

June 20, 2012

Meeting Minutes

The meeting was called to order at 5:10 PM

1. Roll Call

In attendance: Dan Bowie, Don Walters, Henry Coe, Paul Dahn, Bonnie Sontag

Absent: Noah Luskin, Sue Grolnic, Jim McCarthy, Cindy Zabriskie

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

2. General Business

a) Approval of the minutes

Minutes of June 6, 2012 Meeting

Henry Coe made a motion to approve the minutes as amended. Paul Dahn seconded the motion. The motion passed. Don Walters abstained.

Minutes approved.

b) Michael and Jean Doyle 6 Caldwell's Court Approval Not Required

Joe Sullivan, attorney for the applicants, explained that the applicants own 6 Caldwell's Court and the abutting property on which the Park Lunch restaurant is situated. The Zoning Board voted on June 12 to grant a special permit for nonconformities allowing the lot split, which creates a new 2,691 SF parcel (labeled "Not a Building Lot") to be conveyed to the adjacent Park Lunch property at 179 Merrimac Street. 6 Caldwell's Court has recently been substantially renovated and is under agreement. An ANR approval is required to formalize the lot split.

The appeals period for the special permit has not expired. If an ANR approval is granted, the Planning Office will release the mylar for recording following expiration.

Don Walters made a motion to approve the ANR.

Henry Coe seconded the motion.

Motion approved unanimously.

Votes cast:

Dan Bowie:	approve
Henry Coe:	approve
Paul Dahn:	approve
Bonnie Sontag:	approve
Don Walters:	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.

**c) Green & Company
Oleo Woods OSRD Definitive Subdivision
Performance Guarantee Reduction Request**

Christiansen & Sergi's review of the Oleo Woods performance guarantee reduction request recommends that a few items be added to the developer's worksheet to cover work not already guaranteed (as-built plans and monuments), but acknowledges that there are sufficient funds remaining (approx. \$230,0000) to ensure completion of these items even if the Board releases the requested \$423,770.76.

Don Walters made a motion to release said funds.

Henry Coe seconded the motion.

Motion approved unanimously.

Votes cast:

Dan Bowie:	approve
Henry Coe:	approve
Paul Dahn:	approve
Bonnie Sontag:	approve
Don Walters:	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.

3. Old Business

There was no old business.

4. New Business

**a) Nat Norton
53 Spofford Street
Pre-Application Meeting regarding potential Section VI-C Development**

Adam Costa, attorney in the firm of Blatman, Bobrowsky, Mead LLC, representing Nat Norton, also in attendance, explained that Mr. Norton has an option to purchase the property contingent on receiving approval to build with a VI-C Special Permit. The existing structure is a two-family use which he would like to convert to a single-family use, construct an addition, and an attached garage. The two-family use was constructed prior to current zoning so that it constitutes a non-conforming use on a conforming lot. Turning the structure into a single-family use would make it conform to current zoning regulations for use.

Mr. Norton would also like to build a second single-family structure and a garage behind the existing structure on the lot. Mr. Costa stated this secondary structure would have a footprint that is 10% smaller than the primary structure and in this configuration, the property would become more consistent with the surrounding neighborhood where similar development exists on other properties. Those properties were subdivided according to regulations in place at the time, and many have one structure located behind another structure.

Noting that the plan is only a concept at this stage, Mr. Costa suggested that the driveway could be moved by relocating the proposed location of the new structure's garage and thereby reduce impervious surface with a split driveway configuration.

Mr. Costa stated that the applicant offers to provide a community benefit by making a payment to the Newburyport Affordable Housing Trust (NAHT).

Chairman Bowie asked about access to the right of way designated on the GIS-generated plan. Mr. Costa stated that the ROW is totally on the abutting property.

Chairman Bowie commented on the offer of a public benefit payment to NAHT. He reminded Mr. Costa that the Planning Board takes advice from the NAHT but is not bound by the dollar figure that the NAHT recommends. The Planning Board makes the final decision on this matter. In this situation the Planning Board will take into consideration a donation that reflects the benefit the applicant realizes from constructing two market value units.

