

**City of Newburyport
Planning Board
August 16, 2023**

The meeting was called to order at 7:00 PM.

1. Roll Call

Planning Board Attendance: Alden Clark, Beth DeLisle, Bob Koup, Charlie Palmisano, Jamie Pennington, Heather Rogers and Rick Taintor

Absent: Richard Yeager

Planning Director Andy Port and note taker Caitlyn Marshall were also present.

2. Joint Public Hearing with the Planning & Development Committee and Committee of the Whole

a) ODNC00141_02_27_2023 Short Term Rental Units

City Council Planning & Development Committee members Ed Cameron (chair) and Connie Preston were present. Councilor Preston chaired the Committee hearing because Councilor Cameron was participating remotely.

Rick Taintor stated there was a proposed short-term rental unit ordinance in the spring. On June 21, 2023 the Planning Board sent its required report with recommendations to the City Council. The 90-day period from the close of the public hearing and City Council's final vote was not able to be met because of scheduling problems. Councillor Zeid resubmitted the exact same ordinance to have the same report voted on.

Connie Preston stated the intention of tonight's meeting was to close their part of the portion. They would like to bring the report to City Council as soon as possible and they needed extra time to do that.

Public Comment opened.

Judy Mouradian of 5 Beck Street stated she was opposed to investor owned STRUs. Properties will be off the market and the cost of rentals will be driven up. She stated there is nothing wrong with owner occupied STRU. She also stated that it would be hard to enforce any rules.

Rick Taintor stated the Planning Office received an email from Pam Kipp of 11 Tremont Street stating the same ideas.

Tim Smith of 53 Marlboro Street stated the previous public comment speaker spoke as if STRUs don't exist. He believes a grandfather clause and licensing could solve issues. He acknowledged there are issues with parking. With licensing and good clean shop, STRUs won't be an issue. He stated professionals run investment properties. More thought has to be put into the ordinance. It is discriminatory to allow Plum Island to have STRUs and then limit other parts of town from having them.

Randy Murphy stated Newburyport is a popular place to live. There are not enough places for people visiting to stay. There is a need for investor owned STRUs. He then shared a story about staying in an investor owned STRU. He stated he disagrees with the discrimination with Plum Island. There is no logical reason to create that discrimination.

Marge Kaczala of 109 State Street stated the R3 district has more liberal rules about investment properties. In that district the houses are closer together. Vrbo and Airbnb have complaints about noise. Why are you being more lenient in the R3 district?

Bill Foget of 9 Congress Street stated his neighbor's house was bought by an investor and has been used as an Airbnb since it was purchased. It is a STRU every weekend. Pets are allowed. On both sides of his home are STRUs. He stated it is evil.

Jeanette Isabella of 100 Water Street stated she has been a Newburyport resident for 38 years. There has been change over the years. She lives on the corner of Water Street and Lime Street. There is no parking and the flavor of the neighborhood has changed. Developers take single-family homes and turn them into condos. She also stated to have an investor make money off our neighborhoods is wrong. She then told a story of a drunken man, who was staying at an Airbnb, who walked into her home. Developers have made an impact on Newburyport; don't let the investors do it. Residents have the right for peace of mind.

Milissa Duncan of 14 Dove Street stated she was opposed to both homeowner and investor STRU. She said that STRU have a detrimental impact on the price of homes. Young families can't afford to live in Newburyport and they are not good for the fabric of our neighborhoods. She asked the board to think of long-term consequences and the effect on the public schools.

Kathleen Dunham of 21 Otis Place spoke of a Vrbo on Garden Street. She stated that the owner of the property doesn't live there. It is a well kept duplex that is rented out almost every weekend.

Mary Krajci of 232 High Street asked the Planning Board to preserve our neighborhoods and avoid investor owned STRUs. She stated that when an investor is not a part of the community they manage their STRUs differently. She then

referred to the owner occupied STRU and said that the owners should not be away for 3 months of the year. She thinks someone should be on site to respond to issues 24/7. She also stated there should be strict regulations and enforcement. The licensing fees should be high enough to cover the costs that are required to enforce the regulations.

