

**City of Newburyport  
Planning Board  
June 19, 2013  
Minutes**

The meeting was called to order at 7:05 PM.

**1. Roll Call**

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

Absent: Paul Dahn and Noah Luskin

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

**2. General Business**

The minutes of 05/15/2013 were held until the next meeting.

***Request for a minor modification of the V.I.C Special Permit issued for 251 Merrimac Street to change the driveway from chip seal to asphalt***

Director Port explained the relatively minor request for change to an asphalt driveway is primarily aesthetic for the applicant. A member said the chip seal specified would produce less run off. The board had already approved the project based on more absorbent material and changing to an impervious surface was not necessarily minor when viewed from a larger perspective. Director Port asked if the applicant requested pavers, would that suffice? The board agreed. Another member said the driveway needed to meet a standard, such as the same permeability originally approved or better. Director Port suggested the applicant submit revised specifications to the Planning Office for review.

Sue Grolnic made a motion to approve the modification of the V.I.C Special Permit per the Special Conditions and Waivers granted, and with an alternative driveway specification to be reviewed by the Planning Office. Bonnie Sontag seconded and all members voted in favor.

*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.*

***James Bourque  
William Griffin Way  
Request for Reduction of Performance Guarantee***

The request to release \$35,000 withheld as security for construction of a 60-foot diameter cul-de-sac and installation of municipal services was made because the work was completed to the satisfaction of Christiansen & Sergi. The request was approved.

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**3. New Business**

***Office of Planning and Development  
331 High Street  
Senior Community Center  
Major Site Plan Review Application Completeness Vote***

The Planning Office had reviewed the materials and Director Port said everything was complete. He recommended scheduling a public hearing while the office was awaiting feedback from some city departments. Geordie Vining, Project Manager, Office of Planning and Development, would present the application with the architect. They would not focus on the interior, but rather how the exterior of the buildings would look. Feedback from the ADA coordinator was still pending. There was no feedback from abutters. Similarly, no calls had been received on the subdivision under development nearby. A member said one issue for the Site Plan Review would be traffic. Director Port said traffic would be addressed at the review. Roseanne Robillard, Director of the Newburyport Council on Aging, would present the programming and traffic as it related to drop-offs and pick-ups. Chairman Bowie noted the Site Plan Review was schedule for July 17<sup>th</sup>.

Don Walters made a motion to approve the Major Site Plan Review Application Completeness with Special Conditions noted. Henry Coe seconded and all members voted in favor.

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***Northbridge Communities, LLC  
30 Toppans Lane  
Definitive Subdivision  
Section XXIII Special Permit – Courts and Lanes***

Chairman Bowie read the legal notice to construct a 400-foot lane to service the subdivision. Attorney Jeffrey Roelofs, 30 Green Street, Newburyport, represented the applicant. The subdivision lot was a residual portion of the Rindler property. The Northbridge structure was adjacent to the west. The parcel could have been sold off undivided, but concerns about future development there led to this proposal to set up a modest subdivision prior to selling it. Any buyer was bound by subdivision laws. There was a waiver request for the offset between Summit Place and the proposed driveway that already existed for the half house.

Steve Sawyer, Design Consultants, Inc. (DCI), 68 Pleasant Street, Newburyport, said the lot was an ANR plan, part of the Northbridge development, with frontage sloping down to Toppans Lane, and ringed by trees and brush around both north and south perimeters. DCI discovered good soils and gravel at the top of the hill conducive to underground stormwater management,

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but downhill there was more silt. The land could support six lots but Northbridge wanted to work with and minimize the impact to neighbors, and was offering a scaled back plan for three homes on larger lots. There was full design compliance with requirements for a lane and a hammerhead turn around with residences set off the road. Lot 1 measured 32,000 square feet, Lot 2 was 32,500 square feet, and Lot 3 was 26,700 square feet -- all above the 10,000 square foot zoning requirement.

The plan augmented existing vegetation at the perimeter that each lot was to maintain. Brushy vegetation would be supplemented with white pine and other evergreens to improve screening. The land was 26% vegetation and rose to 36% when including the vegetative drainage areas of wild grasses and inkberry bushes.

