

Meeting Minutes — Bar Harbor Planning Board
Wednesday, June 1, 2022 — 4:00 PM
Bar Harbor Council Chambers, Municipal Building — 93 Cottage Street
and Zoom online meeting platform

Under the Board's Remote Participation Policy, this Planning Board meeting was conducted fully remotely (via a Zoom webinar) due to the urgent issue of the continuing COVID-19 pandemic and the declarations of a public health emergency by both the US and Maine departments of Health & Human Services.

Members of the public were able to view the proceeding by visiting the Town Hall Streams website (<https://www.townhallstreams.com>) and selecting "Bar Harbor" from the dropdown menu. Instructions on how to attend the Zoom webinar and offer comment during the January 5, 2022 Planning Board meeting were posted online, in advance of the meeting on December 30, 2021, at this address: <https://www.barharmoraine.gov/282/Planning-Board>.

I. CALL TO ORDER

Chairperson Tom St. Germain called the meeting to order at 4:00 PM. Planning Board members present were Chairperson St. Germain, Vice-chairperson Joe Cough, Secretary Millard Dority, Member Ruth Eveland, Member Earl Brechlin, Member Elissa Chesler and Member Zachary Soares.

Town staff members present were Planning Director Michele Gagnon, Code Enforcement Officer Angela Chamberlain, Deputy Code Enforcement Officer Mike Gurtler and Assistant Planner Steve Fuller.

Applicants and representatives present included Michael and Fyelle Anderson, John Scheckel, Sarah Nicholson, Kelly Doran, Jody Patterson, and Jeri Spurling.

II. ADOPTION OF THE AGENDA

Ms. Chesler moved to adopt the agenda. Mr. Dority seconded the motion. The motion then carried unanimously, 7-0, on a roll-call vote.

III. EXCUSED ABSENCES

As all members were present there were no absences to excuse.

III. PUBLIC COMMENT PERIOD

The Planning Board allows up to 15 minutes of public comment on any subject not on the agenda nor on a pending application before the board, with a maximum of three minutes per person.

Chairperson St. Germain opened the public comment period at 4:03 PM. Assistant Planner Fuller read the contact information and displayed it on screen. No one present indicated a desire to speak; **as such, the public comment period was closed at 4:04 PM.**

IV. APPROVAL OF MINUTES

a. May 4, 2022

Ms. Chesler suggested several changes to page 5, second paragraph, that she said were clarifying changes to more appropriately reflect her intent in making the comments originally. She suggested the following (changes in bold, with language to be removed ~~shown in strikethrough~~):

*The Planning Board is not a court, said Ms. Chesler, in terms of setting precedent. She asked if resolution of this particular violation, at this point in the process, would be necessary for a complete review. The Planning Board likely knows how this will percolate through, she said. She said she did not feel the letter was necessary for **the board to review the violation** ~~this particular violation in this particular circumstance~~. "I'm uncomfortable waiving the requirement that there be no violations," she said. She said the **absence of a letter indicating no violation here did not impact her ability to review the application, because the steps required to remove the violation were clear.***

It's not the fact that the violation didn't matter, said Ms. Chesler, but that the letter was unnecessary to review the application even though there was a violation. Planning Director Gagnon said she understood Ms. Chesler's suggestion but cautioned that the Board must be careful in making changes to the minutes to ensure they reflect what was actually said rather than what an individual wishes or thinks was said. Ms. Chesler said her suggestion reflects her recollection but acknowledged that she did not review the recording. We must be careful with what the record says and what we hope was explicitly said, said Planning Director Gagnon.

Secretary Dority agreed with Planning Director Gagnon and said the Planning Board must be careful in editing minutes in such an instance. He suggested staff review the tape of the meeting before the Board make such a change. Ms. Chesler agreed. Assistant Planner Fuller noted that it is not intended to serve as a transcript, and was glad to go back and check that particular passage.

Ms. Chesler continued with a suggestion for a separate change: On page 10, at the end of the third paragraph, which began, "The applicant has reviewed the Comprehensive Plan..." She explained that she had been inadvertently looking at a review standard, not a submission requirement, she said. She said she wished to clarify/correct that, for the record. Planning Director Gagnon suggested eliminating the referenced section so that the sentence would read: "There was discussion about the relevant section." Ms. Chesler was okay with that change.

