



TOWN OF FREEPORT, MAINE
Planning Department
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TO: Freeport Town Council
Cc: Peter Joseph, Town Manager
FROM: Caroline Pelletier, Town Planner
RE: Zoning Ordinance Amendment – Village Commercial I (VC-I) – Single Family Dwelling
DATE: Tuesday, September 29, 2020

Background: This was an applicant driven agenda item for an amendment to Section 413 Village Commercial I (VC-I) of the Town of Freeport Zoning Ordinance. The change would allow existing single-family dwellings in the District to be a permitted use.

The applicant owns a property that contains a single-family dwelling and is located in the Village Commercial I (VC-I) Zoning District (see attached map of the VC-I Zoning District). Per Section 413 of the Freeport Zoning Ordinance (attached), single family dwellings are currently not permitted uses within the District. Since the use is not permitted, it is considered a non-conforming use and per Section 202 of the Freeport Zoning Ordinance, the only way the applicant is allowed to expand the use would be to seek approval from the Board of Appeals which would have the ability to grant a one-time expansion of a non- conforming use up to maximum of 15% of the gross floor area of the existing structure(s). To obtain a variance, the applicant would have to demonstrate that they have an “undue hardship” which is hard to demonstrate if they have any use of the property.

Based upon discussion with the Planning Board and then with the Town Attorney, a text amendment to Section 413 of the Freeport Zoning Ordinance was proposed and has been recommended by the Planning Board to the Council for consideration. The proposal includes adding existing single family dwellings (existing as of the date of adoption) to be considered permitted uses.

Process: The Board had a discussion on the item at the July 1, 2020 Planning Board meeting. A public hearing was scheduled and advertised for the August 5, 2020 meeting, however that meeting was postponed due to a power outage. A public hearing was held on 09/02/2020. Legal ads ran in the Brunswick Times Record on 8/21/20 and 8/24/20. One member of the public spoke in favor of the proposed amendment.

