

City of Lewiston
PLANING BOARD MEETING
Minutes of December 3, 1996

I. ROLL CALL

The meeting was called to order at 7:10 P.M..

Members Present: H. Milliken, D. Theriault, D. Jacques,
M. Goulet, T. Peters,

Members Absent: L. Zidel, H. Skelton

Staff Present: G. Dycio, J. Lysen, D. Ouellette
G. Arsenaault, Gert Mynahan

II. READING OF THE MINUTES

MOTION: By Mr. Theriault, seconded by Mr. Jacques to accept the minutes of November 12, 1996.

VOTE: Passed 4 -0-1, (Mr. Peters abstained)

III. CORRESPONDENCE

MOTION: By Mr. Theriault, seconded by Mr. Goulet to accept the following two pieces of correspondence and placed on file:

- A. Letter to Jim Lysen from Andrew Choate concerning Housing component of the Comprehensive Plan.
- B. Memorandum (with revised attachments) dated November 26, 1996 from Harry Milliken to the City Council Members regarding Community Development Block Grant Survey.

Mr. Theriault asked for a clarification of the memo to the school committee from Mr. Lysen. Mr. Milliken mentioned that he and Mr. Peters attended the November 25th School Committee meeting and at the meeting requested that any correspondence to the School Board regarding the Comprehensive Plan be also directed to the Planning Board.

IV. PUBLIC HEARINGS

- A. Review of the Draft Update of Lewiston's Comprehensive Plan, specifically the following draft components: Culture & Arts, Housing, Recreation & Open Space, and Transportation.

There was no discussion on the Comprehensive Plan this evening because of the large

turnout of citizens who wanted to discuss the child care issue. The four components mentioned above along with Long Range Planning and Future Land Use will be discussed at the December 10th meeting.

IV. REVIEW OF DEVELOPMENT PROPOSALS - FINAL HEARING

Maine Department of Labor Building - Lot #12, South Park (240-246 Goddard Road)

Gary J. Hagan, of the Kinsley Pond Company, has submitted plans for a proposal to construct a 18,600 square foot, single-story wood framed office building on Lot #12 of the South Lewiston Industrial Park, off Goddard Road. The project had its Pre-Application conference at the November 12th Planning Board meeting at which time the applicant requested that the Board review the project's application for completeness. Upon review of the application, the Board determined the application complete and scheduled the project for a final hearing.

The Planning Staff has reviewed the final plans and finds that there are no major concerns, however there is one minor concern that need to be addressed. Upon review of the proposed dumpster screening, Staff finds that the proposed screening does not meet the standards set forth in the Sight Plan Review & Design Guidelines (see revised plans). The guidelines suggest a staggered row of evergreen plantings and Staff requests that the plans be revised to indicate the appropriate screening. In addition, Staff finds that, in our opinion, the proposed location of the dumpster may also require screening in front of the dumpster which can only be achieved by a stockade fence-type gate. Staff asks that the applicant address this issue and seek guidance from the Board. Otherwise, Staff is satisfied with the final plans.

Copies of the revised plans have been forwarded to the Public Works Department for their review and comments. Upon review of the plans, Public Works is satisfied and all of their concerns have been addressed.

The Planning Staff has reviewed the final plans against the Approval Criteria outlined under Article XIII, Section 4 (a-u) and finds that, in our opinion, the project meets all of the applicable criteria aside from the screening issue. Therefore, the Planning Staff recommends that the Board approve the project with the condition that the screening issue be resolved prior to signing the mylar, and that the issues raised by the Public Works Department at the Pre-Application stage be adequately addressed.

Mr. Hagan explained that he did not want to use stockade fencing and had evergreens. Mr. Milliken asked if it was the parking lot side that was not screened. Mr. Hagan answered it was. Mr. Dycio explained that this was acceptable because the dumpster was not visible from the street. Mr. Milliken then opened the discussion to the public. Mr. Ron Jean of 26 Cram Avenue, Lewiston asked how large the building was and how many stories. Mr. Milliken answered one story and 18,600 square feet.

MOTION: by Mr. Goulet, seconded by Mr. Theriault, that the application of Gary J. Hagan meets all of the approval criteria under Article XIII, Section 4 and further that the Board grant final approval of the project.