Director Port asked about Lot 4. Mr. Sawyer said the half house would be brought into the homeowner's association. To get the lot square, the property had to contain part of a detention basin whose maintenance would be part of the homeowners' association agreement, a document that was still in development. The desire was to sell all three lots at one time to one builder who would execute a comprehensive development.

A member asked whether the board could add conditions with a special permit under Courts and Lanes, as with a regular special permit? Chairman Bowie said as related to the lane only. Attorney Roelofs said the buffer zone presented related to Section 6.2.4, and allowed restrictions to be placed on it by the applicant. The plan would be revised to show more specifically what could and could not be done in the buffer zone, such as disallowing building structures, maintaining vegetation and identifying areas where evergreens would be planted for improved screening. The restrictions would be recorded at the Registry of Deeds where owners who needed to be aware of restrictions would have access to it. Mr. Sawyer didn't believe Northbridge was planning to build the road, but utilities for Northbridge all needed to be installed before the road was finished.

A member asked about the residents of the half house and what changes would affect their property rights? Mr. Sawyer said there was no change for the operation at 28 Toppans Lane because it had a separate driveway. The driveway for 30 Toppans Lane, property still owned by the Rindlers, was underneath the same track as the proposed road, and the curb cut was in exactly the same spot. The new curb cut for 30 Toppans Lane would be off the new lane at the rear of the house where the resident's turnaround was currently.

When the Northbridge Avita work closed, Northbridge would take possession of the entire property. The estate, as a separate piece of property, would be sold off as an ANR. Attorney Roelofs said buyers would have an easement to prevent changes. Mr. Sawyer said the lots were oversized and could support two-family residences, but Courts and Lanes required single-family structures.

Director Port said labeling for the bituminous concrete drive for the half-house needed clearing up. For Lot 4, the Planning Office would typically want to see the homeowners' documents and tie them to the Operations & Maintenance plan. Sometimes it was better for the city to require

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easements to be granted because homeowner maintenance could lapse and easements would allow public works employees to perform work if needed.

Mr. Sawyer said all peer review comments had yet to be fully digested, but he had talked to Christiansen & Sergi about drainage. Mr. Sawyer would tweak the plans, probably to get rid of the basin because there was a surface swale to mitigate that water. He would point out to city engineer Jon-Eric White that less water would get to Toppans Lane because run-off water was being reduced overall. The catch basin could tie into the city drain, but a conversation was needed with the Department of Public Services. Deep hole testing for some buildings still had to be done to provide buyers with necessary permitting.

Chairman Bowie asked about traffic. Mr. Sawyer said the traffic generated by three new homes was about 6% of the daily traffic with 29 trips per day comprised of two AM and three PM trips. A member said there would be less traffic on that part of Toppans Lane as a result of school traffic being directed down Murphy Avenue. Mr. Sawyer said most subdivision residents would head down Low Street. Another member asked why the 30-foot wide easement disappeared? Mr. Sawyer said the easement was for Avita; once it converged onto the private way, it was on another map. Avita had the rights to put utilities under the lane. Attorney Roelofs said an easement within that lane was left off the map.

A member addressed Mr. Sawyer about finding groundwater at 36 feet, saying it would take a tremendous amount of rain to bring it up. How much lower are the houses than the catch basin? Mr. Sawyer said the basin would drain dry and would control the peak flow off site via a controlled outlet to make sure the catch basin drains dry with no sitting water. Divots there holding water recently was explained as seasonal groundwater.

Public comment opened.

Tom Smith, 36 Toppans Lane, said he didn't have enough information yet to say whether he was in favor or not. He was happy to hear the front yard detention basin was being eliminated: it didn't seem like a good idea because nothing in that area would get rid of water. Working to replace the catch basin with a direct connection to the city sewer system sounded very good. He had performed efficiency and cost benefit analysis that revealed a single-family home would be in debt to the city for \$10,000 in service costs, minus the tax revenue.

Public comment closed.

