

BOOTHBAY HARBOR PLANNING BOARD

MINUTES OF PUBLIC HEARING

November 8, 2017

MEMBERS PRESENT: Thomas Churchill, Chairman
Lee Corbin, Second Alternate
Jon Dunsford, First Alternate
William Hamblen, Vice Chairman
John Hochstein
Margaret Perritt
Chris Swanson

CEO, Geoff Smith

In addition to these typed minutes, audio recordings are available to be listened to at the Boothbay Harbor Town Office.

NEW BUSINESS

David Whitt and Melissa Holmes, Map 31, Lot 32,251 Ocean Point Rd., Applicant is proposing to establish a home occupation, a law practice, requiring Planning Board approval per **Chapter 170, Article I, §170-27 (E)**

OTHER BUSINESS

Town of Boothbay Harbor Board of Selectmen. Discussion with Planning Board regarding the results of the November 7, 2017 ballot.

ELECTION OF OFFICERS

WORKSHOP - DISCUSS POSSIBLE ORDINANCE AMENDMENT TOPICS

Keeping of poultry
Building height limitations
Density requirements
Parking
Employee housing

Chairman Churchill called the Wednesday, November 8th Planning Board meeting to order at 7:00 pm.

Because the Planning Board had a quorum the alternates would not be voting that evening. Chairman Churchill stated they would begin with the application under NEW BUSINESS and requested the representative step forward.

Melissa Holmes introduced herself and stated she and David Whitt were proposing to establish a home occupation of a law practice at 251 Ocean Point Road, which was approximately one half mile down from Route 27.

Melissa clarified a number of factors concerning her application.

- She would only see one or two people at a time.
- There would have two businesses: a law practice and financial advising.
- There would have a sign in accordance with the sign codes.

Chairman Churchill stated if there were no more questions they would go through the Findings of Facts process.

Findings of Fact:

1. The owners are David Whitt and Melissa Holmes, relating to the property located at 251 Ocean Point Rd. Property taxes on account of the premises for which the approval is requested have been paid in full.
2. The property is in the General Residential zoning district. The property is further identified as Assessor’s Tax Map/Lot: 31/32. It contains .36 acres.
3. The applicant proposes the opening and operation of a home occupation in accordance with Chapter 170, Article III, §170-27-E, and the performance standards of Chapter 170, Article IV, §170-42.

Conclusions

Based on the above stated facts, the Planning Board makes the following conclusions:

Right, Title or Interest in the Property

The applicant X *has*/ _____ *has not* demonstrated Right, Title or Interest on the property in question.

Motion made by John Hochstein, seconded by Chris Swanson

Vote Unanimous All In Favor _____ Against

Chapter 170, Article VIII, §170-42

A. A home occupation or profession may be carried on in a dwelling unit or other structure accessory to a dwelling unit, clearly incidental and secondary to the use of the dwelling unit for residential purposes. Home occupations shall include, but are not limited to, art studios, beauty shops, dressmaking, teaching or professional offices such as that of a physician, dentist, lawyer, engineer,

architect or accountant, or small home businesses, which may involve the sale, crafting or other creation of goods or products on the premises, or home vocations which involve the application of a trade or skill, such as a mechanic. Home occupations which exceed the limitations of this section shall be considered retail or service businesses and shall be subject to the permit requirements of Article III.

B. Home occupations, as defined in this chapter, are permitted in zoning districts as noted upon site plan review approval by the Planning Board, which must be satisfied that the following conditions have been met:

(1) The home occupation shall be carried on wholly within the dwelling or within any other structure accessory to the dwelling unit,

[Amended 5-3-2013 by ATM Art. 34]

(2) The home occupation shall be carried on only by a member or members of the family residing in the dwelling unit, provided that an office in the home may employ no more than two persons who are not members of the family residing in the dwelling, provided that the maximum number of employees, including all family members employed in the business, does not exceed five.

(3) There shall be no exterior display, no exterior sign except as expressly permitted by district regulations of this chapter or as required by state law (such as a motor vehicle inspection sign), and no other exterior indication of the home occupation or variation from the residential character of the principal building.

[Amended 5-3-2013 by ATM Art. 36]

(4) No nuisance, waste discharge, offensive noise, vibration, smoke, dust, heat, glare or radiation or accumulations of by-products or junk shall be generated.