Jane Snow of 9 Coffin Street stated that her newer neighbor rented out their home as a STRU and didn't tell any neighbors. Cars were parked all near her yard. The renters were from NY on a bachelor party. She reached out to police and couldn't get help. She stated that there is no enforcement. There are only 80 STRUs registered. Strong monitoring is needed. STRUs are hurting a lot of neighborhoods.

Councillor Ed Cameron stated there would be at least two public meetings scheduled for the end of month and the week after Labor Day. These meetings will allow for a chance for the full Council and there will be more opportunities for input.

Public Comment closed.

Councillor Preston made a motion to close the public hearing for the Planning & Development Committee. Ed Cameron seconded the motion. All members voted in favor.

Ed Cameron made a motion to adjourn the Planning & Development Committee meeting. Connie Preston seconded the motion. All members voted in favor.

Rick Taintor responded to a member of the public that the Planning Board has to make a report with recommendations to City Council. The Planning Board made recommendations in June on the same ordinance. Their recommendation went through issues with the ordinance and described various points of view. He stated his suggestion is to readopt the same report unless there is any new information that has been provided.

Connie Preston added that the Planning Board is advisory. The City Council doesn't have to follow the Board's recommendation. This City Council committee is discussing the zoning for STRUs, but licensing is also important. She stated there is another sub committee of the City Council that handles licensing and permits.

Director Port then restated what Rick Taintor and Connie Preston said.

Alden Clark made a motion to close the Planning Board portion of the public hearing. Heather Rogers seconded the motion. All members voted in favor.

Alden Clark stated that he stands by the Board's previous report.

Jamie Pennington agreed with Alden Clark.

Alden Clark made a motion to resubmit the report with no changes. Jamie Pennington seconded the motion. All members voted in favor.

Motion Approved.

3. Public Hearings

a) Kim Turner, City of Newburyport
149 High Street
DOD Special Permit (PBSP-23-2)
Continued from 8/2/23

Kim Turner stated this was her second time in front of the board for this permit. The first time she was in front of the Planning Board she proposed a plan and then made adjustments after meeting with some Planning Board members. She then stated the pump house would be a freestanding structure to house equipment to filter water at the Bartlett Mall. The height of the structure is below surrounding streets. She then stated she went to the Historic Commission and they gave recommendations as well. The feedback she received was to rotate the building, push back the building, make brick a requirement, and keep the building simple in nature.

Chuck Griffin, the architect, stated the underground solution would not be possible. He then presented old photographs of the Frog Pond. He stated the pump house needs to respond to the courthouse. He used Charles Bulfinch's plans to show what the courthouse should look like. He stated the courthouse is in the process of getting restored. After discussions from Historic Commission he then added string courses to the pump house as well as pilasters with marble and white stone. He suggested moving the structure into the slope. The advantages are that part of the building is hidden and people can look over the building into the courtyard.

Rick Taintor asked Chuck Griffin which of the four options presented he was proposing.

Kim Turner stated they put in for the most expensive bid package so they could reduce the cost rather than increase it.

Charlie Palmisano asked about the future of the courthouse and referred to option E.

Chuck Griffin went over the process of renovating the courthouse. He stated the renovations have stopped and haven't picked back up. Renovations will resume after the pump house is complete.

Heather Rogers stated the building is now moving further away from the pond. She asked about the cost in running the equipment further.

Chuck Griffin stated that it would cost more money and there would be a loss of efficiency. They need to explore the feasibility of pushing it back.

Heather Rogers if the back of the pump house is not brick.

Chuck Griffin stated vandalism becomes an issue. The side in the ground would be concrete.

Bob Koup asked Chuck Griffin to talk about the door.

Chuck Griffin stated the door would be open for ventilation purposes.

Kim Turner stated the wet well and pump would create a humid environment. Proper ventilation would be needed to keep a dry environment.

