

August 15, 2012

Meeting Minutes

The meeting was called to order at 7:10 PM.

1. Roll Call

In attendance: Dan Bowie, Henry Coe, Paul Dahn, Sue Grolnic, Noah Luskin, Bonnie Sontag, Don Walters and Cindy Zabriskie

Absent: Jim McCarthy

Andrew Port, Director of Planning & Development was also present. Emily Wentworth, Planning and Zoning Administrator arrived at 7:45 pm.

2. General Business

a) Approval of the minutes

Minutes of August 1, 2012 Meeting

Henry Coe made a motion to approve the minutes.

Don Walters seconded the motion. Paul Dahn, Bonnie Sontag and Jim McCarthy abstained. The motion passed unanimously.

Minutes approved.

Votes Cast:

Dan Bowie: approve

Henry Coe: approve

Paul Dahn: abstained

Sue Grolnic: approve

Noah Luskin: approve

Bonnie Sontag: abstained

Don Walters: approve

Cindy Zabriskie: approve

3. Old Business

- a) **Nat Norton**
53 Spofford Street
Section VI.C Special Permit
Continued from August 1, 2012

August 1, 2012

Adam Costa, Attorney, Blatman, Bobrowski and Mead, spoke on behalf of Nat Norton. This proposal was introduced informally to the board in June and came before the board couple of weeks ago when six members were present. A continuance was requested in order to be heard by the full board. The board's feedback was appreciated and modifications were made. Tonight's proposal was a revised plan. An 'as of right' plan was also in the packet. Two-family residences are permitted in the R2 district and this property is grandfathered. The proposal showed an addition to the rear of the original two-family home, which has been converted to a single-family residence. The proposal included a second single-family home at the rear of the site.

Plans showed the proposed project as well as the existing two-family structure and an 'as of right' development. Attorney Costa said the plans satisfied requirements under every single aspect of each plan. There was more than sufficient lot frontage and lot area to meet all the setbacks. On July 3, a narrative was submitted to the board that addressed permit and special permit criteria. Many of the criteria spoke to 'intensity of use' and we're not increasing the 'intensity of use' of the property.

Section VI.C requirements were also met. Under the 'as of right' development proposal a waiver for one requirement, a cul-de-sac, was requested where the proposal falls short of the set back. With that one exception, the project could be built by way of a typical subdivision plan. The second requirement was public benefit. Pursuant to Affordable Housing Trust formulas, they had agreed to make a donation of \$25,000. Attorney Costa believed a letter had been submitted to the board. The third requirement was that one structure be subordinate to the other to avert maxing out the site. The proposed structure would cover 10% less area than the primary structure. With modifications, the new addition was 24 feet x 30 feet, vs. the original 30 feet x 30 feet, or 1730 square feet vs. 1340 square feet. The size had dropped significantly. The fourth requirement, adequate ways, was met with a proposed shared driveway. The last requirement, that all the zoning requirements are met, had also been accomplished for two single-family homes and for the one two-family home.

Comments were made about the benefits offered by streetscapes. A perspective presented showed the streetscape including the proposed garage and single family home at the rear of the site. There was consistency between the proposal for this site and the rest of the neighborhood, further demonstrated by a comparison to the property immediately to the west (neighboring house). The adjacent properties have been developed in a similar manner. Photographs of the site with the proposed driveway were shown along with an excerpt from the assessor's maps as further demonstration of the development of adjacent properties.

Because density and intensity of the site were discussed in some detail back in June, Attorney Costa had asked his client to compare his coverage ratios to the adjacent home immediately to the west. The adjacent home was a bit larger in size, but they had greater lot coverage than what Attorney Costa and his client were proposing.

August 1, 2012

A member said the proposed development perspective looked as if there were two structures and only one was mentioned, the proposed garage. Attorney Costa said there were two structures, but one was attached to the existing structure and used primarily as a garage. A detached garage was being proposed. Attorney Costa confirmed that there was 59 feet between them.

A member asked if the current two-family house contained a rental or not? Attorney Costa said the two-family home was used as an in-law apartment for the owner's parents, but it is not a rental. Another member asked whether it was going to be a rental? Attorney Costa said that a rental was not the intention. Another member asked if the proposed 24 feet x 30 feet addition was one or two stories? Attorney Costa answered that it was a garage with a space above for storage, but still a single story. The member asked if this was a 24 feet x 30 feet garage, why weren't we calling it a garage instead of a home? Is there a proposed restriction for the use of this garage?

Chairman Bowie asked what the proposed actual living space of the addition was? Attorney Costa said 2,550 square feet. Chairman Bowie said his understanding was that the first floor was the rental unit, and the second and third floor was the remainder of the property. Jane, the property owner, said she did not rent, she and her husband lived with her parents. Chairman Bowie asked what is the proposed living area would be after the conversion? Attorney Costa said it would remain the same. Chairman Bowie asked what the proposed living area of the new building would be? Mr. Norton responded that if it were two stories, it would be 2800 square feet. Chairman Bowie asked if the size of the new house was the same as the 'as of right.' Attorney Costa said it was shifted back about three or four feet. A member said to Planning Director Andrew Port that when we talked in June the option was to construct a very large two-family home on the property. The V.I.C allows two structures on one property. Why is this a subdivision and not a 'by right' plan?

