

**City of Newburyport
Planning Board
February 20, 2013
Minutes**

The meeting was called to order at 7:14 PM.

1. Roll Call

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

Absent: Henry Coe and Noah Luskin

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

2. General Business

The minutes of 02/6/2013 were approved. Don Walters made a motion to approve the minutes, Bonnie Sontag seconded the motion, and all members voted in favor.

3. Old Business

***Chart House Development, LLC c/o Mark Griffin, Esq.
2 Mechanics Court
Section VI.C Special Permit
Continued from 2/6/13***

Attorney Mark Griffin, Newburyport, in summarizing the February 6 discussion, concluded that the primary focus was whether this project would confer a clear public benefit. He believed he had complied with the ordinance by proposing an historic preservation that received documented support from the Newburyport Historical Commission. He cited the divided opinion of the board over whether his proposed project conferred enough public benefit and whether affordable housing was more desirable, or should be combined with historic preservation, as impetus for a revised proposal that balanced keeping the project financially viable.

Attorney Griffin proposed, in addition to bringing the building forward, adding a deed restriction, and preserving characteristics the Historical Commission deemed worthy, new plans to further renovate, making the building more like the carriage repair shop in the historical photograph. Scott Brown, architect, described an addition of cedar clapboard siding with an exposure matching the older photograph, installing double hung windows, a new brick sidewalk, a sign with interpretive history to be located in a new pocket park with seating and landscaping maintained in perpetuity by the occupant, and a new wood roof. Mr. Brown said not many structures in town have a wood roof. This feature would set the building apart.

Attorney Griffin then offered a \$25,000 contribution to the Affordable Housing Trust Down Payment Assistance Fund. He said unique challenges associated with the site explained why the property has not been developed before now. Craig Pessina, trustee and owner of the property

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estimated spending about \$350,000 including renovation estimates of \$100-200,000 plus \$35,000 for a sidewalk.

Attorney Griffin said the ordinance was written to include any of three benefits or any combination of the three, but the choice seems to be up to the applicant. Ordinance language is silent on the magnitude and level of the public benefit. There is nothing to indicate that the bigger the project, the bigger the benefit required. If the proposal is any kind of a benefit at all, the board should not be deciding whether we've provided enough, just whether we've provided it or not. It is a community benefit that a gateway area would be cleaned up, he concluded.

A member asked if lighting was proposed for the pocket park? Mr. Pessina said the Newburyport Police Department has asked for it, yes. The member said the lighting should not be unattractive. Another member asked if the original structure had a wood roof, and was it painted? Mr. Pessina said there was a wood roof but did not know if it had been painted.

Chairman Bowie said \$350,000 to move and renovate the building seemed very high. Mr. Pessina responded that moving the building required creating a foundation and putting in utilities before renovations could begin. A wood roof was costly at over \$200 per square foot, and there were the sidewalks and park to build. The total could be \$300,000 but it would not be \$200,000. He would not know exactly what the project entailed until further along in the process.

A member asked what it would take to make one unit affordable? Mr. Pessina said if it cost \$300,000 to build a unit, using the formula provided the differential was \$170,000. The member said her question was about the sale price, not construction. Another member asked what the sale price would be and Mr. Pessina said \$365,000. The first member asked if Mr. Pessina could make-up some of the losses incurred from an affordable unit on the sale of other units? Mr. Pessina said he could only sell units at whatever price the market would bear. Attorney Griffin said it would be less costly to tear down the historical building and put in an affordable unit. Mr. Pessina added that he hoped the board could appreciate that restoring antique property was more costly than tearing down a building. A member asked if doing a bare minimum of restoration and providing an affordable unit, perhaps with the addition of some outside funding, was a possibility? Mr. Pessina said he could not do the preservation half way. The member said the original proposal prior to tonight was a bare minimum. Mr. Pessina said the math was very tight and, to date, nobody had delivered a plan that made financial sense for this property. He reminded the board of the \$25,000 donation to the NAHT.

Another member said any NAHT contribution should be substantial because acquiring the land was not a deal; it was a private purchase at market rate. Another member commented that nine was not a lot of units. A member said, using the formula, you're really losing \$180,000. Chairman Bowie remarked that a lot of money would be put into something that was of questionable historic interest. A member did not see any historic value in moving the building but said if the building was restored more like what is portrayed in the old photograph, that was both historic and an attraction with value. Creating 'what it used to be' might require spending more, but that was where the public benefit lies. Another member encouraged the board to consider the high visibility of the building's location. Another member said everybody does see it, and either it's historic and has those characteristics or not. The applicant is proposing to add

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past characteristics anew and claim historic preservation in this situation. The member preferred that funds from the new restoration effort be combined with the NAHT donation and altogether redirected toward making an affordable unit. Given the limited sale price of an affordable unit, there may be other funds available to help get there. Do the minimum of moving the building without adding a wood roof, brick sidewalk and pocket park, none of which are needed to make the building look authentic because the city needs an affordable unit.

