

**CITY OF LEWISTON  
PLANNING BOARD MEETING  
MINUTES for February 23, 1999 - Page 1 of 8**

**I. ROLL CALL:**

This meeting was called to order at 7:00 P.M. and chaired by Harry Milliken.

**Members in Attendance:** Rob Robbins, John Cole, Tom Peters, Harry Milliken, Lewis Zidle, Mark Paradis, and Dennis Mason.

**Staff Present:** James Lysen, Planning Director; Dan Stevenson, Planning Coordinator; Doreen Asselin, Administrative Assistant; and Gil Arsenault, Deputy Development Director.

**II. CORRESPONDENCE:** Letter from the YWCA dated 2/11/99 and written by Rita L. Dube, Director of Development and Pam Gallant, Aquatics Director concerning the zoning at their facility at 130 East Avenue.

John Cole mentioned that his firm represents the YWCA and because of this conflict of interest, he will not be able to participate in the discussion concerning this item.

**MOTION:** by Dennis Mason, seconded by Tom Peters to accept the correspondence from the YWCA and to place it on file.

**VOTED:** 6-0-1 (Cole).

Since Rita Dube, representing the YWCA, was present at this meeting, this item was discussed first under Other Business before the scheduled Public Hearings.

**IV. OTHER BUSINESS:**

A. New Business:

1. *A Request from the YWCA for the Planning Board to Initiate a Zoning Change and/or a Code Amendment, on Their Behalf, to Allow for an Expansion at Their Facility at 130 East Avenue.*

Jim Lysen's memorandum dated February 17, 1999 requested that the Planning Board initiating a zoning change and/or a code amendment on their behalf to allow for an expansion at their facility at 130 East Avenue. Currently, the YWCA is located in the Office Residential (OR) District.

The YWCA is a civic and social organization offering recreation, counseling, and childcare services. The YWCA is proposing to amend its Site Plan to construct a 35' x 35' therapeutic pool as an addition to the existing building.

Staff classifies this as a place of assembly, amusement, recreation, entertainment, or culture. The current OR District does not permit such a use. It is Staff's opinion that the YWCA should be a permitted use in this location.

The options that the Planning Board have are to either re-zone the property to a zone that permits, "places of assembly..." or to change the permitted uses within the current zoning designation to allow for "places of assembly...". The Comprehensive Plan indicates that the City should look to change the OR District to a less restrictive zone along East Avenue. However, if the IO (Institutional Office) District is considered, then the abutting Knights of Columbus would then be made a non-conforming use.

Enclosed in the packets was a map showing the existing uses along East Avenue in this area and sections of the Zoning and Land Use Code showing the permitted uses in the IO, OR, CB, and HB Districts.

This item was then opened to the public for comments. Rita Dube stated that the YWCA has numerous requests for a therapeutic pool and that they cannot accommodate the current demand. Rita Dube also stated that the funding for the pool would be self-supporting and she is looking for a couple of sponsors for exchange of services, i.e. both hospitals (CMMC and St. Mary's). The proposed addition housing the pool would be approximately 50' x 50' and would be attached to the existing building.

The YWCA is a non-conforming use, therefore cannot be expanded in an OR District. Denis Theriault, former Planning Board Member, raised some questions regarding the YWCA's affiliation as a Christian organization because Church-affiliated community purpose facilities are a permitted use in that district. However, the YWCA was determined not to meet that requirement. It is Staff's opinion that it was purely an oversight to have the YWCA classified as a non-conforming use. This meeting was then closed to the public and brought back to the board for further discussion.

Harry Milliken suggested only adding the YWCA property to the IO District to include auditoriums, therefore, not affecting the Knights of Columbus. Jim Lysen responded that the IO District should be considered, on the westerly side of East Avenue between Bartlett (Franklin Pasture) and Webster Streets.

After much discussion the Planning Board decided to initiate the necessary zoning and code amendments because analyzing the zoning in that area of East Avenue is consistent with the Comprehensive Plan recommendations.

The Board suggested that the following two (2) options be brought back to the Planning Board for a Public Hearing at their 3/9/99 meeting.

Option 1. To rezone the OR in this area to IO and to consider "Fraternal and Philanthropic organizations" as a permitted use and "Places of assembly..." as a permitted or conditional use in the IO District.

Option 2. To include "Places of assembly..." as a conditional or permitted use in the OR District.

**MOTION:** by Dennis Mason, seconded by Mark Paradis to clarify the apparent oversight in the code by initiating on behalf of the YWCA changes in the code to make their use conforming and consistent with the Comprehensive Plan.

**VOTED:** 6-0

Following this motion there was a brief discussion again as to it being classified as a Christian organization. Gil Arsenault then stated that the Board of Appeals would make that call, if it were to be classified as a similar use. Their being no further comments from both the public and the Planning Board, the following motion was then made.