Heather Rogers asked about the measure of noise that would be escaping through the vent.

Kim Turner stated the sound level is 65 decibels with the cover. The level would reduce by 20 decibels by being inside the building with the louver. The decibel level meets the state code guidelines.

Public Comment opened.

Stephanie Niketic of 93 High Street stated the CPA money is pending City Council approval. She was concerned about not having that approval in time for the project to start. There has been a lot of discussion about trying to hide the building. She asked the board to approve a design like option C that nods to the courthouse and that doesn't cost more than it is worth.

Susanne Gallagher of 3 Garnet Street stated that she helped out when the fountain collapsed in 1986. She stated there was a three-phase pump in the basement of the courthouse to run the fountain. The fountain has copper tubing in the swan's mouth so that water will circulate. She also stated the pond is polluted. She stated the expense is not worth putting the building into the bank. She also stated they should protect the pump house from vandalism and therefore it should be a freestanding building.

Glenn Richards of 6 Kent Street stated the Historical Commission had no approval or disapproval of the designs. Personally, he suggested that the changes being made do not go overboard on the decoration aspect. He stated this is a functional building. Ventilation is a good thing to do. He had concern about the contractor changing the design of the pump house.

Joe Morgan of 55 Hill Street stated he submitted a letter on August 14, 2023 with comments about the project. He personally objects to the above ground pump

house. He recommended a solution to not have an above ground structure; it would be best to have it underground or at street level. His preference would be for a buried utility vault. He then stated as far as the utility shed, it is a delegated design. There is legal language that the contractor will be responsible for the aesthetic design and the City would provide some input. A vault is a common structure. He also stated that he objects to the granite bench on the frog pond perimeter. It would be out of scale and destroy the beauty of the pond. He then proposed the design go back to a low profile curb.

Rick Taintor stated that the granite seating is not in the board's jurisdiction. They can only look at the design of the structure.

Public Comment closed.

Bob Koup asked Kim Turner to explain the delegated design.

Rick Taintor then stated that he wanted to make it clear to everyone the delegated design does not supersede the board's approval.

Kim Turner stated the contractor received the images and a detail specification that are mapped out. She stated the contractor does not have free rein. There is a floor plan on how the equipment needs to be laid out.

Bob Koup asked what guidance was given to the contractor in regards to the technical requirements and performance specifications/criteria.

Kim Turner stated that was all written in the specifications.

Rick Taintor stated if a change needs to be made it needs to come back to the board.

Kim Turner stated the pump in the courthouse would no longer be used. A three-phase pump will be in the pump house to operate the fountain. Restoring the fountain is a separate CPA application.

Heather Rogers asked if the option was explored to put the pump in the basement of the courthouse.

Kim Turner stated yes, the option was explored. There is not enough space and it is not easy to use that property. It would be challenging to gain access to the pump because it is a secure building. Also, the pump was just for the fountain and not for the entire pond.

Rick Taintor stated that in terms of the options, Kim proposed option E.

Kim Turner stated they put into the bid set option E because it was the most detailed.

Chuck Griffin stated they were asking for approval on option E.

Rick Taintor asked, "That is your preference?"

Chuck Griffin stated they plan on scaling back and using terracotta pilasters.

Alden Clark stated he liked option D. There is string coursing and dentals and not overly fancy. Perhaps it would be less expensive. He also stated he liked the idea of pushing the structure back.

Jamie Pennington stated he liked options C and D. He suggested doing something simple. He also stated he was nervous about delegated design for option E.

Heather Rogers agreed and stated that option E did not appeal to her. She suggested letting the pump house disappear and not distract. She liked the simple designs of options C and A.

Bob Koup stated he liked the presentation tonight with all the details. He said option C or D would be good. He preferred option D to option C. He stated that with creating more brick relief, you are establishing a budget that the contractor can work with. He then circled back to the sound issue, stating there is 60 decibels of sound from the equipment inside. He then brought up that there would be sound coming from the surrounding streets. He then stated the pump house is separate and street noise will not mask the sound of the equipment. White noise from the fountain will not mask it either. His goal is to have 45 decibels immediately adjacent to the pump house. The problem is the openings, the door and louver.

