

July 20, 2011

**Planning Board
Newburyport City Hall**

The meeting was called to order at 7:08 P.M.
A quorum was present.

1. Roll Call

In attendance: Dan Bowie, Sue Grolnic, Don Walters, Henry Coe, Anne Gardner, Julia Godtfredsen, Paul Dahn (joined the meeting at 7:58 p.m.)

Absent: Jim McCarthy, Bonnie Sontag

Andrew Port of the Planning Office was also present.

2. General Business

Approval of the minutes

Minutes of July 6, 2011 Meeting

Henry Coe made a motion to approve the minutes.
Julia Godtfredsen seconded the motion to approve the minutes.
Minutes approved as amended.

Votes Cast:

Dan Bowie: approve
Sue Grolnic: approve
Don Walters: approve
Henry Coe: approve
Anne Gardner: approve
Julia Godtfredsen: approve
Paul Dahn: absent
Jim McCarthy: absent
Bonnie Sontag: absent

2. New Business

**4 Truman Way/25 Moseley Avenue
ANR**

Straightforward lot line adjustment.

Julia Godtfredsen made a motion to approve.
Henry Coe seconded the motion.

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No discussion.
Motion approved.

Votes Cast:

Dan Bowie: approve
Sue Grolnic: approve
Don Walters: approve
Henry Coe: approve
Anne Gardner: approve
Julia Godtfredsen: approve
Paul Dahn: absent
Jim McCarthy: absent
Bonnie Sontag: absent

During the course of discussion and consideration of this application, the 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) 17 Graf Road Realty Trust
17 Graf Road
Major Site Plan Review
Continued from July 6, 2011**

The applicant indicated that there were 4 remaining issues that had been identified and have been addressed in the new plan:

- 1) Additional landscaping at southern portion of site
- 2) Land-banked 11 of the parking spaces in the rear of the site until such time future tenant needs dictate the use of them
- 3) 4 foot sidewalk limited to the perimeter of the south side of the building (between building and landscaping) which connects to sidewalk in front of building
- 4) Identified area for potential future pedestrian cross-walk in the event parking spaces are converted to viable spaces.

The sidewalk does not change storm water analysis.

Open for Public Comment

No public comment

Public Comment Closed

No discussion.

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Sue Grolnic read the following sections of the draft decision: General, Specific, Waivers, and Decision.

Don Walters made a motion to approve.

Anne Gardner seconded the motion.

Motion approved.

Votes Cast:

Dan Bowie: approve

Sue Grolnic: approve

Don Walters: approve

Henry Coe: approve

Anne Gardner: approve

Julia Godtfredsen: approve

Paul Dahn: absent

Jim McCarthy: absent

Bonnie Sontag: absent

During the course of discussion and consideration of this application, the 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.

b) Bradley Kutcher, Kimberely Realty Trust

251 Merrimac Street

Section VI.C Special Permit

Chairman Bowie reviewed the process which included hearing the application, discussion from the Board, public comment followed by additional discussion from the Board.

The applicant provided an overview of the existing conditions and their proposal which included adding a single family home. Direct abutters had been contacted and the proposal had been discussed with the Planning Office staff.

Questions from the Board included questions about the lot size and landscaping.

Sketches were presented which included the period fencing and the brick sidewalk, and the historic preservation planned for the existing house.

The applicant had received approval of the Preservation Restriction Agreement from the Historic Commission. He proposed making a \$15,000 donation to the Newburyport Affordable Housing Trust (NAHT) and will talk to the Housing Trust tomorrow night.

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One of the Board Members was concerned about the size of the yard associated with the big house compared with the size of the yard associated with the small house. The Board member indicated that it seemed like the outdoor space wasn't enough. It is important to see how the backyard is laid out. There was concern that the backyard for the Merrimac St. house would not be functional. The applicant responded that, relatively speaking, the backyard would be a lot more functional than it is today.

Another Board member asked if the carriage house could be two stories. The applicant said yes, but it would not be a livable space.

One Board member wanted to see more landscaping to create a visual separation of the two properties.

Open for Public Comment

Corey Scrupps, 253 Merrimac Street, Newburyport, Massachusetts

He is a direct abutter. Mr. Scrupps indicated that he bought his property so he could have some open space beside him. He is going from having one neighbor to having two neighbors. He bought his house to have space. He is losing a lot of privacy. He is worried about density of people. If it were approved, he would like to see more trees along the fence to supplement those that are there. He would like as much of a buffer zone as possible. The second story of the new building will be able to see into his backyard. He referenced the new houses being built on High Street and how they are negatively impacting the abutter.

