

October 3, 2012

Meeting Minutes

The meeting was called to order at 7:07 PM.

1. Roll Call

In attendance: Dan Bowie, Henry Coe, Paul Dahn, Sue Grolnic, Jim McCarthy, Bonnie Sontag and Cindy Zabriskie

Don Walters joined at 7:10 pm

Absent: Noah Luskin

Andrew Port, Director of Planning & Development was also present.

2. General Business

a) Approval of the minutes Minutes of September 19, 2012 Meeting

Henry Coe made a motion to approve the minutes as amended.

Cindy Zabriskie seconded the motion.

The motion passed unanimously.

Minutes approved.

Votes Cast:

Dan Bowie: approve

Henry Coe: approve

Paul Dahn: approve

Sue Grolnic: approve

Jim McCarthy: approve

Bonnie Sontag: approve

Don Walters: approve

Cindy Zabriskie: approve

3. Old Business

a) Stephen B. Sawyer, Design Consultants, Inc. Brown Street OSRD Subdivision *Request for minor modifications* *Continued from September 19, 2012*

Mr. Sawyer was before the board a few weeks ago. The modifications had been sent out for peer review. Comments from Christiansen and Sergi required revisions in the calculations. Revised calculations had been done and a slight reduction in run-off due to increased permeability received a favorable response from the peer review. Mr. Christiansen requested a bend in the pipe on the underground chamber instead of an upward pointing pipe that would collect leaves. With the pipe pointing down, water would flow back into the chamber unobstructed. Revised piping had been added to the plans, along with the addition of a grate to prevent animals from gaining access. Chairman Bowie said it appeared the board's questions had been answered. A member asked what material would be used to screen the pipe? Mr. Sawyer said something like

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galvanized steel with one-inch grate openings. The member wondered what the lifetime of the material would be and whether it would corrode, but thought it would be fine.

Paul Dahn made a motion to approve the minor modifications.

Henry Coe seconded the motion.

The motion passed unanimously.

Motion approved.

Votes Cast:

Dan Bowie: approve

Henry Coe: approve

Paul Dahn: approve

Sue Grolnic: approve

Jim McCarthy: approve

Bonnie Sontag: approve

Don Walters: approve

Cindy Zabriskie: approve

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.

b) Nat Norton
53 Spofford Street
Section VI.C Special Permit
Continued from September 19, 2012

Attorney Lisa Mead, Blatman, Bobrowski & Mead, Newburyport, spoke on behalf of both applicant and owner at 53 Spofford Street. Regarding the open issues discussed in the last meeting, the applicant has agreed to screen between the homes up to where the residence ends and the garage begins, make a donation to the Newburyport Affordable Housing Trust (NAHT) and Moseley Woods Foundation, assure that no second story windows face the abutter, sprinkler the new house, and improve the general appearance of the existing house, pending its sale. In all likelihood, the applicant said, the existing house will be purchased, redeveloped and resold.

Attorney Mead distributed schematics of the proposal for exterior improvements to the existing house. Included were thinning out the pines to open them up, letting in more light and eliminating the darkness of that area. The proposal also removed shrubs against the house and created a landscaping bed around the house instead. The front porch and the upper story at the back of the house would be painted. Garbage can storage facing the neighbor would be repositioned. All work would be completed prior to receiving a building permit for the new structure.

At members' requests, Attorney Mead elaborated on her proposal by saying the brown paint on the house is in good condition, except in the rear, which needed a little help. Thinning out the pines (not cutting them all down) added light that would improve the presentation.

Chairman Bowie asked if screening had been discussed with the abutter? Attorney Mead said it was raised at the meeting only. She continued to propose the fence and the arborvitae.

A member asked how the footprints of the existing and proposed structures compare without the proposed addition to the existing house? The member said without the addition, the house in the back needs to be secondary and subservient. Attorney Mead responded that the existing home is 965 square feet; the proposed is 1,440 square feet. Without the addition, it is not subservient. She explained she was proposing a whole plan; when someone comes back to the board about doing this, the matter will be before the board again. The member said the board could permit with a condition that the addition made the existing house larger. Chairman Bowie confirmed the future applicant would not be able to propose a smaller house. A member said a future applicant might want to take the whole house down. Attorney Mead said whatever is built would have to exceed the existing square footage.

