

**City of Newburyport
Planning Board
May 20, 2015
Minutes**

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

1. Roll Call

In attendance: James Brugger, Sue Grolnic, Jim McCarthy, Doug Locy, Andrew Shapiro, and Don Walters

Absent: Bonnie Sontag, Noah Luskin and Leah McGavern

2. General Business

- a)* The minutes of 5/6/2015 were approved as amended. Doug made a motion to approve the minutes. Andrew Shapiro seconded the motion and all members voted in favor.
- b)* 260, 268, 270, 274 and 276 Merrimac Street
Site Plan Modification Completeness Vote (2007-SBR-04b)

Attorney Lisa Mead, BBMT, LLC, 30 Green Street, provided everything for the June 3rd hearing, including a brief synopsis of the history of the property in the filing. At the hearing, Attorney Mead will show what was approved, what the applicant is seeking, and the differences between the two. Residential units are smaller and pulled back from the waterfront. A member confirmed the six-month extension approved in the last meeting and that the applicant was seeking a modification for both the site plan and special permit. Modifications were: changing the “1690 House” from a two-family to a single family and relocating the additional unit adjacent to the other units along the river, and re-designating the two affordable units.

Sue Grolnic made a motion to approve the modifications. 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.

3. Old Business

- a) New England Development
83 Merrimac Street and 90 Pleasant Street
Definitive Subdivision (2013-DEF-02)*

(Continued from 3/14/15)

Chairman McCarthy said there had been several extensions because the City has not been ready. The request to continue until July 15th did not mean something definitive would happen by that date. Details of design development, permitting, and additional funding were in limbo at the last meeting. The garage was still in the Merrimac Valley Planning Commission budget.

Sue Grolnic made a motion to approve the extension. Doug Locy seconded the motion and all members voted in favor.

Motion Approved.

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4. New Business

***a) City of Newburyport, Office of Planning & Development
27R Water Street, Harbormaster Visiting Boater Facility
Major Site Plan Review (2015-SPR-010)***

Chairman McCarthy read the notice and said this was a by right development per zoning.

Geordie Vining, Senior Project Manager for the City, demonstrated on plan drawings the 1,700 square foot boater/harbormaster facilities located off of Custom House Way, behind the Customs House, on the edge of the City's Fish Pier. A waterfront location visible and available to boaters had been considered for many years due to the small size and inadequacies of the existing harbormaster shack. The new facility on City-owned property would replace the plaza at the Fish Pier to avoid obstructing the view from the Customs house. The plaza would be recreated adjacent to the new facility. At this site the Harbormaster had direct access to his boats, could monitor the river for public safety, and the facility was visible to arriving boaters. The footprint was limited to the plaza area to minimize the impact. The Harbormaster, with 45 part-time staff, had little space in the approximately 450 square foot shack for staff and visitors, for whom there were no bathrooms. A container box was used for storage. There were comments from the boating public about existing shortcomings for visiting boaters. The goal was a visitor's center to service visiting boaters.

Other facilities in the region were visited. Visiting boaters needed showers to clean up and go into town, toilets, a washer, and dryer. A \$48,000 federal grant would help provide those aspects of the facility. Other spaces were for office and administrative use, storage, customer service, and a meeting room. Bathrooms, wanted by the Harbormaster, would be used and appreciated by many. The Customs House did not want thousands of people using their bathrooms.

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Architect David Keery, Keery Designs, Newburyport, said there would be plantings around the building, the plaza's planter center, and along the roadway, where there were benches. The roadway was narrowed from 22 feet to 18 feet. The new plaza, in one of the largest public spaces in the City, highlighted the monument and the Customs House. The building, three feet above grade, satisfied flood zone requirements. From the Atkinson building the view looked through a breezeway that housed the accessible ramp and the main entrance. The 2nd floor was 16x20 feet with a 15x15 foot Harbormaster's office and stairs. The new plaza was well lit with two new lampposts matching those on Customs House Way and spotlights on the monument. The dark aluminum roof had thin photovoltaic laminate solar panels subtly fitted between the ribs of the standing seam. Exterior cedar shakes were offset by white painted trim. The decking was similar to the new boardwalk with natural materials and a simple cable rail. Access from the plaza faced bulletin boards for Newburyport announcements, and tides and chart information. Other elements were a flag and a sign appropriate to the building that could be seen from the river reading "Newburyport Harbormaster."