Attorney Griffin said many proposed items were from the Historical Commission's letter. The board should guide its discretion to whether there is a public benefit. A member asked if the Historical Commission allowed a tear down? Mr. Pessina said he would have to wait a year.

Chairman Bowie said the letter asked for divided light windows and clapboards and this seemed like a lot of money to put into the building for a questionable historic value. Attorney Griffin recalled from the last hearing the board said they would be more inclined to find it a public benefit if the building looked more like it was supposed to look in the old photograph. He was perplexed now to hear the proposal had gone too far and this seemed like a moving target. A member corrected, saying the board asked for information on both a fuller restoration and an affordable unit and didn't hear a proposal for the affordable unit. There was only a proposal to make this the best possible historic restoration and that was meeting only some of the needs of the board because the board had requested a proposal to also include an affordable unit.

A member said in this particular Section VI.C application, the historic building has dubious public value on the inside. The member asked Director Port if the developer would be prevented from developing the lot if the building was knocked down? Director Port said this building blocks the ability to develop the back part of the lot. Phasing-wise, the second building would have to wait. The member had not seen the ZBA ruling and asked if they did a tear down, could they then build additional units to include an affordable unit? Director Port said that would trigger a modification with the ZBA.

Chairman Bowie asked the applicant if he could see any scenario where salvaging the building would still allow for an affordable unit? Mr. Pessina said he wouldn't make money moving the building and couldn't do just wood shingles; it was moving and repositioning the building upon which the development hinged. A member asked what the use of the building was? Mr. Pessina replied office space with a second floor. The member asked if the use would include retail? Attorney Griffin said the office was a 'by right' use and they would stick with that. The member suggested it was worth putting money into a gateway setting, as the first thing people saw upon arriving. Another member asked how financials were determined? Mr. Pessina said he spoke with a variety of specialized equipment owners because of the complex engineering involved. A member mentioned having had houses moved miles down the road for a lot less money. Director Port recalled the board's last meeting for the applicant where the gap between the market rate and the affordable price was discussed. The NAHT would like to take a greater role in subsidizing developers to produce affordable housing rather than receiving a contribution that does not add affordable units to the market. If the applicant let the NAHT cover some of the gap, he could put their funds into his project.

Public comment opened.

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Doug Locy, 17 Alberta Avenue, expressed some shock that the board dismissed the desire to fully refurbish the historical building and in the process make a tremendous gateway to the city. The Historical Commission found this proposal a clear public benefit and more than enough. He was surprised the applicant made a contribution on top of the renovation. He acknowledged the effort put into the design of two condominium buildings that complemented Newburyport neighborhoods with single instead of shed dormers, for example. There would be a lot of cleanup involved because the site was dirty. There were other elements in this proposal to be considered, other than the preservation, not the least of which was the gateway location. He believed there was a clear public benefit and the needs of the ordinance sufficiently met.

Paul Bevilacqua, 126 Merrimac Street, #3, said the River's Edge Condominium Board was highly supportive and saw the project as a clear public benefit. The proposed project enhanced River's Edge property values, as well as the quality of the entire neighborhood. If other neighbors had been present they too would be supportive of the project. He asked what the characteristics of the affordable person who could get up to the second and third floors would be? As a citizen, he saw obvious benefits to the community. He understood the negotiating process and asked the board not to discourage the proposal. He hoped the board, as citizens, would work out the details so that the city did not end up with the lot remaining as it was.

Chairman Bowie reminded the room that, historically, the board had a small rate of denial.

Public comment closed.

A member commented that the roofline was the same height as in the old photograph. Mr. Brown said the rendering was a little off, but the massing would remain the same as it was today and in the old photograph. The member noted that it was more expensive to replicate and Mr. Brown said they could do a better job on each and every item. Another member asked, assuming the board didn't have to worry about zoning and planning board concerns, and used only common sense, what would the practicality of having a mixed-use building with an affordable unit on the 2nd floor of the commercial building be? Mr. Pessina said it would be too small to be much of a unit. He would have to install dormers.