VOTE: Passed 5-0

VI . DETERMINATION OF COMPLETENESS & SCHEDULING OF HEARING

Bates College - New Academic Building (4 Andrews Road)

Philip H. Meldrum, on behalf of the President and Trustees of Bates College, has submitted plans for a proposal to demolish the present two-story Maintenance Center and construct a three-story, 90,000 square foot "L" shaped Academic Building with a daylight basement and attached atrium, for classroom and office space. The project had its Pre-Application conference at the October 22nd Planning Board meeting where the Board encouraged the applicants to proceed with the project keeping both the Board's and Staff's comments in mind.

The Planning Staff has reviewed the project's application for completeness and finds that, in our opinion, the application is substantially complete. Staff asks that the applicant submit a construction schedule indicating anticipated beginning and completion dates for the project as soon as possible so that Staff may forward a complete application to the D.E.P. for their review.

A traffic assessment, stormwater drainage calculations, and additional comments from the Fire Department have been received for Staff's review. As stated by the applicants and reiterated in the traffic assessment, the proposed academic building represents a consolidation of current activities and will not generate additional traffic. The drainage report indicates that there will be a net decrease in impervious area in the amount of 10,500 square feet which, in turn, decreases the amount of stormwater runoff. Therefore, there is no need for stormwater detention at this time. The Fire Department is requesting a wider access way along Andrews Road. This will be accomplished by constructing a structural lawn, which is essentially a wider road with a portion of it covered by lawn area. This design will maintain the visual appearance of a pedestrian walk-way while providing the Fire Department with a suitable base to support their heavy equipment.

Mr. Theriault noticed a water problem on Central Avenue and asked if this was interconnected somehow. Mr. Meldrum answered that there was a drain from the athletic field underground that drains into Lake Andrews. The problem was when dirt from the street washed into the drainage pipes and Bates had to have the City's Public Works help clean them out. Mr. Theriault asked if it was the size of the pipes - Mr. Meldrum answered no, that it was only when sand from the streets washed into the pipes that there was a problem.

Mr. Milliken asked about the extra 12 feet of lawn that was being added and asked what would happen when it snowed. Mr. Meldrum answered that there was space for fire trucks - four feet on each side would be plowed. Mr. Theriault asked if it was a compacted lawn. Mr. Meldrum said it was full grass system with extra strength for vehicles to go over.

MOTION: by Mr. Theriault, seconded by Mr. Goulet that the application of Bates College be determined to be completed and that review of the completed application would be scheduled for final hearing on December 10, 1996 at 7 PM.

VOTE: Passed 5-0

VI. OTHER BUSINESS

Child Care Services within all zoning districts.

Mr. Milliken started by saying that no action would be taken tonight and that the issue was still in the investigation process. He further explained that this was the 2nd or 3rd meeting on this issue and that the Board had received a letter from City Councilor Begert to place this issue on the City Council agenda and not to take any action. This meeting was primarily going to let the Board explore some options and to let the public have their input.

James Lysen reviewed the handouts--letter to Robert Connor, memo from Gert Mynahan, and memo and attachment from Gil Arsenault. In Mrs. Mynahan's memo, she stated that there were ten out of district students attending schools because of where their day care was located. Mr. Lysen said that based on the information provided to staff, it was the development department's opinion that the day care/school situation was not a significant issue. Mr. Lysen went on that currently, day cares are allowed in every zone in the city in one form or another. Mr. Lysen then discussed whether the City should change the licensing of day care or impose density requirements and whether the day cares currently open would be grandfathered. Mr. Lysen feels licensing changes are a way to avoid potential problems. Mr. Arsenault's memo in option 1 states that one of the care givers is to live at the dwelling where the day care is being operated. Staff felt that there should be added language that stated "or within a dwelling unit that had direct interior access." The Board in their ruling felt it should be in the same home, not necessarily an adjoining building. Staff created language in one option that allowed someone with perhaps a two-family unit which had direct access from that unit to another unit that provided day care be allowed to operate under the new licensing.

Earlier changes to day care regulations did not permit home child care in places where zoning does not permit residential uses like in the highway, business, or industrial zones. However, Mr. Lysen did not that there may be areas where there are existing non-conforming houses that could provide adequate day care. Then obviously, in the licensing review, it could be determined if the house meets licensing requirements regardless of what the zoning is.

Mr. Lysen pointed out on a map provided by staff on the number of day cares in the Pettengill School area and Bates College area. He then noted on a larger map that the day care centers were located where most of the population was, which made sense for the parents and providers. Mr. Lysen further explained that if the City made it a criteria for a certain distance to be between day cares it might not be in the best interest of the community. He also explained that it was the department's opinion that density was not a problem at this time, but rather that over commercialization of day cares should be looked into so that the neighborhoods could be protected for potential adverse impact.

