

**Name of Body:**  
**Minutes for Meeting of:**  
**Meeting Begins:**  
**Meeting Location:**

**Planning Board**  
**February 28, 2017**  
**7:00 p.m.**  
**Council Chambers, City Hall**

## MINUTES

### Members Present

Kevin Carr, Chairperson  
Linda Boudreau  
Adrian Dowling  
Taylor Neff  
William Laidley  
Kathleen Phillips  
Isaac Misiuk

### Staff Present

Tex Haeuser, Planning & Develop. Director  
Steve Puleo, Community Planner

### Pledge of Allegiance

Chairperson Carr opened the meeting at 7:00 p.m. and welcomed all in attendance. He reviewed the meeting's agenda and reminded the audience and Board of policies regarding a Planning Board Meeting and Public Hearings. He read into the record Planning Board Regulation #5, standard condition of approval: This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. No project, plan or development previously approved by the Planning Board may be altered or modified without securing prior approval of the Planning Board in the form of an amended approval; provided however, that, if at any time it becomes necessary or desirable to make modifications to the project, plan or development, the Planning Director may approve modifications determined by the Planning Director to be de minimis in that they (i) do not amount to a waiver or substantial alteration of any condition or requirement set by the Planning Board; (ii) do not affect any approval standard; (iii) meet all applicable ordinances and laws; (iv) are reviewed and approved by all appropriate City staff and consultants; and (v) do not involve any changes to lot lines. De minimis changes include only the modifications listed in Section 24-27 of the Subdivision Ordinance and Section 27-140 of the Zoning Ordinance.

### Item #1. Approval of the February 14, 2017, Planning Board minutes

**L. Boudreau motioned to approve the February 14, 2017, Planning Board minutes.**

**W. Laidley seconded; (7-0).**

### Item #2. Consent Calendar

No items

### Item #3. PUBLIC HEARING – Special Exception Accessory Dwelling Unit Request – Lobley-ADU – 30 Hutchinson Street – Lois & Norman Lobley II – FINDINGS

Lois and Norman Lobley II are requesting a Special Exception approval for a proposed “After-the-Fact” Accessory Dwelling Unit (ADU) that was created in their home located at 30 Hutchinson Street. The single-family home is 2,216 SF in area and the one-bedroom ADU is

532 SF in area (24% of the principal dwelling). When the applicants purchased the home, it had an existing dwelling unit next to a one-car garage. The applicants show at least four vehicle parking spaces available for vehicles on-site. The property is further identified as Assessor's Map 33, Lot 78, located within the Residential District A.

Public hearing notices were mailed on February 21, 2017, to 56 property owners within 500 feet of the proposed project and the applicant and sent via email to the Conservation Commission, Planning Board, and City Council.

**T. Haeuser** showed the location on the map and explained that this is an after-the-fact ADU. He showed the home from the street view. He stated that the initial floorplans were not clear but it appears that the applicants have revised the drawing. It is now easier to see they're taking a closet and turning it into an entrance that will serve as the entrance to the ADU. The home continues to look like a single-family home. He doesn't see any other concerns raised. The fire department listed codes that must be satisfied as part of the building permit. Staff recommendation is for approval.

**Norm Lobley, 30 Hutchinson St.**, introduced himself.

PUBLIC HEARING OPEN

**Charles Frazier, 75 Ridgeland Ave.**, attended in support of the applicant. The area has light traffic and as long as cars are off the street in the winter, he doesn't see it as an issue.

**L. Boudreau** asked staff to point out where the parking spots are.

**S. Puleo** showed the spots on the map, stating that one is in the garage, two are stacked in the driveway, and the last spot is in front of a detached garage.

**L. Boudreau** asked if there are five spaces because there are two garages. **S. Puleo** thought one structure is too small to be used as a garage.

**N. Lobley** confirmed that they use it as a garage. **S. Puleo** stated that there are five spaces.

**L. Boudreau** said this is another ADU that clearly meets the definition and vision of the group that put the regulations together. It fits with the neighborhood.

**W. Laidley** sent an email to Mr. Haeuser asking how many ADUs have been approved in the past four years.

**T. Haeuser** apologized; he was at an all-day recreational marijuana workshop and didn't have the chance to send a reply. He asked Mr. Puleo to respond.