**MOTION:** by Tom Peters, seconded by Dennis Mason to initiate on behalf of the YWCA the necessary amendments to make the YWCA a conforming use, including Options 1 and 2, and to schedule this item for a Public Hearing on March 9, 1999.

**VOTED:** 6-0.

John Cole then resumed his position as a Planning Board Member for all the other topics included on the agenda.

### III. PUBLIC HEARINGS:

- A. *Proposed Amendments to the Zoning and Land Use Code Concerning the Planning Board's Jurisdiction over Municipal Projects, District Regulations and Performance Standards.*

Jim Lysen read his memorandum dated February 17, 1999 which referred to the proposed amendments by City Attorney Robert Hark, clarifying the Planning

Board's authority to consider compliance with both District Regulations (Article XI) and Performance Standards (Article XII), proposed amendments to include the development of public as well as private land (Article XIII), and proposed amendments to make clear that the Board can make determinations necessary for its review of major developments (Article VII).

In reference to the proposed amendments dated 2/16/99, the following changes were made:

1. Under Article VIII. Board of Appeals, Section 4, Powers and duties. - fourth sentence, delete the words *provided that* and fifth sentence, delete the words *in reviewing a major development under Article XIII of this Code*. This sentence shall now read, "*No administrative appeal shall lie to the board of appeals from a determination of the planning board.*" This shall also be reflected in the minutes dated 2/9/99 on Page No. 3.
2. Under Article XIII. Development Review and Standards, add in the second sentence after including, "*but not limited to*".
3. Under Reason For Proposed Amendments - add to the first reason after the word jurisdiction, "*over municipal projects including space and bulk standards*", and delete the second reason.

Denis Theriault, former Planning Board Member, said that this should close all loop holes for Planning Board to review major development projects. The only appeal from the Planning Board is to go to Superior Court. Again, Denis Theriault stated that, in his opinion, the Planning Board should have review of municipal minor projects (under 5,000 SF). In his conversation he mentioned the Bates Mill project. Gil Arsenault said that the Bates Mill would be classified as a minor project as it only involves a change from one non-residential use to another and would be reviewed by the Staff Review Committee. Harry Milliken did say that the Planning Board should review changes to the Bates Mill Master Plan. Tom Peters, also a Board Member of the LMRC, stated that since the Bates Mill does not house municipal employees, it is not considered a municipal project, however, it is included in the LCIP. Currently all public development does not require review. The Bates Mill is a public development in small phases. Denis Theriault said that a private corporation would not use public funds. He feels that the LMRC should be challenged. The Planning Board will be reviewing the Bates Mill Master Plan. Harry Milliken mentioned that Greg Mitchell needs to be directed as to finalizing the procedures on acquisition/disposition of municipal property.

Harry Milliken mentioned that another Board Member is needed to replace Denis Theriault on the Committee dealing with jurisdictional issues. It was agreed that John Cole would be the replacement.

Jim Lysen stated that minor projects are reviewed like major projects and still require input from Fire, Police, and Public Works Departments. The LCIP and all municipal property acquisition/dispositions require Planning Board review. The Planning Board is also the keeper of the Comprehensive Plan.

Denis Theriault said that it is the Planning Board who has the authority to make a project happen, all for the safety, health, and welfare of the people and to make the best project possible. This item was closed to the public and turned back to the Planning Board for the following motions.

**MOTION:** by Tom Peters, seconded by Dennis Mason to include changes made to the proposed amendments dated 2/16/99, "An Ordinance Pertaining to Planning Board Jurisdiction", as discussed.

**VOTED:** 7-0.

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**MOTION:** by Tom Peters, seconded by Dennis Mason to send a favorable recommendation to the City Council on "An Ordinance Pertaining to Planning Board Jurisdiction", as amended.

**VOTED:** 7-0.

The first reading is scheduled to go before the City Council on 3/16/99. Tom Peters, Mark Paradis, John Cole, and Denis Theriault (as a member of the public) will be at this City Council meeting to answer questions.

Denis Theriault asked if expanded review authority under the DEP is also covered. Gil Arsenault's response was, "yes."

*B. Proposed Amendments to the Zoning and Land Use Code Concerning the Modification of Space and Bulk Standards for Front Yards and Front Setbacks.*

A copy of the Ordinance Pertaining to the Relaxation of Space and Bulk Standards was distributed at this meeting. Also included in the packets was the Board of Appeals motion and recommendation dated 2/18/99 that was taken at the 2/17/99 meeting. Gil Arsenault presented this item and stated that the ordinance allows for

a vertical expansion up to 50 percent, meaning that a structure can jog in and go up if it can meet the criteria outlined in the ordinance. This is for vertical expansions only. This only comes into affect if the building encroaches by 50 percent and cannot go beyond the existing code. This topic was then turned to the public for comments.