Chairman Bowie spoke to the reference to the development on High Street. He said the City of Newburyport currently does not have a lot-width minimum ordinance and that if citizens were concerned they should speak with their City Councilors.

Betty LaBaugh, 6 Walnut Street, Newburyport, Massachusetts

She lives right behind Corey Scrupps. She indicated that the plans were lovely, there was sensitivity to "look and feel", and her concerns were claustrophobia and the view to the river. She had written a letter (6/29/2011) indicating that things were getting very claustrophobic. Mr. Scrupps is an abutter, she is not, but she is going to lose a lovely view of the river and that's secondary to the density of the neighborhood. She bought the property because she likes the sight-line. Whether Plan A or plan B is approved, there is nothing she can do about it.

Stephan Munier, 257 Merrimac Street, Newburyport, Massachusetts

He is an abutter to Mr. Scrupps and in a similar situation. He is not impressed with the current condition of the property, it is overgrown and the sidewalks were not shoveled this past winter.

Anne and Bob Miller, 6 Oakland Street, Newburyport, Massachusetts

The Millers sent an e-mail correspondence on 7/15/2011 which was forwarded to the Board and will become part of the file.

Public Comment Closed

Comment from the Board was that views and sight-lines are irrelevant unless you have acquired view rights. There are no automatic view rights in Massachusetts. When buying a property, you are buying at your own risk. One Board Member indicated that the applicant has worked very hard with the Historic Commission. She is in favor of the plan. The sidewalk is a benefit. The donation to the Housing Trust is terrific. This plan will really improve what is an eyesore.

There was some discussion about a brick apron for the driveway and why the brick sidewalk couldn't be extended to the property line and whether it could be realistically done given that there are examples of it that exist in Newburyport today.

One Board Member questioned the setback, still wondering if there was a way to make the yard more useable for a family. The applicant indicated that though not large, the yard was functional. Another Board Member wanted to state, for the record, that we should pay attention, not just to what the house looks like, but how people are going to live there. Another Board Member commented that the concern about the yard is a concern about a yard that already exists. There was a lot of discussion about the properties associated with each of the 2 structures and there was not agreement as to what, if anything, should be done by the developer.

Chairman Bowie said three things have to be buttoned-downed:

- 1) Written input from the Tree Committee with respect to what, if anything, will be done in lieu of the tree being removed
- 2) Draft of Preservation Restriction
- 3) The Housing Trust Fund contribution.

This hearing will be continued to 8/17/2011

c) Springwell Investments

Oleo Woods Subdivision/Russell Terrace Extension

OSRD Special Permit Modification

Definitive Subdivision Modification

Continued from July 6, 2011

The applicant's attorney, Bill Sheehan, spoke about 2 minor issues and 1 major issue.

Two minor issues:

- 1) Width of sewer utility easement
- 2) Confirmation from DPS that the City will maintain the utilities: an e-mail from DPS indicated that the DPS does want to take control. The easement issue is discussed in the draft decision.

One major issue

- 1) Lot 10 and the Public Benefit

There was discussion about the 7/20/2011 letter from DPS providing clarification of the public benefit of the infrastructure. A Board Member wanted to make sure discussions about public benefit and Lot 10 were separate. Mr. Sheehan agreed that the public benefit could be discussed separately from Lot 10.

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There is an original Memorandum of Understanding between DPS and Springwell dated 4/6/2012. A new agreement, dated 7/20/2011 was received just prior to the meeting and passed out at the meeting. Many members of the Board expressed concern about the large amount of information being provided to them at 9pm. The applicant (Attorney Sheehan) was providing information that he himself had only recently received.

Attorney Sheehan reviewed the cost estimates from DPS around building a new lift station vs. what it would cost if Springwell went ahead with the development but only provided a lift station to support the homes they developed. In addition, the fees DPS is willing to waive if Springwell develops a new lift station were presented. There ensued a lengthy discussion from the Board about I and I and connection fees. Chairman Bowie indicated that the client wasn't at fault for the late arrival of information which some board members felt they were unable to process. Kopelman and Page had looked at the agreement and provided their blessing. The economic benefit around the new pump station was discussed at length. DPS is concerned that the City will be left to pay additional costs; the City is benefitting because work is being paid for by the developer.

