

MINUTES  
TOWN OF TOPSHAM  
PLANNING BOARD MEETING  
MAY 15, 2012, 7:00 P.M.

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MEMBERS PRESENT: Donald Spann  
Ronald Bisson  
Scott Libby  
Jay Prindall  
Bruce Van Note

MEMBERS ABSENT: Michael Colleran and Stephen Mathieu

STAFF PRESENT: Planning Director Richard Roedner

A meeting of the Topsham, Maine Planning Board was held on Tuesday, May 15, 2012 at the Municipal Building at 100 Main Street, Topsham, Maine.

**1. CALL TO ORDER AND ROLL CALL**

Chairman Spann called the regular Planning Board Meeting to order at 7:00 p.m.. The recording secretary conducted the roll call and noted that all members were present, except for Michael Colleran and Stephen Mathieu, both of whom had been excused.

**2. APPROVAL OF THE MINUTES OF THE MAY 1, 2012 MEETING**

Motion was made by Bisson, seconded by Mr. Prindall, and it was

VOTED

To approve the minutes of the May 1, 2012 meeting as written.

(The vote was 4 in favor with 1 abstention; Mr. Libby.)

**3. PUBLIC HEARING - STEVE ALEXANDER HAS SUBMITTED AN APPLICATION FOR AN AMENDED SITE PLAN AND CONDITIONAL USE PERMIT TO OPERATE A MOBILE FOOD CART AT A FIXED LOCATION AT 65 TOPSHAM FAIR MALL ROAD, TAX MAP R05B, LOT 009**

Chairman Spann noted that the owner of the land where the hot dog stand was being proposed was his client and he asked the Board if he should recuse himself as Chairman for this item. The Board was in unanimous agreement that it would not be necessary for Mr. Spann to step down and he continued in his role as Chairman.

Applicant Steve Alexander came to the podium and reviewed his proposed project to operate a mobile food cart to sell hot dogs at 65 Topsham Fair Mall Road, in front of Reny's. He said there is an agreement in place with the land owner, Topsham L&K 1, LLC, to place the trailer-mounted mobile hot dog cart at the Mall. It will be removed from the premises each day.

The Planner noted that there is no use listed under the current ordinance for a food cart and therefore the use needs to come under a fast food restaurant, which requires a Conditional Use. The food cart is a temporary use and a temporary structure and there are no site changes that are needed.

There was a discussion about the proposed location of the cart, which is in the front row of parking spaces along the curb and in part of the Town's Right of Way. It was suggested that the approval could be granted with a condition that the applicant obtain authorization from the Board of Selectmen to use the Town's Right of Way (ROW). During discussion, suggestion was made that the applicant agree upon another location which would be agreeable both to the applicant and the owner of the property.

The Public Hearing was declared open and the only person in attendance at the meeting wishing to speak was John Larson. Mr. Larson noted that the Ruby Tuesday sign is in the Town's ROW, as is parking spaces. Mr. Larson told the Board he supported the use and considered the food cart to be another positive addition to the mall, as the car shows, concerts and art exhibits which are held from time to time. He added that the food cart does not compete with other businesses in the mall and adds diversity to the site.

With no further comments to be heard, the Public Hearing was declared closed.

### CONDITIONAL USE

Motion was made by Mr. Van Note to approve the Conditional Use Site Plan noting that:

1. The use is compatible with and similar to the general categories of uses in the neighboring properties;
2. The use is compatible with the Comprehensive Plan and the anticipated future development of the neighborhood;
3. The anticipated traffic for the proposed project will not cause an adverse negative impact on the neighborhood surrounding the proposed development;
4. The operation of a hot dog stand will cause no noise, dust, odor, vibration or smoke that will adversely affect neighboring properties or the Town in general;
5. The physical characteristics of the site, including location, slope, soils, drainage and vegetative cover are suitable for the proposed use;
6. The use will not constitute a public or private nuisance; and

7. Any other requirements and applicable provisions of the Code, as deemed necessary are met.

The motion was seconded by Mr. Libby and it was unanimously passed.

Mr. Larson asked if the Board could approve, in blanket form, an ice cream cart at a similar location in the Mall. The Board responded that they would need to discuss this type of item in a workshop.

Motion was made by Mr. Van Note, seconded by Mr. Libby and it was unanimously

VOTED

To approve the Site Plan to allow a Condition Use Permit to operate a Mobile Food Cart with the condition that the applicant seek permission from the Board of Selectmen to place the cart in the Town's right of way or to discuss placing the cart in another location suitable to the applicant and the land owner.