**S. Puleo** asked why he wants information for four years. **W. Laidley** said there has to be a cutoff.

**S. Puleo** said there have been 73 in 13 years, since he began with the City. He keeps track of them for the Census update.

PUBLIC HEARING CLOSED

**L. Boudreau** motioned to approve the special exception application of **Lois & Norman Lobley II** dated **January 30, 2017**, drawings dated **April 27, 1993**, for an **Accessory Dwelling Unit** located at **30 Hutchinson Street** with the following conditions:

**Conditions:**

- 1. Planning Board Regulation #5, standard condition of approval, as read by the Chair at the opening of the meeting.**
- 2. Prior to issuance of the certificate of occupancy, the applicant shall provide evidence to the Planning and Development Director that the Certificate of Approval for the ADU has been recorded in the Cumberland County Registry of Deeds.**

**A. Dowling** seconded; (7-0).

FINDINGS

**K. Phillips** asked if they should change four spaces to five in #3. **S. Puleo** said yes.

**I. Misiuk** said four spaces are stated in #1 as well.

**L. Boudreau** motioned to accept the findings with the “four” changed to “five” in #1 and 3. **W. Laidley** seconded; (7-0).

Item #4. PUBLIC HEARING – Zoning Map Change – Request to Rezone from Residential District A to Residential District G – Property Owners of 1337, 1343, 1351, 1350, 1354, and 1355 Broadway

Ms. Linda Kelley and co-applicants are requesting a land use recommendation from the Planning Board for a proposed Zoning Map Change of their properties located at 1337, 1343, 1351, 1350, 1354, 1355 Broadway from Residential District A to Residential District G. Some of the applicants' properties abut the Conditional G-2 District, which is where Ridgeland Gardens and Estates are located. These facilities provide affordable multi-family housing in a campus setting. Some of the applicants have large lot areas on a public transit corridor and have expressed an interest in building multi-family developments. The applicants believe their request is consistent with the City's Comprehensive Plan, Chapter: 6 Land Use Goals and Policies; Broadway – Lincoln to Cash Corner Limited Growth area. The parcels are further identified as Assessor's Tax Map 32 Lots 168 & 169, and Tax Map 41 Lots 1, 2, 27, & 27B, located within Residential District A.

Legal advertisements regarding this request appeared in the Portland Press Herald on February 14 and 20, 2017. Public notices regarding the proposed zoning map change were mailed on February 15, 2017, to 116 property owners within 500' of the lots under consideration, and emailed to the Conservation Commission, Planning Board, and City Council.

**T. Haeuser** showed the location on the map, stating that this includes several properties on the north side of Broadway, between Cash Corner and Lincoln Street, and a couple properties on the south side near Greater Portland Christian School. He noted that there are multi-family facilities, Ridgeland Gardens and Ridgeland Estates, in this area.

He showed the drawing on the City's GIS site, outlining the area that could potentially be rezoned. He did a calculation and if the owners each rebuilt their lots under the maximum buildout allowed by the G zone, assuming no deductions for wetlands or similar, there would potentially be 32 units total: three potential lots on 168, seven on 169, 14 on 41-1, one on 41-2A, four on 41-27, and three on 41-27B.

He stated that Ms. Kelley came to the Planning staff with this request before. They told her it's unlikely that the City will rezone only her property, so she should look at the Comprehensive Plan and find additional neighbors to get a more logical area for rezoning. She did this. He noted he is missing a signoff from the property owner of 1350 and 1354 Broadway.

**Linda Kelley** stated that she has them and gave them to Mr. Haeuser.

**T. Haeuser** said they frown upon individual property owners coming forward with rezoning of someone else's property without their agreement.

He stated that a main consideration is how this fits with the City's Comprehensive Plan. He explained it is like "chicken and egg." The principal language is in the Broadway - Lincoln to Cash Corner paragraph under Land Use:

"The width and alignment of Broadway in this segment creates a significant obstacle for development/redevelopment in this area. While the homes facing Broadway are not desirable residential properties, this area continues to be designated as a single-family residential district with very limited non-residential use allowed. This is considered to be a "holding zone" recognizing that this area should evolve into a higher intensity, mixed-use area similar to those other sections of the Broadway corridor if transportation improvements are made. The future could include proposals for larger-scale redevelopment of parts of the area."

