

**City of Newburyport
Planning Board
January 21, 2015
Minutes**

The meeting was called to order at 7:00 PM.

1. Roll Call

In attendance: Doug Locy, Noah Luskin, Jim McCarthy, Leah McGavern, Bonnie Sontag
Don Walters arrived at 7:06

Absent: Sue Grolnic

Director of Planning and Development Andrew Port was also present.

2. Executive Session

a) Plaza Realty Development Trust (Kaplan) v. City of Newburyport

Chairman McCarthy said the purpose of the Executive Session was to review Plaza Realty Trust litigation. The public stepped out temporarily and returned when the regular session resumed.

3. Old Business

*a) New England Development
83 Merrimac Street
Definitive Subdivision
2014-DEF-02
Continued from 11/19/14*

The board wanted the project to produce the required subdivision materials. Originally submitted before the holidays, there was consensus for limiting how long the continuances could go on.

Leah McGavern made a motion to continue the Definitive Subdivision with a condition that subdivision materials would be submitted by March 18th. Doug Locy 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. General Business

- a) The minutes of 1/7/2015 were approved. Don Walters made a motion to approve the minutes. Jim McCarthy seconded the motion and five members voted in favor. Doug Locy abstained.

b) ANR – 18 – 20 Moseley Avenue and 35 Moulton Street

Jeff Hoffman, Northstar Land Survey, 11 Macy Street, Amesbury, wanted to convey Lot A to Great Woods. Lot A would combine with the existing Lot 1. Lot 2 would be a separate building lot. Variances were granted by the ZBA. Chairman McCarthy asked why the connection strip was kept. Mr. Hoffman said the deed descriptions were set up that way. Director Port recommended approving the ANR.

Doug Locy made a motion to approve the ANR. Bonnie Sontag 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.

c) ANR – 245 Northern Boulevard

Taylor Turbide, Turbide Engineering, Amesbury, said Lots 46 and 47 were separated by a City-owned unconstructed way. City Council voted to discontinue ownership of the Right-of-Way. The ZBA had granted variances for lot frontage and lot area. Mr. Turbide wanted to divide the lot into a Form A. Director Port recommended approving the ANR.

Doug Locy made a motion to approve the ANR. Noah Luskin 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.

d) ANR – 11 69th Street, 12 71st Street, and 51 Reservation Terrace

Director Port said a straightforward swap of one parcel for another parcel received Special Permits from the ZBA. The swap gave both parcels sufficient frontage and area. He recommended approving the ANR.

Bonnie Sontag made a motion to approve the ANR. Leah McGavern 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.

5. Old Business

a) Newburyport Medical Center

Wallace Bashaw Jr. Way

**Completion, private status, traffic improvements at Low St. Intersection, final signoff
2014-SPR-06 – Continued from 1/7/2015**

Chairman McCarthy said the intent of the Conditions was to hold the developer responsible for traffic and safety. He observed traffic at rush hour that morning. Also, the board had a report from the Traffic Safety Commission (TSC). The TSC did not hold the developer responsible for anything. There was no traffic issue that needed correcting as a requirement to release funds. The board should release the funds.

Member comments: The Conditions at that time were met if we released the surety money. How could the board hold the Medical Center responsible for anything? Chairman McCarthy said the board had no input indicating traffic issues. A member said no calming measure existed, as was requested. Someone said measures were not needed. Article 29 was met.

Chairman McCarthy said the board signed a tripartite agreement. Attorney Mark Griffin, 11 Market Square, Newburyport, wanted a letter from the board saying the traffic obligations were satisfied. He confirmed the former board chairman signed the tripartite agreement, but the mayor had signed the land development agreement. He also wanted a letter from the board to the mayor stating that the land development agreement had been met. The board agreed Chairman McCarthy would speak with the mayor. Chairman McCarthy said the board had no outstanding issues with the developer. Director Port agreed.

Bonnie Sontag made a motion to release the guarantee, the covenant, and the tripartite agreement. Noah Luskin seconded and all members voted in favor. Doug Locy abstained.

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.

5. Planning Office/Subcommittees/Discussion

a) Courtney Starling, Community Opportunities Group – Zoning Rewrite

Courtney Starling, AICP, Community Opportunities Group, Inc., 129 Kingston Street, 3rd Floor, Boston, said the zoning RFP was issued in February 2014 and work began in April. The joint project between her company and the City had not made much progress. Her purview was organization, clarity, process, and PI drainage issues. Interviews and focus groups with people identified by the City began last week to identify areas of consensus on formative issues in the zoning. The result would be a diagnostic of the existing ordinance and a determination of where efforts needed to focus that would go before the working group, then radiate outward. She hoped interviews wrapped up in two weeks, and the diagnostic would be delivered in three weeks.

Ms. Starling considered a request to complete the project for budget season unwise. Rushing through technical work diminished chances of adoption; attention to technical detail increased chances of adoption. There had been 10-20 separate stakeholder meetings so far, with attorneys and design professionals who frequently went before boards, real estate agents, the ZBA, and bankers, to learn how timelines impact financing. Interviewing people who interacted with the ordinance rather than people who reacted to the ordinance was helpful. Ms. Starling needed the board's wish list of changes. Director Port suggested a brainstorming approach.