Another member considered the public comments in the last meeting and this time. If the entire proposal was worth 100 points, and the public benefit consisted of 20 points and the project itself consisted of 80 points, he thought the proposal was at 78 points. The member was very interested in the historic preservation and felt the additional gesture of a donation brought the public benefit portion up to 17 points. The member did not want to lose sight of what a benefit to the community might fully truly be. Mr. Pessina had demonstrated on Orange Street that what he proposed is what he builds, and that was of considerable value to the member.

Chairman Bowie said it was a good project overall, well designed and a vast improvement to the area. Attorney Griffin asked to continue the application to the next meeting because there were two absent board members. He asked about a straw vote now.

Chairman Bowie and another member agreed that if the project continued it would allow further discussion with the NAHT about additional funding to assist with an affordable housing unit. A member said, depending on the outcome of discussions with the NAHT, perhaps a person would

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vote no on the straw vote tonight then would later vote yes after the NAHT discussions. Another member said negatives that were on the table now might not be there in two weeks.

Attorney Griffin was unsure what to bring back to the board to secure approval. A member commented on the impressive but misplaced effort the applicant put into the historical building. The member said the money going into restoration impacted what could be put into affordable housing. The applicant should look for practical ways to put affordable housing forward, including securing a real dollar figure that the NAHT could consider bridging. The member did not know how to vote tonight. Attorney Griffin said the remarks were advisory and appreciated.

Chairman Bowie didn't want the applicant waiting to tear down the building. If there was a way to move closer to the affordable unit, that would mean more to him than a complete restoration. Director Port said the NAHT would be meeting next Thursday if board members wanted to attend. A member thought there would be value in an NAHT representative attending the next board meeting and had specific questions for the NAHT chair regarding this situation. Director Port will make the inquiry and offered to forward questions to the NAHT chair. Another member noted the upcoming February 28th public meeting on the NAHT's Housing Plan. Another member did not think there was anything more to add to statements and concerns already made about the clear need for an affordable unit. Chairman Bowie and another member concurred.

One member, whose focus on public benefit concerned replicating as closely as possible what had been built originally, asked if dismantling and reinstalling in a less expensive manner in order to get closer to affording the affordable unit was possible, even if it meant going back to the Historical Commission. Another member still had more questions because it was not obvious which way to go and likened it to balancing on a dual edged sword. If vinyl siding were proposed, the member would not vote for renovating the building. A member said the board was trying to find the applicant places to cut costs in order to move closer to the possibility of creating an affordable unit. Mr. Pessina did not think the Historical Commission would allow dismantling. He was balancing his investment in the restoration and the overall project. If not done well, there would be no clear public benefit and there may be no approval. A member said, the more the restoration matches the old photograph, the more it resonated.

Chairman Bowie observed a 4-3 split in the board. Attorney Griffin said that was not apparent to him because he heard a lot of qualifiers. A member wanted to take advantage of the continuance to get more information in order to coalesce preserving the building and creating an affordable unit. Chairman Bowie deemed continuing the application acceptable, given the size of the project.

The hearing was continued to March 6th.

4. New Business

Northbridge Communities, LLC
26, 30, 32 Toppans Lane
Major Site Plan Review

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Chairman Bowie read the legal notice. Attorney Jeffrey Roelofs speaking for Northbridge said tonight's meeting followed reviews of the project with two other boards. Received were a use variance, a special permit for use, and permission for access from Wallace Bashaw, Jr. Way. The Toppans Lane access did not work for the neighborhood or the Zoning Board. He would be presenting facility details and the site plan application for Lot 1.

The larger plan has Lots 2 and 4 that extend to Toppans Lane. A four-lot subdivision application was planned for Lot 2, but they are no longer inclined to file that application if it is a matter of contention with the neighbors. Attorney Roelofs anticipated questions about the 'overall' part of the process. Peer review had been started on the drainage for Lot 1 and comments were due back shortly. They will ask to continue the hearing to March 20th to allow for time for the back and forth needed on the peer review findings.

Steve Sawyer, civil engineer, Design Consultants, Inc., Newburyport, presented the overall site plan details. The existing conditions plan of approximately 11 acres had frontage on Toppans Lane, Wallace Bashaw, Jr. Way, Zabriskie Drive, and Anna Jaques Hospital. A tree line wrapped around the north side; the south side was open. With frontage for access secured, they would come before the board on March 6 for Lot 2, to make two lots; Lot 4, a single-family lot on Toppans Lane; and Lot 3, gifted to Anna Jaques Hospital. The frontage created permitted access on Bashaw Way directly across from the ambulance entrance at the hospital. Also created are a four-way intersection with a rounding that was swept open for fire trucks, a 24-foot access drive with a 5-foot sidewalk for pedestrians going up the west side of Bashaw Way, a couple of cross walks, and a wheel chair accessible ramp. Parking in front for visitors had five and nine spaces, and another 15 and 19 spaces for employees. There will be ample room for a turnaround in the rear plus space for a dumpster and a delivery location. There is a drop in grade in the delivery area and substantial screening from Zabriskie Drive by a berm. The grading naturally slopes downward to the east.

