



6 Church Street, Gardiner, ME 04345
Phone (207) 582-4200

Debby Willis, Chairperson
Angelia Sencabaugh, Administrative Assistant

PLANNING BOARD MEETING MINUTES

Thursday, December 05, 2019 @ 6:00 PM

City Hall Council Chambers

1. **Call the Meeting to Order-** Chair Willis called meeting to order at 6:07pm
2. **Roll Call-** Chair Debbie Willis, Pam Mitchel, Zachary Hanley, Lester Young
3. **Others present-** Tracey Desjardins- Economic Development Director, Kris McNeill- Code Enforcement Officer, Brian Pollis -resident, Melinda Bishop- resident, Lynn Jacobs- resident, Rosalba Votto – resident, Angelia Christopher- Planning and Development Administrative Assistant.
4. **Review of the November 12, 2019 meeting minutes-** The board had the chance to review meeting minutes from 11/12/2019 prior to this meeting, and were requested to send changes in prior to this meeting. Pam Mitchel had changes that she sent to this writer via email. Changes are as follows: Page 3-notes state that abutting neighbor Sara Hasty's children had attended the Boys and Girls club. They attended the former school there, but not the club. Page 4 - addition of an 'a' in a sentence. Page 5 - correction to spelling of adelgid

Pam Mitchel makes a motion to approve the minutes with small changes. Zachary Hanley makes a second. All are in favor.

-
5. **Applicant- Michael R. Hamlin** – Mr. Hamlin is seeking approval to change the use at 4 Maple St. from single family dwelling, to a boarding home.

Chair Willis asks if the applicant is here and he reports that he is. Mr. Hamlin tells us that he has all of his necessary material = receipts from the local paper, and certified mail. Mr. Hamlin reports that he bought the property at 4 Maple St. 3 years ago, and when he did, it was a dilapidated building that needed major work. He tells the board that he ended up putting a new foundation under the house, new metal roof, renovated the whole inside. While he was living

there, he started renting out some rooms. Eventually he had to go live with a parent, due to medical need and that is when the trouble started. There was a bunch of unruly people there, not paying their rent, and generally overrunning the house doing anything they want to do. Things quickly escalated and soon conditions at the house were out of control, with police visiting the house frequently. He eventually ended up hiring a manager, who started screening people, getting good tenants, and doing what he feels is 'smoothing things over' in the house at 4 Maple St. He feels that the past year, has been the best it has ever been, however he does tell us that there was one woman who walked in off the street, uninvited, went upstairs, went into one of the rooms and overdosed. The result of this incident is that the front door is now always locked, so that vagrants, can't come in off the street whenever they want. He says that this has helped. So between his manager, the money that he has put into the building, and the tenants that are now living in the building, Mr. Hamlin feels that life at 4 Maple St has been going smooth, probably better than it's ever been.

The application for change of use comes in because Mr. Hamlin had been told by the Code Enforcement officer, Kris McNeill, that where he didn't live in the house anymore, which is physically a 2 unit, but listed as a single, that he needed to apply for a Change of use. If Mr. Hamlin were still living at 4 Maple, he wouldn't need to apply for this change.

There are currently seven people living at 4 Maple St. He reports that everyone in the home is paying their rent, and everything is under control. The tenants receive all the amenities, in the way of Cable TV, refrigerator, microwave, Wi-Fi, beds, linens, TV. The seven people that live there pay their rent on time. He feels that the last 7-8 months have been pretty good, especially since he hired a live in manager. Most of his tenants are on SSI which is 770\$ a month. Tenants are paying \$150 a week for everything, so this gives them a nice place to live, with a little left over.

He states he has made several upgrades recently, even to one of his neighbor's properties. He recently received access from his neighbor's property, so he could access his roof to do repairs. In exchange he agreed to replace the properties length of fencing. He tells the group that this past summer he installed a chain link fence with a gate between the two properties halfway down the property line and next summer he states he will finish the job, going the rest of the length of the property.