Planning Director Port said he didn't take issue with a subdivision as an alternative. He would allow this as a proposed alternative, the waiver is not 'by right,' so that's the area where there's a question. Attorney Costa said he noted earlier, regarding area, that he had sufficient area to meet all the zoning bylaws. He had enough for two, one-family structures. He would have the ability to do that. A member said in the worst-case scenario, if the V.I.C weren't approved and the subdivision with a waiver wasn't approved, you'd be left with building a large two-family. Attorney Costa said yes. The member asked where the fire hydrant was on the street. Jane, the property owner, answered right across the street.

Planning Director Port asked if there were sprinkler units? A member asked if that isn't required now. Attorney Costa said no.

Public hearing opened.

Colonel Ted Probert, 47R Spofford Street, was the resident to the west of the property at issue. He said when he bought his property, he questioned the possibility of there being another home built back there and was told no. If the proposal goes through, was there

any provision for a buffer that would protect his interests? Chairman Bowie asked if he had undertaken any discussions with the applicant? Colonel Probert said no. Chairman Bowie asked what he had in mind for a buffer? Colonel Probert answered green shrubs and trees. Chairman Bowie said a buffer of that nature would be considered.

Public hearing closed.

A member brought up the issue of the public good, saying when we first started doing VI.Cs, we thought we had a broader goal. Money is part of a toolbox, but there should be other considerations. The member was concerned about the idea that part of the board's job was to look at what really is the public interest. As a two-family house, it ought to be a rental unit. The member was concerned about the process in general.

Chairman Bowie was troubled with the problem of VI.Cs taking a two-family property to create a new single-family home of 2,550 square feet and adding a new single-family home of 2,800 square foot. They're not small and not in the category of affordable properties. We have a public benefit ordinance in the VI.C now. When comparing the creation of somewhat large single-family homes with the loss of a two-family home, Chairman Bowie would need to see a more substantial donation to the Affordable Housing Trust to be inclined to go along with the proposal.

Another member agreed with the previous member's comment and Chairman Bowie. The member understood that \$25,000 was equivalent to a down payment on an affordable home, but what Newburyport needed was more affordable rentals. The member looked at all the properties in the neighborhood with two structures, both to the front and back, and felt it was more than enough. These properties conformed to previous zoning laws, but they do not today. More buffering was required and the board was at risk approving inappropriate in-fill. In addition to the concern about the public benefit not being what it should be, the member was concerned about what it would look like. The member did not favor this kind of in-fill. It's possible that a 'by right' single-family unit would be preferable to retain the natural environment that's left there.

Another member concurred with these comments and said every VI.C applicant was a struggle, and this proposal was on the more difficult side. The proposal had the potential to gain the member's approval with significant changes. One is, \$25,000 is an inadequate amount. Also, there would need to be significant landscaping with more attention to the view from abutters. Third, the size, scale and mass of the proposal needed to come down. If the second structure were lower and 2,000 square feet, it would not be as massive as the first structure. If the applicant wanted to make these changes, the member could approve it. Another member asked what was happening on the east side of this property? Attorney Costa said the lots got progressively smaller in size. The east abutter was a vacant lot. He addressed other concerns raised. He was sensitive to the fact that there were a variety of public benefits with these sorts of proposals that are not apartments. It was hard to offer a unit for rent. The owner had some flexibility with the \$25,000 donation and with the landscaping. He could work with the neighbor to create an appropriate buffer that offered year round screening. Regarding properties to the west and

enough being enough, we were not removing a lot of trees. We would retain mature trees. We need only a single waiver for the cul-de-sac turn around. Even if the board was not happy with the AHT donation, it was a benefit not usually made with a subdivision development. There was some flexibility with square footage and it was hoped some agreement could be reached. Given that there was room for negotiation, Attorney Costa asked the board to provide sufficient feedback that would give them the opportunity to come back with something more acceptable.

Chairman Bowie was willing to continue the hearing. He added that it was important to consider 'by right' options. It was not unusual for conceptual plans to be presented to the board that need only one waiver that resulted in the need for more waivers. He wanted a better sense of what waivers would be needed for a 'by right' development without the applicant spending a lot of money on engineering.

A member asked what the smallest cul-de-sac that had been approved was? Emily Wentworth, Planning and Zoning Administrator, answered that recent subdivisions have used T-turnarounds instead of cul-de-sacs. The sprinkling allows us to accept the waiver. Attorney Costa said he understood that sprinklers were required when there was trouble accessing the site. A member commented that the thinking was more along the lines of the possibility of getting a waiver. Another member said if there wasn't enough space for a fire engine to turnaround, the board is not saying don't do it. You can come back with another plan. Meeting the requirements ought to be hard to do. Another member asked what would an acceptable number be? Another member said they were struggling with the pattern established that money had become the standard for the public good. The board needed to be careful. Another member did not want VI.Cs to be an even exchange for a cash donation; that was not what VI.Cs were for. Rental properties in Newburyport were very limited. This proposal was not a benefit to the city. Another member asked if there was an organization that took money from VI.Cs to build affordable units. Conceivably, a public benefit is gained if the board could find an amount of money that would permit an organization to buy and fix up a property for rental. Another member said that 'building something here that allowed building something else over there' is not a good model for the city. The member said if there were such an organization that is still active and could create affordable rental units with donated money, the member would see that as a public good. But how could we make that kind of a guarantee?

