

**City of Newburyport  
Planning Board  
July 20, 2016  
Minutes**

The meeting was called to order at 7:02 PM.

**1. Roll Call**

In attendance: James Brugger, Sue Grolnic, Jim McCarthy, Andrew Shapiro, Bonnie Sontag, and Don Walters

Absent: Leah McGavern

**2. General Business**

- a) The minutes of 6/15/16 were approved. James Brugger made a motion to approve the minutes. Don Walters seconded the motion and all members voted in favor. Sue Grolnic abstained.

**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. New Business**

- a) ***Firehouse Center for the Arts  
1 Market Square  
DOD Special Permit (2016-SP-04)***

Beth Falconer, Executive Director, Firehouse Center for the Arts, said construction funded by a major capital campaign was set to begin and waiting on the masonry permit for the brick stair tower. The architect and engineers recommended upgrading the flashing and repointing masonry all at once. Water remediation approaches reviewed with the Historical Commission last week resulted in approval to use a diamond cut saw blade because masonry was not historic. The open issue was differing recommendations on the use of a clear sealant.

Andrew Shapiro read notice. Director Port said asphalt shingles would be replaced with asphalt shingles in kind with no change in material. Members said questions about the sealant, the process, and the structural issues required an expert opinion. Water repellants were not a reversible process. Ms. Falconer said the breathable, non-toxic sealant dissipated over five to seven years. The bricks, in bad condition, were treated poorly in a recent renovation. A week's worth of moisture would leak through when work began. Chairman McCarthy suspended discussion temporarily until the applicant's architect arrived.

***b) Daniel Eyink & Jacqueline Carroll  
3 New Pasture Way  
Site Plan Amendment (2015-SPR-02a)***

Steve Sawyer, DCI, 120 Middlesex Avenue, Somerville, on behalf of the applicant, said the project went through the Conservation Commission, the Zoning Board of Appeals, and a bidding process only to find the design exceeded the budget. The new design was slightly smaller with no change to the site or the Conservation Commission approval. The ZBA approved the new design. The initial residential-styled, slab on grade building with two gable ends was replaced by a cape style with two dormers, a hardy plank exterior, detailed windows, and architectural shingles. The modular building required a three-foot crawl space foundation. He submitted plans from the design/build firm today. A small carved and painted pylon sign he showed that could potentially be lit from the ground replaced a sign at the gable end. Parking was not reduced.

Members asked if the sign was wood? Mr. Sawyer said the sign was carved composite similar to Panera's sign, with a granite or wood base. Chairman McCarthy said ZBA approval was not needed for industrial park signage. Mr. Sawyer said ZBA relief was needed for use. Director Port said the City Council approved the zoning change two months ago. Mr. Sawyer said the May extension for the use variance lasted one year. Members asked if the sign would obstruct the view of exiting cars? Mr. Sawyer said no, the sign was far enough behind the property line to provide a clear site line. There were two handicap access spaces that required a small ramp now that the building was raised. A 10-inch frost wall would have 8-10 inches of exposed foundation.

Chairman McCarthy said the applicant returned and the hearing be re-advertised because a building design change was a major modification to the initial, publicly approved site plan.

Don Walters made a motion to approve the changes as a major modification and approved the major modification to the special permit. James Brugger seconded and all members voted in favor.

**Motion Approved.**

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**4. Old Business**

***a) Hillside Living, LLC c/o Lisa Mead, Esq.  
Hillside Avenue and Cottage Court  
Section VI.C Special Permit (2016-SP-01)  
Major Site Plan Review (2016-SPR-03)  
Continued from 5/18/16***

*b) Hillside Living, LLC c/o Lisa Mead, Esq.  
12-14 Cottage Court  
Major Site Plan Review (2016-SPR-04)  
Continued from 5/18/16*

*c) Hillside Living, LLC c/o Lisa Mead, Esq.  
18 Cottage Court  
Major Site Plan Review (2016-SPR-05)  
Continued from 5/18/16*

Chairman McCarthy said after a lot of communication and effort to accommodate Mr. Hall, Director Port decided there were too many open issues in peer review regarding stormwater. The best decision was to continue, stretching the project to five meetings.

Don Walters made a motion to continue until August 17<sup>th</sup>. Andrew Shapiro seconded and all members voted in favor.