Chair Willis is questioning what it is that he is looking to do with the Change of Use. Both Mr. Hamlin and Kris McNeill, Code Enforcement Officer state it will be a boarding house, which can be permitted with review in that zone. Chair Willis reads the definition of a Boarding Home- **Boarding Home:** A building where lodging and meals are provided for compensation for a period of at least 2 weeks, and where a person or family residing in the building acts as proprietor or owner. There is no provision for cooking in any individual room. After hearing the definition, Mr. Hamlin states that perhaps it should be called a 'rooming' house. The tenants have a shared kitchen and shared bathrooms upstairs and downstairs.

Mr. Hamlin feels that this is a boarding home, people are staying longer than 2 weeks, the manager lives there. Chair Willis asks if there is a provision for cooking in each room? Mr.

Hamlin states that there is a shared kitchen, but then states that each room has a microwave. Lester Young states that a microwave enables cooking, which is a provision for cooking. He also rents on a weekly basis. All of these factors make it lean more towards a hotel. Boarding home standards state that a tenant needs to be there at least 2 weeks. Mr. Hamlin states that his tenants are there much longer than 2 weeks. They are very comfortable, and usually don't want to leave. He states that people have been there for months, not creating noise, not doing drugs, not being unruly. Pam Mitchel asks if there is any kind of written agreement, like a lease, between him and his tenants? Mr. Hamlin states no, and that if a tenant doesn't pay rent every week, they are out the next week theoretically.

Chair Willis tried to do a drive by, so she could check out the parking situation. There are reportedly 7 people living there, there needs to be at least 7 parking spots. She tells us that she not could see where there was sufficient parking. Mr. Hamlin states that the half of the driveway in 2 Maple St is his, giving him 2 spots in addition to two spots under the porch at 4 Maple St. Lester Young asks if his deed shows that he has parking rights at 2 Maple St, and Mr. Hamlin states that it is, and also on the tax maps/info here at the City of Gardiner- He states that there are only 2 people living there that have cars, the rest of the vehicles that are there are just visitors. Pam Mitchel states that she checked into the property, and she did see the space under the porch, but she was not sure if it was big enough for 2 vehicles. She also was not aware of his claim that he could park in 2 Maple St driveway.

Chair Willis states that the City of Gardiner has provided police reports for the year 2019. The Gardiner police have been at the property 16 times, the last time being 10/16/2019, and it appears that there was a death? Mr. Hamlin states that was the 'girl that walked in off the street', but she didn't die. Chair Willis reads the report, which says 'Unattended Death'. Mr. Hamlin retorts with "She didn't die, they revived her". He tells us that she came in, went in the bathroom, and he thinks she might have done some drugs, and might have OD'd. Chair Willis starts reading off dates from the police reports, 10/23, 10/19, 9/26, 9/14 and asks him about his statement that he made about the last 7-8 months since he hired a manager things have calmed down. Mr. Hamlin states that he feels that those police reports are about someone who had a warrant. Chair Willis states that they are not about warrants for arrest. Mr. Hamlin states he didn't even know that the Police had visited that many times, and he would like to a copy of those.

Chair Willis states that this board is for Land Use issues, not police issues. We need to address the land use and what the applicant is trying to do with the Change of use application.

Code Enforcement also presented a complaint log for the address. Several complaints included illegal boarding house, intoxicate people, fighting, excessive noise, etc. Overall, people in the home are being disruptive to the neighborhood.

Chair Willis ask if the Board feel they can hear this in an unbiased manner. All board members agree yes.

Chair Willis opened the hearing at 6:28

Brian Pollis, lives at 16 Maple St. Mr. Pollis starts with that none of the residents on Maple St. think that this application is a good idea. This house is riddled with problems. This is a family neighborhood, and now there are litter problems, traffic problems, and loud- foul language. He feels that there are drug problems going on in the house, drug deals happening. He has even seen people park in front of his house, get out of the car, with a little package, and run down to 4 Maple St. and come back to their vehicle. These issues have been brought to the attention of Mr. Hamlin's business partner, who called the house a crack house, a shady business. His business partner has done nothing to change it either. The City of Gardiner should not be responsible for the extra rescue, ambulance, and police protection needed for a drug house. It is well known, by Mr. Hamlin, and his business partners, that there is shady activity going on, yet it continues. Mr. Pollis questions, if the house is unlicensed as a boarding house, and running as a boarding house, why is the City allowing it?