A member asked when the board would see the Homeowners Association agreement regarding maintenance? Attorney Roelofs would draft that. Another member asked if the plan was for four units or four lots. There was concern about the ability of someone to petition for a two-family dwelling. Director Port said they'd have to return to the Zoning Board of Appeals. A member cited the exact language: 'four dwelling units or lots.' The language was unclear the member said. Did it mean 'either' or 'both?'

Chairman Bowie recommended continuing the public hearing until the next meeting on July 17<sup>th</sup>. Landscaping details would be complete by then.

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**4. Planning Office/Subcommittees/Discussion**

The Douglas Wine subdivision at 223 High Street has been in limbo for a couple of years. Brad Kutcher may buy the property, with changes in the building plan likely. A member said there was an issue about whether houses would block or not block the view of the historic home. Director Port said a condition gave field space in the back to the city. The developer didn't feel a need to do grading work back there because of the condition, but the situation now provided latitude for the board to debate what might be required for that space. The applicant was required to clear and make the area available for a field of regulation size, but nothing else, such as grading, was specified. The city had Dr. Wine's attention now if the board thought other conditions should be added. He didn't know what the school wanted to do with this space. Could the board require grading later on, even by the city? Director Port didn't know where lines should go, but a wall to hold in the earth would be needed if more were cleared. It was not understood whether more grading was needed. Another member said the board could ask to use escrowed funds. Director Port said asking for a sum of money for grading and maintaining would prevent losing this opportunity. It would be awhile before the new school was ready for a field. Chairman Bowie said that was a revision to the existing permit. The board could put conditions on preserving the original house. The Historical Commission should not sign anything with the developer yet. A low stonewall and some vegetation would differentiate this entrance.

The Whittier Bridge project is underway. There would be physical access under the bridge, but a grading issue on the other side still had to be worked out to enable access. The city would use some Water Department land. By Monday of next week an agreement for paving work on Pine Hill Road and a bigger sound barrier would be finalized. A condition to use clear acrylic panels rather than a beefed up Jersey barrier would make a cleaner, more transparent look that also blocked sound on the bridge. A member asked if would be finished before lanes were restricted on the highway? Director Port said it should. Another member asked about the Moseley Woods roundabout and Director Port said it should be finished in a couple of months. The Whittier Bridge work would last through 2015-16.

Bids for the MBTA property were due by July 17th. A few developers were interested and a sale looked a little more promising. Director Port wanted to work cooperatively with the selected developer and a by right development process could get underway if a Section 40R overlay district were adopted. A member questioned whether it was a good use of the board's time unless something different would be proposed. Director Port hoped the qualified bidder would want to work with the city. Another member said some of the bidder's interest was due to water work expenses that would be paid by the MBTA. The underlying district doesn't allow residential use.

The Zoning Working Group has discussed revised language for Section VI.C. The Working Group favored Draft B, but the subcommittee chair wasn't prepared to bring the VI.C language forward. A comprehensive argument is needed for a thorough zoning overhaul. Director Port said his office was highlighting all areas where they saw work was needed. A member said the Planning Office could advise applicants to go before both the Historical Commission and the Affordable Housing Trust before approaching the board with a Section VI.C application. The

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board needed a way to access property value to ensure Section VI.C functioned as intended. Another member said decisions couldn't appear arbitrary. Chairman Bowie said everyone else wanted a set grid with set numbers, but the proposed grid numbers were too low. Director Port agreed. A member said a set grid with low numbers was self-defeating. Another member said informing developers that the board had a rational approach would be a good thing. Another member said developers would take the path of least resistance, for example, going to the ZBA to propose a two-family if that was easier, therefore the process couldn't be onerous. No action was taken.

A member said by right use for municipal marine uses needed to be added to the zoning. The harbormaster shouldn't have to get a variance for his building. Director Port agreed.

**5. Adjournment**

Don Walters made a motion to adjourn. Henry Coe seconded and all members voted in favor. The meeting adjourned at 8:34 PM. The next meeting will be July 17<sup>th</sup>.

Respectfully submitted,

Linda Guthrie, Note Taker