Steve Sawyer, civil engineer, Design Consultants Inc., 68 Pleasant Street, said the existing building would be demolished. The 18-foot entry maintained parking that was rearranged to comply with regulations. Spaces were angled on the right and two perpendicular spaces were up against the building. There was a small loading area, an open paved area for Fish Pier operations, and room for a box truck to come in and make a 3-point turn to go out. Vehicle operations remain unchanged.

Water is brought down to pier currently. Water, sewer, communication cables, and gas services were planned in a small narrow trench pipe on Custom House Way that intersected at Water Street. Custom House Way bricks would be replaced. Pedestrian access included Phase Two of the bike path that had a terminus at the NRA lot. Crosswalks were incorporated through the site. The Order of Conditions granted by the Conservation Commission for storm water control included improvements to the system. Oil floated off the top of two catch basins so that oils from the parking lot would not flow to the river. The basins tied into a 30-inch outlet pipe discharging from underneath the boardwalk. Downspouts would go into planting areas. There was a slight increase in impervious area, although reduced pavement overall improved water quality. A slight increase in flow was allowed to go into the ocean. The storage container would be removed.

Members asked why choose a metal roof? Were there maintenance risks? Mr. Vining said the roof would last a number of decades. Mr. Keery said steel piles went 25 feet into fill allowing water to flow underneath. Mr. Vining said the soils were not good; steel piles to bedrock were needed. Chairman McCarthy asked how it would be funded? Mr. Vining said a self-contained Harbor Enterprise Fund, boater's fees, and a grant for specific features covering about one third of the project all paid for the design. A bond financed by the Harbor Enterprise Fund covered the balance. Member comments: A solid wall separated the boater's showers from the men and women's public bathrooms. Was it necessary to go outside to get from one to the other? Mr. Keery said bathrooms were accessed from the plaza. The boaters' four showers were accessed by key after payment at the desk. There was a handicap accessible toilet, as well. The 2nd level kept the building from spreading out into parking or Fish Pier spaces, making the structure more visible from the river. Were there any other permits or issues? Mr. Vining said they had a Chapter 91 permit. After about 15 meetings, this board was the last of the permitting elements.

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All Department heads had weighed in and would again. Waivers were: 1) administrative filing and technical review fees because it was a public building, 2) sign details (the sign would have indirect, low level lighting), 3) lighting photometric analysis (Mr. Keery outlined the lighting plan that included Newburyporter light fixtures and marine fixtures), 4) stormwater report and peer review because the plan met all DEP best management practices, 5) traffic report. Existing traffic patterns, circulation and parking were unchanged; bicycle and pedestrian ways were tied in. Abutters, the Waterfront Trust, and the NRA were supportive. Mr. Vining said there had been several meetings, including discussion of routing the infrastructure.

Public comment open.

Jeanne Deffley, 6 Woodman Way, asked whether public restrooms were year round? Mr. Vining said bathrooms were designed to be year round and handicap accessible.

Susan Hern, 22 Broad Street, asked if the peak was an attic? Mr. Keery said it was a cathedral ceiling with a window for light.

Ms. Deffley said the Harbor Commission had asked the City Council for money. Was the Commission self-supporting? Mr. Vining clarified that the request was for the public bathroom component; City Council voted against it. The Harbor Commission was an Enterprise Fund that would cover those costs instead. The City floated the bond, but the Enterprise Fund would cover the bond expense. Bonding done for Enterprise Funds did not impact the tax rate. Chairman McCarthy added that the Fund generated its own revenues and covered its own expenses from the boaters' fees portion.

Hildy Champion, 12 Rawson Hill Road, asked what would happen if the Harbormasters office did not have the revenue? Mr. Vining said the average of the last seven years of operations revenue supported the project. The City's finance director and the Harbormaster were comfortable with the amount. The assumptions were that revenues stay the same for the next 20-25 years, although fee increases seemed likely. Ms. Champion said the City's would be on the hook if there were a disaster.