On page 2, in the paragraph beginning “Vice-chairperson Cough moved to approve the minutes...”, Secretary Dority noted that while he had watched the recording of the meeting he had not (as the draft minutes said) “watched the prepared minutes,” but rather “reviewed” them.

Vice-chairperson Cough moved to approve the minutes with the following changes: on page 2, change the following sentence: “Mr. Dority noted that he was not present for the April 19 meeting, but said he had done his due diligence and watched the recording of the meeting and watched the prepared minutes.”, and change it to reflect the fact that Secretary Dority had watched the recording of the meeting and “reviewed the prepared minutes”; and on page 10, third paragraph, beginning “The applicant has reviewed the Comprehensive Plan...” to eliminate the referenced section at the end of the paragraph so the sentence reads: “There was discussion about the relevant section.” With respect to the item on page 5, he asked that staff review for accuracy the minutes to match the video. Mr. Brechlin seconded the motion, which then carried unanimously (7-0) on a roll-call vote.

VI. REGULAR BUSINESS

a. Completeness and Compliance Review, and Public Hearing for Subdivision SD-2022-04 – Lamb Subdivision – Anderson Lot Line

Applicant/Owner: Michael and Fayelle Anderson, 25 Manteca Drive, Bar Harbor, Maine 04609

Application: The project consists of the modification of the previously approved Lamb Subdivision. The applicant seeks to divide Tax Map 206 Lot 14 (25 Manteca Drive) into two lots: a 12.3-acre lot with three existing dwelling units and a 2.2-acre lot with one existing dwelling unit.

Project Location: 25 Manteca Drive (Tax Map 206, Lot 14), encompassing a total of 14.5± acres.

Districts: Shoreland Limited Residential and Salisbury Cove Residential

Michael and Fayelle Anderson were present. Chairperson St. Germain asked about the consent agreement. Mr. Anderson said they now had it, and Chairperson St. Germain said that was good.

Planning Director Gagnon said the consent agreement is immaterial to the discussion at hand, which is whether or not the Planning Board has a letter of no violation from the Code Enforcement Officer. The Planning Board does have such a letter, she said, so from that point of view “that matter has been resolved.” Chairperson St. Germain asked if there were any other questions for the applicants. No further questions were raised.

Secretary Dority moved to find the application SD-2022-04 – Lamb Subdivision – Anderson Lot Line complete. Ms. Chesler seconded the motion, which then carried unanimously (7-0) on a roll-call vote.

Mr. Anderson asked if any further action was necessary for them to proceed with their sale. Mr. Brechlin said the Planning Board still needed to hold a public hearing and approve the application: "There's still just a couple of other little procedural moves here before we're done."

Chairperson St. Germain then opened the public hearing. Secretary Dority asked whether the public hearing was being opened or continued; Chairperson St. Germain replied said it was the former, opened, as the Planning Board had found the application complete. No one present indicated a desire to speak; **the public comment period was subsequently closed.**

Mr. Brechlin moved to approve the application SD-2022-04 – Lamb Subdivision – Anderson Lot Line per the decision dated June 1, 2022 as it meets the standards of the Bar Harbor Land Use Ordinance, §125-67 and §125-69 N. Ms. Eveland seconded the motion, which then carried unanimously (7-0) on a roll-call vote.

b. Completeness Review for Site Plan SP-2022-05 — JAX Lot B Access Project

Applicant/Owner: The Jackson Laboratory (JAX), 600 Main Street, Bar Harbor, ME 04609

Application: The proposed project consists in the relocation of the access driveway to parking Lot B located on the west side of Main Street (Route 3) across from JAX. This relocation will separate the pedestrian traffic access crossing Route 3 from the main vehicular traffic entering and leaving the parking lot, improving pedestrian safety. The proposed access driveway is located approximately 250 feet north of the existing driveway. A new right turn-lane on Route 3 with a raised landscaped island will be installed for southbound traffic access to the parking lot. The existing right-turn lane and driveway pavement will be removed to provide additional landscaped area with sidewalk access between the parking lot and Route 3. A portion of this area will remain paved as a sidewalk to bring pedestrians from the parking area to the existing signaled Route 3 pedestrian crossing.