PUBLIC HEARING

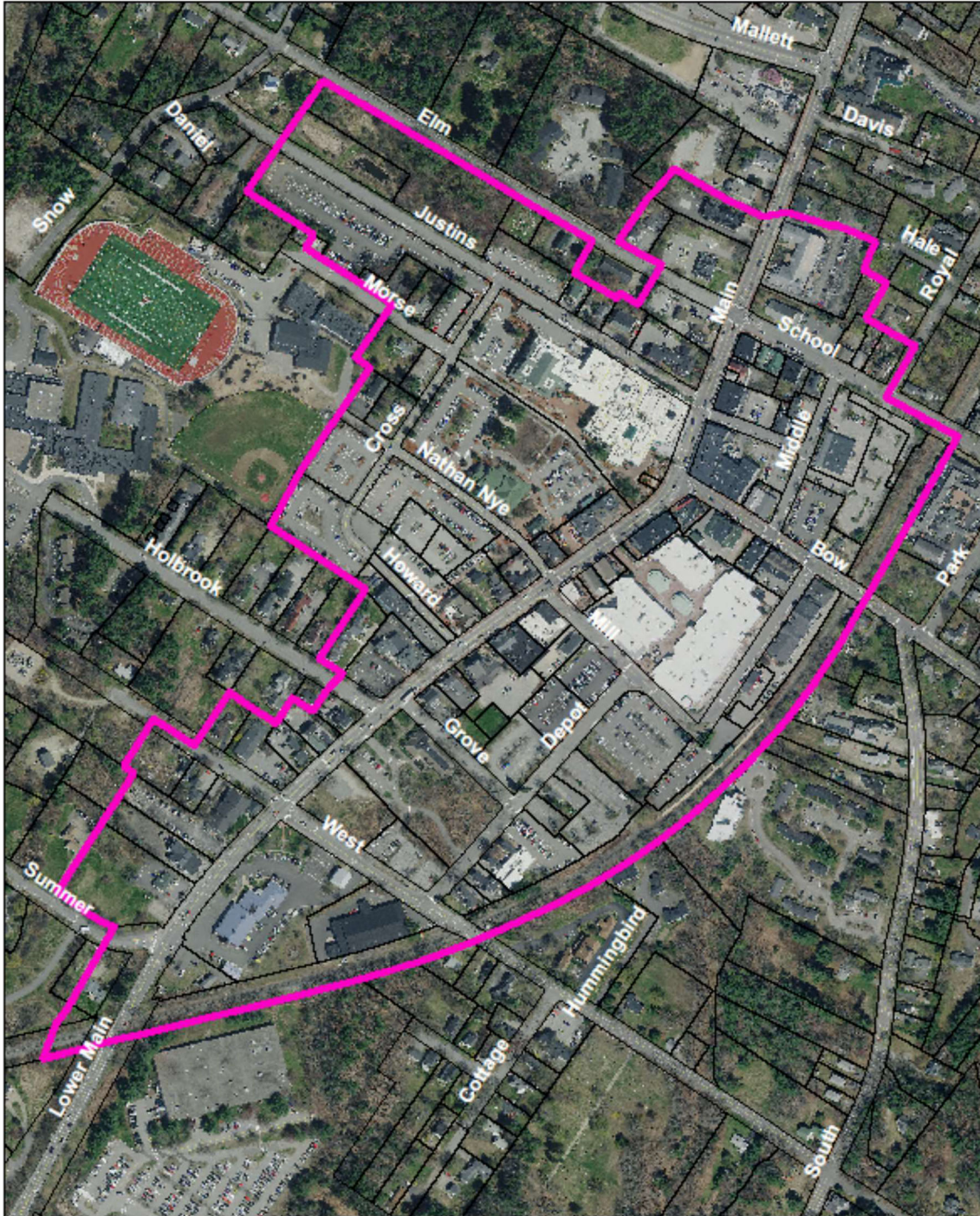
The Freeport Planning Board will hold a public hearing on Wednesday, September 2, 2020 at 6:00pm to discuss a proposed amendment to Section 413 Village Commercial I (VC-I) of the Town of Freeport Zoning Ordinance. The change would allow existing single-family dwellings in the District to be a permitted use. Applicants: Gary and Heather Sylvester, 19 Morse Street (Tax Assessor Map 11, Lot 49). The meeting will be held virtually using Zoom. The public is welcome to attend. Information on how to participate can be found on the meeting agenda posted on the Town’s website at www.freeportmaine.com Submitted materials are available for viewing in the Planning Office at the Freeport Town Hall during normal business hours.

Abutter notification was sent in accordance with the notification requirements outlined in the Rules of Order and Procedure of the Freeport Planning Board.

Recommendation from the Planning Board: The Planning Board made the following motion:

“MOVED AND SECONDED: Be it ordered that the Freeport Planning Board recommend that the Freeport Town Council adopt proposed amendments to Section 413 of the Freeport Zoning Ordinance to allow existing (as of date of adoption) single family dwellings in the Village Commercial I (VC-I) District to be a permitted use in that the Board finds that the proposal is consistent with the 2011 Town of Freeport Comprehensive Plan in that it would allow a variety of neighborhoods and housing types at a variety of prices and would maintain and improve the walk ability and bike ability of the Town’s neighborhoods so as to encourage community health and safety. (Savona & Cannan) **ROLL CALL VOTE:** (6 Ayes) (2 Excused-Ball & Torres) (0 Nays)”

Village Commercial I (VC-I)
Boundaries noted with the pink outline



Note: Proposed new text is underlined, proposed text to be omitted is struck through

PROPOSED AMENDMENTS TOWN OF FREEPORT ZONING ORDINANCE

Section 413. Village Commercial “VC-I”

A. Purpose:

It is the intent of this District to concentrate commercial activity within the Village Center:

