

**City of Newburyport
Planning Board
October 1, 2014
Minutes**

The meeting was called to order at 7:06 PM.

1. Roll Call

In attendance: Henry Coe, Paul Dahn, Sue Grolnic, Jim McCarthy, and Bonnie Sontag

Absent: Doug Locy, Noah Luskin, and Don Walters

Director of Planning and Development Andrew Port was also present

2. General Business

- a) The minutes of 9/17/2014 were approved. Henry Coe made a motion to approve the minutes. Paul Dahn seconded the motion and all members voted in favor.

b) 40 Merrimac Street – Minor Modification for Relocation of Chimney

Doug Annino, Annino Associates, architects, 125 North Washington Street, North Attleboro, MA, presented a rooftop addition with a false chimney over the elevator shaft that created needed headroom to get people to the third floor. He proposed eliminating some dormers and windows. Dormers were not in keeping with the structure's historic character and he wanted to eliminate three on the side façade and two on the rear façade of the building, keeping a simple gambrel roof in those sections. Four windows would be reduced to three. The building color would replicate the original deep red with black asphalt shingles and sunbrella fabric awnings. The new section would be stained clapboarded in a solid grayish-tan with an off-white trim. Construction would begin in a week or two.

Chairman McCarthy asked if the board agreed these were minor modifications? Members agreed yes. Members asked if the dormers were put in to provide more light to make the space more usable. Mr. Annino said the second floor ceiling opened up to the roof ridge, retaining the beams. There was a roof deck. The cathedral ceiling offered plenty of light. Members asked where the concrete wall behind the glass was? Mr. Annino said it had been removed to open up the view. Members asked if that change was in the approved plan? Property owner Joe Leone said yes. Chairman McCarthy said the decisions of the Historical Commission, who originally did not want dormers, had been reviewed. A few small details differed from the approved plan, such as the returns; he would ensure wording for the approved modification reflected all changes not in the originally-approved plan.

Paul Dahn made a motion to endorse the Minor Modification. Henry Coe seconded and all members voted in favor.

Motion Approved.

During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments and other related documents, all as filed with the planning department as part of this application and all of which are available in the planning department, were considered.

3. Old Business

***a) Tropic Star Development LLC
75, 79, 70R, 81, and 83 Storey Avenue
Major Site Plan Review
Continued from September 17, 2014***

Wayne Morrill, engineer, Jones Beach Engineers, 85 Portsmouth Avenue, Stratham, NH
Jeff Highland, Ironwood Design Group, 28 Front Street, Exeter, NH
Kevin Patton, senior associate, BKA Architects, Inc., 142 Crescent Street, Brockton, MA

Jeffrey Roelofs, Attorney, 30 Green Street, Newburyport, said on September 17th he was still waiting for some peer review comments. A September 23rd ZBA hearing approved a special use permit for relocating the gas station and the front setback. Revised plans were submitted September 24th. Some previous submittals were outlined in Attorney Roelofs letter, most of which were architectural revisions as discussed for the pharmacy and convenience store, and a fence detail. A revised utility plan the Planning Office received on September 26th from Jones and Beach Engineers, 85 Portsmouth Avenue, Stratham, NH, along with a lighting plan, were a direct result of Newburyport Water and Sewer comments. Attorney Roelofs had met with officials to talk through their comments. Richard Kaplan, Trustee of Plaza Realty Development Trust, 29-35 Storey Avenue, reached out to Scott Mitchell, owner of Tropic Star LLC and they worked out a traffic agreement.

Jeffrey Dirks, traffic engineer, Vanasse & Associates, 10 New England Business Center, Andover, said a meeting with traffic engineers resulted in significant improvements to vehicle queuing that burdened the Low Street - Storey Avenue intersection. A right turn only lane coming up Low Street to Storey Avenue was added to bring the queue closer to the intersection to get more cars through during light changes and reduce blocking at the Low Street driveway. New, state-of-the-art equipment would replace everything at the signalized intersection, with timing and phasing improvements in all seven interconnected signals along the corridor from Market Basket to the fire station. Design plans would be delivered to the City and Mr. Kaplan to provide an opportunity to comment in advance of submission to MA DOT.