Location: The property is located across from the JAX campus (600 Main Street/Route 3) and known as Tax Map 115, Lot 21. The parcel encompasses a total of ±35.76 acres, according to town tax records.

District: Scientific Research for Eleemosynary Purposes

Ms. Chesler noted she typically recuses herself from applications involving The Jackson Laboratory, her employer. Chairperson St. Germain asked whether the Board needed to take a vote; Vice-chairperson Cough said because Ms. Chesler was recusing herself and did not ask for the Board's opinion no vote was necessary. **Ms. Chesler then turned off her video and audio, and with her departure the voting membership of the Board was reduced to six members.**

John Scheckel, project manager for the campus circulation project, introduced the plans. This is the Lab's latest effort to improve campus and pedestrian safety. He recalled several changes that had been proposed last year — lighting, signage, enhanced crossing at Route 3 — in an effort to enhance pedestrian and vehicular safety. This project is a continuation of that safety program, he

said. This moves the entrance to Lot B further north on Route 3, separating the pedestrian crossing from the vehicular entry to Parking Lot B. There will be a new right-turn lane for vehicles, a proposed landscape island to help direct those making the right-hand turn into the lot. A left-hand turn for those traveling north on Route 3 is also permitted, he said.

Sarah Nicholson of Woodard & Curran was also present to represent the applicant. She was having some internet connectivity trouble and apologized to the Planning Board for the interruption. Ms. Nicholson gave an overview of the plans, including a map. There will be a stormwater feature, she said. Because of the existing topography there will be a fill slope. That will be vegetated and allowed to regenerate into native growth over time. There are a few parking spaces lost and gained; the net is a loss of three spaces. The lot will continue to serve its function for as many cars as it does today, she said.

The text of the application clearly describes the parking situation, said Secretary Dority. There was discussion about where, exactly, in the application the calculations for parking are included. Ms. Nicholson said she would be sure it was included and properly noted.

Planning Director Gagnon asked if the applicant could discuss the proposed speed table, which she understood had been removed. In response to a question from Planning Director Gagnon, Ms. Nicholson confirmed that the proposed speed table had been removed.

Chairperson St. Germain asked if any Planning Board members had questions on the waiver checklist. Chairperson St. Germain asked about waivers under 9 E, G and H, all of which requested a waiver. Those calculations were provided in the narrative and on the site plan, he said. They're all requests for waivers but were submitted as part of an exhibit. Those items pertain to subdivisions, said Planning Director Gagnon, that's why they're waived even though they were included.

Ms. Eveland moved to grant the waivers as requested by the applicant as such waivers will not unduly restrict the review process as they are inapplicable, unnecessary or inappropriate for a complete review. Mr. Brechlin seconded the motion, which then carried unanimously (6-0) on a roll-call vote. (Ms. Chesler did not vote, as she was still recused).

Ms. Eveland asked about parking requirements. There are currently 1,415 employees on the Bar Harbor campus; current calculations indicate sufficient parking for up to 1,461 employees, she said. What is the likelihood of another 46 or more onsite employees, she asked. "We get very sensitive about making sure there is enough parking according to our regulations," she noted.

Kelly Doran, director of engineering and capital projects for The Jackson Laboratory, said the Lab was looking at parking counts for each successive project. "If we need to make adjustments we'll do that when that project will come online."

Secretary Dority asked whether public comment would be allowed on the application. Chairperson St. Germain said yes. Assistant Planner Fuller read and displayed the contact information. No one present indicated a desire to speak. Secretary Dority asked whether staff had received any further information from the applicant that would affect the motion. They had not.