**Motion Approved.**

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**5. General Business (continued)**

*b) 336 Merrimac Street  
Informal Discussion*

Director Port said all required materials were not submitted nor all concerns of City departments answered by the applicant. Specifically, the Department of Public Services had open questions about the utilities. He suggested reviewing the list of waivers to determine what was needed from the applicant before the hearing. Chairman McCarthy said the project needed to go before the Conservation Commission with modifications made by the marina. If the board approved the waivers, he would support voting the application complete. The applicant had been slow to provide materials and responsiveness to the Water Department and the board was essential. Director Port said some waiver items not required before the hearing could be temporarily waived and/or stated not needed, enabling the project to be advertised. Members said it was generally important for everything to be ready on items requiring six votes. What about parking, stormwater, and landscaping? Chairman McCarthy said the Planning Office was still waiting for a response to those questions. Members raised design concerns. Director Port said to forward design concerns to the applicant. Members asked if the sidewalk ordinance passed? Director Port said the ordinance was adopted with changes. He did not know if the changes would affect the project. Missing items were reviewed with the following comments:

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- *Location and Boundaries* –The board wanted this information completed.
- *Signage* – The board wanted confirmation from the applicant whether signage was needed.
- *Landscaping* –The board wanted a narrative about landscaping.
- *Traffic* – The board wanted a statement/narrative and a traffic plan.
- *Parking* – The board wanted clarification on all parking areas, in all seasons. A member said several abutters asked about traffic at the ZBA meeting. The ZBA responded that the Planning Board would address parking issues.
- *Public Access* – Members asked if Chapter 91 applied? Director Port said the project was further up beyond Chapter 91 jurisdiction and not on filled tideland. Members said the project was within 200 feet of tideland. The board wanted a narrative on public access.
- *Lighting* – The board wanted a lighting plan.
- *Water/Waste Disposal and Utilities* – The board wanted a stormwater plan.

The board required all missing items. Comments on requested waivers were as follows:

- Provision of a stormwater report -- The board denied the waiver without a narrative or engineer's statement about why a report should be waived.
- Provision of \$1,500 peer review fee – Director Port said there was no check for the peer review. Plans were not submitted to CSI for review but were distributed to department heads.

Tim de Coteau, agent for the owner, Jay Lesinski, said Merri-Mar Yacht Basin was a third generation, family owned- and operated business. There were no proposed changes to existing landscaping. Parking constantly altered depending on the number of boats coming in and vehicle parking could become boat parking. The applicant could not figure out how to put the ever-changing parking scenario on a plan. The lot was partly paved and partly gravel and difficult to specify because gravel could not be striped. Two existing floodlights were on the plan; no additional lighting was requested. Cut sheets would be provided for small residential lights added to the building. There were no changes to existing signage. Water and utilities had been shown. The ship's store was moved away from the lot line. Attempts to reach the property owner to learn the size of the water surface had failed because the owner was away.

Chairman McCarthy directed Mr. de Coteau to provide a narrative covering all waiver items. The board approved the two new lighting fixtures and requested their inclusion in the narrative. The application process was not meant to be one step at a time through a trail of email exchanges. The application was not complete. Remaining waiver requests were not reviewed.

Sue Grolnic made a motion to continue until August 17<sup>th</sup>. Don Walters seconded and all members voted in favor.

**Motion Approved.**

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**6. New Business (continued)**

***c) Firehouse Center for the Arts  
1 Market Square  
DOD Special Permit (2016-SP-04)***

Discussion resumed at 8:06 PM with Michael Teller, president, CBI, 250 Dorchester Avenue, Boston. The construction included exterior and interior renovations for replacing the ceiling damaged by the leaking stair tower and masonry cutting and pointing restoration all the way around the base of the tower that would not be seen from the ground. The budget allowed only for plugging the hole where water entered. Existing mortar was poorly done. The Newburyport Historical Commission approved mechanical saws for one pass through the joint to replace Portland cement that had trapped moisture, with soft mortar. The scope included the installation of through wall flashing to control the flow of water and removing three courses of brick so that moisture hitting the metal would leak outward. The project was bid with an application of clear sealant. Mr. Teller, whose primary market was repair and restoration of historic buildings, had researched the Department of Interior national standards for historic masonry restoration. There was no need for clear sealant when work was done correctly the first time, but the scope did not include repairing the entire tower. CBI recommended the sealant for the health of the entire wall because the building had been wet for many years. The sealant allowed the wall to dry out before it wore off, after which the pointing would keep moisture out. The breathable sealant filled cracks and coated bricks to bead water, reducing absorption into the masonry.

