

**City of Lewiston
PLANNING BOARD MEETING
Minutes of May 27, 1997**

I. ROLL CALL

The meeting was called to order at 7:00 PM.

Members Present: H. Milliken, H. Skelton, D. Theriault, L. Zidle, M. Paradis

Members Absent: D. Jacques, T. Peters

Staff Present: J. Lysen; G. Dycio; D. Ouellette; James Andrews, Community Development; Gary Campbell, Building Inspector.

II. READING OF THE MINUTES OF MAY 13, 1997

MOTION: by H. Skelton, seconded by D. Theriault to accept the minutes of May 13, 1997 as written.

VOTE: Passed 4-0.

III. CORRESPONDENCE

Thank you letter dated May 21, 1997 from Estelle R. Rubinstein, Androscoggin Head Start.

MOTION: by D. Theriault, seconded by H. Skelton to accept the above correspondence.

VOTE: Passed 4-0.

(Lew Zidle came in after both votes).

IV. PUBLIC HEARING

1. Review of CDBG Consolidated Plan and Recommendation to City Council.

J. Andrews explained that there was a language change proposed for the Consolidated Plan. He said all he wanted was a recommendation from the Planning Board to the City Council who will then set it for public hearing. D. Theriault asked if the Bates Mill was included in this Plan; J. Andrews answered yes under Economic Development.

MOTION: by D. Theriault, seconded by H. Skelton to send a favorable recommendation to the City Council to accept the proposed changes made to the Consolidated Plan as submitted in City Attorney Robert Hark's memo dated May 7, 1997.

VOTE: Passed 5-0.

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2. Proposed Amendment to the Zoning and Land Use Code.

Theresa Roux, of 39 Goddard Road, submitted a petition for a proposal to amend the Zoning and Land Use Code where where additions and accessory structures for legally developed existing lots of record having less than seventy-five (75) feet of frontage would only have to meet the minimum space and bulk standards for the development of existing lots of record having less than twenty thousand (20,000) square feet of lot area, as outlined under Article XI, Section 5 of the code. Ms. Roux is in the Industrial Zone.

The Planning Staff has reviewed the proposed amendment and was generally in favor of the proposal since it allowed for a more practical setback solution for the owners of existing non-conforming residential uses in non-residential zoning districts who wish to improve their homes and surrounding property by constructing additions to their existing homes and placing accessory structures on their property.

Ms. Roux wants to erect a storage shed, but the setback in this area is 25 feet. H. Milliken asked if this would cause problems in any other zones. G. Campbell said it would predominantly affect the HB, CB, UE, Industrial and OS. H. Skelton informed Mr. Milliken that the Board had discussed this in detail at the last Planning Board meeting and the main concern was that it tended to exert pressure in the direction of less conformity in the overall zoning code rather than in the direction of more conformity. Although he said this particular situation wouldn't have a big impact one way or the other.

Theresa Roux, 39 Goddard Road, said that there was a brook in the back and on the side of the property - she said it was a gully and could not see why the Board would not allow a shed to be built on her property. She needs this for storage for her new roommate.

MOTION: by L. Zidle, seconded by M. Paradis to send a favorable recommendation to the City Council to amend the Zoning and Land Use Code where additions and accessory structures for legally-developed lots of record having less than 75 feet of frontage would only have to meet the minimum space and bulk standards for the development of existing lots of record having less than 20,000 square feet of lot area as outlined under Article XI, Section 5.

VOTE: 3-2 (H. Skelton & D. Theriault).

Note: Since the concurring vote of at least four (4) members is required to constitute an action on any matter requiring a public hearing, this vote does not constitute an action by the Board. It is, however, being forwarded to the City Council for their information.

J. Lysen asked for the two members who voted against the Motion for their reasons for the record.

H. Skelton said that this problem could be solved by renting storage. He stated he was not in favor of amending the code that affects the whole city to suite one person. D. Theriault said he agreed with H. Skelton's reasons for voting against this Motion.

J. Lysen informed Ms. Roux that the City Council will be making the final decision, that the Planning Board is only a recommending Board and that this was a "no action" because the vote was 3-2.

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VI. OTHER BUSINESS

A. New Business

1. Procedures on accepting correspondence.

D. Theriault said he wanted the Board to clarify the procedures in accepting correspondence. He suggested outlining the correspondence on the agenda so that when the Board either accepted or tabled an item, it would be easier to do so with less confusion. The Board agreed.

2. Deadline on agenda items.

The Board discussed deadlines for agenda items. D. Theriault said that he did not like items brought to him at the night of the Planning Board meeting. He felt it was not sufficient time to review it thoroughly before making a decision on the item. He asked, and other members agreed, that if the material cannot be placed in the packet on Friday before the Planning Board meeting that it not be accepted unless it was a true emergency such as something from Administration or City Council. J. Lysen explained that even if it was presented at the night of the meeting, the Board could either accept it or table it for the next meeting.