Attorney Roelofs expected any decision by the board to reference the September 30th letter from Mr. Dirks. Comments from the DPS arrived September 29th and Jones and Beach Engineers responded today. He wished they'd arrived earlier in the process; some minor revisions resulted from the comments. The main comment was to prohibit a left turn out from the Storey Avenue access drive, an issue that Attorney Roelofs does not consider cause for concern. MA DOT would review the same issue. The post-construction monitoring program would ensure expectations were met (see #3 in the letter). Peer review comments that arrived this afternoon

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proposed minor housekeeping revisions that would be addressed in the administrative review process. Updated plans would be provided to the Planning Office and board, but should not stop a vote tonight.

Chairman McCarthy asked for board comments. Members said it was DPS who noted there were 28 spaces more than mandated for the pharmacy and the convenience store parking. Removing extra spaces would be an aesthetic upgrade that provided for more infiltration. Attorney Roelofs thought he was past site layout issues and said the number of spaces proposed was appropriate, the landscaping was extensive and overcompensated, in that it was more than Panera had done, and the plan met stormwater management standards. Chairman McCarthy said he read through most of the stormwater management report. There was a large amount of infiltration chambers at the back of the site. Christiansen & Sergi (CSI) comments were minor regarding stormwater. Chairman The DPS felt strongly about vehicles making a left hand turn out of the pharmacy onto Storey Avenue. Members who had similar concerns recommended keeping the plan as is to see what post-construction monitoring would reveal. The traffic had been thoroughly addressed. Chairman McCarthy was grateful for the productive meeting between the teams of traffic engineers – Tropic Star and Kaplan.

Public comment opened.

Elaine Andrew Lewis, 65 Clipper Way, received confirmation that a third lane would be added to Low Street. She commented on the increased accumulation of soot on snow banks. What was the purpose of the serrated island strip in front of Dunkin Donuts that would restrict vehicular movement? Mr. Dirks said he did not want to restrict access to Woodman Way. If modifications were needed, they would be done before the plan went to MA DOT. The serrated strip discouraged turns into Dunkin Donuts from Storey Avenue, forcing cars to use the traffic signal and turn onto Woodman Way. Ms. Lewis said cars would drive over it if they wanted to and she was against the island. Bank customers entered Woodman Way as well.

Larry Guinta, 39 Crow Lane and Ward 5 City Councilor, supported the DPS concerns about the left hand turn out onto Storey Avenue. Historical knowledge of the intersection substantiated the left-hand turnouts in that location were dangerous. If the plan were okayed today, would MA DOT perform a safety survey on the left hand turn? Planning Director Port said it could be performed by the city as well. Anthony Komornick, transportation program manager, Merrimack Valley Planning Commission (MVPC), said MA DOT would look at existing data and projected movements coming out of the driveway to make their decision, and ongoing monitoring would determine if traffic volume coming out was larger than projected. MA DOT would not perform a study after their approval but analysis by the applicant would identify crash issues quickly. Attorney Roelofs said the project would not happen without a highway access permit from MA DOT who would look at the traffic comprehensively in part because of the number of changes in curb cuts. Their review would be extensive and the developer was committed to protocols for post-construction monitoring. He did not think what Councilor Guinta worried about was a concern. Chairman McCarthy said the board's decision would reference the suggested improvements and monitoring.

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Rick Taintor, 10 Dexter Street, said his concerns were that the corner focus was the drive through window where there was little or no landscaping between sidewalk and building, almost nothing in the way of complete streets, and pressure on the board to make a decision tonight. He preferred the board take more time. Other concerns were about the bike lane on Storey Avenue, the absence of a bike lane on the opposite side of the street, that landscaping and lighting plans did not line up given that lights were on top of trees and some lights seemed to face outward. A member said landscaping was not permitted in the easement area resulting in the stone wall instead. Attorney Roelofs said bike lanes around the corner were dropped for the new turning lane. The state was trying to figure out how to get bike lanes the full length of Storey Avenue, but that was addressed in front of the property. Mr. Dirks said when there was no striped bike lane, bicyclists and cars shared the travel way, with bikes using a wide enough shoulder.