Mr. Peters still had some concerns that day cares had an impact on schools and asked the public to

voice their opinions. Mr. Lysen answered that, in staff's opinion, the issues were that the City did not require care givers to live in the unit as required in the Board of Appeals interpretation of what constitutes "in conjunction with a residential use," and the possibility of over commercialization.

Mr. Milliken opened the floor to the public at which time Jamie Bolduc, owner of Lever's Day Care in Lewiston spoke. She stated that there was definitely a supply and demand issue with day cares. She said that she did not have any opening at this time and said that if she was forced to close at this time that sixty children would have no place to go. She takes the children to Farwell, McMahon as well as Pettengill. She also made a point that day cares are not a resellable business. She informed the Board that she has met code four times. Ms. Bolduc stated that her day cares provided a home atmosphere and can only take in twelve children per unit. She felt that noise was not a problem in any of her day cares. She strongly urged the Board to consider grandfathering her day cares if new licensing rules were passed. She also stated that her day cares did not look like a commercial business in a neighborhood and fit very nicely into the neighborhood because they remained looking like single family homes.

Mr. Peters asked if any neighbors called with complaints. Ms. Bolduc replied that she had a petition signed by the neighbors of Marble Street stating that noise was not a problem in their neighborhood because of Ms. Bolduc's day cares. Mr. Peters asked if she had any other petitions from the other streets and Ms. Bolduc replied no. Ms. Bolduc also stated that she had expanded a driveway at one of her day cares to alleviate a parking problem in the neighborhood.

Mr. Peters asked if she believed people were placing children in her day care because of where it was located and if they could attend a particular school. Ms. Bolduc answered that she always told parents that children in her day care unit could not attend schools in her district and that they were to get in touch with the the School Department. Mr. Peters explained that his concern was that if another day care opened in the same area, that Pettengill School would be a "drawing card" for the day care and that the school department had in fact approved 200 out of district placements throughout the city. Ms. Bolduc replied that she did not open her day care in that area because of the school, but it was where she grew up.

Mary Lahey of 41 Googin Street spoke next. She stated that she lives next door to a day care (not owned by Jamie Bolduc) and that it was a constant source of problems for her. She was upset that the neighbors are not notified that a day care was coming into the neighborhood and that her peace and quiet had been greatly disturbed because of the day care. She said she had nothing against day cares but felt she had a right to a peaceful private life also. She stated that she is instead forced to listen to kids screaming from 8 AM to 5 PM every day. There is no fence in the back or on Googin Street. The day care has been sited five times, but the problems are still not rectified. She also complained about the increase in traffic from parents dropping off their children as well as about children not being supervised properly. She stated that she almost ran over a child while backing out of her own driveway one day. She informed the Board that she felt the problems were noise, traffic and density and that something should be done about them.

Mr. Milliken asked what she meant by density and Mrs. Lahey answered cars, traffic, and school buses.

She said that the new road was all "torn up" because of the increase in traffic. Mr. Peters pointed out that Ms. Bolduc was not the owner of the property Mrs. Lahey was complaining about and asked if this issue was at the Board of Appeals. Gil Arsenault answered that it was not., but that as a result of Mrs. Lahey's concern that several licensing changes were initiated regarding fencing, etc.

Mr. Peters again asked if the Board reviewed fencing at some earlier time. Mr. Arsenault could not recall.

The next speaker was Anna Faucher, 171 Pettengill Street. She stated that she was never notified of a day care coming into her neighborhood. Mr. Theriault asked if she had had any problems, concerns or complaints regarding the day care. Mrs. Faucher answered no but was concerned about the "density thing" - how many business in the area. Mr. Theriault again asked if this had any impact on her personally and she answered no.

Gary Travaglini of 21 Rejean Avenue spoke and said that his children have been going to Ms. Bolduc's day care for the past five years. He explained how difficult it was to find a good reliable day care and stressed that quality was the most important asset in a day care. It was his opinion that Ms. Bolduc had one of the best day cares in the city. He said he was comforted by the fact that sometimes his children like it so well at her day care that they did not want to even come home. Mr. Theriault said that he didn't think the issue was the quality of the day care but rather noise and potential safety hazards. He added that residential areas have a certain amount of protection as far as quiet usage and that when more day cares pop up that noise and safety should be addressed.