On page 6-3, you have the goal of making the alternative transportation mode more feasible and talks about "encouraging more compact development...along the Broadway, Cottage Road, and Main Street corridors." Bus service is more feasible when you have more potential transit riders in compact nodes along a corridor. This is how it is "chicken and egg"—how do you get bus service without people and people without the bus service. The proposal is consistent in that they're not proposing non-residential uses. They fit with the idea of this becoming higher intensity and that it will better support transit.

In terms of waiting for those to happen, the Comprehensive Plan is vague. It probably considers improved bus service. They have tangential improvements: there is Sunday bus service now and they've improved the Broadway/Waterman Drive end with a new traffic signal controller.

He explained that at the Cash Corner end, they are funded for improvements to improve pedestrian crossings and to continue the multiuse path to link up with the Thornton Heights bike lanes and pedestrian improvements. They have a Water Resource Protection project in Pleasantdale, which includes geometric improvements to the Broadway/Elm Street intersection. He can't say there have been dramatic transportation improvements but there have been some.

He felt that in terms of the proposal, it's not a huge buildout. He thinks you can reasonably say it satisfies the Comprehensive Plan. Given that and the fact that the applicant took their suggestion in terms of pulling lots together, that it's next to Ridgeland Gardens and Estates, that there are several bus stops in the area, and it's next to an institutional use, he believes it's fairly reasonable. It is up to the Board and City Council.

**Linda Kelley, 1337 Broadway**, introduced herself.

**Jacqueline Thompson, 1351 Broadway**, holds the largest piece of property and came to support Ms. Kelley. This helps them, although they are not currently planning anything. She appreciates any consideration from the Board.

#### PUBLIC HEARING OPEN

**L. Boudreau** said that it doesn't necessarily have to be residentially developed if it is changed to the G zone and asked for an outline of other uses.

**S. Puleo** noted that it is stated in the memo on page 2.

**"Permitted uses in Residential District G, per Section 27-552:** dwellings, exclusive of mobile homes; public and private educational facilities including child, adult or combined day care centers; nursing homes, exclusive of mental care; medical and professional offices; funeral homes; churches; accessory uses including home occupations and telecommunication antennas with exceptions; and, any use permitted in Residential District A. The number of units allowed on parcel determined by net residential acreage as described in space and bulk section of the G district, per Section 27-554.

**Special exception in Residential District G, per Section 27-553** Business and retail uses intended to the convenience of the immediate area; Municipal buildings and uses; Public utility facilities; beauty parlors and beauty shops; recreational or community activity buildings; charitable and philanthropic organizations; community homes; and accessory dwelling units."

**T. Haeuser** read the special exceptions and noted that beauty parlors and shops happen the most.

**S. Puleo** read the permitted uses. Any permitted use that creates something other than a single-family house, over 1000 SF of structure, would have to come to the Board. This could be a change of use if it incurs a greater impact to the area. He gave an example of a professional office which would trip an increase of impact. It wouldn't be as simple as pulling a permit and changing the use. Anything different than a single-family home would most likely bring them to the Board. A multi-family dwelling would bring them to the Board no matter what size.

**T. Haeuser** said that is a good point. A non-residential use, if proposed, particularly if it's higher traffic, would raise a Comprehensive Plan issue and potentially disqualify it.

**L. Boudreau** said she's not opposed to the zone change but they have to remember to not get stuck in what's currently there. It could change to residential but also to another use. She thinks they are suffering the same situation that Main Street did, where those that front on Main Street eventually look towards something that would turn into professional buildings. She's not opposed to any of this; these are great lots to be available. It's quite an area for a transition.

**W. Laidley** asked Mr. Haeuser to review his calculations again.

**T. Haeuser** stated three potential lots on 168, seven on 169, 14 on 41-1, one on 41-2A, four on 41-27, and three on 41-27B. **K. Carr** noted a total of 32.