Alicia Miller, Clipper Way, was concerned that 'the fox was guarding the henhouse' with traffic monitoring. She had been a car crash victim when a car coming out of the Mobil station struck her car. Mr. Dirks said the monitoring reports would be submitted to MA DOT, the City, and MVPC, who would be able to validate the reports as independent reviewers. MA DOT had the right to come back to the applicant to require corrective measures if they received a letter from the Chief of Police or a City Councilor stating there were issues. MA DOT would require the applicant to address any problem about which they were informed.

Public Comment closed.

Chairman McCarthy said information was complete. The late comments from Christiansen & Sergi, DPS and MVPC contained nothing to suggest the project should not proceed as designed. The decision's seven pages listed all the meeting dates and submitted materials and would be filed at the Registry of Deeds to become a public record. He added language about meeting the requirements of the Master Plan regarding community character, parking and traffic, health, land use planning, and open space protection. The decision included waiver language on landscaping in the front and on the islands and signage details. Building construction drawings should go to the Planning Office. Attorney Roelofs should return to the Planning Office with any material changes, but not changes similar to moving a tree two or three inches. Attorney Roelofs said there would be a lot of minor changes once they began to execute the plan.

Chairman McCarthy said other than temporary construction signage, there should be no signage posted on either lot and to expect the similar conditions when the signage plan was ready to review. The applicant had the right to go to the ZBA for signage. Additional language covered in-ground irrigation, the open space access easement, to notify the Planning Office when they would meet with MA DOT, that pharmacy windows should be transparent to allow light in, to implement the transportation improvement plan, including the agreement made with Mr. Kaplan. Dennis Crimson, Attorney for Mr. Kaplan, said to reference the last revision to the plan of September 29th.

Chairman McCarthy continued, saying the dormer should have some depth on the top and the door should have molding and a light in the doorway to resemble a pedestrian, rather than an industrial, door. He presented pictures for the applicant. The applicant's answers to DPS comments were made in the Jones and Beach letter, and MVPC comments did not require

feedback, but comments from Christiansen & Sergi required a written response. Chairman McCarthy was not comfortable signing off on the decision for recording at the Registry of Deeds until Christiansen & Sergi had reviewed the applicant's written response to CSI's comments. Scott Mitchell was asked to submit a final rendering for review by anyone who visits the Planning Office.

Bonnie Sontag made a motion to approve the Major Site Plan Review, waivers as requested, and notifying CSI in writing. Henry Coe seconded and all members voted in favor.

Motion Approved.

During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments and other related documents, all as filed with the planning department as part of this application and all of which are available in the planning department, were considered.

4. New Business

***a) MINCO
MBTA Site
Informal Discussion***

Louis Minicucci, president and founder of Minco, 231 Sutton Street, North Andover, said examples of Minco's developments were Maritime Landing and a small medical building at 255 Low Street. He was experienced in the public sector, had consulted for HUD, and had developed 700-800 units of public housing and 1,500 units in MA and FL. Minco was one of two bidders for the 40R project, a developments close to mass transit to reduce sprawl. He proposed 64 affordable units in five stories with rooftop solar, and a park in front of the building bordering the train platform and the Rail Trail. Two additional buildings could be built in the future because he owned the parcel next to Haley's Ice Cream and was in discussion with Haley's and the building owner next to them.

The city needed to adopt the 40R zoning overlay. He was encouraged to include mixed-use on the first floor and had concerns. He was proposing to create a work-live space, adopted throughout Boston, with workstations the public could access in one- third of the first floor. The work-live space concept was similar to incubator space that could gradually grow a business until it was ready to move into the industrial park. The contemporary building design would be attractive to younger professionals and tied into the industrial park look. While 20% of units would be affordable housing with the other 80% at market rate, the \$1,700 market rate was considered 'affordable' in Newburyport. All units in the building would be counted toward the affordable stock. There would be underground parking, central air, contemporary finishes inside, and a 1-5 ratio for parking – underground: surface parking.

Members commented that the board had two members on a subcommittee for 40R concepts several years ago and thought 40R required mixed-use by definition. Could the board consider a 40R without mixed use? Planning Director Port said the first floor needed the ability to modify the mixed uses over time. Mr. Minicucci said he would verify that one third of the first floor as

mixed use met the requirements. Director Port said there had not been a 40R meeting since Dan Bowie left and he would schedule a meeting in a couple of weeks. Members said that Mr. Bowie would have to be replaced on that committee and offered their help.