Rosalba Votto- lives at 25 Maple St. She has penned a letter, and states that she will just read it. Mrs. Votto states that she has lived in her home for 28 years, and no one has ever just wandered in to her home and used her bathroom. She finds it a little odd, that someone would just do that.

"My name is Rosalba Votto. I and my family have resided at 25 Maple St for 28 years. I am here tonight to voice my concern regarding the property at 4 Maple St. I did not receive a prior notice of tonight's meeting. Somehow, I do not believe that was accidental. When I came to the Planning board office this morning to discuss the activities at 4 Maple St, I was told that this activity was a 'rumor'. Let me assure you that the activity at 4 Maple St. is not a rumor.

There appear to be dozens of people staying at this address. There is coming and goings at all hours of the day and night. The street has become clogged with cars, many with out-of-state plates making it almost impassable at times. On several occasions, the police and ambulance people have been there, at the cost to the taxpayers of Gardiner. It is my understanding there has been a death there. Cars of teenagers cruise up and down Maple St, many stopping repeatedly at the 4 Maple St. address. The location borders on busy Water St. which lends itself to a potential accident at any time. As it stands this situation is unacceptable to the taxpayers on Maple St. This has always been a quiet, residential neighborhood with little traffic. We find ourselves inundated without our approval. And now Mr. Hamlin wishes to add more people. This despite the fact that one of my neighbors spoke to him in the past regarding this situation and was assured by him, that these people would be moving out. Needless to say, this has not happened. Now he wants permission to expand. I think no. Rather this building should be returned to its previous status as a one family home. We on Maple St. value our quiet, safe neighborhood and wish it to remain as it always has been. If Mr. Hamlin is seeking to establish as half-way boarding house perhaps he should do it in his own neighborhood or perhaps he should do it in the neighborhoods of the members of planning board, if it is such a good idea? Leave the residents of Maple St to the quiet place we've always enjoyed. Sincerely Rosalba Votto". Kris McNeill, Code Enforcement Officer explains that Mrs. Votto was not notified because she lives over 200' away from 4 Maple. Mr. Hamlin was only responsible to notify abutters 200ft around the property. She feels very strongly, that she should have been notified, and very upset she had to find out about the meeting from one of her neighbors.

Lynn Jacobs- Lives at 9 Maple St -She states that most people from 4 Maple park at the vacant house across the street and now the lot is full of trash. Chair Willis asks if the vacant house is 494 Water St, the brick house, and Ms. Jacobs confirms that it is. She goes on to state that there are several cars that park there and it is overrun with trash. As far as a driveway at 2 Maple St., the blue house, there was a line with rope and a sign that was there for an extended period of time, telling people to stay out of the driveway and off the property. She feels that he doesn't own half that driveway. She has witnessed herself, at all hours of the day and night, people showing up and leaving and she states that it is a known drug house. She states that she has been woken up, numerous times, at all hours of the night, by people walking up and down the road, screaming. As far as the house being quiet, she tells us it is definitely not. She also says that there is more than 7 people living there. There have been fights in the street, and it's becoming unsafe. She lives alone, and she is starting to feel unsafe.

Melinda Bishop, lives at 6 Maple St, which is next door. She has lived in this house a very long time, since 1978. She has seen this house in the hands of several owners over the years, and be vacant as well. Mr. Hamlin purchased it, and she is the neighbor who let him access her property so that he could fix his roof. Earlier he stated that in return for this gesture, he has replaced half of her fence. (Her property extends all the way to Elm St. and there is a fence separating 4 and 6 Maple) This is not true. A very small portion of the fence has been taken care of, including the gate, it is nowhere near half of the fence. There was a verbal contract in place for this, and she had come to expect the work to not get done at all, because it had been over a year since they had discussed him replacing her fence. The fence needs to be replaced because Mr. Hamlin and one of his tenants had torn her fence apart, burning it in the tiny back yard at 4 Maple St. every night in the summer time. There also were several loud parties. One night, about 2:30 AM, she asked them to quiet down, because she had to get up and go to work. She states that Mr. Hamlin told her that they were not going to stop, they were all drunk, they needed to relax, and they were all very derogatory towards her. She went home and called the police and let them deal with it. This morning she left for work @ 5:30 am, and there were 2 Gardiner police cars parked outside of 4 Maple St. She says she has seen numerous police cars and ambulances on the property and she does not agree with what is going on there, or what is proposed. People parking in the vacant house, there are as many as 4 cars in that lot, daily. 2 Maple St. has had a line up across the driveway, stating 'do not park here/no trespassing', and she has seen it. She tells the Board that # 4 Maple, has 2 car Max parking spaces. There is generally 1 if not 2 cars parked in front of her house on the street, and on any given day, there can be 8+ cars parked for 4 Maple St., with license plates from all over the East coast. She states that she too, has noticed cars will pull up to the house, run in, and leave quickly. She's not sure if it's a drug house, brothel, or whatever, but she doesn't like it.

