



CITY OF BIDDEFORD

Planning and Development Department

205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115

Planning Board Meeting Minutes

Date: November 1, 2023
Time: 6:00 PM
Location: Council Chambers & Zoom

1. Pledge of Allegiance
2. Declaration of Quorum/Voting Members
Quorum Present: Larry Patoine, Chair, Susan Deschambault, Roch Angers, Sean Tarpey, Alexa Plotkin, Steve Beaudette, Alternate Member
Staff Present: David Galbraith, City Planner, Nan Whitten & Roby Fecteau, Codes Enforcement Officer
3. Adjustments to the Agenda-None
4. Planner's Business
2023.51 Introduction of the proposal to Re-Zone some of the R-2 & R1A lots to MSRD-2
Galbraith introduced this proposed change.
Tarpey clarified what changes this would encompass
Galbraith-no this is just a zoning map amendment
Tarpey-reason?
Galbraith-to increase densities of these lots for housing
Fecteau-areas currently MSRD-2 and those being converted, are similar neighborhoods, so this makes perfect sense. MSRD-2 is more of a mixed zone and this is why they opted to expand MSRD-2 by converting these lots.
Deschambault-what is the remainder of the lots
Fecteau-Lafayette to West Brook
Angers-give the public a general idea of the area
Fecteau-(West) MSRD-2 stopped along the RR when you cross the bridge, R2-MSRD-2, Middle, Oak, Oak to Granite & Ivy Streets, these areas are densely populated, Pike St, Tibbets, Freeman, Gove, Miller, Cleave Streets, South side of Rte. 9 along Clifford Park, this would be correcting the zoning in some areas where there are multi and single families.
Plotkin-We passed 2023 Comp Plan, Growth areas like these were mentioned, and this is exactly as a community what we are going for. This will provide more housing, she is happy to see this.
Galbraith-this will come back 2 more times.
The Board is willing to send a favorable recommendation to Council.
5. Consent Agenda

Approval of Meeting Minutes from 10-18-23

MOTIONS: 6:15 PM

Deschambault-Motion-To approve Minutes as submitted

Angers-Section

Motion passed unanimously

6. Open Public Hearing

7. Unfinished Business

8. New Business

8. A 2023.42: Public Hearing: Street Frontage Reduction Ordinance: City Code of Ordinances, Part III: Land Development Regulations, Article V - Establishment of Zones, Section 11, Notes for Table B. The amendment would, as proposed, allow for the reduction of the City's frontage requirements from 100-feet to 90 feet / 90%, in certain areas of the City, for increased lot creation and housing stock

- Galbraith introduced this amendment for the second time, he is looking for a recommendation to send to the Council
- Tarpey what happens in the area of the Saco River Corridor has jurisdiction
- Galbraith they would still be consulted for approval
- Fecteau, amendment is strictly for road frontage this will not affect the river. This is strictly for frontage on road.
- Tarpey, he's not sure that it doesn't affect SRCC he reread the Ordinance for SRCC and believes there are frontage requirements for SRCC.
- Tarpey wants to re-look at this because of SRCC
- Fecteau-everything you see tonight will have implications with SRCC we have different rules than them, City trying to build something better. We have to look at the entire City, SRCC has a smaller purview.
- Tarpey- this discussion needs to take place.
- SRCC has within 500 feet of the river.
- Plotkin-this does not apply to MSRD-2 and are we losing prospective housing because they are being changed.
- Patoine-this is to increase the housing stock-yes at the end of the day this is what we want.
- PUBLIC:
 - Guy Gagnon-Biddeford Housing Authority How many lots will this impact? In favor of going to 75% of frontage. We may be able to create lots by being more liberal.
- The Board would like to know how many places this would impact to make sure it is worth going through with it.
- Tarpey-does not take into consideration if they have sewer & water so rural could do this too?
- Galbraith-yes but they have to fit all setbacks this is just reducing the frontage requirement.
- Deschambault-this started in the Policy Committee, Counselors and City Manager worked on it. She feels we should go forward.
- Beaudette-In calculating the number of net effect would be if street frontage would be a field so that we can get a number of lots this would affect.
- Galbraith-we would also have to put other items in the query, he does not have the capability to complete this not sure about GPS department.

