

**CITY OF LEWISTON
PLANNING BOARD MEETING
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I. ROLL CALL:

This meeting was called to order at 7:04 P.M. and chaired by Harold Skelton.

Members in Attendance: Tom Peters, Denis Theriault, Harold Skelton, Lew Zidle, and Mark Paradis.

Members Absent: Harry Milliken.

Staff Present: James Lysen, Gil Arsenault, Doreen Asselin, and Amanda Gorey (Intern)

II. READING OF THE MINUTES:

Minutes of June 30, 1998.

MOTION: by D. Theriault, seconded by T. Peters to accept the minutes of June 30, 1998, as written.

VOTE: 5-0.

III. CORRESPONDENCE:

- Letter from Stephan G. Myers, Platz Associates, concerning proposed amendment to Modification Standards.
- Letter from Gil Arsenault on proposed amendments to Modification Standards.

MOTION: by H. Skelton, seconded by D. Theriault to accept the above correspondence and place on file to be read at the appropriate time.

VOTE: 5-0.

IV. PUBLIC HEARINGS:

Proposed Amendment to the Zoning and Land Use Code:

Proposal to amend the Neighborhood Conservation "A" (NCA) district regulations to allow for the limited conversion of single-family dwellings into two-family dwellings.

Discussion - J. Lysen - The proposal amends the two-family standards to require owner-occupancy. This does not apply to construction of new dwellings only, to conversions. 100 feet of frontage is required. Character of property must not

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change. Conversion of building envelope, change language to footprint. Tabled at the last meeting with the following changes - definition of name from in-law apartments to accessory units within existing footprint. Additional floor area allowed up to doubling of structure. The relationship with the other occupant must be by blood or marriage. Additional parking space available totaling two (2) parking spaces. Septic system is difficult to monitor. You only know it is failing when it is failing. If public sewer would be required, it would eliminate the potential problems for malfunctioning of the septic systems, due to adding another family basically. That way you could limit it whether it is a problem or not a problem. One of the units must be owner-occupied at all times, which is similar to the regular in-law standards. It requires that all applicable fire safety and egress laws be observed in the creation of accessory units. This would be done during the building review period. Included are the original and new proposed standards and we recommend that the Planning Board review the two proposals received for this Public Hearing and make any suggested amendments to the proposal and ask for any additional information and try to make any recommendations to the City Council.

H. Skelton - As I understand it, we can accept one or the other proposals, as written, amend each proposal, as written, or take no action on the issues at all.

Proposal to amend the standards for “In-law apartments” in Article 12, Section 11, to create, “accessory units”, by increasing square footage allowance and eliminating the requirement of an In-law relationship.

Discussion - The following discussion was to review the proposal amending In-law apartments. H. Skelton - After reviewing both of these proposals, I am more comfortable with the idea of amending the in-law apartment standards. I'm not sure that it really makes a great deal of difference in the end result, but there are a number of people coming in from the NCA districts and their main concerns are the creation of two-families. H. Skelton suggested an amendment to the In-law apartment standards that it is to the other proposal. The requirement of an additional parking space, these are private lots, how do we know when someone has created any additional parking space? G. Arsenault - A two-family would require four parking spaces - two for single family and two for the additional accessory unit. Two cars wide and two cars deep. Parking enough for four vehicles. Can theoretically double a single-family home - J. Lysen. Two now, two additional - G. Arsenault. Garage situation - D. Theriault. To be included - G. Arsenault. Gravel driveway. Improved surface - G. Arsenault. Paved driveway with two parking spaces = two-car garage. Asking for improvement to include a gravel parking lot. Accessory unit within footprint of the existing single-family dwelling - G. Arsenault. What happens if you want to build a new single-family home, but you want to provide an additional space

for an In-law type situation, what happens when houses after enactment of this, I assume that they could have an In-law apartment, as well. - G. Arsenault.

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G. Arsenault stated that what's going to prevent someone from putting an addition on this and then coming in after the fact and asking that the unit be called an In-law. There is nothing that prevents them - G. Arsenault. Do not want an oversized lot to the building. Go to the maximum square footage allowed by code - D. Theriault. Space requirements involved - G. Arsenault. Create two- family to look like single family - G. Arsenault. In most cases you will have to expand the current septic system because it is not going to have the capacity to serve the additional unit. - G. Arsenault. Lot size standards that would allow for the addition for the construction of the replacement of septic beds? - H. Skelton. Generally speaking the code calls for a minimum lot size requirements for putting on a septic system on today, but generally it does not concern itself with what happens if the system goes bad. - G. Arsenault. G. Arsenault stated that generally the only time you need a replacement of a sewerage systems would be if you want to be sure you have the capacity down the road that you know you are going to build. H. Skelton questions whether you can rebuild septic system in the same location, if necessary? G. Arsenault responded with "Yes, you can".