Mr. Costa said he understands that the Planning Board is not bound to accept the NAHT recommendation. He noted that the owner of the current structure will retain that ownership. The Planning Board should remember that there remains the by-right option to construct a very large two-family structure on the property. He further explained the more desirable option of two single units on a condo-ized lot, with exclusive uses areas designated for each unit.

A board member asked if the proposed footprint for the new structure is appropriate with only a 10% smaller footprint? He wonders if it would be possible to make the new structure smaller than the existing structure and not include the new addition in that calculation. As for the non-conforming use, what else can be done on the property? Would they need a special permit if they wanted to extend the non-conformity?

Mr. Costa said that if they enlarge the structure with no change in use there would be no expansion of the non-conformity.

A board member felt that it would be a stretch for him to accept the one-behind-the-other structure configuration. He will view the property and the neighborhood and listen carefully to the applicant's plans when he makes a formal application. It will have to be a compelling argument for this board member to vote in favor of the proposal.

A board member asked if there was a shared driveway on the south side abutting property as there is on the north side property. Andy Port said 'no' and reiterated that no part of the right-of-

way on the north side property is on the 53 Spofford St. property as the GIS image would indicate.

A board member asked about the size of the proposed structure. The response was two-stories and approximately 3,000 sq. ft.

A board member requested renderings and images of the proposed addition to the existing structure and the new structure so that board members can imagine the character, scale, massing and general streetscape in the proposed scenario.

Chairman Bowie asked if they plan to attend the NAHT meeting before coming back to the Planning Board with a formal application. Mr. Costa answered in the affirmative and said that they would bring the requested renderings, images, and responses to issues discussed at this meeting. It is possible that they will be ready by the first August meeting of the Planning Board.

5. Planning Office/Subcommittees/Discussion

a) FEMA Zoning Change

The second reading of the City Council on this change will take place on Monday, June 25.

b) Lot Shape Provisions

The Building Commissioner would like to give owners of corner lots the choice of which side to designate for frontage purposes. He suggests that the recently adopted lot-width minimum amendment be further amended to this effect. Andy Port let the board know that this issue may come up for the Planning Board's consideration in the near future. The Planning Office would like to see consistency in how this regulation is applied. Several board members stated that this amendment was thoroughly discussed at the time of its adoption and the regulation is clearly stated enough for consistent interpretation.

c) Two-Family Use Regulation and Deeded Half Houses

Andy Port brought up the issue of two-family use regulation as it applies to deeded half-houses because of a current application. The applicant wants to transform two single-family units in a half-house configuration on two lots into a two-family structure on one lot. The wording of the current two-family use regulation applies to a structure on one lot. The Building Commissioner believes that the two-family use regulation applies to two deed-half houses on separate lots and would like to see this interpretation codified in the zoning. The question is: does the zoning ordinance need to be modified regarding half-houses, given that there are a good number of these structures in Newburyport? For example, right now a single-family use requires that the structure be surrounded by open space. There is also the complication of two different owners for deeded half houses who would potentially be covered by a two-family use if their half-houses were combined.

Mr. Port has agreed with the Building Commissioner for the current application at 55.5-57 Bromfield St. and recommends that no special permit for use is necessary in this instance since

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the Building Commissioner in his role as zoning enforcement officer has determined that the pre-existing building (and use) is better characterized as a two-family (Use 102) than a single-family (Use 101).

Chairman Bowie stated that the Planning Board should address the issue of deeded half-houses due to the number of such houses in the community. Another board member suggested that in preparation for that discussion, the Planning Office should research how other communities, such as Marblehead, have dealt with this situation.

d) Northbridge Assisted Living Proposal on the Rindler Estate

Negotiations between Northbridge and Anna Jacques Hospital continue even as this application is being considered by the Zoning Board of Appeals. It will eventually come to the Planning Board for Site Plan Review.

e) Schools & Community Center Projects

A board member asked about the role of the Planning Board in permitting these projects. According to current plans, they will only require Site Plan Review by the Planning Board.

6. Adjournment

Don Walters made a motion to adjourn.

Henry Coe seconded the motion.

Motion approved unanimously.

Meeting adjourned at 6:25 PM.

Respectfully submitted, Bonnie Sontag Planning Board Secretary