The upper part of the building would be a one-story structure and, as the grade drops away, the building becomes two-story. A low impact design with a curbed entry required catch basins. There would be two types of rain gardens and large drywells within the courtyard for roof overflow. The drainage is divided into smaller portions instead of the traditional large detention area. The property had not been farmed and weeds had overtaken. With this drainage design, the run off coefficient was lower than when it was farmed. They were mitigating a lower amount of run off, which was good for the neighbors. There is level area around the perimeter of the site and two interior courtyards. Utilities serving the building would feed into rear. Water and sewer served from Toppans Lane are more than adequate. Stormwater management systems consist of traditional catch basins for heavy sediment that would discharge into the two types of rain gardens, with 18 inches of soil media that has a slow infiltration rate.

Albert Crepeau, EGA Architects, described the congregate elderly housing of 70 apartments as having three distinct neighborhoods in a 49,500 square foot building whose architectural style blended in with this low scale, residential section of Newburyport. The materials were shingles and clapboards with solid PVC trim and asphalt roofing. A low-roofed main entrance housed the lobby and administration. A higher-roofed portion housed common areas for dining and living. The building's lower levels had all the apartments. There were two stories to the east and one

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story to the west. The larger neighborhood had 26 beds and the smaller neighborhood had 24 beds. The lowest level was the third neighborhood along with maintenance, a commercial kitchen, an employee lounge, and a mechanical area all on one side.

Matt Ulrich, UBLA, landscape architect, described substantial vegetation on the site and had flagged the bigger trees. Vegetation with ornamental value would be preserved. They would add mixed ornamental grasses and ornamental trees in the front. The property would be heavily buffered on three sides. Plantings included a mixed, naturalized vegetative hedge, meadow mixes instead of lawn that would be mowed only once a year, and a mixture of large shade trees, deciduous hedges and conifers, all between 6-10 feet. The mixed heights provided a more natural feel. The forested areas around the perimeters would be preserved. As the site sloped down, it would look like a rolling meadow that would be heavily used by their residents. There was a seed mix especially formulated for the rain gardens.

Mr. Sawyer said a traffic analysis showed 197 trips per day with a 7:30 - 8:30 AM peak of four entering and six exiting, and a 7-9 PM peak of five entering and seven exiting. There was only a light demand for deliveries that would result in three box trucks per week, no semi tractor-trailers, and a trash pick-up once a week.

Mr. Roelofs said tonight's application packet is a quick overview that does not include all of the content described in a highly detailed, 11-page project overview submitted to the board.

A member asked if screening that was as appropriate as possible would be all the way around, wherever there were views to a street or a neighbor. Mr. Ulrich responded that the property was already heavily buffered with evergreens, medium-to-higher grade nursery stock, but the tree line was mostly deciduous. Therefore there would be a view line in the winter in certain areas. He would fill-in with additional plantings in multiple areas. The member asked what the residents of Toppans Lane would see? Mr. Ulrich said plantings would hide the first level and, as things grow, the property would be almost completely screened. Plantings would take off in the third year, particularly the white pine.

Another member asked about proposed site lighting? Mr. Crepeau said pole-mounted lights on the access drive, the parking and the north drive of the service loop met requirements of the site plan review and foot-candles would not spill over the property line. The member asked if property owners on Zabriskie Drive would be able to see any light? Mr. Crepeau said the residents would be able to see the light fixture. Another member asked if the fixtures on the east were wall mounted? Mr. Crepeau said building-mounted lighting was used for the egress path; it was an egress requirement. Even though the offsite candlepower was zero and the lights had a downward cast onto the walking path only, people would see the building-mounted lights from afar. A member asked if the lights were just for safety? Mr. Crepeau said even though it's an emergency path to the road, it needs to be maintained. The member asked if motion detector lights were permitted? Attorney Roelofs asked how high the lights were mounted? Mr. Crepeau answered 6-8 feet. The member said because it's a residential neighborhood, lights should not be on all night. Mr. Crepeau said he believed a motion detector could be installed, but would check with the fire marshal. Another member asked if they planned to request any off-site signage? Mr. Sawyer said there would be a sign for the entry and Attorney Roelofs said off-site signage was a

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topic of on-going discussion, but there was no proposal at present. Director Port added that if signage were proposed at a later date, the ZBA would have to look at it.