Why not allow In-law apartments in SR zone? - T. Peters. NCA has all kinds of restrictions. Why not just open it up like we did with the daycare issue? - T. Peters. SR does not allow In-law's right now and I am not exactly sure why. - G. Arsenault. Liberalize code to SR zone for accessory unit, make it much more liberal like daycare with some safeguards obviously. We do not want apartment houses springing up and calling it In-law's. - T. Peters. I would think that with the population that is getting older and there are people who want to take care of their relatives, they should be encouraged to do that and I would think that to the extent that we can remove hurdles that we should do that and that it should be all the zones that would allow residential kinds of development. - T. Peters. I have an addition to make in the change in the definition of an In-law apartment. Liberalize or make an additional change to the code to allow the other zones - H. Skelton. Unless someone has an argument, for example, if your mom or dad both need a place and you do not want them in a nursing home, you can find a way to do it in your home if you have to add on you should be encouraging them to do it. - T. Peters. T. Peters also stated that there is one place that he read that you can only have one access to it, but you have to meet the requirement codes, and it sounds like to you not have a way out from that second unit. We are only talking front or rear and that would not include an entrance through a hallway inside - G. Arsenault. I would support T. Peters suggestion of opening up another entrance - D. Theriault. We have an elderly population here that is not going to go away. Do you think we should liberalize to allow accessory units

in every district, residential or otherwise? Anywhere where there is a residential house? - H. Skelton. If you have a commercial area which is pushing zoning-wise towards commercial development, you have a residence lying there on a

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non-conforming use? - T. Peters Right now if you are in an industrial zone and you have a single-family home, there is no prohibition against increase footage of a home by 12,000 sq. ft. - G. Arsenault. Code specifically allows that. - G. Arsenault. Restrict this to only residential zones stated by H. Skelton. T. Peters open up to all residential zones. SR and RA residential are the only zones that do not allow In-law's - J. Lysen. Amendment to allow those zones from In-law to accessory units. There were no further comments and this discussion was then opened to the public.

Rita Gagne (citizen), 12 Ridgeview Terrace, Lewiston. Her response was that everything was fine and workable for her to work from a two-family to an accessory unit. Both proposals are fine by her. She did mention her concern in dealing with the bank's terminology with accessory unit. H. Skelton asked her why it is a concern? Rita Gagne mentioned that when she goes to the bank to get a loan you have to say what you are doing. H. Skelton asked Rita Gagne if it really matters to the bank what you call it? Rita Gagne answered with yes that they already do. Rita Gagne stated that the bank wanted to know if it was a two-family or if it is considered an In-law and now an accessory unit. Rita Gagne was wondering if there would be a problem with the wording with banks. D. Theriault suggested wording it as an In-law. Rita Gagne also mentioned concern about in-law apartment when you go for re-sale. What are they selling to the owners? - Rita Gagne. J. Lysen stated that an accessory unit has no ties to it. G. Arsenault then suggested that a note be placed on the bottom of the permit when you go to the bank stating specifically what it allows. D. Theriault suggested placing the definition in the code section. Footprint is not part of what the definition is in code. - D. Theriault. H. Skelton suggested that footprint should be defined. Remains in the ordinance and should be defined.

Rita Gagne voiced her concern that she hopes they will vote on it tonight (7-21-98) because the contractor has been holding off and holding off and he needs to get the roof off before fall.

Jim Lysen asked if their should be square foot requirements. J. Lysen also asked if a two-family would use more of one lot than a one-family - minimum lot size/minimum lot frontage? J. Lysen - Would the lot be big enough to handle a two-family? J. Lysen - Does a two-family use more of a lot than a one-family? Jim Lysen also asked if it should it be limited, due to lot size. T. Peters - responded that a two-family would have more use of a lot and also brought up the blood relative

issue. T. Peters said that this would be helping elderly folks. D. Theriault stated that it would be difficult for code enforcement to enforce the blood relative issue.

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H. Skelton stated that he does not like the blood relative issue. M. Paradis would like to stay away from the In-law apartment. Owner-occupancy is the safe guard. D. Theriault stated that this would aid the elderly population. The down side of this is are you robbing the community of the single-family appearance? - D. Theriault. T. Peters suggested that this is an investment in vacant space and would like to keep it worded as a In-law apartment. H. Skelton also mentioned that this excludes a whole segment of the population if not related by blood or marriage. T. Peters stated that the value to single-family homes is that we do not want to live in an apartment zone. He would like to see that the neighborhood remain like a single-family home appearance, but the other hand we have an obligation to our relatives that are elderly. Maybe we want to take care of them and not warehouse them into a nursing home. Balance out these two needs.