Mr. Peters asked that a two page letter from Lydia Howes praising Jamie Bolduc's day care be placed on record. Mr. Peters again asked for clarification as to what the problem was that perhaps maybe the whole code did not need to be changed but that the Board could simply make recommendations to the City Council, provide notes and then the Council can make their determination.

City Councilor Frank Kelley said that this issue did not go before the Board of Appeals and that Mrs. Lahey had appeared before the Council. From there a neighborhood meeting was set up where 25-30 people attended. Day cares and other issues were discussed at that meeting. It came before the Council to have the regulations looked at and revised because more day cares were being built up and there was an issue of peaceful co-existence between day cares and surrounding home owners. He suggested that the day cares in existence today be grandfathered by any new licensing requirements.

Mr. Peters stated that even if the code was changed that the day care causing Mrs. Lahey's problems would not be addressed since the day care causing her concerns is a home child care facility, limited to six (6) children and two (2) after school. He further added that if these day cares were not making an impact on the schools, then this was not the problem with day cares in the City. Mr. Kelley said that commercialization was what had to be addressed.

City Councilor Joyce Bilodeau added that the City Council in December had done some dramatic revisions to day care. She also stated that Jeannine Blow had visited the day cares to ensure the violations would be cleared up.

Oscar Hartford of 88 Marble Street said that he lives directly across the street from Ms. Bolduc's day care and has no complaints about the noise or safety issues. He noted that she always watches for traffic and it was his opinion that there was no safer place for the children to be.

Jill Mackey of 414 College Street said she had children at Ms. Bolduc's day care. She said she chose that location for her children because she not only does she live in the neighborhood, but she works at Bates College and can walk to school; therefore, she does not add to the traffic congestion. For her, location of the day care was an issue.

Laurie Danforth who lives at 122 Wellman Street asked if the Board had gathered facts or statistics related to a) how many day care centers are there within this district that was being discussed; b) how many slots are open in those existing day care; and c) how many families in that area have children who use day care--additionally, how many students are there at Pettengill School that require day care. She volunteered her services to the Board to gather this information and would have it ready by the 1st of the year.

Laura Gagnon added her comments that she chose Ms. Bolduc's day care because it was convenient to her work place at Bates College and that she also liked the family feel and that it was not institutionalized.

Karen McArthur of College Street also has a child that goes to Ms. Bolduc's day care; she also chose that particular day care because it allows her to walk back and forth to work at Bates College.

Sandra Pettit also has a daughter at Ms. Bolduc's day care. She added the comment that there are eighteen employees at various day cares that provide loving care for her daughter and other children and urged that should the Board change the licensing requirements that Ms. Bolduc's day cares be grandfathered.

Mr. Hartford spoke again regarding traffic. His comments were that Bates College has grown and that more college students drove around; there were more parents driving their children to school daily (at Pettengill) and suggested that some of the traffic created in the Pettengill area was not due to the day care, but rather from Bates College and the school itself.

Mr. Milliken then threw out some ideas to ponder regarding interpretation of existing code; opening multiple units - if this was the intent of the existing code. The bulk of the problems seem to be with licensing requirements, fencing, notification to neighborhood; do we restrict the number of day cares on the street. Mr. Milliken noted that Ms. Bolduc does a very fine job, but that the Board had to take a look at the whole City.

Mr. Peters also commented that these particular day cares met code and thought that they should be grandfathered...he would not recommend changing the code. He voiced a concern about people choosing day cares because of their location for the schools they want their children to be enrolled in.

MOTION: Mr. Goulet, seconded by Mr. Jacques to table this issue until the January 14, 1997 meeting, after receiving input from City Council.

VOTE: Passed 5-0

Mr. Milliken instructed staff and board members to make no comments to the press at this time regarding this issue. Once the minutes are approved then they could be release to the press.

B. Comprehensive Plan

Because of the late time, the Comp Plan was not discussed at this meeting but rather tabled until the December 10th meeting at 6 PM when the following components will be discussed:

1. Culture & Arts
2. Recreation & Open Space
3. Housing
4. Transportation
5. Future Land Use
6. Long Range Planning

VII. ADJOURNMENT

MOTION: by Mr. Peters, seconded by Mr. Theriault to adjourn at 9:45 p.m.

VOTE: Passed 5-0

Respectfully Submitted,

Marc Goulet
Secretary