Rick Taintor stated they would draft a special condition to provide flexibility in the location of the building. He made a revision to make it more flexible since there is a range of opinions provided.

Jennifer Blanchet stated there is a different roofing material in one of the options. She asked Rick Taintor to clarify flexibility in design and material.

Rick Taintor stated the top left option is out of consideration. Any change is going to come back to the Planning Board. He then stated that at the committee meeting held the previous day, Kim Turner spoke about using the dock for rental paddleboats. Where are the boats?

Kim Turner stated there would not be many and they would be in the water.

Rick Taintor asked if the boats leave at the end of the season.

Kim Turner stated yes.

Rick Taintor stated the location change is to reduce visual impact, further from the pond. Any revisions of the design of the pump house could be a request for minor modification. The Planning Director could approve them and there would not be a need for action by the full board.

Beth DeLisle asked if they could we limit the options for moving it. Could they state the pump house can't be moved towards the CVS?

Rick Taintor stated they could change the language. The first condition could be architectural and the second could be location.

Alden Clark asked if anyone was pushing for option E?

Bob Koup stated option E is what is out to bid. It represents a budget and is okay to keep in.

Heather Rogers asked if it would it be a waste of time for contractors to bid on option E, but then it would need to be scaled back to option C or D? She stated option E is too much.

Jamie Pennington stated he was only comfortable with option C and D.

Heather Rogers agreed. She then asked about materials.

Kim Turner stated the options stated slate and brick.

Jennifer Blanchet suggested wording about the materials exposed to view.

Rick Taintor asked if in the application it stated the materials were going to be slate.

Jennifer Blanchet stated it was presented as a slate roof.

Kim Turner stated they would be using slate, which was stated at the first meeting. That is what is in the bid documents. If the pump house slides back that roof will be steps off the path and subject to vandalism.

Bob Koup suggested using real slate, brick and stone. If there are budget issues they would come back to it.

Jennifer Blanchet suggested the board discuss what they are comfortable with.

Jamie Pennington agreed with Bob Koup.

Rick Taintor asked if the pump house doesn't move back and they want to use a different material, what do we do then?

Charlie Palmisano asked if it is viable to push into the bank?

Bob Koup stated because this is delegated design contractors will look at that option.

Chuck Griffin stated pushing it back would be highly desirable. It would open up the area. He suggested that then they work with a sub committee to talk about materials.

Director Port stated in the current location they will use slate and brick, but if it is moved into the hill they will not use slate.

Rick Taintor stated there would be four special conditions.

Charlie Palmisano asked about using fences so no one would stand on the roof if the pump house were moved into the hill.

Chuck Griffin stated that cemeteries have hillside buildings that people could touch. He stated they need to design a building tough enough that it wouldn't be bothered.

Beth DeLisle stated she liked pushing it back into the hillside.

Rick Taintor stated the four special conditions; materials, range of design, modified version of changing location, and noise.

Bob Koup asked for Rick to include the effective decibel level adjacent to the pump house to be no more than 45 decibels confirmed by an acoustic consultant.

Charlie Palmisano asked if the pump runs 24/7.

Kim Turner stated it does run 24/7, but would be shut down in the fall and winter and part of the spring. It would be running May through October. It improves the life span of the pump not being turned off and on.

Charlie Palmisano asked if they could use landscaping to mitigate sound.

Chuck Griffin stated they could include plants, shrubs, and vines.

Bob Koup made a Motion to approve the DOD special permit application with four special conditions that were outlined. Alden Clark seconded the motion. All members voted in favor.

Motion Approved.

***b) Kim Turner, City of Newburyport
388 High Street a/k/a Merrimac Street/Lower Atkinson Common***

*Application completeness vote
Request for waivers
Site Plan Review (SPR-23-2)*

Alden Clark made a motion to continue the application to the September 6, 2023 meeting. Heather Rogers seconded the motion. All members voted in favor.