Bruce Damon (Board of Appeals) - NCA - place for single-family homes opening up into apartments. Not concerned about neighborhood. Open up to anybody to rent. Set strict guidelines to accessory unit, as to who is going to be there.

Pauline Taylor (Board of Appeals) - All or nothing. Does not matter who is living there.

Rita Gagne questioned how the additional footage was going to affect this. She stated that she knows a lot of people who own homes and rent them out.

Brian Lamont (citizen), 17 Lamare Avenue - stated that he knew about a single-family home with an In-law apartment that is currently being rented out with four individual families renting that home.

G. Arsenault suggested that if an accessory unit would be opening up to two-family units across the city. J. Lysen also stated that nobody would be checking relationships, unless a problem came up and it was reported. Allow legal up-front. H. Skelton - Not enforceable, if not a problem. Open up to everyone. The relationship issue would be hard to enforce. Unless there is a problem with people calling and complaining then it cannot be enforced. - J. Lysen

This conversation was then closed to the public. Brought back to the Board to

discuss. J. Lysen stated that the renewal of yearly compliance can be eliminated. G. Arsenault stated that if there are no complaints you are clear, if a burden then enforce.

Bill Horton (CMMC) stated that the appearance should be to look like a single-family structure.

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M. Paradis wants to stick with NCA and limit to NCA on Proposal Option No. 1. Ext. limits to NCA with burden of proof. H. Skelton would like to stick to relative by blood/marriage, burden of proof by the homeowner, and eliminate the requirement to renew on a yearly basis. H. Skelton - Change envelope to footprint. Re-instate Item No. 4. G. Arsenault would like to eliminate Item No. 2. Cannot be a separate structure. Leave out word, "existing". G. Arsenault stated that the restrictions will help maintain the structure of the building. H. Skelton would like to preserve the appearance of a single-family structure. G. Arsenault questioned about front yard requirements. The first 15 feet are not intended for parking/storage areas, as stated by G. Arsenault. H. Skelton - Add to restrictions that not more than one curb cut to one driveway, etc. Include in the building requirement to limit to one curb cut per driveway. One additional parking space. Bruce Damon questioned if you leave the house, should the tenant be allowed to have an in-law apartment? H. Skelton replied that the unit needs to be owner-occupied and to apply this city-wide. Rita Gagne voiced that it was getting back to the same request as in 1996. J. Lysen stated that the proposed accessory unit regulations to expand to two residential areas (SR/RA).

H. Skelton - In summary of the above discussions, modify the body of language of the proposed accessory units to:

- Expand only within NCA.
- Protect the character of the neighborhood - D. Theriault.
- Related by blood/marriage - enforce if a problem, if no problem/no complaints, no big deal!
- Approval of Prop. Amend., Article 12, Section 11.
- Remove the word, "accessory unit", and go back to "In-law apartment".
- Make language consistent throughout.
- Re-instate Paragraph 4, but remove renewal on yearly basis, and add burden of proof as to required relationship is on the homeowner.
- Paragraph 2 - return to original language.
- Eliminate Paragraph 3.
- Burden of proof is on the homeowner (Para. 4).
- Envelop vs. footprint - within or attached to. Connected.

- To be called an In-law unit.
- Require owner-occupancy.
- One curb cut (limit of 18 feet) to one driveway.

H. Skelton questioned whether tenants can have the same rights as being owner-occupied. D. Theriault responded with "No", it has to be owner-occupied. Gil stated that public sewerage - lot size is adequate. Require on public sewerage.

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- Provisions for additional parking space (2).
- Paragraph 6 renumbered to Paragraph 5.

As a result of the above discussions, the Planning Board then made the following actions at this meeting on July 21, 1998:

MOTION: by D. Theriault seconded by M. Paradis to send a favorable recommendation on the proposal to amend Article XII - Performance Standards, Section 11, In-law apartments, as amended by the Planning Board (Proposal No. 1).

VOTE: 5-0.

MOTION: by H. Skelton seconded by L. Zidle to send a favorable recommendation on a proposal to include In-law apartments as permitted use in the Rural-agricultural (RA) and Suburban residential (SR) districts (Proposal No. 2).

VOTE: 5-0.

MOTION: by T. Peters seconded by D. Theriault to send a recommendation to the City Council that they schedule first a second readings on the two aforementioned proposals for their meeting for August 11, 1998, due to:

- the shortened schedule of meetings over the summer season;
- the length of time it took for the Planning Board to develop

with public input, the recommended proposals; and
- the short construction window left this season for citizens wishing to take advantage of the proposed changes to the In-law apartment standards, if adopted.