As discussion progressed, Chairman Bowie indicated he was feeling more comfortable with Lot 10. Henry Coe remained concerned that the information was provided too late at the meeting to be able to assimilate it. The developer will spend the extra money on the pump station because they want to build Lot 10. Mr. Sheehan continued to emphasize that there is no reason NOT to build on Lot 10. Mr. Sheehan indicated that if people needed more time to digest the documentation that was fine. The draft decision put before the Board leaves the Lot 10 issue unaddressed and leaves it up to the Board. Andrew Port indicated the Mayor felt the downside to Lot 10 was so small compared to the benefit of the new pump station. Chairman Bowie indicated that six votes were needed to approve this and that there were seven members present. The developer is not sure what they will do if they do not get Lot 10. Building their own lift station to only support the new homes would not get them off on the right foot with the city of Newburyport.

Eventually, Chairman Bowie felt that he could move forward, but wanted everyone to feel comfortable with the information before moving forward. The numbers are what they are and the other benefit to the City is that they don't have to lay out the money to do anything. A Board Member wanted simple answers so she could evaluate. Andy Port and the developer continued to present data. Andrew Port said that they had tried to present a draft decision that the Board could act on tonight. The developer continued to emphasize there is no downside to build Lot 10.

Another Board Member indicated that initially Lot 10 had been taken off for a reason. Andrew Port asked if the project had come forward today 30 acres of open space, 2 affordable units, public infrastructure that would take care of other homes as well as the development - how would the Board react without the history? Chairman Bowie indicated where he had initially been against Lot 10, he was changing his view. While there are savings to the applicant, there are still some costs to them. The City is not going to have to spend money it doesn't have. He agreed with an earlier statement by Attorney Sheehan that very few tussles are resolved by going

backwards. Andrew Port indicated that DPS does not care about Lot 10. DPS is not trying to give credit to the developer, they just want to make sure the infrastructure is constructed.

Initially, Chairman Bowie suggested continuing to August 17. The developer spoke and indicated there was no “smoking gun”, this was just business. The spot where the development is being proposed is not a great spot and they were going to make it beautiful. The developer had been intent on trying to get approval by June. He wanted the Board to try and make a decision tonight. Andrew Port indicated that there will be no new information provided at the next meeting. The developer will only get Lot 10 if they do the lift station. Eventually, after continued discussion, 6 of the 7 Board Members were comfortable going forward tonight.

Open for Public Comment

No Public comment

Public Comment Closed

Andrew Port indicated that Lot 10 is discussed on page 2 of the Draft decision. If the Board does approve Lot 10, language would be revised. He recommended that on Page 1, finding #6, be taken out of findings and put in the Special Condition Sections. The findings will be renumbered accordingly. He also recommended adding a sentence: “Completion of this work is an essential condition of this approval.”

The entire draft decision read by Sue Grolnic for:

Springwell Investments
Oleo Woods Subdivision/Russell Terrace Extension
OSRD Special Permit Modification

Anne Gardner made a motion to approve the draft decision.

Paul Dahn seconded the motion.

Motion approved.

Votes Cast:

Dan Bowie: approve

Sue Grolnic: approve

Don Walters: approve

Henry Coe: abstain

Anne Gardner: approve

Julia Godtfredsen: approve

Paul Dahn: approve

Jim McCarthy: absent

Bonnie Sontag: absent

During the course of discussion and consideration of this application, the 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.

Draft Decision for the **Definitive Subdivision Modification** should incorporate the same changes/language as the Draft Decision for the Special Permit application.

Don Walters made a motion to approve.

Julia Godtfredsen seconded the motion.

Motion approved.

Votes Cast:

Dan Bowie: approve

Sue Grolnic: approve

Don Walters: approve

Henry Coe: abstain

Anne Gardner: approve

Julia Godtfredsen: approve

Paul Dahn: approve

Jim McCarthy: absent

Bonnie Sontag: absent

During the course of discussion and consideration of this application, the 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.

a) Springwell Investments

Oleo Woods Subdivision/Russell Terrace Extension/Lot 18

Section VI.C Special Permit

Continued from July 6, 2011

Sue Grolnic read Draft Decision.

Paul Dahn made a motion to approve.

Anne Gardner seconded the motion.

Motion approved.

Votes Cast:

Dan Bowie: approve

Sue Grolnic: approve

Don Walters: approve

Henry Coe: approve

Anne Gardner: approve

Julia Godtfredsen: approve

Paul Dahn: approve

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Jim McCarthy: absent

Bonnie Sontag: absent

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4. New Business

5. Planning Office/Subcommittees/Discussion

6. Adjournment

Motion made to adjourn.

Motion seconded.

Motion approved unanimously.

Meeting adjourned at 11:00 P.M.

Respectfully submitted, Jennifer Lamarre – Note Taker.