- Fecteau-9,000 people in Biddeford if we can help 2 people that's 2 people who was helped.
- Angers will pass this along but make sure to pass along the points that have been brought up. It's not worth it if we spend all this time and no one qualifies.
- Plotkin would like to make it 75% when we send in the recommendation.
- Deschambault-would they still have to come to Planning Board-No

MOTION: 6:43 PM

Beaudette-Motion-PB forwards recommendation to Council

Deschambault-Second

Angers-Point of Order-Needs to be a voting member to make a motion

Angers-Motion-Forward to Council Favorable recommendation

Deschambault-Second Motion Passed 3-1 Deschambault, Angers, Tarpey in Favor; Plotkin against

8. B 2023.52 Public Hearing: Accessory Dwelling Unit (ADU) Ordinance Amendment: City Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs). This Ordinance amendment is being proposed to comply with LD 2003.

- Galbraith introduced proposed change. ADU permitted in any zone where residential homes are permitted. Multi family would be a Conditional use.
- CR zone will change, ADUs are not allowed in the RP zone we still must comply with Shoreland overlay district.
- Fecteau gave an overview of changes made to comply with LD2003. Shoreland zoning is a Federal mandate RP zone in Biddeford does not allow single-family homes therefore no ADUs.
- Not sure how SRCC is going to address these law changes

PUBLIC

Guy Gagnon-Biddeford Housing Authority concerned about short-term rentals going into the ADUs in the CR zone.

Fecteau-ADUs must be owner occupied; they will also have to comply with Shoreland zoning rules.

- Deschambault-clarification on staff recommendation

MOTION: 6:59 PM

Plotkin-Motion-to approve Table A

Deschambault-Second

Motion passed unanimously

Plotkin-Motion-to approve B

Angers-Second

Motion passed unanimously

8. C Public Hearing: Zoning Ordinance Amendment: Code of Ordinances, Part III: Land Development Regulations, Article VI - Performance Standards, Section 77 - Marijuana Establishments: This proposed amendment seeks to establish additional performance standards related to odor complaints and enforcement of such, including penalties / procedures for non-compliance.

- Galbraith introduced proposed changes-2 parts of the Ordinance to amend: 1) amend for odor issues, conditions of approval added; we would like to add them

to the Ordinance. 2) Allow adult sales in the same zones where medicinal marijuana is sold.

- Fecteau-500' foot setback from each other which limits facilities. His office has gotten 0 complaints about adult use. Many communities change from medical to adult use. Odor complaint process previously had no process to deal with complaints. They would like to add the process in writing to the ordinance. They have gotten 0 complaints for odor from stores.
- Public comments
Glenn Peterson runs Canuvo Medical Marijuana-adult use cannabis is tested for chemicals far more than medical marijuana is. If someone lights up in the parking lot, call the store and the operators will go out and speak to this person, they do not want this to be happening either.
- Deschambault-Clarification
- Fecteau-deals with odor complaints or operations that are happening that is not allowed. If they light up in the parking lot that is not his department but possibly the Police Department would deal with it.

MOTION: 7:12 PM

Deschambault-Motion- Approve the proposed Amendments to Code of Ordinances, Part III: Land Development Regulations, Amendment to Table A "Table of Land Uses" allow adult use marijuana retail sales within the City's I-1, I-2 and I-3 zoning districts, as a "Conditional Use", as written.

Plotkin-Second Motion passed unanimously

- #2 Angers-concerned that the timeliness of violation gives them 90 days to comply feels it is too long. That section should be tightened up
- Deschambault-Talked about the rules of smoking at her building. She feels like you have to start somewhere. You have 30 days to find the issue then 60 days to get it fixed. She feels they should work with codes and there is no way to perfect it.
- Plotkin-are there other codes where they have steps for fixing complaints.
- Fecteau-several such as the disorderly house-timeline is similar, they need to allow time to order parts and repair. They need to start with something and if they continue to have issues then they may come back to the Board to shorten the timeline

MOTION: 7:20 PM

Deschambault- Approve the proposed Amendments to the City's Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments, to adopt odor complaint regulations into the City's Land Use Ordinance to standardize the rules and enforcement of odor complaints at marijuana related business operating within the City, as written and proposed.