A member asked to confirm the NAHT donation amount. Planning Director Port confirmed the number of \$36,750. The member restated that the public benefit donation would be \$36,750 plus \$2,000 for the Moseley Woods Foundation. Attorney Mead confirmed that was correct.

Chairman Bowie said the donation should be considered in light of the reality that, in the absence of this application, the board could be reviewing a subdivision proposal that excluded everything under discussion. The donation is not unreasonable.

Public comment opened.

Jane Lemuth, owner of 53 Spofford Street, offered background on her decision to make the application. Her grandfather and great grandfather built the existing house. Her mother's intention was for the house to stay in the family. After her parents died, they intended to renovate, but her husband became unemployed. She was in the midst of a career change, pursuing a degree in library sciences. The financial burdens of renovating could not be made at this time, resulting in the decision to sell. Builders and families come in to build and renovate; that's what they want -- a new steward for the property. She thanked the board for working with them.

Andrea Probert, 47R Spofford, appreciated the story but thought it was irrelevant and inappropriate. Her family left Rye to get their special needs son closer to his school. Although someone might renovate the house, her concern was that it had been on the market for a very long time. If the special permit went through they would probably be back before the board to watch over how that played out. Her understanding was that once the permit went through, the lot in the back would be open for a potential resale. Someone could buy it and not build the particular house shown on the plan, which would bring them back in the circle again.

Chairman Bowie said she was correct that if the permit was approved, it would create a new lot and there was no prohibition preventing the owner of the back lot to sell. A new owner could come back to the board asking for modifications. Despite the uncertainty, there was some control over what could happen. The board heard and understood her concerns, and wanted to protect them. The process isn't perfect, but the board would have no control over details like screening if the proposal came through as a subdivision, which could happen even if the board didn't like it.

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In that event, the board would be powerless to prevent the application if it met the rules of a subdivision. He appreciated her concern over the degree of uncertainty inherent in this special permit.

Diane Teed, 58 Spofford Street, said this is an uncomfortable situation for all the neighbors. Her understanding of Section VI.C was that there needed to be a clear public benefit. She appreciated the lack of control if it were a subdivision. The value of their house might decrease by the amount the city would receive from the donation for this permit. Any loss of value in a neighboring home as a result of a Section VI.C permit created a low precedent for others to meet in the future, eroding the public benefit.

Chairman Bowie said Ms. Teed had listened to the board's discussions on the public benefit and heard the differences of opinion. The donation was more than what had been offered or approved on every previous Section VI.C. Speaking to the potential for loss of value for the abutter, he said the process did provide some measure of control. Hopefully this would not be a situation where any property decreases in value.

A member said this application would be neither a benchmark nor a precedent. The next Section VI.C applicant would stimulate a new conversation. The donation we have is better than where we started. We have not reached a definitive formula or model yet.

Ms. Probert said an email had been sent to the developer stating that the level and quality of screening proposed was inadequate. If the permit was approved, Ms. Probert thought there should first be an agreement on a barrier that was a better fit with the neighborhood.

Chairman Bowie said the board would like to finalize that, making a decision on it tonight. He asked what she wanted?

Ms. Probert said she was trying to develop her house in keeping with the Bridge Street homes. A privet or boxwood screen with a gate for neighborliness would work. The house on the other side had a very long fence, but visiting meant walking down a long driveway. The gate was a suggestion. Any long, wood barrier would need green plantings. Chairman Bowie asked if the proposed screening was 40 feet long. Attorney Mead confirmed it was, adding that the screening would run 10 feet off the property line in between two large maple trees; the fencing averted taking down maple trees they did not want to lose. Ms. Probert didn't want wood fencing.

A member asked why have a wood fence at all? Attorney Mead said planting only arborvitaes was fine, but a plant screen with no fence would require removing trees. Ms. Probert said she hated arborvitaes. Chairman Bowie and Attorney Mead asked for her preference. Ms. Probert asked for privet with a gate. The applicant, Mr. Norton, said there was a 300-foot property line. Attorney Mead agreed to put in the privet without a fence.

Public comment closed.

A member asked if the 40 feet of privet would be 10 feet from each corner of the house? Attorney Mead pointed to the drawing to show where the privet would run. Another member asked if the privet would be on the applicant's property? Mr. Norton said yes. The member

confirmed that the privet would be planted from the eastern end of the house, running 40 feet to the west and 10 feet to the west off the back deck.