Mr. Pollis would like to speak again. He and his wife will no longer walk by the house, out of fear of retaliation. He tells the board that all the stories, are all true, and he hopes the board discussed this and does the right thing. He hopes that Planning Board sees that there is no room for this type of establishment on Maple St.

Chair Willis reports that the City has supplied an aerial view over the property and states the different professional roles of planning board members. Chair Willis asks city employees if they have had any correspondence from residents. Kris McNeill states he has had several complaints. This reporter has spoken with Mrs. Votto earlier today.

Rosalba Votto comes back to the podium and is upset this was displayed as a rumor today, and now that all this has been presented, hopes that now that the City and Planning board has heard from the people that live on Maple St and have to put up with this nonsense, that the City should know and understand that it's not just a rumor. 'That it should not go on- not in our neighborhood, not in any neighborhood and she hopes that the board are going to act appropriately and that they are going to take the right action.'

Chair Willis states that we have 16 police reports in front of us, and Mrs. Votto states, "well that should be enough, I would hope".

The crowd starts to get loud and people are speaking out of turn.

Chair Willis closed the public comment. And reminds everyone that the board is for Land Use, not Police matters.

Chair Willis, will start to review the application.

She references Code Enforcement- Chair Willis was unaware that there were already 7 people living in this home. – Kris states that up to 7 people can be living in this home- under law if Mr. Hamlin is living there, he can rent out to whoever he likes. When Kris first started the CEO position, Mr. Hamlin came in to add bedrooms under a building permit, not a change of use. That permit was approved. Chair Willis asked if the bedrooms were added, yes they were. Chair Willis speaks to clarify this matter. She noticed that there is only one-meter box, which she would consider to mean that the home is a single family home. The group agrees that this is a single family home, with rooms being rented out. Pam Mitchel states that she feels like she needs more information, she is unsure of what the lot looks like, wants to know the square footage (the lot is .10 ac). Mr. Hamlin gives his impression of the property lines, and states that it says right in the deed that he has rights to park at 2 Maple and on the tax maps. Lester Young tells Mr. Hamlin that he has read through the deed, and cannot find any such reference to Right of Way to 2 Maple. None of the other Board Members have either. Mr. Hamlin states that the measurements on the tax maps are wrong, and he has taken the deed to his attorney for review. Mr. Hamlin insists that he has his deed says 60ft where the tax maps have the property dimensions at 33ft. Pam Mitchel has been doing calculations for the property and has come up 4356 sq. ft., not even 5000 sq. ft. These calculations also correlate with the measurements of the property lines, which are 33x132. Mr. Hamlin also states that his property goes all the way to Elm St. which according to the tax maps, it does not. The property is listed as 132ft deep, and the land behind it is owned by an abutter. Mr. Hamlin insists that he has gone over all of this with an architect and his attorney, and that the tax maps are wrong. There are many deeds that are associated with this property, none of them reflect any type of parking ROW. Mr. Young asks if a deed was a requirement for a planning board application. It appears that a deed is not, but there should have been at least one, if not more, site maps- (with the building clearly identified),

included, which showed property lines, required setbacks, easements, ROW's, etc. Mr. Young tells Mr. Hamlin if he doesn't have a ROW for 2 Maple, that he is trespassing. Mr. Hamlin insists he is using 2 Maple because it is within the boundaries of his property.

Mr. Hamlin states that after hearing the abutters speak about the goings on of the house. He felt that the last 7-8 months, that things were going well at the house. He states he was not aware of the police involvement, the drug activity, etc. He has no problem at all with shutting it down and selling the house. Rosalba Votto states that she thinks that is a great idea. Mr. Hamlin retorts by asking if she will buy it? (discussion ensues...) Chair Willis asks for Order, all discussion will come through the Chair of the Planning Board.