Planning Director Port suggested if money was provided to the city that it be transferred to the Affordable Housing Trust to decide how best to use the funds. A member asked if the board had a letter from the AHT suggesting that this donation is acceptable? Planning Director Port said yes, but the letter is only one form of feedback. Chairman Bowie said every application under VI.C is unique; this applicant was not creating small single-family homes or rental units and VI.C was the vehicle that creates that opportunity. The applicant would not get a variance to split a lot like this. The board was conferring a significant right here. These two single-family homes are going to go on the market for what single-family homes sell for and he would like to see a six-figure donation to the Affordable Housing Trust. Attorney Costa said other than a waiver list if his client proceeded 'by right,' landscaping, and other issues, if a VI.C is not the vehicle to

accomplish the proposal, he needed to know that. If the project was not consistent with VI.C, what needed to be done to address the board members' concerns?

A member said there was no hard and fast rule about whether the board wanted VI.Cs or not. There was the potential for VI.C approval with significant modifications. If the applicant didn't want to make modifications, it was an easy decision. Chairman Bowie said it was the degree of public benefit to the VI.C that was at issue. Another member was not keen on the 'by right' subdivision, preferring the VI.C with a truly significant donation, buffering for abutters and landscaping. Another member agreed and wanted a substantial reduction in massing and more substantial donation to AHT.

Chairman Bowie asked Attorney Costa to give the board some sense of what actually would be lost in existing vegetation? Mr. Norton said he didn't intend to cut down one tree because the lot was already clear of trees. A small pine tree or two might be sacrificed to put in the driveway that fits between the existing trees. A member asked the applicant to show the trees on a drawing, or spray paint the corners of the structures on the lawn, so the board could come out for a look. The member gave an example of digging 15 feet down, hitting mature tree roots, and losing a tree that had formed a canopy. Chairman Bowie set a date for a site walk at 5:15 pm, Thursday, Aug 23.

Attorney Costa was asked to address the dollar amount of the donation and consider other available benefits, landscaping and existing vegetation, existing and mature trees, screening between the proposed new building site and the abutter, address massing and overall square footage of the new and existing structures to get the number down, to create a list of waivers for the 'by right' development and consider the road construction standards to include, and explore the need for potential sprinklering the second home proposed for construction on the site. The applicant will speak with the fire department.

Chairman Bowie continued the application to September 5.

5. Planning Office/Subcommittees/Discussion

a) Permit Extension Act

The School Department plans will be ready for the school building next week. Planning Director Port had some mid-range size plans. The storm water design was not quite done, but he didn't have a problem with starting the permitting process in the meantime.

A member said it was not obvious the DPS was doing anything about traffic and thought someone ought to be engaging traffic engineers. Planning Director Port said a preliminary traffic report would be in the packet the board was getting next week. The member said there were two intense periods of traffic and any plan that did not address that would be rejected. How should the board approach that the school will have a Community Center adjacent to it in the future? Could a traffic engineer take into consideration traffic from this impending property? Planning

August 1, 2012

Director Port said plans for the Senior/Community Center were not nearly as complete as those for the school, whose plans can't cover this traffic because it was not designed yet. The member said building size was not a concern, only the traffic aspect was concerning. Planning Director Port planned to talk to the school and architects about impending traffic. Another member said it was two different traffic studies. Planning Director Port clarified that the overlap in the afternoon traffic was the basic issue.

A member asked if the board needed to discuss amending the VI.C ordinance. Planning Director Port said the board was not necessarily satisfied with the threshold of the AHT. Ms. Wentworth said the board might want to have a conversation jointly with the AHT. Planning Director Port said the AHT's recommendations did not necessarily need to influence the board's decisions, particularly if the board feels that the threshold needs to be raised. Ms. Wentworth said the Parker Street project might not have been fully satisfied. If you were keeping VI.C on the books, it should create a type of new housing that is more affordable than large single-family homes. It should be tied to the impact on our housing market. Adding a conservation restriction is a public good, but we should not be losing affordable housing.

The Newburyport Affordable Housing Corporation could apply for money from the AHT. Property owners could sell their homes below market value to the city and contract the conversion work out to the Housing Authority. Another member said Newburyport rents are unbelievably high. Another member said it was supply and demand.

Chairman Bowie announced that this was Planning and Zoning Administrator Wentworth's last meeting. The board has the highest regard for you and will miss you.

6. Adjournment

Dan Bowie made a motion to adjourn.

Bonnie Sontag seconded the motion.

Motion approved unanimously.

Meeting adjourned at 8:45 PM.

Respectfully submitted, Linda Guthrie, Note Taker