Jeanette Isabella, 1 Lime Street, asked if the washer/dryer was coin operated? Brad Duffin, Harbor Commission Chair, said yes. Would boaters' fees go up? Chairman Duffin said fees paid by transient boaters who dock for a period of time are under consideration. Local boaters paid the lowest fees on the east coast. Fees had not increased in five years.

Leslie Eckholdt, 36 Warren Street, asked if the Harbor Commission's income was publicly available. Chairman Duffin said it was listed in City's annual report. Ms. Eckholdt said the impact to the waterfront of the significant project for outsiders went unrecognized. Mixing public and private was not examined. Mr. Vining said there was no private component. Public services, such as providing information to visitors, were a public enterprise. Ms. Eckholdt said fees collected by the Belfast Harbormaster went to the City who then paid Harbormaster salaries; the Newburyport Harbor Commission seemed quasi-private receiving Harbormaster income directly. Mr. Vining said it was self-contained and not subsidized by taxpayers. Ms. Eckholdt asked why the Harbormaster did not issue its own bond? Mr. Vining said the Commission had no standing

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outside the City; a volunteer Commission could not issue its own bond, despite the large staff. Chairman McCarthy said the division was only financial with an Enterprise Fund, to keep expenses from getting ahead of the revenue. It was a way to manage the money, but the City managed everything. The mayor's budget included the Harbormaster revenue and expenses, but the revenue was not on the website. Mr. Vining said the facility anchored the far eastern corner of the waterfront. It did not dominate the waterfront and would not be seen by anyone walking along the waterfront. It would look like a tiny building from the embayment.

Jim McCauley, 27 Storebrooke Drive, said the facility met the long-term goals for the area with the use of a federal grant, but last Friday the project potentially lost its easement. The bond was secured by leasing rights the Commission did not fully own. A member said the board was examining the technical aspects of the building, not financials.

Al Sanchez, 18 Reilly Avenue, asked what the height of the peak of the 2nd floor was? Mr. Keery said 30 feet from grade level, the same height of existing trees. Chairman McCarthy said the dimensions of the part that goes to 30 feet was hard for people to visualize, although there was little volume to the part that was 30 feet high. The space over the showers was 15.5 feet from grade level. A residential garage was allowed to be 15 feet to the median roof; this is similar.

Chris Czernik, 32 Water Street, said the loss of the utilities easement had not been addressed. Mr. Vining said there was no easement for the vehicular way to the Fish Pier or the electricity down Custom House Way. Both existed without an easement, as agreed to by the Waterfront Trust, who supported running the new utilities though they could not convey an easement. Another type of contractual arrangement would be developed. Ms. Czernik said an unsecured easement is one that may not happen. Board approval needed a condition for utilities and sewer.

A member asked if the project was constrained by the Waterfront Trust's inability to convey an easement? Mr. Vining said issues would be resolved as the project moved through the process. Ms. Czernik asked if bathrooms would be open 24/7? Mr. Vining said no, an automatic locking system would be used. Ms. Czernik said the City honored some people's concerns about the view while ignoring others. Mr. Vining said acting in the best public interest had to balance all interests. Ms. Czernik said many people at the charrette were not pleased with the building's size and there had been insufficient community involvement and discussion about the project.

Chairman McCarthy said the first meeting was over a year ago, in January 2014. Mr. Vining said the grade dropped by a foot and the 2nd story reduced to address size and mass concerns. The 2nd floor could not be eliminated because of the needs of the facility. All concerns were balanced.

Joe Brown, 6 Cutting drive, asked if a Chapter 91 permit was required? Mr. Vining said it was filed and granted. Mr. Brown said there was parking without vehicular access to the \$1 million-plus public building that issued licenses and permits. Mr. Vining said he had been in discussions with the NRA. The Fish Pier was a multi-million dollar operation and had been operating successfully without vehicular access for decades. Access details did not have to be resolved before the project went forward. An existing, functional building had been there for many years. Chairman McCarthy said other venues addressed access and easements, tonight was for Site Plan Review criteria only.