Member comments: Separating the role of code administration and code enforcement was critical. Time devoted to enforcement was lacking; code enforcement was toothless. Prescriptive rules and application of corrective measures were needed. Ms. Starling said there were statutory limits on what could be done for enforcement. An important consideration was how much the City would spend to support City board decisions. The top five tough zoning decisions should be in the Planning Office. If only the building department saw the problems, how could resolutions occur? A political issue was that the Zoning Commissioner worked directly for the mayor.

Chairman McCarthy said the B2 zone behind Dunkin Donuts was completely residential. There were a numerous similar examples. The open pasture should be rezoned. Ms. Starling said she was not looking at enormous changes like rezoning. Chairman McCarthy said it was hard to achieve a good-looking B2 zone, yet a B2 district along Route One went right through the City.

Ms. Starling said a key issue was whether industrial regulations were written correctly for what occurred in the business park. There were eight or nine similarly major issues. The Table of Uses, with blank spaces and uses on two lines, was not user friendly. There were clarity issues -- things that did not make sense. The level of sophistication needed for developers was different than for homeowners. Chairman McCarthy wanted to avoid litigation, executive sessions, and processes where the City bounced applicants between boards. Ms. Starling said a clear, linear, and uniform process, clear submission requirements, and different thresholds for different-sized of projects were needed. There was a lack of uniformity in processes related to the threshold of 100,000 square feet. When projects presented to boards were not in full concept boards had weakened positions. Applicant's attorneys advised them on which board to see first because of ambiguity. Homeowners went through the same process as developers when the scale of projects was different. Site Plan Review should be hand-in-hand with Design Review. Ms. Starling wrote

Planning Board
January 21, 2015

processes for every project. Her most recent code was the signage bylaw for Foxborough. She also created some of the Brookline zoning code.

Relief should be last on the list. First on the list should be 'can you design a reasonable project?' She saw a lot of risk in the City's zoning, creating concerns about what the City was doing by variance. A process that was too onerous would not attract mid-sized projects. Director Port said the ordinance did not reflect what the community wanted to see built. She observed things in direct conflict with 40A. Variances should almost never be granted. If the City were taken to court it would invariably lose.

The timetable in an ideal process would bring the ordinance before city council after elections. It could not pass before elections. Ms. Starling wanted to come back to the board, as one of her biggest stakeholders, after the diagnostic. She had planned for a March 1st diagnostic. However, major problems with dimensional requirements could take longer. The City needed requirements reflective of what existed today. There were some design detriments, for example, how a setback affects the streetscape. Trouble shooting items would need diagrams.

Members wanted the application process simplified and digitized, and a more helpful pre application process. The board issued many extensions; a simpler process for small projects was needed. The industrial park was an anachronism, especially the dimensions, for example 40-foot lots versus 100-foot lots. The City needed help understanding the right zoning for the river. The subjectivity of 6C benefits was a problem. Director Port said the affordable housing benefit had been the most difficult. Revising the dimensional requirements was critically important. Ms. Starling would use the GIS to look at very dense and less dense streets and come down in the middle. That would increase the number of potentially sub-dividable lots, but she would examine the risk. Chairman McCarthy said her approach would generate more infill than people wanted. Members wanted to retain the historic character of Newburyport.

Chairman McCarthy wanted processes improved, particularly the Site Plan Review process, focusing on where the interests of property owners, including retail and commercial, and the City intersect and how streetscapes were affected. The board wanted to keep Route One from looking like Saugus, and needed the ability to move buildings around on a lot, and to address elevations below the street. Chairman McCarthy would never put a building below street grade, but engineers did it. He preferred a land use person be first to see the board with a project rather than an engineer. The key strength of the city was its walkability. Engineering design decisions should default to the pedestrian and not to the car.

Incorporating environmental sustainability into the code was important, such as modernizing techniques not just for stormwater, but for something like a green roof. For example, the board had educated engineers to use low impact techniques for impervious surfaces. Where should sustainability be incorporated in the code? Director Port said flood mitigation techniques should also be considered because raising a structure changed the streetscape. Ms. Starling said she wrote sustainability code loosely because technology changed quickly and the viability of permeable pavement depended on the amount of traffic. She could not be too prescriptive. Often environmental sustainability was a deal-breaker for a project; costs for green roofs were

Planning Board
January 21, 2015

substantial. It was good to offer a carrot; developers needed something big in return for the expense of sustainability. A member said sustainability was a controversial topic.

Small technical details could be emailed to Ms. Starling on a running basis over the next two weeks to be incorporated into the diagnostic. Director Port should be copied on all emails.

b) Updates

Three 40R items needed more focus to be fleshed out: 1) increasing the threshold for affordable housing, 2) the overall boundaries of the district and sub districts, and 3) design requirements. Chairman McCarthy said how the space under a gable roof counted needed to be figured out. A pre-application process should be mandatory; applicants should come with a sketch, even on a napkin, before spending any money and have 120 days to make the application complete. A joint public hearing should be held sooner than later, perhaps March 4th. Starting sooner provided a longer window to work without pressure. The board would avoid focusing excessively on the first developer's project instead the overall district to avoid losing perspective.

6. Adjournment

Don Walters made a motion to adjourn. Leah McGavern seconded and all members voted in favor.

The meeting adjourned at 9:46 PM.

Respectfully submitted -- Linda Guthrie