3. Summer schedule for Planning Board meetings.

It was suggested that only one meeting in July and one in August be scheduled. The tentative dates are July 22nd and August 19 and then to return to the regular schedule in September. H. Milliken asked if the Board was going to have enough time for the paper street issue with this schedule. He noted that the law goes into effect in September of this year. It was the consensus of the Board that there be a well-publicized public hearing in July which would give the Board enough time to set a vote in August. If it looks impossible to finish at that time, then there would still be enough time to schedule another meeting before the law goes into effect (George Dycio said it goes into effect at the end of September). J. Lysen said that public works is researching the easement aspects. H. Skelton asked for a list of all the subdivisions in the city and H. Milliken said he would like to see this under Old Business until it is finished.

MOTION: by H. Skelton, seconded by D. Theriault to establish a public hearing regarding paper streets scheduled for July 22, 1997 at a time to be established at the last meeting in June.

VOTE: Passed 5-0.

H. Milliken thought the City Attorney Robert Hark should be in to answer any questions the public may have regarding the law. G. Dycio suggested that the Board get something in writing from Attorney Hark.

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B. Old Business

1. Application Fees with respect to both City Council and Planning Board initiated Zoning and Land Use Code amendments.

The Planning Staff submitted the following proposed amendments to the Zoning and Land Use Code to consider with respect to application fees for proposed amendments to the Zoning and Land Use Code.

Citizen Petitions It was the Planning Staff's opinion that the majority of code amendments should be initiated by a citizens petition. In most cases, it is an individual that approaches Staff with concerns regarding standards within the code or the current zoning of their property or immediate area. The most common concerns center around an individual's desire to develop their property or establish a new use, but sometimes the code either prohibits or severely limits their proposal. In some instances, Staff is able to provide alternate solutions to their proposal where an individual may not get exactly what they asked for but are relatively satisfied that they can do something similar to what they had originally intended.

However, there are those instances where either alternatives cannot be found to facilitate an individuals proposal, or the alternatives are unacceptable to the individual. If the issue centers around allowed uses in a certain zoning district, there is usually little Staff can do for an individual who proposed a use that is not allowed in a particular zoning district. Once an individual is told what their options are, if any, Staff is usually posed a question at this point in time, such as "How do I get around this, the code, etc." or "How can I change the Code?"

The Planning Department's policy is that Staff refers all individuals to the section of the code that deals with code amendments and Staff explains the three (3) different ways that an amendment to the code is initiated. Staff also explains that as a citizen, they must submit a petition for a code amendment, as outlined in this section, and reviews the code amendment process with them, in detail. In some instances, individuals who were confused by or frustrated with the code amendment process contacted their city councilor to see what the councilor could do for them. In most cases, the councilor brought the issue to the City Council's attention where the council either initiated the code amendment on behalf of the constituent, or requested a recommendation from the Planning Board. In all instances, the council's action absolved the constituent from submitting the necessary application fees which were ultimately absorbed by the Planning Department's budget.

Therefore, Staff recommends that all proposed amendments to the Zoning and Land Use Code be initiated by a citizens petition, except for the following instances:

Errors and Oversights where the Planning Board or the Planning Staff finds that an apparent error or oversight occurred in the code and should be corrected;

Universal Application where the Planning Board or the Planning Staff finds that the proposed amendment can be applied universally throughout the city and would not be to the benefit of one individual;
or

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Comprehensive Plan where the Planning Board or Planning Staff finds that the proposal is consistent with the goals and objectives of the comprehensive plan and would have been addressed as part of the necessary changes to the code as a result of the adoption of the comp plan.

These instances would apply to any city council initiated code amendment as well. However, being the legislative body that it is, Staff can only assume that the council can, and will, do what it thinks is in the best interest of the citizens of Lewiston and the city in general, regardless of any policy that may be instituted. Staff recommends that the City Council request an opinion from the Planning Board should a constituent request his or her councilor to look into a code matter on their behalf.

It is Staff's suggestion that any proposed policy that is adopted be accepted jointly by the Planning Board and the City Council, and that the policy be inserted into the City of Lewiston's Policy Manual where it can be referred to when needed.

H. Milliken asked that the above be presented in proper format for the procedure manual and be presented to the Board at the next meeting. H. Skelton said that if the code change was because of anything in the Comprehensive Plan, then the City should absorb the fees and not the citizen. H. Milliken said he would like to see the fee schedule included in the same document as the procedures.

The Chairman Harry Milliken then asked J. Lysen about the Lowell trip. J. Lysen said the trip was more of an inspirational one and it accomplished some great contacts.

VII. ADJOURNMENT

MOTION: by D. Theriault, seconded by H. Skelton to adjourn the meeting.

VOTE: 5-0.

Meeting adjourned 8:05 PM

Respectfully submitted,

Denis Theriault
Planning Board Secretary

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