**I. Misiuk** said if someone bought all of the lots, based off of square footage of the entire area, he calculated 34 units maximum if combined. He's not sure how combining the lots would work with the bottom portion. He asked the applicant what her goal is with the property.

**L. Kelley** said she had an in-home business before. She wants to keep it residential. This is to add one unit on her property that she couldn't in the A zone because she doesn't have the frontage.

**I. Misiuk** is confused that the goal is to keep it residential but to change it to the G zone, she is able to put in businesses.

**L. Kelley** said her goal is not to put in a business. She's been there for ten years.

**I. Misiuk** said he is for redevelopment. The thought of having 34 units is wonderful in his eyes. He was just curious of her goals.

**L. Kelley** said no one she has spoken with has talked about business; they have all wanted to put in an additional unit. They are aware there are traffic implications with a business.

**T. Haeuser** said if someone aggregated the lots under the same ownership, he doesn't think you can count the two sides of Broadway together. Mr. Misiuk's 34 total units would be seven less, or about 27 potential units on the top portion.

**I. Misiuk** said he's not sure how it would look by adding additional dwelling units on two of the lots. It would almost be directly behind the principal.

**S. Puleo** said there's a fence and a walkway that would have to be obstructed. They have developments that go around buildings and develop the back part of the lot. 330 Sawyer is an example, where there are condos behind with a driveway to access the development. From the development end, he doesn't think this is an impediment. Anything brought forward to bring more residents in would bring it to the Planning Board process.

**T. Haeuser** showed the properties from above. **S. Puleo** said you can get around Ms. Kelley's property.

**T. Haeuser** asked if a certain property is a community home. **L. Kelley** said it's Broadway Crossings.

**L. Boudreau** said there is a bus shelter right there, which makes it very usable for public transit. **T. Haeuser** said it is used a lot by Ridgeland Estates. **L. Boudreau** said there's another across the street in front of the school. **S. Puleo** said there may be a bus shelter there in the future; they've spoken about adding one during a bus shelter study.

**K. Phillips** asked if there are any comments from the abutting property owners.

**S. Puleo** said he tells people who call he can't provide it as part of the record, but he had discussions with three or four people during the ad period. Each said they support it but wanted to understand the difference between the A and G districts, and basically that is the multi-family component. **T. Haeuser** said he had a couple calls wanting to know what it meant and that is when he started calculating. Once they understood what it meant, they said thank you and that was it.

**K. Phillips** wondered because there are a lot of abutters.

**W. Laidley** said that nothing has been said about the the Affordable Housing issue as mentioned in the Comprehensive Plan. He asked if it's not important.

**S. Puleo** said he didn't think it was relevant for this zone change request. There was no indication from the applicant or co-applicants that this was an issue they were thinking about. He doesn't think there's any real framework in the ordinance that would direct people in that way, but they are working on it and can talk about it in the future if someone wants to put 10 or 20 units in by combining lots. He looked more at the transportation corridor, with Broadway and the bus service and stops. Adding more density satisfies the transit aspect but not necessarily affordability, although that could be an option if they wanted to go that route.

**T. Haeuser** said they had a workshop about inclusionary zoning with the Council to mirror Portland's requirements and incentives to create workforce units. In terms of affordability, they are higher-end. Any project with 20 or more units would be required to provide 10% as workforce housing. In addition to that, the City will, through the Affordable Housing Committee, look at potential strategies.

**L. Boudreau** asked if they're working on the Highland Avenue connector road. This is a critical piece of Broadway for transportation. Without another way to get across the City they are in trouble. If it stays residential it's probably okay, but a higher intensity use could start backing up traffic on Broadway.

**T. Haeuser** said that is a good point and another transportation improvement that could be made. The answer is no, there was a plan developed by Sebago Technics but it requires environmental permitting and the will to spend the money and take the five years to get those permits.

**L. Boudreau** said if anyone in the neighborhood was going to be concerned, it would have been those first five on Huntress Avenue that abut. The other surrounding properties don't have the personal individual investment. It sounds like they haven't had big challenges to that. She thinks these are big lots that are underutilized in a City like South Portland. She would recommend in favor and let the Council struggle with the political infrastructure development versus affordable housing sprawl prevention and economic development in the City. She would make a favorable recommendation.