Mr. Minicucci said he'd looked at water, sewage, and drainage issues and had been through several design iterations. He would like to be in the ground by the spring and needed to close the site by July 1, 2015. For every unit above 67, he paid more to the MBTA.

Chairman McCarthy asked about a variance for the height. Director Port said 40R worked differently than standard zoning. If the applicant complied with the ordinance, the project became a by-right approval. Members said the empty train station and the rotary were both issues where the city could benefit from improvements as part of this project. Mr. Minicucci said he hoped to get the rights to improve the area from the MBTA because it was not maintained. Members asked whether retail would be convenient to the residents? Mr. Minicucci had developed a fair amount of retail space and said generally there was more profitability in commercial space. He did not believe retail was viable and gave the empty train station building that was constantly seeking retail renters as an example. Director Port said part of the issue was trying to get enough residents to support retail in that area. Members commented that retail would bring in more rent per square foot if the market could support it. Director Port said the first floor exterior and heights were modifiable. Mr. Minicucci said there were other considerations for mixed use; for example, the mayor did not want a lot of parking. A viable mixed used development needed additional parking. Viable meant demand existed and the facility was capable.

Mr. Minicucci said he will not purchase the property without the permits because the current zoning does not support much value. Director Port said a public services review of the infrastructure in the area revealed the waste water pump servicing this location was at capacity and water lines needed upgrading, something that was not known to the City a year ago. A plan was in place for system upgrades and a grant had been applied for to help the City accomplish it. Without the system upgrades, the City was unable to grow in that area. The upgrade plan would be completed in time for the 40R development being considered.

***b) MINCO
92 Rear Merrimac Street
Informal Discussion***

Greg Smith, architect, GSD Associates, 146 Main Street, North Andover, said the site was a one story brick building on Merrimac Street located next to the Route One bridge. Site constraints included non-compliance with Chapter 91 requiring public access, a 100-foot setback from the water, 50% of the site was not to be covered and remain open to the air, and retain 33% of usable open space. The small but prominent site had an historical component in the floodplain. They needed to allow for water coming in and flowing out. Mr. Minicucci said a condominium development would house 26 units in three stories over parking. Units facing the embankment would be smaller than units facing the boatyard that would have balconies looking southeast.

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Chairman McCarthy would be interested in a view corridor from Merrimac Street to the water. What was the underlying zoning for the parcel? If the proposal was only residential, that was not waterfront or mixed-use. Director Port said residential on it's own was allowed. Chairman McCarthy said it was a tough parcel; a ZBA special permit may be needed for over 20 units. Members commented that the original building looked like it belonged, but the proposed building whose elevations resembled a prison was not in keeping with the Merrimac streetscape. Chairman McCarthy said design elements in the core of the city were important. A member asked how that could be accomplished if adjacent parcels had a future development timetable? Chairman McCarthy gave the Federal Street overlay as an example. Mr. Minicucci said he had expressed his concerns about what New England Development (NED) on the adjacent parcels would develop and NED agreed to cooperate. He could not recreate historic buildings, but he would respond to the board's comments. The ZBA was the next step. He had a video of the site and the area. Chairman McCarthy asked for the video link.

Planning Director Port wanted the modern finishes softened, but liked the porch space extending off the building because it activated the exterior of the building and referenced Clipper ship sails. Mr. Minicucci said he received a positive response from real estate brokers. There would likely be variances. Attorney Jeffrey Roelofs, speaking as a resident, said the definition of the district, on page 10 of the Newburyport Zoning Code, differed from the residential use in the table of uses.

5. Planning Office/Subcommittees/Discussion

a) Updates

The City would be meeting with NED next week to get a better idea of their plan. A meeting with the NRA had already occurred. A cooperative arrangement with NED was needed within a reasonable time frame. The \$5 million state funds needed to be mobilized and land acquired if the City were not to lose state funds.

6. Adjournment

Sue Grolnic made a motion to adjourn. Henry Coe seconded and all members voted in favor.

The meeting adjourned at 9: 54 PM.

Respectfully submitted -- Linda Guthrie