Secretary Dority moved to find application SP-2022-05 — JAX Lot B Access Project incomplete per Bar Harbor Land Use Ordinance §125-66 because of the following missing items: capacity letters from the following departments: Water, Sewer, Public Works, Police and Fire; Design Review Board certificate of appropriateness for the relocation of signage, Maine Department of Environmental Protection Site Location of Development permit; Maine Department of Transportation public entrance permit; and to schedule a public hearing on July 6, 2022. Ms. Eveland seconded the motion. The motion then carried unanimously (6-0) on a roll-call vote. (Ms. Chesler did not vote, as she was recused).

c. Completeness Review for Site Plan SP-2022-04 — River Church

Applicant: The River Church, 1182 State Highway 102, Bar Harbor, Maine 04609

Owner: Pentecostal Lighthouse, 1184 State Highway 102, Bar Harbor, Maine 04609

Application: Renovation of the existing 4,922 square feet building and construction of a 7,078 square feet addition. **Location:** The property is located 1182/1184 State Highway 102, Tax Map 235, Lot 3. The parcel encompasses a total of ±2.59 acres, according to town tax records.

District: Town Hill Residential Corridor

Ms. Chesler returned to the meeting by turning on her video and audio prior to the start of discussion on this application. With her return, the voting membership of the Planning Board returned to seven (7) members.

Jeri Spurling from Haley Ward was present to represent the applicant. She gave a brief overview of the plans. The church is expanding an aging building. The expansion will have sprinklers and will be safer and newer; she said the church is outgrowing what it has and needs the space. The new building will be 100 feet by 60 feet, she said. It will be added on existing hard surface and will not expand lot coverage.

Chairperson St. Germain asked whether Planning Board members had questions about waiver requests. He mentioned 9 E. Waivers under 9 E, F, G and H all pertain to subdivisions, said Planning Director Gagnon.

Mr. Brechlin asked about number 7, item F. The only documentation included in the application is the original design concept from 2005. That information still needs to be submitted, he said. Ms. Chesler asked about number 7, items A, B and C. If it is not a public water supply wouldn't they need exhibits B or C, she asked. Planning Director Gagnon said the applicant had submitted information demonstrating that they are not a public water supply.

Regarding number 7, item F, Planning Director Gagnon noted that nothing in the Land Use Ordinance requires the applicant to show sufficient capacity in the well. Although the applicant hasn't demonstrated they have capacity, they did provide information on the septic system. The Planning Board is judging not the quality of the information at this stage but rather the quantity of it in this case (completeness), said Planning Director Gagnon.

There is inconsistency of the square footage throughout the application, said Ms. Chesler. It should be consistent throughout, she said, and asked a question about parking. If the applicant is requesting an exception regarding parking there should be information regarding how the demand for parking is mitigated, said Ms. Chesler.

Regarding the septic system, said Mr. Patterson, it was brought to his awareness that it might not be up to code. He said he had been in touch with the person who designed the existing septic system and would ensure the expansion followed state and town guidelines as required.

Under 9 Q, said Secretary Dority, even though there's no new sign proposed, the packet requires that the sign be included in the packet. "It seems silly," he said, but it is in there. Ms. Chesler was willing to grant a waiver for that because she didn't feel the location of the existing sign was necessary. Secretary Dority said he brought it up only because the Maine Department of Transportation said the site lines aren't adequate for the speed limit in that location — is there any reason the sign location would play into the site distances they have at that scene?

Chairperson St. Germain asked the applicant about the site distance on Route 102 and the church's sign. Mr. Patterson said he'd been in touch with the state and that the sign is set far enough back that it doesn't interfere with the visuals of anyone entering or leaving the premises.

Ms. Chesler moved to grant the waivers as requested by the applicant as such waivers will not unduly restrict the review process as they are inapplicable, unnecessary or inappropriate for a complete review. Mr. Brechlin seconded the motion, which then carried unanimously (7-0) on a roll-call vote.

Chairperson St. Germain opened the public comment period. Assistant Planner Fuller read the contact information and displayed it on the screen. No one present indicated a desire to speak. The Planning Board moved on to a discussion of completeness.

There's a big gap between seating and the parking calculation, said Ms. Eveland, a little more than 60% of seating being accommodated for parking as currently calculated. If the expansion is to accommodate a greater number of congregants, wouldn't that "put things even further out of whack?" She said that creates additional anxiety for her. It's an issue due to the highway, she said, and that one of the defaults is that people park along the shoulder if they can't find a spot.