Chair Willis asks the board what they want to do. She states that she has never had an application that appeared to be not appropriate for the land use. She's not talking about the people that live there or their visitors and the activities, she's talking about the use of the land. She tells the group that her immediate concern was parking, and that frankly she stopped her investigating right there, after seeing the lack of it in her initial visit. She tells us that she walked all around this little, tiny piece of property, and she could not figure out how, he would be able to get enough parking spaces. She asks the Planning board if they want to ask the applicant to supply more information so they can make a better informed decision? One of the things that Pam Mitchel had hoped to get was a drawing of the property of the building that showed... Mr. Hamlin interrupts her with "I think we can make this a lot easier, if the Planning board says, 'Ok Mike, this is how long you have to get rid of those people' and then I will sell it." Chair Willis states that is not how Planning Board works, they are strictly about land use not about the people that live in the building. Mr. Young tells Mr. Hamlin that could be a moral or ethical decision he makes, but the board cannot do that for him. Mr. Hamlin agrees, but states he still needs to give them some time to move out. Kris McNeill, CEO, tell Mr. Hamlin that he will work out the details of the tenants moving out with Mr. Hamlin.

Mr. Hamlin make a statement to withdraw this application.

Pam Mitchel tells Mr. Hamlin, that he needs to have a parking spot for each resident living in his home, and if he can't supply 7 parking spots, Planning Board can't approve this development. Mr. Hamlin tells the board that he could buy the empty property across the street, as he has been approached to. The reason there are so many vehicles at or around 4 Maple, is because of the tenant's visitors, not his tenants.

Mr. Hamlin states that he will start planning and will give his tenants a certain amount of time to move out. He will likely let his manager, who he feels does not abuse substances, stay there, and maybe one other person. He is trying to sell the home, which is listed as a single family home. Kris McNeill, Code Enforcement Officer, will work with Mr. Hamlin to see that the current use of a boarding home is dissolved in a timely fashion.

6. **Review of Marijuana Ordinance-** Land Use Code amendments and the Licensing ordinance-

There was workshop with City Council last night, to give them a full picture. Mark Eyerman and Chair Willis from the ORC were there to work with Council members to go over any questions they might have had. The proposed Ordinance goes over every possibility for Adult Use Marijuana. Where to grow it, where to sell it, where to test it, etc. Council agreed with the proposals and would like to see the work go to Planning board. The proposals will be added to the January Planning board meeting agenda as a public hearing. We have the material, and the opportunity to review the material before that, so it makes sense to have the first public hearing in January. This will help to keep the process moving along. Mark Eyerman will be requested to be at Planning Board to help with any questions that might come about during the public hearing. The next planning board is scheduled for January 14th.

The board will be working on establishing fees for City council but will need some guidance. City Council will be setting the fees but needs some guidance from the Planning board. We have placeholders that we created, but nothing concrete. The city has to opt in, and it would be prudent and cautious to do the land use at the same time as the fees. Licensing providers will need to be done annually. This will give us the opportunity to check in, see how things are going, make sure people are happy, no disruptions in the communities.

Pam Mitchel asks if odor has been addressed in the ordinance. The odor can get extreme, it can be offensive and in other towns has caused problems. There are some providers that do a great job, and you can't tell what is going on in that building, and then there are some that the smell is very strong coming from the buildings. We need to consider vapor toxicity and whether or not marijuana falls into that category. Some feel that Marijuana odor can be toxic, due to the chemical, which causes the odor. It seems that this will end up being individual interpretation and will be discussed further later.

8. **Send to Planning Board** -Chair Willis asks for a motion to this to Planning Board for Public Hearing. - Pam Mitchel makes a motion, Zachary Hanley seconds the motion. Les Young abstained from the vote Final count 6-0-1

9. **Next meeting** will be held on January 21, 2020, at 6pm. This will be a public hearing.

10. **Adjourn:** Chair Willis asks for a motion to adjourn. Pam Mitchel makes a motion to adjourn. Zachary Hanley seconds the motion

Adjourn at 7:20 PM,