Plotkin-second Motion passed 3-1 Deschambault, Tarpey, Plotkin in favor, Angers against.

8. D Public Hearing: Density Bonus Ordinance: City Code of Ordinances, Part III: Land Development Regulations, Article V - Establishment of Zones, Section 11, Notes for

Table B. Amendments to Table B. This Ordinance amended would to allow higher densities for low to moderate-income housing.

- Galbraith introduced proposed changes. He passed around document with additional changes to comply with LD2003. He appreciates Fecteau's assistance in writing this ordinance.
- Fecteau gave a history of the density bonus ordinance. Two approaches 1) gross living area of building, take living area and divide by 650 SF. They felt 500 SF as a minimum of square feet is workable. 2) Gone from 80% FMV to 70% FMV. Everything of this ordinance ties back to LD2003. They took language straight from LD2003 for vacant land. Two ways to accomplish more affordable housing by calculating for bonus density. In both cases, they have to comply with the remainder of the ordinance. The 30-year timeline is required by LD2003. This is giving developers and homeowners a chance to add more housing.
- Deschambault-is management agreeing with 70%
- Fecteau 70% was approved by the Policy Committee
- Patoine-this has been simplified for the homeowner.
- Fecteau we are affording more housing for more people.

PUBLIC COMMENTS

Guy Gagnon-Biddeford Housing applauds the Board for looking into this, ordinance is erroneous in calculations and he told us how to correct that issue. Income levels in the ordinance is confusing to the average person. It would be easier to tie it to MSHA, which is changed annually. It would create affordable units for the average person by using a 2-tier process. This will be an administrative nightmare for the City. Make sure we are not squeezing buildings so that we are not eliminating 3 and 4 bedroom units. We are squeezing out families. Make sure there are not unintended consequences.

- Tarpey-what is this new thing (paperwork) we just got
- Galbraith-explained it is an updated version of the amendment to include changes made this morning to be in compliance with LD2003
- Tarpey-this is not good to do, he cannot vote to approve something he has not read. He is not happy about this and he wants Planner to know this.
- Galbraith-no vote needed tonight, this will be coming again for second reading November 15, 2023.
- Patoine-there is no action on this tonight so this gives us more time to digest this information.
- Angers-Are the items Mr. Gagnon brought up are going to be considered?
- Galbraith-He will talk to block grant department to see about the changes.
- Angers-agrees with items Mr. Gagnon brought up and would like them considered.
- Beaudette-Needed to leave 7:46 PM

8. E Public Hearing: Inclusionary Zoning Ordinance – New Ordinance: Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 40 – Inclusionary Zoning. This Ordinance is being proposed to create additional housing opportunities for lower income housing.

- Galbraith explained the ordinance changes. Page 63 is the definitions of affordable housing from the state; he is recommending A, B & C.
- Only works in the MSRD 1 & 3 Zones
- Seeking a recommendation for the City Council for this amendment

PUBLIC

Guy Gagnon-Biddeford Housing, Page 63-how are you going to police this especially item C. We should say that the program follows the same guidelines of the MSHA First Time Homebuyers Program. Would like to see the sunset provision be removed, he doesn't see the need for that. Page 61 he does see the need for paragraph 5 he can see that being abused. Paragraph 4 should add the % of units that are affordable and market rates should be more alike.

- Tarpey-Large Headers has a typographical error.
- Tarpey needs more time he needs more time.
- Angers has a problem with the sunset provision as Mr. Gagnon brought up.

MOTION: 7:56 PM

Motion 1)

Plotkin-Motion-To approve text in Section 40 as written

Deschambault-Second

Motion passes 2-1-1, Deschambault, Plotkin

in favor, Angers against, Tarpey abstained with the reasoning he did not get the information in time to make an educated decision

Motion 2)

Plotkin-Motion- To approve definitions as presented

Deschambault-Second

Motion passed 3-0-1 Deschambault, Angers &

Plotkin in favor, Tarpey abstained due to receiving information late.

9. Close Public Hearing 8:04 PM

10. Other Business

11. Adjourn

Meeting adjourned at 8:05 PM

Planning Board Chair/Vice Chair

Date

These minutes are summary and are not intended to be verbatim. Archived meetings are viewable on the City's website: www.biddefordmaine.org.