitted by SolarCity on behalf of Bowdoin College, for installation of a 655 Kilowatt solar photovoltaic system and 200' gravel access drive, on land that was formerly part of the Brunswick Naval Air Station and was conveyed to the College; located in the College Use / Town Conservation (CU/TC) Zoning District Assessor's Map 40, Lot 90.

Jeremy Doxsee introduced the applicant and explained that SolarCity is a nation-wide developer of Solar Projects. This project requires Minor Development Review from the Planning Board and a Special Permit. Typically Minor Development Review is handled by the Staff Review Committee but in this instance, because a Special Permit is required, past practice has been to bring both applications before the Planning Board for consideration. The Staff Review Committee has reviewed and commented on both. It is the request for a 230 ft long by 10 ft wide gravel access road that is generating the need for Minor Development Review. The Zoning Ordinance considers a gravel road or driveway an impervious surface and any project with more than 2,000 sq. ft. requires minor development review. It is also an unclassified use in our Zoning Ordinance which requires a Special Permit. This would be the largest private solar array in Maine with a total of 60,000 sq. ft. Jeremy introduced Matt Gitt, project manager, from SolarCity to give a more descriptive overview of the project and answer any questions. Matt gave a slide presentation on the site location, method of installation and the actual appearance of the installation once it is complete, and the construction timeline, with the plan to be operational by August. Dale King received confirmation that there would be minimal site work needed for this project and no trees would be removed. Margaret Wilson requested more information regarding safety issues. Matt explained that the site would have a 6 ft. fence surrounding the project, part of which is already in place as part of the air station. The safety concern of trespassing is the same as with any other electrical service. The electrical plans were discussed in detail. Dale King asked about signage and Matt indicated there would be high voltage

warning signs posted. Margaret asked Jeremy for clarification with regards to the storm water management plan and if it has been reviewed by the Town Engineer. Charlie Frizzle asked that it be noted on the record that the plan has been reviewed by the Town Engineer and found to be satisfactory.

Chairman Charlie Frizzle explained that a public hearing needs to be held for the Special Permit Application and opened the meeting for public comment, there being none, he closed the public hearing.

The Special Permit will be taken up first since without an approved permit, no work can take place.

MOTION BY SOXNA DICE THAT THE SPECIAL PERMIT APPLICATION IS DEEMED COMPLETE, SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY.

MOTION BY BILL DANA THAT THE SPECIAL PERMIT APPLICATION IS APPROVED WITH THE FOLLOWING CONDITION, SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY.

1. That the Board's review and approval does hereby refer to these finding of facts, the plans and materials submitted by the applicant and the written and oral comments of the applicant, its representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved special permit not called for in these conditions of approval or otherwise approved by the Director of Planning and Development as a minor modification shall require review and approval in accordance with the Brunswick Zoning Ordinance.

MOTION BY MARGARET WILSON THAT THE MINOR SITE PLAN APPLICATION IS DEEMED COMPLETE. SECONDED BY DALE KING, APPROVED UNANIMOUSLY.

MOTION BY DANN LEWIS THAT THE SPECIAL PERMIT APPLICATION IS APPROVED WITH THE FOLLOWING CONDITION, SECONDED BY RICHARD VISSER, APPROVED UNANIMOUSLY.

1. That the Board's review and approval does hereby refer to these finding of facts, the plans and materials submitted by the applicant and the written and oral comments of the applicant, its representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval are otherwise approved by the Director of Planning and Development as a minor modification shall require review and approval in accordance with the Brunswick Zoning Ordinance.

Case # 14-016 – Tao Yuan Expansion: The Board will review and take action on a Combined Sketch/Final Major Review Site Plan Amendment application submitted by Cecile Stadler of Cara's Place, LLC, regarding proposed parking and traffic circulation changes; located at 22

Pleasant Street in the Town Center (TC1) Zoning District. Assessor's Map U13, Lot 052.
(Rescheduled from May 13, 2014)

Jeremy Doxsee explained that this is a site plan amendment for the Tao Yuan addition and also involves an amendment to a 2006 plan by Terrace Place Condominiums. Previously the applicant's lot and the Terrace Place Condominiums lot were one lot. There was an existing restaurant on the property with a proposal to construct condominiums behind it. Only one of the condominium buildings was constructed and the foundation for a second building was put in place but never utilized due to a downward turn in the economy. The applicant has since purchased the restaurant and the foundation of the second building in hopes of expanding the restaurant. After a few setbacks in the planning process, the applicant is requesting only a change in parking configuration at this time. Jeremy encouraged the applicant, Cecile Stadler, to come to the microphone and give any additional information or answer questions the Board may have. Cecile explained that they would like to utilize the foundation to add 6 parking spaces for employee parking and reconfigure the current parking to right angle parking which will help to improve the current parking and create better traffic circulation. Margaret Wilson asked if there were plans to improve the landscaping at the site to include some greenery. Cecile explained that with the purchase of the foundation property they now have more room to create a green area along Abbey Rd.

Charlie Frizzle indicated that this action does not require a public hearing but opened the floor for any public comment. Art Boulay, business owner at 18 Pleasant St, addressed his concern that the Planning Board has an eyesore of an unused foundation in the middle of the city and he would think that the Board would take this opportunity to require plantings to improve the view.

MOTION BY SOXNA DICE THAT THE SITE PLAN AMENDMENT APPLICATION IS DEEMED COMPLETE. SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY.

MOTION BY BILL DANA THAT THE APPLICABLE PRIOR CONDITIONS RELATED TO THIS AMENDMENT REMAIN IN EFFECT IN ADDITION TO ANY NEW CONDITIONS CONTAINED HEREIN. SECONDED BY SOXNA DICE, UNANIMOUSLY APPROVED.

MOTION BY RICHARD VISSER THAT THE AMENDED SITE PLAN IS APPROVED WITH THE FOLLOWING CONDITIONS ADDED TO PRIOR CONDITIONS CURRENTLY IN PLACE. SECONDED BY MARGARET WILSON, APPROVED UNANIMOUSLY.

1. That the Board's review and approval does hereby refer to these finding of facts, the plans and materials submitted by the applicant and the written and oral comments of the applicant, its representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval or otherwise approved by the Director of Planning and Development as a minor modification shall require review and approval in accordance with the Brunswick Zoning Ordinance.

2. Prior to the issuance of a building permit a photometric plan shall be submitted for the area in and around the foundation parking to the satisfaction of the Directors of Public Works and Planning and Development.
 - i. Specify on the plan where the existing light is proposed to be relocated.
3. Prior to the issuance of a building permit a detail for the dumpster enclosure shall be submitted in accordance with Section 216 of the Brunswick Zoning Ordinance to the satisfaction of the Director of Planning and Development.

Other Business

The Zoning Ordinance Rewrite Committee has a couple work sessions coming up to take a look at the staff level draft before it goes public. This draft is not meant to be a public document but a review to insure that the consultant has addressed all concerns that have been stated, as well as, being consistent with the comprehensive plan. The public draft will be available in mid-July.

Minutes

MOTION BY DALE KING TO APPROVE MINUTES OF THE PLANNING BOARD MEETING HELD MARCH 4, 2014 AS AMENDED, SECONDED BY SOXNA DICE. VOTE WAS UNANIMOUS AMONG THOSE PRESENT.

Adjourn

This meeting was adjourned at 8:50 P.M.