(5) Adequate off-street parking as determined by the Planning Board shall be provided for any home occupation whose operation shall attract customers for the provided service. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of users which the home occupation may attract during peak operating hours, provided that such parking areas shall be located five feet from the property lines.

(6) There shall be no more than one single-unit vehicle with a wheelbase length of 30 feet or less and registered as a commercial vehicle parked overnight at a residential address. Tractor-trailer trucks, semitrailer trucks and trailers, or commercial vehicles with wheelbases exceeding 30 feet in length shall not be parked overnight at a residential address or on a public street or private way. No commercial vehicle shall remain stationary with idling engine unit in a residential district or on a public street or private way for any period of time exceeding one hour in duration.

[Amended 5-3-2013 by ATM Art. 35]

(7) The home occupation shall not utilize more than 40% of the gross floor area of the dwelling unit itself. An unfinished basement floor area shall not be included in the calculation of the gross floor area.

(8) Exterior storage of materials shall occupy no larger than 5,000 square feet exclusive of up to two commercial fishing boats of contiguous land area, and such contiguous land area shall be at least 15 feet from any residential dwelling unit other than that of the owner of the facility.

(9) The operation or testing of machinery and engines in other than enclosed buildings, including but not limited to saws, splitters, snowmobiles, all-terrain vehicles and other motor vehicles, shall be at least 100 feet from any residential dwelling unit, other than that of the owner of the facility, and shall take place between the hours of 7:00 a.m. and 10:00 p.m.

Review Criteria

The applicant X *has/* _____ *has not* demonstrated that this proposal meets the criteria set forth in **Chapter 170, Article IV, §170-42** of the Town of Boothbay Harbor Zoning Ordinance.

Motion made by John Hochstein, seconded by Chris Swanson

Vote Unanimous All In Favor Against

If the criteria have not been met, the reasons are explained below (i.e. –not applicable);

Conditions of Approval

None

Decision

Based on the above findings of fact and conclusions, the plans and supporting information submitted, testimony and evidence submitted at the Planning Board meetings on the application, on motion made by John Hochstein and seconded by Chris Swanson, the Planning Board

X **Approves** Denies

this application subject to the conditions of approval set forth below, all for the reasons set forth in the findings and conclusions.

Vote Unanimous All In Favor Against

The property may be developed and used only as depicted on this approved application. All elements and features of the application and all representations made by the applicant in the record of the Planning Board proceedings are conditions of the approval. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the Planning Board.

Appeal

Any appeal from this decision must be made to the Board of Appeals within 30 days after the date of the decision of the Planning Board, in accordance with the Article X of the Land Use Ordinance.

Chairman Churchill stated they would move on to Other Business and invited Board of Selectmen Vice Chair, Denise Griffin, to give a brief recap of the results of the recent election as it pertains to the ordinance proposals on retail marijuana.

Denise stated that the election results speak for themselves and it appears at this point in time they don't need to spend a lot of energy creating ordinances so CEO, Geoff Smith would be tasked with incorporating the ones that were passed into the zoning ordinances.

CEO, Geoff Smith responded they would probably just add a new Chapter: Chapter 171, Marijuana Use.

John Hamblen questioned the wording of the questions on the ballot that were written in the negative and whether it was clear that it was a warrant.

Chairman Churchill stated what he thought John was saying was that it can be confusing when ballot questions are written in the negative and pointed out other communities did not use that negative language. Chairman Churchill stated they were straight forward, asking: Do you want retail stores...yes or no?

Denise responded that the five topics had been approved by the Planning Board.

Vice Chairman Hamblen stated putting the questions in the negative was between the Selectmen and the attorney.

Chairman Churchill concluded the Planning Board did not have anything further to do with the November 7th ballot.

Chairman Churchill stated the next item of business would be ELECTION OF OFFICERS and suggested since he goes away during the winter for several months, it would be more consistent for the Board to have someone who is around such as Bill Hamblen.