Ms. Eveland asked whether there was an allocation for play space for children that might affect parking and how cars might move. That is not marked on the application, if it is present. Chairperson St. Germain asked about real numbers for the parking discrepancy. The number of spaces provided is 36. Because of the lot coverage situation in that district the application is unable to find regulation-size parking spaces, correct? asked Chairperson St. Germain. Yes, the applicant said. Ms. Spurling said if the applicant were able to expand lot coverage to 50%, as permitted in the nearby Town Hill Business District, there would be no problem providing the necessary number of spaces.

Mr. Brechlin also asked about the number of expected participants for services and whether the Planning Board should go just by seating capacity or whether there would be additional participants expected on certain days. He then asked a question of standing. The representative is listed as Mr. Patterson; the owner is River Church but the only deed in the application refers to Pentecostal Lighthouse, which is consistent with town records. Another individual is listed in town records. The Pentecostal Lighthouse church was absorbed, said Mr. Patterson. The two churches were combined to form the River Church. He has yet to speak with the lawyer to have the deeds changed. The deed must be changed, and the applicant plans to address that.

The parking requirements for an assembly building are often based on two persons in a car going to a concert, said Ms. Spurling. This is a family based facility and there may be fewer cars than anticipated for an assembly building, she said, as children may travel in the same vehicle as their parents. The congregation is roughly 90-100 members, including children and adults, said Ms. Spurling, adding that the church has outgrown the old building safety and capacity-wise.

Ms. Chesler said the standard requires one parking space for every four seats in an assembly for a house of worship. There's another variant related to square footage, she said, but both numbers came out similar - there are 248 seats proposed and 38 parking spots provided for, which makes the plans 24 parking spaces short. The mitigation referenced is that the area is served by the Island Explorer bus and a van that can handle 15 passengers, said Ms. Chesler; however, the plan for parking is approximately 96 people short, which would be six van trips short. Is there satellite parking somewhere, to accommodate likely attendants when Island Explorer is not running, she asked. She said that kind of information would help her evaluate whether the parking is adequate.

Secretary Dority said parts of lot coverage seem "ridiculous to me," as in this case, but seating is being increased. In this case, however, he said, it's an issue of safety. Regardless of alternatives no one will stand guard to ensure congregants will ride the bus and not bring their vehicles. Any information the applicant can supply would be beneficial.

Chairperson St. Germain said that the architectural handbooks indicate when an establishment is served by a regularly scheduled bus route a reduction of 25% is the rule of thumb. That will get you part of the way there, he said.

Staff included in the packet possible ways for parking standards to be applied, including off-site parking if it's nearby; the van could also play a role. We are being asked to do a modification of standards, Chairperson St. Germain explained, which some members have expressed gives them a difficult approach. Many applicants are not given modification of standards for off-street parking regulations.

Planning Director Gagnon said staff try not to plan for the highest needs of parking. You want to be careful not to ask for more parking than is necessary, she said. However, when there is not enough parking provided people park wherever they want to. That's okay except for when fire or other emergency services need to respond. She suggested striping the parking spaces and including designated places for no parking/fire lane. That would inform people not to park there so first responders can do their jobs.

Ms. Chesler said she'd written down a similar suggestion. There is also overflow parking on gravel, said Mr. Patterson. "There's more than enough room there for plenty of cars," he said, and they would not allow parking on the side of the road. "I really believe we can meet your guidelines," he said.

Is the gravel area considered part of the existing lot coverage? Asked Chairperson St. Germain. The applicant said it was not, at present. That may be an avenue to consider, said Chairperson St. Germain — that the gravel area is grandfathered as existing lot coverage. A site visit could also help demonstrate options for additional parking.

Chairperson St. Germain noticed several other items that appeared to be missing, including: landscaping exhibits, photographs, items 16, 17, 19 and 20. Overall height also did not seem to be shown, said Chairperson St. Germain. There was some discussion with the applicant on the missing items and what was shown. Planning Director Gagnon noted that the online version is not the official version, and that hard copies must be submitted.

Secretary Dority asked a question regarding whether there is a violation of lot coverage; Planning Director Gagnon said there was not a violation of lot coverage as far as she was aware.

Ms. Chesler said that the legends in A1-15 are cut off and are not legible in the way they were printed. Labeling the district over the striping would make it clearer, she said.

Mr. Brechlin asked about 9-HH regarding lot coverage calculation. Why not rework the gravel area into calculations so parking calculations might be met, he asked, adding: "Then we're looking at that from that standpoint."