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Ms. Isabella said it was hard to compare the building with trees. She used to have a water view in the winter, but not when trees had leaves. Could the cathedral ceiling be eliminated to lessen the height?

David Dubois, 1 Merrimac Street, said the length of the building would block more than the little bit of height. The Harbor Commission was self-sustaining, but would now service the bond. Ms. Champion asked what the length was. Mr. Keery said 69 feet x 30 feet wide, including the jog between the two buildings.

Chairman McCarthy wanted the building to attract people to the water and said it was a trade off between a many issues. Mr. Dubois said neither public bathrooms nor the newly improved public plaza were part of what the Harbormaster needed, but they are funding it themselves and that should be applauded. The curved granite around the monument, nicer benches and picnic tables are a plus for the location.

Public comment closed.

A member said the architecture looked similar to the renovation of Hampton Beach architecture. The gabled roof made sense. Mr. Vining said a hip roof had not looked as good. Members considered a condition on the services. Chairman McCarthy said the board looked carefully at projects' public component. There had been adequate public meetings and a lot of homework done. This was the venue to show the public and the board what was proposed. What was approved had to be adhered to. The finances were good, and approved by those knowledgeable. A member asked if the fire marshal required sprinklering. Mr. Keery said no.

Doug Locy made a motion to approve the Site Plan Review with the waivers as mentioned. Sue Grolnic seconded the motion and all members voted in favor.

Motion Approved.

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4. Old Business Continued

- b) 13 North Adams LLC
26 Toppans Lane – 'Donahue Court'
Definitive Subdivision (2015-DEF-01)
Section XXIII Special Permit (2015-SP-02)
(Continued from 5/6/15)*

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Steve Sawyer, Design Consultants, Inc., 68 Pleasant Street, said stormwater and piping issues had all been addressed. Christiansen and Sergi said things looked good. The right of way was narrow. Meandering would be unnoticeable from the road, interfere with maintaining the large trees, and added complications to the lots. More trees would be added to create a heavily treed access. The front lot would be bungalow style in clapboard and natural stone. The rear lot would be cottage style with gabled roofs of less height. A power line crossing the road would go underground. He would recommend dropping the line in a way that avoided adding a new pole.

Chairman McCarthy said department head comments were captured in the decision. Had Mr. Sawyer thought about the performance guarantee? The board normally asked for some type of surety so the City could finish the street, if needed. Mr. Sawyer said he knew the City did not like the covenant, which had to be on the Mylar. Conditions were home owners association documents, easements, a maintenance plan for the drainage system, and limiting development to a single family home on each lot. Mr. Sawyer said neither lot met requirements for a two-family; one lacked the frontage, the other lacked lot width. Chairman McCarthy added that there shall be no garage facing Toppans Lane and to grant a right of way easement to the City for emergency purposes.

Member comments: The conditions did not cover neighbors' requests for no more than two homes in perpetuity. It was agreed that wording change to say 'each lot shall have only one single-family residence on it.' Could the ZBA override what the board was doing? Chairman McCarthy said yes. The board included the protections it is authorized to use. The radius was tight. Were members comfortable with the massing and architecture of the houses? Generally, with special permits, the board wanted to see what the houses looked like. Unfortunately, abutters interested in the architecture were not present. Ample space between neighbors created a different context than an historic area on High Street, for example. The board's obligation to protect resident's property values was not compromised if house type was not specified.

Doug Locy made a motion to approve the Definitive Subdivision and waivers. Don Walters seconded the motion and all members voted in favor.

Doug Locy made a motion to approve the Courts and Lanes special permit under Section XXIII. Andrew Shapiro seconded the motion and all members voted in favor.

Motions Approved.

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5. Planning Office/Subcommittees/Discussion

a) Updates

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The Wine property at the top of Kent and High Streets was discussed. Jared Eigerman was producing changes to the zoning code. One change was in subcommittee. David Hall's project went to MA DOT.

6. Adjournment

Don Walters made a motion to adjourn. Doug Locy seconded the motion and all members voted in favor.

The meeting adjourned at 9:54 PM.

Respectfully submitted -- Linda Guthrie