Margaret Perritt **nominated** Bill Hamblen as Chairman. Chris Swanson **seconded**. **Unanimous approval.** [Effective January 1, 2018.] **Unanimous approval.**

Bill Hamblen **nominated** Thomas Churchill as Vice Chairman. Thomas **seconded**. **Unanimous approval.**

Chairman Churchill stated the members had received an eleven page document from Gorrill Palmer, a proposed "mixed use district" for areas on the East Side of the Harbor.

Chris Swanson stressed the need to review the document separate from plans that Paul Coulombe might be thinking about.

Chairman Churchill felt the Board had received the document too late to discuss that evening.

Mike Tomko, a member of the Joint Economic Development Committee, added that the JEDC had hired a consultant firm to come up with a master plan for economic development on the Peninsula and suggested the Board might want to wait until a draft was ready for review on December 5th before discussing this proposal.

John Hochstein reminded the Board there was a public meeting scheduled the following Wednesday, November 15th, for Paul Coulombe to present a more detailed plan of what he had in mind for development on the east side of the Harbor.

Denise Griffin stated they should keep in mind there was at least \$20,000 into the budget (separate from the JEDC funds) for planning/consultant work focused on the Downtown area that is available until the end of June. [It would go into the General Fund if not used.]

Chairman Churchill moved to the last item on the agenda, POSSIBLE ORDINANCE AMENDMENT TOPICS and asked Chris Swanson if he had an update on his proposal for **keeping poultry**.

Jon Dunsford reminded the Board they had agreed to table this item until someone in the community expressed an interest in keeping poultry.

Chairman Churchill stated they also wanted to hold back on **building height limitations**.

Jon clarified this was not for the Downtown area but for the General Business district over by the YMCA for possible employee or low-income housing. Jon did not believe they would be ready to move on this until the next fiscal year.

Jon stated they had used the ordinance for Bed and Breakfasts as a basis for **Employee housing** which primarily differs due to parking requirements for Bed and Breakfasts.

Mike Tomko added that this fell into one of the JEDC's four primary areas, called "affordable housing."

Vice Chairman Hamblen stated they had put together some wording for Employee housing which CEO, Geoff Smith had forwarded to the town's attorney who came back with the fact that they already had an ordinance for a Boarding house definition that they might be tweaked to use.

Jon recommended using the word "lodging" rather than "boarding."

CEO, Geoff Smith felt using the Boarding house ordinance (as amended) would be fine.

Vice Chairman Hamblen recommended annual licensing as a means of control if there were problems in a residential district such as noise or parking. For this reason it might be better for the Selectmen to govern licensing since they already do other licenses. [Vice Chairman Hamblen confirmed these could become year-round housing.]

Vice Chairman Hamblen stated according to their lawyer, Bed and Breakfasts need to be licensed by the state because they are open to the public. No license is needed if the dwelling is not open to the public.

Jon Dunsford and John Hochstein had created a chart to evaluate **density requirements** in the downtown business district. The foremost conclusion is that most of the properties are out of compliance with the current ordinance 95% of the time, given that with retail downstairs and residential upstairs which is two uses with each use requiring 10,000 square feet that they do not have. Only 28 lots in the downtown business district are compliant. Their recommendation was to keep residential at 10,000 square feet to discourage residential in the downtown district and reduce the square feet required for retail use space.

Chairman Churchill asked the Board to review this chapter in the Comprehensive Plan before their next meeting.

Chairman Churchill stated they would continue to put **parking** on hold.

Vice Chairman Hamblen suggested changing the ordinance concerning the **setbacks from the intersection of Route 27/96** as follows.

From:

The minimum residential setback south of Routes 27/96 intersection is 30 feet; the minimum residential setback north of Routes 27/96 intersection is 300 feet. The minimum commercial setback south of Routes 27/96 intersection is 40 feet. The minimum commercial setback north of Routes 27/96 intersection is 60 feet.

To:

The minimum residential setback from Route 27 south of the Routes 27/96 intersection is 30 feet; the minimum residential setback from Route 27 north of the Routes 27/96 intersection is 300 feet. The minimum commercial setback from Route 27 south of the Routes 27/96 intersection is 40 feet. The minimum commercial setback from Route 27 north of the Routes 27/96 intersection is 60 feet.

ADJOURN

The meeting was adjourned at 8:46 pm.

Thomas Churchill, Chairman

Kellie Bigos

Kellie Bigos, Recording Secretary