Member comments: How could sealant help masonry dry out? Mr. Teller said the sealant kept additional water from getting in, allowing water already inside to dry. The vapor permeable characteristic helped keep moisture moving outward. As vapor was created, warm air in the tower pushed vapor outward. The goal was for water to continue to evaporate. When the sealant dissipated the wall would work by itself. He demonstrated the visibility of the nine-foot area of work. How different would the repair look? Mr. Teller would match the existing mortar finish by holding mortar back from the brick edge to allow a shadow line which prevented masonry from looking new. Director Port said the NHC wanted to know once the Portland cement was removed. Anything deeper would be removed by a rake, as mentioned in the list of NHC conditions. Mr. Teller said the sealant was water repellent, not water resistant. Members said guidelines advised against using a sealant, but the guidelines were advisory only. The NHC had a second opinion stating sealants did not work.

Director Port said the Firehouse was looking for second opinion on the restoration process, not the sealant. Ms. Falconer said she hoped for a decision tonight. Chairman McCarthy believed the second opinion was related to the sealant. Was it possible for the board to get second opinion? Director Port said the board could ask the applicant to go with the decision of the board's second opinion. Members said the advisory note could not force the board to get a second opinion. Chairman McCarthy said the board could modify NHC's recommendation to get a second opinion. Director Port said the NHC were not experts and wanted to know whether the material would wear out in five to seven years. Mr. Teller said there was great discussion and debate in

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the restoration community about sealers. New technology could help the wall dry out. The sealant was included in the contract. The money would not be available again. Members said the Firehouse had done due diligence in seeking out an expert opinion. The expert was present. Two members favored of voting tonight. Breathable was a subjective term. The board used a consistent reviewer on stormwater and there was an established rapport. Ms. Falconer said CBI was publically bid, with all the checks and balances inherent in the public process. CBI, a trusted professional, had helped to inform them as was necessary to move forward responsibly.

Public comment open.

Stephanie Niketic, 73 High Street, representing the Newburyport Preservation Trust for Tom Kolterjahn, said the NHC knew how they felt about the sealant, writing in their report that any coatings “shall not” be applied (NHC Recommended Condition 9). If the board needed a free peer review, it was the Park Service standards or the NHC commentary. Sometimes water became trapped and could not get out. That was a structural concern, not visual. The Newburyport Preservation Trust and NHC agreed. Linda Smiley, former NHC Chair, knew of no acceptable sealant for historic bricks. Funds were mostly public. A peer review was called for under the DOD. A reviewer the board had never heard of would not resolve the issue. The Trust recommended Richard Irons, a master restoration mason from Newburyport, for peer review. If the structure were damaged, the whole tower would have to come down. The Trust would contribute to the applicant’s peer review expenses.

Public comment closed.

Member comments: A conditional approval to include a peer review was considered. How much vapor would be reduced? Mr. Teller said the mason had not submitted a product yet, but the state required a specification. Standards stated that, if done properly, a sealant was not harmful, but if done improperly, it was harmful. The project could wait until the end of construction. Chairman McCarthy requested the applicant to submit a product specification, data sheets, and the engineering process for review. Director Port said the decision could be conditioned upon a specific material and method, and peer reviewed before its application to the building. The City would send materials out for peer review. The board could defer to the peer review. Members said oversight was needed to ensure the correct product was applied. Mr. Teller accepted the responsibility. He would provide mock-ups for every step in the process, from the color of the brick to the color of the mortar. Members would ask the reviewer to determine if the process could harm the bricks. Members supported Mr. Irons as the reviewer. Director Port said the applicant should agree. Mr. Teller agreed. Chairman McCarthy considered Mr. Lyons unbiased and said the NHC had 11 conditions. The board modified one condition. Product, process, and oversight would be specified. Condition #9 was addressed.

Sue Grolnic made a motion to approve with all conditions from the NHC, a modification of Condition #9, and a peer review process in which recommendations were part of the decision. James Brugger seconded the motion and all members voted in favor.

**Motion Approved.**

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**5. Planning Office/Subcommittees/Discussion**

*a) Updates*

Waterfront West/New England Development, the Brown Street violation of their subdivision approval, Graf Road, affordable housing, and the OSRD Golf Course were discussed

**6. Adjournment**

Andrew Shapiro made a motion to adjourn. Bonnie Sontag seconded the motion and all members voted in favor.

The meeting adjourned at 9:24 PM.

Respectfully submitted -- Linda Guthrie