**K. Carr** said he looks at the notion of "pockets of G" appearing like dandelions throughout the map. The fact that there is a conditional G zone that abuts creates continuity. He agrees with Ms. Boudreau and can't think of an overwhelming reason one way or another. The argument is compelling.

**I. Misiuk** echoes what was said. He is for eliminating density requirements across the City.

**L. Boudreau** added that it does look like they have "pockets of G" but what is the difference between an ADU and a multi-unit? They are increasing density through the use of ADUs. Within the last three months on Broadway within a short distance, they've approved two. She thinks it will look this way until they have something better. In all practicality, they are making the line fuzzy anyway.

PUBLIC HEARING CLOSED

**A. Dowling** motioned to recommend to the City Council to approve the zoning map change for Assessor's Tax Map 32 Lots 168 & 169 and Assessor's Tax Map 41 Lots 1, 2, 27, & 27B from Residential District A to Residential District G. This recommendation is based on the determination that the rezoning is pursuant to and consistent with the Comprehensive Plan. **K. Phillips** seconded; (7-0).

Item #5. Public Comment on Items Not on the Agenda

None

Item #6. Comments from the Planning Board and Director of Planning & Development

**T. Haeuser** mentioned the second meeting March will bring forward Part 1: a text and math amendment proposal for the CS zone. There are two potential apartment projects, one at the bend of Clark's Pond Parkway and the other on the Sable Oaks golf course. As Mr. Misiuk talked about, the main text amendment would be removing the density requirement. They are finding it is an unnecessary artifact and things like building coverage limitation on land, building height, and off-street parking are what matters. Part 2 will be the inclusionary zoning proposal. Because builders have had the option of paying a \$100,000 fee in lieu of providing workforce housing, there would be a housing trust fund to then be used to provide income or capital to a project to provide lower income affordable housing. He also spoke about the challenges faced with recreational marijuana. There are some unfortunate time deadlines that require local public

hearings and action. They are now well into the six-month moratorium and the workshop with the City Council was postponed because of a snowstorm. It's now scheduled for March 8<sup>th</sup>. It's an interesting but challenging issue.

**W. Laidley** showed an article in the Maine Townsman that talks about those very issues in great detail. He thinks there is a real challenge in writing the rules.

**I. Misiuk** talked about the new Irving. He said it's nice and he likes it, but the intersection is a mess. **T. Haeuser** said the lane assignments are confusing. Until the striping is done when the weather improves, it will be like that. **W. Laidley** said he visited and didn't have any problems. **K. Carr** had the same experience as Mr. Laidley, but he went on a weekend morning.

**T. Haeuser** said that the Riverview Martial Arts space above is nice. **A. Dowling** agreed and mentioned that there's also a community space.

**W. Laidley** was driving on 128 in the Newton Highlands area and passed a 400,000 SF building that's a spec building. He said we have room to go before we reach that stage.

**L. Boudreau** said the congregate facility is massive. If you're on the highway, it's amazing how large it is. **A. Dowling** said it's very close to the highway. He wonders if they'll need a sound wall.

**T. Haeuser** said the last sound wall project took money for the Exit 4 project. Part of the Exit 4 project is going forward now.

**I. Misiuk** saw a newspaper with a front page story while in Los Angeles about how they are attempting to put an end to development out there. There's a proposition being voted on that will stop development and many people are for it.

**S. Puleo** said there are two meetings in March, one scheduled for April, and then it is two per month for a while.

Item #7. Adjournment

**8:15 L. Boudreau motioned to adjourn. I. Misiuk seconded; (7-0).**

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**Please Note:** No new agenda items will be begun after 11:00 p.m. If during the course of a Planning Board meeting it becomes apparent that the Board will not reach certain agenda items, the Board may, prior to its 11:00 p.m. cut-off, offer to the proponents of such items the opportunity to have their items tabled immediately to the beginning of the next regularly scheduled meeting. Agenda items remaining after the 11:00 p.m. cut-off time will automatically be tabled to the next regularly scheduled meeting.