VOTE: 5-0.

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V. REVIEW OF DEVELOPMENT PROPOSALS - FINAL HEARING:

Kevin Clark of Surveyworks, Inc., on behalf of Central Maine Real Estate Corporation (a subsidiary of Central Maine Health Care, has submitted plans to construct a 20-car parking lot at 80-84 High Street near Central Maine Medical Center with a minor amendment to the Site Plan. Jim Morin of the Fire Department and Dan Pelletier of the Police Department have no concerns on the project. Public works is requiring a signature of a professional engineer on the plan and protection around catch basins. They are requesting that approval be granted as submitted by the Staff.

Bill Horton (CMMC) plans to make this project aesthetically appealing. D. Theriault stated that other parts of the project are well done. It has been noted that the width of the street has slowed traffic down.

Motion on waivers. Kevin Clark said that the site will be seeded once it is completed. D. Theriault stated that other landscaping has been handled very well.

Need vote on waiver.

MOTION: by D. Theriault seconded by Lew Zidle that approval be granted by size of project.

VOTE: 4-0-1 (H. Skelton)
H. Skelton cannot vote on this project, since his firm represents CMMC.

VI. OTHER BUSINESS:

New Business:

1. Proposal to address recent changes year to Site Location Law in order to keep

Expanded Review Authority. No Name Pond - quantity/quality of water is important in watershed. No changes in requirements anywhere different in the city. Sedimentation control moved to standards. Steve Johnson, Solid Waste, to review change. Will be submitted to the DEP. Working with the state on water quality issue. Move Phosphorus Standard from 1.0 P.P.G. to 0.5 P.P.G.. Reduce phosphorus. The project cannot allow phosphorus to leave the site for export. T. Peters - What are the ranges allowed? Maine to develop fit standard. Protection of water body. Water quality standards - D. Theriault. CSO to be eliminated. No Name Pond is the only body of water affected. Changing to be in conformance with state law. Outfall from sewerage treatment plant? - H. Skelton. 38MSRA 14 not covered - T. Peters.

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Comments from the DEP - not submitted to DEP yet.

MOTION: by D. Theriault seconded by M. Paradis for the scheduling of a Public Hearing to be held on Tuesday, August 18, 1998.

VOTE: 5-0.

2. Proposed Amendment to Modification Standard (1450 Lisbon Street - WCBB). 30 percent modification to area. Change modification language. Not allow beyond 25 feet. (Please refer to Steve Myers letter in your agenda packet.) Revisit the area - Board of Appeals. Parameters - outline. S. Myers will submit a petition, if necessary. Pauline Taylor (Board of Appeals) is concerned about impact. Bruce Damon (Board of Appeals) said allowing additional encroachment is inappropriate. The Sub-committee language answered many questions, but did not include the front setback. Comments from the Board. The Developer can initiate a change. A small portion of this building to expand upwards. Five feet (5') is impacted. A minor part of the building is not conforming (similar to the Dr. Walworth's building). - T. Peters. J. Lysen suggested that you can do vertical expansions. G. Arsenault suggested cutting the corner of the building. There was no action on this item. Asked that the Developer submit a petition for the next meeting.
3. EZ/EC Process - Update:

Keep update - J. Lysen. Without representatives from the Planning Board, it will be hard to meet deadlines. Need a representative on the Steering Committee. Can we break down to slots of an outline of what's going on? - D. Theriault. J. Lysen replied with, "yes". What Sub-committee has approved. J. Lysen will give an update at the August 18, 1998 meeting.

Old Business:

No comments on old business (Items listed as 1-2, & 4 on the Agenda).

M. Paradis had a question as to why the Poor Farm was taken off the Agenda.

J. Lysen thought that the sale had gone through.

Gendron & Gendron will be demolishing the building - G. Arsenault.

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No issues to South Park. Can landfill brick. The wood will go to F.T.I. G. Arsenault commented that he had not heard any information. M. Paradis stated that if there are any problems would they contact G. Arsenault. Not code related - G. Arsenault.

Dr. Bergeron - Project dated back to September 1996. Court supported Dr. Bergeron's case so he gets to develop the property, as proposed. G. Arsenault will get a copy of that decision.

School Committee - Responded with a letter. Action to begin process. Appointment to meet with the new Superintendent (Leon Levesque) to set new course of action.

Item No. 3 from Agenda - No contact with the DEP on 18 Fireslate Place.

VII. ADJOURNMENT:

This Planning Board meeting adjourned at 9:00 P.M.

MOTION: by M. Paradis, seconded by T. Peters to adjourn the meeting.

VOTE: 5-0.

Respectfully submitted

Denis Theriault
Secretary

dma