Secretary Dority moved to find SP-2022-04 — River Church incomplete per the Bar Harbor Land Use Ordinance incomplete 125-66 because the following information is missing: capacity letters from the following departments: Water, Sewer, Public Works, Fire; MDOT Entrance Permit and Stormwater Management Plan and items 9 HH, 11 A-E, 14 A and B, and 19 on solid waste and to schedule a public hearing and final completeness review on July 6, 2022. Ms. Eveland seconded the motion. Discussion followed.

Mr. Brechlin noted that 7F and 3 A and B regarding title and interest also required clarification. **Secretary Dority amended his motion to include items 7 F and 3 A and B.** Chairperson St. Germain asked whether Secretary Dority would entertain requesting overall building heights. Yes, absolutely, said Secretary Dority. **He amended the motion to include a request for overall building heights.**

Ms. Spurling said the applicant explained in the narrative why a stormwater management plan was not necessary. A site visit would deal with things like that, said Secretary Dority. The topography there is quite level, he said, flowing away from the site.

Ms. Eveland amended her second to match Secretary Dority's revised motion. Vice-chairperson Cough advised the applicant to work with the Planning Department to resolve some of the issues. **The motion, as amended, then carried unanimously (7-0) on a roll-call vote.**

VII. OTHER BUSINESS

a. Comprehensive Plan update - Elissa Chesler

Ms. Chesler said at the last meeting the Comprehensive Planning Committee went over the draft existing conditions analysis report. There was a lot of feedback provided, she said. They are still looking for feedback. The next meeting is a continuation of the discussion on that report.

Planning Director Gagnon cautioned that the report is indeed a draft and is not the comprehensive plan itself. "This is just the base so we can all agree as a community where issues and opportunities lie," she said, adding: "It's a really good first draft but needs work."

Assistant Planner Fuller noted the date and time of the next Comprehensive Planning Committee meeting and where to find more information. All are welcome to tune in live or go back and watch it later, he said. One area where the Planning Board could provide feedback is in land use planning, said Ms. Chesler.

VIII. BOARD MEMBER COMMENTS/SUGGESTIONS FOR THE NEXT AGENDA

The Legislature passed a law regarding density and housing, said Mr. Brechlin, who asked what that portends for the town. Planning Director Gagnon explained some of the provisions in the law. It needs to be implemented by 2023, she said. Because this is state law, the change(s) to the Land Use Ordinance should qualify as a minor change (under the Town Charter). As a minor change(s), it would not go to the voters. But it would require major outreach and engagement,

she added. This is a mandate from the state, however, so it isn't a choice. There will be a lot of education necessary and this will likely be stressful. Staff plans to present a memo to the Town Council in the near future on intentions and what outreach and engagement will be, she said.

Vice-chairperson Cough asked a question regarding the Town Council's request on the two-thirds majority amendment. Our portion on that is done for now, said Planning Director Gagnon. The onus right now is on the town clerk to continue the steps. Vice-chairperson Cough asked whether the Planning Board needed to vote on it. It was noted that the amendment would come back to the Planning Board for a recommendation after the Town Council holds a public hearing.

Ms. Eveland asked about studies for the solar project in Town Hill. That will be a lot of reading, she said. Will the Planning Board have them in a timely fashion? Planning Director Gagnon said it had been extremely difficult (and stressful) to find people to do the peer reviews, but that she had succeeded in doing so. Staff are looking to have the information no later than June 24. Planning Director Gagnon said she had asked all parties involved to put placeholders on their calendars for the July and August Planning Board meetings in order to be available if needed.

IX. REVIEW OF PENDING PLANNING BOARD PROJECTS

Planning Director Gagnon updated the Board on two projects, a subdivision with Greg Johnston and an experimental mouse room at the Lab. There were no significant updates, she said.

X. ADJOURNMENT

At 6:09 PM, Vice-chairperson Cough moved to adjourn the meeting. Mr. Brechlin seconded the motion, which then carried unanimously, 7-0, on a roll-call vote.

Minutes approved by the Bar Harbor Planning Board on July 6, 2022:

07.06.22

Date


Millard Dority

Secretary, Bar Harbor Planning Board