B. Permitted Use

1. Single Family Dwelling (existing as of INSERT DATE OF ADOPTION)

~~CB.~~ Permitted Uses subject to site review regardless of size:

~~1-2.~~ Retail Trade

~~2-3.~~ Commercial Recreation, Indoor

~~3-4.~~ Business and Professional Offices

~~4-5.~~ Arts Center – Indoor and/or Outdoor with or without permanent structures

~~5~~6. Municipal Facility

~~6~~7. Private Assembly

~~7~~8. Public Assembly – Indoor

~~8.~~ Public Utilities

~~9~~10. Public or Private School

~~10~~11. Commercial School

~~11~~12. Outdoor Recreation School

~~12~~13. Religious Institution

~~13~~14. Peddler on Private Property subject to the requirements of Section 526

~~14~~15. One or two dwelling units on other than the first floor

~~15~~6. Multiple Family Dwelling

~~16~~17. Restaurant

~~17~~18. Restaurant - Carry-Out

~~18~~19. Visitors’ Center

~~19~~20. Manufacturing accessory to or associated with a retail trade located in this District

~~20~~21. Bed and Breakfast Inn

~~21~~22. Day Care Center Facilities 2

~~22~~3. Convenience Store

~~23~~24. Parking lots to serve A & B buildings, as defined in the Freeport Design Review Ordinance in the VC-II District, which meet the requirements of Section 413.D.2.

~~24~~25. Personal Services

~~25~~26. Parking Structure subject to the standards of Sec. 413.D.7 below 2

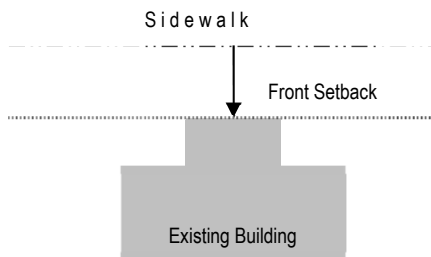
~~6~~27. Inn – not over 25 rooms and shall be at least two stories high

- 2728. Parking area for open space *{Amended, Effective 12/02/14}*
- 2829. Artisan Food and Beverage *{Effective 12/17/14}*
- 2930. Community Centers and Services *{Amended, Effective 12/18/18}*

ED. Space Standards:

- | | |
|--|------------|
| 1. Minimum lot size: | 8,000 s.f. |
| 2. Minimum road frontage: | None |
| 3. Maximum building height: | 35 feet |
| 4. Minimum setback/front: | |
| a. Where a sidewalk exists: | |
| i. New Structures | |
| - 10 feet from the property line if roof pitches toward the sidewalk; | |
| - 5 feet from the property line if roof pitches away from the sidewalk; | |
| ii. Additions to existing structures: the distance between the closest point of the existing building and the edge of the sidewalk closest to the building. In no instance shall the addition encroach into the public right-of-way; | |

Example:



- | | |
|---|------------|
| b. Where no sidewalk exists: 15 feet from property line; | |
| c. Landscaping or other amenities such as planters, benches or expanded sidewalk shall be required within the front setback. | |
| 5. Minimum setback side and rear: None if masonry construction is used and roof does not pitch in that direction. Five (5) feet if masonry construction is used and roof pitches in that direction. Fifteen (15) feet for non-masonry construction or walls with points of ingress or egress in them. | |
| 6. Minimum land area per dwelling unit: | 2,000 s.f. |
| 7. Maximum impervious surface to lot area ratio | 90% |