4. **SKETCH PLAN - ERIC AND BETH HERMAN OF SEBAGO, MAINE HAS SUBMITTED A SKETCH SITE PLAN APPLICATION FOR 25-30 PROPOSED RESIDENTIAL UNITS AT 29 ELM STREET, FORMERLY AMENITY MANOR, TAX MAP U06, LOT 011**

Question was posed by citizens in attendance whether or not their comments would be heard at this meeting. Chairman Spann noted that, although this was a Sketch Plan and not a Public Hearing, he would allow for public comments to be heard following the applicant's presentation of the project.

Mark Sengelmann from Alpha Architects, 17 Chestnut Street, Portland, Maine, represented the applicants, Eric and Beth Herman, who were also present at the meeting. The project is before the Board for a Sketch Plan Review of the proposed conversion of the Amenity Manor facility at 29 Elm Street to dwelling units. Multi-family apartments are a permitted use in the R-1 Zone.

Mr. Sengelmann told the Board that the site is currently fully built and the applicant proposes to leave the exterior of the buildings unchanged. There are minimal changes to the site plan, consisting mostly of additional landscaping to reduce curb cut widths. The parking area will be reconfigured with one way in and one way out on the easterly side of the parking lot to simplify the parking. Parking currently exists within the front setback. A hedge row is planned on the side of abutting property owned by the Thibodeau's as a buffer. The final plan will show 40 parking spaces, not counting possible on-street parking.

The Board expressed concerns regarding the density of the project. The proposed project consists of 2.65 acres of which approximately one acre is developed. The remainder is undeveloped woodlands and a ravine leading to the Androscoggin River.

The applicants are aware that the property is located within the Historic District and the Board suggested that the applicants become familiar with the restrictions in the Historic District.

Mr. Prindall said he feels housing units are a fundamental difference than the nursing home use and inquired of the potential disruption to abutters for the additional traffic patterns. He said he would like to see a different scenario regarding parking.

Mr. Sengelmann asked if there were provisions for showing compact car parking which could be configured in smaller spaces. Parking dimensional requirements were discussed and the applicants were told they would have to go before the Board of Appeals if they were to request a Variance for the parking.

Following comments from the Board, Chairman Spann acknowledged members of the public wishing to speak, including:

- **Paul Moutal, 28 Elm Street** - Concerned with parked cars in front of his house and blocking his driveway. Feels parking creates a dangerous situation. Said housing units are a complete change of use. Assisted living or a nursing home is not the same as families with pets and children and is not a suitable use for the neighborhood. Against the project.
- **Mike Hamilton** - Said Mr. Moutal is his brother-in-law. Wants to hear how this project relates to the Comprehensive Plan. Doesn't feel 30 housing units in the middle of a Historic District is a good idea. Worried about holidays when all 30 families are home with their cars parked and visitors come to see them - too many vehicles. What about access for emergency vehicles? Asked is parking will be assigned. Against the project.
- **Brian McPherson, 32 Elm Street** - Feels housing units is definitely a change of use. Concerns with extra traffic. Feels too much buildup for the site. Concerned how environmental sound the existing building is. Against the project.
- **Mary Ann Burns, 28 Elm Street** - Felt the Historic District Commission should be involved in this consideration. Questioned how the Historic District could allow so many parking spaces. Against the project.

Mr. Van Note told the applicants that they may need a survey and a good topographical map to be able to calculate usable area and the grades to help determine the density as required by the code. The Planner said getting feedback from the Historic District Commission might also be a good idea. Question was posed if changing from a nursing home to multi family units affect the hours of impact on a historic site.

Chairman Spann referenced question from the Planner to the Board as to the approval process - can this all be done at one public hearing or will there have to be hearings on preliminary and final subdivision? Consensus of the Board was that the application should go through the usual complete procedure according to the Ordinance. Consideration will be given to the Board doing a site walk of the project.

The Board thanked the applicant for the presentation and requested to see the Site Plan again before moving forward.

5. **ADJOURN**

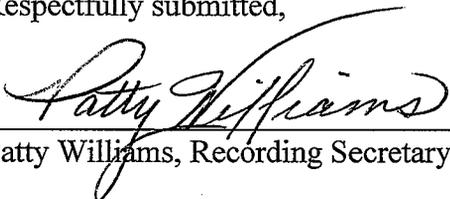
Because the Annual Town Meeting is scheduled to occur on the evening following the meeting, the Board was in unanimous agreement to cancel the workshop which was on the agenda.

With no further business to address, motion was made, seconded, and it was unanimously

VOTED

To adjourn the meeting at 8:30 p.m.

Respectfully submitted,

  
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Patty Williams, Recording Secretary