Planning Director Port said draft decision conditions 5-8 captured the items under discussion. He adjusted the Conditions to reflect the plan submitted this evening, including the \$36,750 donation, the privet instead of fencing and arborvitae, and a ninth condition specifying no windows on the north side of the 2nd floor of the proposed structure. Chairman Bowie said the rendering would be incorporated with plans previously submitted.

Chairman Bowie reminded the board of their discussion on the potential for living space over the garage addition to the existing building. A member said, by definition, it's a two-family zoned district, therefore a build-out above the garage wouldn't be allowed. Planning Director Port said if the Building Commissioner inspected or saw a build-out or renting on a regular basis, the situation would be exposed. A member said if adding a bathroom occurred, it could go before the Zoning Board. The member asked to be shown where in the special permit it says the structures are both single-family homes? The board agreed to condition the permit for two, single-family structures so that an applicant for anything other than that would have to go not only to the Zoning Board but also to the Planning Board.

Don Walters made a motion to approve the Section VI.C permit with Conditions as noted by Planning Director Port.

Paul Dahn seconded the motion. The motion passed unanimously.

Motion approved.

Votes Cast:

Dan Bowie: approve
Henry Coe: approve
Paul Dahn: approve
Sue Grolnic: approve

Jim McCarthy: approve
Bonnie Sontag: approve
Don Walters: approve
Cindy Zabriskie: approve

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) **Thomas Bamert**
8 Ocean Avenue
Replacement of Trees
Section VI.C Special Permit Modification

Planning Director Port said there was no technical need for the applicant to be present. Chairman Bowie said this Section VI.C had been before the board on many occasions. Abutters had concerns about preserving existing vegetation. As years have gone by, trees have died and fallen

over. Mr. Bamert proposed to replace them. Families that had historically participated in this discussion had already signed-off on; that was good.

Don Walters made a motion to approve the Section VI.C Special Permit Modification. Henry Coe seconded. The motion passed unanimously. **Motion approved.**

Votes Cast:

Dan Bowie: approve
Henry Coe: approve
Paul Dahn: approve
Sue Grolnic: approve

Jim McCarthy: approve
Bonnie Sontag: approve
Don Walters: approve
Cindy Zabriskie: approve

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.

5. Planning Office/Subcommittees/Discussion

a) Fees

Planning Director Port said the Planning and Development Office had not taken in enough money from fees to support some basic office needs, such as supplies and note-takers. He had some discussion with the mayor about the depleted account. Of two options, either to put a line item back into the general budget or raise fees, the mayor's preference was to raise fees. She was not inclined to fund that line item in the budget.

Chairman Bowie asked if the board had a separate account from the Zoning Board of Appeals. Planning Director Port said all fees go into one account. Chairman Bowie said if the Planning Office is not a separate enterprise and fees go up, it would still get lumped together in one account. A member said if the operating cost for a city government line item for minute takers is no longer covered under the general budget, resulting in no note taker, that would be a violation of the open meeting law. Another member asked if there was any comparison with fees in other towns similar to ours. Chairman Bowie said fees were brought in-line with other communities not that long ago. He did not favor the idea of raising fees.

b) Outstanding Issues

Planning Director Port said nothing was new on National Grid; the MBTA was still reworking their request for proposals; and the YMCA had asked for an education exemption. His opinion was the Y's use-classification was not education, but rather recreation. He recommended opinion be given once the building permit has been filed. A member commented that once the building permit was applied for, the Building Commissioner would render a decision based upon the application for the permit. He said the Y would come before the board for a site plan approval only if they were classified as educational.

c) Zoning Code Sign Review

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The mayor had asked member Jim McCarthy to be on the Zoning Code Sign Review Subcommittee. Most signage-related code was in the general code because most issues were on public property, the member explained. In New Hampshire, some communities had wrested control of signs from the state.

d) Reuse of Davis Auto Building

On another topic, he had seen plans for the brewpub in the Davis Auto Building. The brewpub would have to work with the Waterfront Trust because, immediately upon stepping out of this building, one is on Waterfront Trust property. Planning Director Port said his office had worked with the Waterfront Trust about getting a walkway in front of this building.

6. Adjournment

Sue Grolnic made a motion to adjourn.

Henry Coe seconded the motion.

Motion approved unanimously.

Meeting adjourned at 8:27 PM.

Respectfully submitted, Linda Guthrie, Note Taker