DE. Other Standards: *{Amended, Effective 12/18/18}*

1. Parking in the VC-I District is further subject to the provisions of Section 514 as applicable of this Ordinance.
2. A Buffer Zone as required by Article V, Section 506 shall be at least 20 feet in depth, and shall be required whenever new construction or renovation requiring a building permit is applied for. Where existing structures are within the 20-foot area, no further encroachment shall be permitted.
3. Peddler trucks are prohibited.
4. Parking structures shall meet the following design standards:
 - a. Active uses such as retail, display windows, or other Permitted Uses shall be incorporated into a parking structure. At least 50% of the total pedestrian-level frontage facing streets or other pedestrian areas shall incorporate retail, display windows, or other Permitted Uses. For the purposes of this section, pedestrian areas shall mean existing or proposed sidewalks, walkways, or plazas. The required frontage incorporating retail, display windows or other Permitted Uses may be included in another structure that is physically separate from the parking structure provided that such other structure is separated by no more than 10 feet from the parking structure. If the space between such separate structures abuts a public street, other pedestrian area or parking lot, such space shall be integrated into the building design as a sidewalk or it shall be concealed from view from such street, pedestrian area or parking lot in a manner consistent with this Ordinance. Neither vehicular access to parking structures nor the parking portion of the structure shall be permitted on the street level of Main and Bow Streets. Upper levels of parking structures on these streets shall be designed to be compatible with the street level structure.
 - b. The retail, display windows or other Permitted Uses meeting the 50% frontage requirement described above may be allocated across different elevations of the structure in any manner, provided that the result of such allocations in conjunction with other adjacent uses is not to cause any street upon which the parking structure has frontage to be significantly lacking in pedestrian destinations with the result that the street is inconsistent with the character of the District.
 - c. The parking space dimension and aisle width of Section 514 of this Ordinance may be reduced to maximize the efficiency of the parking structure provided the safety of the structure is not reduced.
 - d. Parking structures may exceed the maximum impervious surface to lot area requirement; provided the required pervious land area is met on another property in the VC-1, VC-2, or VC-4 Districts provided a permanent agreement is documented publicly in a format approved by the Town Attorney.
 - e. At least 75% of the street level of the parking structure that does not include retail, display windows or other Permitted Uses shall be screened with landscaping, art work, plants that grow on vines, or other material that

softens the appearance of the parking structure. The 75% does not include entrances and exits or commercial uses. Street trees shall be provided at 1 tree for every 30' feet of parking garage clearly visible from a public street or a parking lot. If the Project Review Board determines that street trees are not appropriate in the sidewalk along the parking structure, the standard may be met at another location in the VC-1 District or at the village gateways at exit 20 and/or 21 provided a permanent agreement is documented publicly in a format approved by the Town Attorney.

- f. The façade of the parking structure along the street or sides of the structure that are clearly visible from a road, other pedestrian area or parking lot shall consist of materials found on nearby buildings such as brick, stone, or wood-like material; or shall have a functional use such as a climbing wall.
- g. The façade of the structure along sides other than those described in paragraph f. above shall be treated to soften the stark appearance of concrete, for example red sand mixed with the concrete provides a brick-like color and texture to the minimally visible walls.
- h. On the side of the structure facing the street or sides of the structure that are clearly visible from a road, other pedestrian area or parking lot, the façade shall have vertical elements that cover support columns and shall be done in such a way to mimic window openings similar to nearby buildings, while providing proper ventilation, such as grill work, window boxes or other types of adornment that soften the look of the structure. The sides of the structure along other buildings shall maximize the openings between floors to improve ventilation.
- i. Pedestrian access is required on all sides of a parking structure that run along a public street, sidewalk, other pedestrian area or parking lot and shall be clearly marked.
- j. At no point shall a parking structure exceed 40 feet in height.
- k. A plan for providing security to parking structures is required. This plan shall include provisions for interior lighting and provisions for protecting the public such as but not limited to: surveillance cameras, regular patrol, etc.
- l. The Project Review Board may allow minor reductions to any of the standards listed above if strict compliance with the standard would result in the need for a mechanically ventilated parking structure. The Board may only allow a reduction up to the point where the standards of an open parking structure are in accordance with the current building code being enforced by the Town of Freeport. *{Amended, Effective 10/03/17}*