Public comment opened.

Chairman Bowie explained the site plan review was tweaking a plan that had the requisite permits to proceed. The board would look at design elements to ensure they were compatible with the area with particular interest in stormwater, once those comments came back from the peer review process. Unless there were conditions, the applicant was entitled to approval by law.

Tom Smith, 36 Toppans Lane, said the drainage plan raised concerns. Drainage was an ongoing problem with the property despite overgrowth reducing run off somewhat. The run off would be replaced at least partially through the addition of non-permeable surfaces. He was anxious to see the peer review. There was some ambiguity regarding screening on documents he saw before. He asked what this would look like from Toppans Lane? The property dropped off steeply and Toppans Lane residents were about 50 feet lower than the building elevation. There was a lot sticking up and, the farther away trees were planted, the taller they would have to be to cover the view. It would be nice if screening and landscaping on all sides was written in the approval text. One of the few remaining drinking water wells in the city was located at 36R Toppans Lane. Mr. Smith asked who bore responsibility and liability if anything went wrong with the utility lines?

Attorney Roelofs said Northbridge would own the utility lines and easements that the lines ran through, so they would be the responsible party. Northbridge accepted a ZBA condition to assume obligation for maintaining the vegetative screening. The proposed screening attempts to block views to the facility as much as possible, but there will be some views.

Ginny Eramo, 28R Toppans Lane, was pleased with what she saw and the building's relocation was further away from her property line. She wanted a conversation with the landscape architect to learn what would be planted on her border. She was concerned about the drainage and keeping her pool from becoming a pond. There had been problems with run off from the hospital parking lot that traveled across the property and damaged her stone wall. She wanted no additional damage to the wall in the future.

Attorney Lisa Mead, Blatman, Bobrowski & Mead, Newburyport, speaking on behalf of Anna Jaques Hospital, said that Northbridge worked with them to make sure the drive coming in was acceptable to all parties and worked well. The hospital was very pleased with the vegetation required by the ZBA and was in favor of the project.

Public hearing closed.

A member asked if initial drainage calculations were available? Attorney Roelofs said they were in the package a month ago. Mr. Sawyer noted the approach of doing infiltration had to mitigate the 100-year event, but the off site run off had been reduced by 14%. Volume was reduced by 76%. There was a 93% reduction rate with an 83% reduction in volume. Attorney Roelofs said if comments came back this week, he could get outstanding issues resolved by March 6th.

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A member asked Mr. Sawyer if it would be overkill to evaluate the geo-hydrological impact and Mr. Sawyer answered yes. Another member asked what the soil characteristics were at grade level and where the finished grade would be? Mr. Sawyer said the grade would be about 85 around the building. Another member asked about test pits. Mr. Sawyer said 8-10 foot test pits were dug around the building. The top 18 inches - 2 feet had been disturbed from farming and beyond 10 feet was a typical layer of sand and gravel, perfectly suitable for infiltration. No groundwater was encountered at the top of the hill at 10-feet; groundwater was encountered at the bottom of the hill at 8 feet. A member asked where the Newburyport department heads were on the project? Mr. Sawyer said the fire department had no issues. Director Port said he had heard verbally from all departments but had not yet received letters.

Chairman Bowie continued the hearing to March 6th.

4. Planning Office/Subcommittees/Discussion

Updates

Director Port said the Community Preservation Committee needed a liaison representative from the board. They have project proposals that will be reviewed over the next two months. Cindy Zabriskie was interested. Bonnie Sontag moved to nominate Ms. Zabriskie as the CPC liaison; Paul Dahn seconded and all were in favor.

There is a zoning review committee that includes representatives from relevant boards. The mayor, Kate Newhall-Smith, Director Port, Gary Calderwood, and the Director of Policy and Administration are involved. The group meets roughly monthly to talk about desired zoning changes. The group will be bringing forward some housekeeping changes. Chairman Bowie had previously mentioned funding assistance needed for a comprehensive rewrite effort of the zoning code rather than making piecemeal changes. There was no time for the Planning Office to do that on its own. The group would press for funding sometime next year and work on a draft list of changes this year.

A joint meeting with City Council and the NAHT, with a letter of support from this board, was needed to receive state approval for the Newburyport Housing Production Plan. Director Port offered to draft the letter to get the ball rolling and invite a representative of the NAHT to speak with the board at its next meeting.

6. Adjournment

Don Walters made a motion to adjourn and Chairman Bowie seconded the motion. The motion was approved unanimously and the meeting adjourned at 9:56 PM.

Respectfully submitted,

Linda Guthrie,
Note Taker