Denis Theriault then asked, "does it change to move the foundation?" The response was "no". Any new construction beyond the existing building can expand vertically as high as the zone permits as long as a 50 percent setback is met. Denis Theriault then asked, "will this affect WCBB at all?" Gil Arsenault's response was, "no", these amendments will not help resolve that design issue. This item was then turned back to the Planning Board for a vote on a recommendation to the City Council on the proposed amendments.

**MOTION:** by Tom Peters, seconded by Dennis Mason to send a favorable recommendation to the City Council to adopt the Proposed Amendments to the Zoning and Land Use Code Concerning the Modification of Space and Bulk Standards for Front Yards and Front Setbacks.

**VOTED:** 6-1 (Milliken).

After this motion, the following brief conversation was discussed on WCBB. Harry Milliken's opposition concerning WCBB was due to the negative affect it could have on the Gateways of the City. Dennis Mason said that he would prefer to see buildings built along the same line, not one building built close and another one not. Jim Lysen mentioned that the buildings could look more attractive even if built closer to roads with parking in the back of the buildings. This item will be placed on the 3/16/99 City Council agenda.

*B. Old Business:*

*1. No Name Pond Update.*

Jim Lysen mentioned that he will be continuing his update on this item in the form of presentations. The next presentation will be on phosphorus standards, and other technical issues probably at the April 27, 1999 meeting

*2. Vacation/Preservation of Proposed (Paper) Streets.*

Jim Lysen said that the City Council did agree with the Planning Board about preserving paper street rights of nine (9) streets and voted accordingly. The vacation process will be discussed at the next City Council Meeting to be held on 3/2/99. He referenced Robert Hark's memorandum dated 9/23/97 on Protocol for Addressing Paper Streets.

In Item No. 1 of that protocol, there is to be every six (6) months, ten (10) requests brought forward on vacation of paper streets.

Tom Peters stated that every street needs to be dealt with within a ten year period.

Jim Lysen also said that the Planning Board has an established policy and does not charge fees. After the Planning Board recommendation, the petitioner is responsible to provide the City Clerk's office with a list of property owners and mortgagees certified by a title attorney. The City Council then schedules a Public Hearing. After the Public Hearing, the City Council takes action. If the City Council votes to vacate a paper street, the order of vacation must be filed with the City Clerk and the Registry of Deeds. Once the order is filed, the one year period for persons to file a claim begins to run, and after filing the claim, the person filing the claim has 180 days to file a suit in Superior Court.

One notification for all paper streets in a subdivision would be less expensive. Jim Lysen said that according to City Attorney Hark, you cannot go forward with a shorter process for public right vacation. Jim Lysen then said that the process is the same for private and public rights. Dennis Mason then said that there are costs involved. Tom Peters said that from the public's perspective, there should be no cost. He also stated that the process is to deal with public rights and to review a minimum of ten every six months and forward recommendations to the City Council.

Tom Peters said to not deal with private rights, therefore, the taxpayers are liable for the costs. This will save the City lots of money. Harry Milliken said that he believes that there should be no cost to dissolve public rights.

It was agreed to ask City Attorney Bob Hark to prepare for the next Planning Board Meeting a response on both public and private right vacation and to write something in advance for next week's City Council Meeting. A half hour workshop needs to be scheduled on this process. Harry Milliken said that further clarification is needed.

3. *Comprehensive Plan Update*: No update at this time.
4. *West View Bluffs*. Same as the previous meeting of 2/9/99.

5. *Board of Appeals, Staff Review Committee, Historic Preservation Review Board Meeting Schedules:*

- March 9, 1999 - Planning Board Meeting at 7:00 p.m..
- March 11, 1999 - CDBG Meeting at 7:00 p.m.
- March 23, 1999 - Planning Board Meeting at 7:00 p.m.

Jim Lysen stated that in response to Denis Theriault's e-mail request, the following items were placed on the City of Lewiston Web site:

- a. Planning Board Agenda for 2/23/99;
- b. Updated Planning Board Member listing; and
- c. 1999 City of Lewiston calendar.

Denis Theriault had also requested the Planning Board Minutes being placed on the Web site. He feels that they are more accurate than the newspaper accounts. Chairman Milliken stated that the Planning Board Minutes could only be placed on the Web site after they have been approved. It was also requested to get an e-mail address for the Planning Board Chair. After discussion, Staff was told to hold off on placing the minutes on the Web page.

V. **READING OF THE MINUTES:** *Draft Minutes of February 9, 1999.*

**MOTION:** by Dennis Mason, seconded by Mark Paradis to accept the Planning Board Minutes dated 2/9/99 and to place them on file.

**VOTED:** 7-0.

VI. **ADJOURNMENT:**

**MOTION:** by Dennis Mason, seconded by Lewis Zidle to adjourn this meeting at 10:03 p.m.

**VOTED:** 7-0.

Respectfully submitted,



Dennis Mason, Secretary

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