Motion Approved.

c) Kathryn Peabody
75 Parker Street
*Application completeness vote
Special Permit for Use (PBSP-23-4)*

Kathryn Peabody stated there is an existing building at the location. She intends to utilize the area for massage and skincare.

Rick Taintor stated special permit for use is required in the industrial district.

Director Port stated there would be no changes to the site.

Kathryn Peabody stated there are six or seven parking spots for the business. Overflow parking could utilize parallel spots on the left side.

Director Port stated the Fire Department wants striping.

Alden Clark asked if there is pavement.

Kathryn Peabody stated yes.

Director Port stated width is not an issue.

Beth DeLisle asked if it is all one business unit.

Kathryn Peabody stated there is another business, but there is sufficient parking.

Jennifer Blanchet stated the yellow space shows sufficient parking for both businesses.

Heather Rogers clarified that this application is before the board because of a change in the industrial park.

Rick Taintor stated yes.

Director Port stated the Planning Board is designated as the special permit granting authority in the industrial park.

Heather Rogers asked if change of use always requires a special permit and that goes in front of the Planning Board.

Jennifer Blanchet stated yes for professional service. If it was a by right use the board would not see it. Are there any special concerns that need to be raised?

Public Comment opened.

No comment.

Public Comment closed.

Heather Rogers asked about a public letter received.

Director Port stated there was a concern raised about residential unit on property.

Kathryn Peabody stated there is no residential use going on at the property.

Alden Clark made a motion to approve the special permit with the special condition by the Fire Department. Beth DeLisle seconded the motion. All members voted yes.

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.

4. General Business

a) Approval Not Required – 94 Ferry Road/4 Plant Street (ANR-23-2)

Bruce Warwick stated they are shifting the property line. They are selling the property on Ferry Road. He lives on Plant Street.

Alden Clark moved to endorse the Approval not Required Plan. Beth DeLisle seconded the motion. All members voted in favor.

b) CPC Representative

This will be continued to the September 6, 2023 meeting.

c) Approval of minutes

- **10/5/2022 (revised)**
- **7/19/2023**
- **8/2/2023**

Rick Taintor stated the October 5, 2022 minutes did not actually state that the board approved the site plan for the West End Fire Station. The board did vote appropriately in the recording. He then recommended that the minutes of October 5, 2022 be amended as follows:

1. On page 4 of the minutes, at the end of the sentence “Don Walters made a motion to grant the requested waivers of the submittal requirements found in Section CV-E as requested by the applicant,” add the phrase “, and to determine the application for Site Plan Review for 153 Storey Avenue as complete, including waiver of the aforementioned submittal requirements and as further amended this evening.”
2. On page 5 of the minutes, delete the first sentence of the second paragraph (beginning “Don Walters made a motion ...”) and insert in its place the following sentence: “Don Walters made a motion to grant site plan approval for 153 Storey Avenue, as amended this evening.”

Director Port stated that can be in an editor’s note. They will not be amending the minutes but adding a note.

Alden Clark made a motion to insert a note in the October 5, 2022 minutes. Heather Rogers seconded the motion. All members voted in favor.

Alden Clark made a motion to approve the July 19, 2023 minutes. Charlie Palmisano seconded the motion. Five members voted in favor. Two members abstained.

Alden Clark made a motion to approve the August 2, 2023 minutes. Bob Koup seconded the motion. Four members voted in favor. Three members abstained.

d) Other updates from the Chair or Planning Director

Director Port stated in the fall they would be looking at zoning for STRUs. They will also need to look at MBTA communities zoning. The board would also be cleaning up language that is poorly written.

5. Adjournment

Alden Clark made a motion to adjourn. Heather Rogers seconded the motion. All members voted in favor.

Motion Approved.

Meeting adjourned at 9:23 PM

Respectfully submitted – Caitlyn Marshall