

**City of Newburyport  
Planning Board  
July 19, 2023**

The meeting was called to order at 7:07 PM.

**1. Roll Call**

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

Planning Board Attendance – Remote: Richard Yeager

Absent: Beth DeLisle and Jamie Pennington

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

**2. Public Hearings**

***a) Kim Turner, City of Newburyport  
149 High Street  
DOD Special Permit (PBSP-23-2)***

Kim Turner, Manager of Special Projects in the Mayor’s Office, addressed the board. Mike Igo of Aqueous Consultants was also present remotely. Kim Turner began by going over the history of the Bartlet Mall. She discussed how the water became smelly after circulation was cut off. In 1891 a wealthy resident purchased a fountain to fix the issue, but it did not help in the long term. Currently, the water is stagnant and unhealthy. They will need to dewater, install a liner, install a bedrock well to bring fresh water to the pond, and have water outflow to have water at consistent levels. A small pump house will need to be constructed. She then went over the alternatives studied on location and design for the pump house, and reviewed problems with the location shown in the original plan. There was an issue of coordination with a playground installation scheduled in October. She went over other options that were not feasible. The pipe and filtration system is gravity fed so it needs to be above the water level. She then went over other structures that were there in the past. They looked at similar structures in other locations that were from the time period. The pump house will be located on the Auburn Street side on the pond. They do not want to distract from the courthouse. The top of the pump house will sit six inches below the height of the street. She stated the materials would be brick, or wood clad if cost became an issue. She stated they took suggestions from the Historical Commission. There will be quoin detailing on the corners. The Parks Commission wanted white stone on the top and bottom to match the courthouse.

Richard Yeager asked what the roof material for option three would be.

Kim Turner stated it would be a slate-like roof.

Alden Clark asked how the dock would be used and if it would be located near the pump house.

Kim Turner stated the dock is critical. The pipe is gravity fed, so it is there to protect the pipe. A dock is also needed for boating activity, such as flat bottom skiffs.

Heather Rogers asked if the dock would be used seasonally.

Kim Turned responded that it would be shut down for the winter.

Bob Koup brought up a concern bout noise generated by the pump equipment.

Kim Turner stated there would be sound proofing.

Bob Koup asked what the sound level adjacent to the pump house would be.

Mike Igo stated the loudest component would be in the 45/50-decibel range. He stated they could add more soundproofing. Outside you may be able to hear a little hum. The equipment is in the container in the structure. The loudest part would be the ozone generator.

Bob Koup asked what the target decibel level would be with additional soundproofing.

Mike Igo stated a decibel of 45/50 is not whisper quiet, but it is normal range. He stated they could take a look at it to get it quieter. The ozone generator provides an oxygen rich environment. It is important.

Bob Koup stated that information should be provided on decibel level. He then asked Kim Turner to talk about how the pump house was designed to complement the courthouse and how that has been achieved.

Kim Turner stated that Charles Griffin on the Parks Commission helped design the pump house. She stated she could get back to Bob with this information.

Bob Koup stated that given the importance of this site, it is important to talk about the pump house details. He stated it is not similar to the courthouse and doesn't see how the design compliments the courthouse.

Kim Turner stated the intention was to complement the courthouse, not replicate it. The pump house was not intended to be a focal feature.

Bob Koup stated the finer details need to be paid more attention to relative to the details of the courthouse.

Alden Clark suggested potentially adding a low arch on the doorway to match windows on the courthouse.

Charlie Palmisano asked to clarify if it is the board's place to speak to if the structure matches the environment.

Director Port stated it is the board's responsibility to make sure something is compatible. The applicant needs to provide specific details.

Charlie Palmisano asked Kim Turner how they chose that orientation and if that is the most practical.

Kim Turner stated a straight shot from the pipe to the pump house is necessary. Either option would work for piping.

Director Port stated that orientation is preferable rather than diagonal.

Rick Taintor stated the City Council has to vote before construction. When do you think that is going to happen? The Historic Commission requested a review of the final design. What does the timing look like?

Kim Turner stated it is possible City Council won't release the bond for this. They are planning to go to bid on August 1, 2023. They need bids back for the City Council meeting on August 28, 2023. She then stated, the more detailing the more expensive the project is.

Rick Taintor stated the next Planning Board meeting is August 2, 2023. They would not have City Council approval by August 1, 2023.

Kim Turner stated City Council wants to see bids that are within budget. Nine agencies have already signed off.

Heather Rogers stated if the bond covers construction, is this long term going to be a city cost?

Kim Turner stated paddleboats would be rented out to cover cost. It would be unrelated to the courthouse.

Public Comment opened.

Stephanie Niketic of 93 High Street stated that she appreciated the boards. She then stated the option C building works for her, simplicity is going to be key. She does

not want to draw attention away from the courthouse. She stated a big concern is that a wood clad building would not work at all.

Anita Highwood of 151 High Street stated that she is on the Parks Commission. She said that she is reassured about the sound level. The 40/50 decibels of sound is inside the building, not outside. She liked option C because it mimics the brickwork and would be cost effective.

Mike Igo stated that Anita Highwood's comment is correct. The sound decibel is inside a container, which is inside the building. The white noise from the fountain will cover the sound of the low hum.

Glen Richards of 6 Kent Street stated he is the Chair of the Historic Commission. He stated the board should not get too fixated on the courthouse. He does not think the pump house should imitate or mimic the courthouse. The best way to complement the courthouse is to distract from it as little as possible. He did state that he thinks it should be pushed back a little.

Joe Morgan of 55 Hill Street stated he is a member of the Historic Commission. He is in opposition to the pump house shed. He believes it is an intrusive structure. The technology could be accommodated by having it in a vault. He thinks the added cost is worth it. Another option would be to relocate the utility shed to High Street. It could become a kiosk to describe the Mall and water management. The granite curbs being installed should be a subtle addition and should not take away from the beach design.

Patricia Peknik of 4 Dove Street stated the Secretary of the Interior's Standards must respect historic buildings on site. A concealed vault would not intrude into the setting, but a utility shed will. She referred to the NPS bulletin, stating architectural features of new structure should match existing structures.

Public Comment closed.

Alden Clark stated the orientation of building is preferable in option C. It is simple and complements the courthouse.

Bob Koup stated he had an observation about the presentation. He stated that when the preexisting examples were showed they were all unique structures. The examples were terrific. He then stated a 12x12 building does not compete with the courthouse. The proposed design doesn't stand up to what the city owes this site with a new structure. He believes more effort could be made to elevate the level of detail.

Heather Rogers stated that a few more details from the courthouse would make it look more pleasing. She liked the examples showed. She felt as though there would be more problems hiding it underground.

Richard Yeager referred to option B. He stated it would need a fence around it. He also stated the vault would be too expensive.

Bob Koup made a motion to continue the special permit application to the August 2, 2023 meeting. Heather Rogers seconded the motion. All members voted in favor.

**Motion Approved.**

***b) Douglas C. Deschenes***  
***23-27 State Street***  
***Special Permit for Non-Conformities (PBNC-23-3)***

Douglas Deschenes stated he is representing Scott Hoppe. Aileen Graf was the architect for the project. There are two office units that his client wants to change to two residential units. The building is in the B2 district and the Downtown Overlay District. The building is non-conforming for lot area and frontage. The two office units are preexisting and nonconforming in regards to the parking. The proposed change of use to residential requires less parking, so there is no need to provide extra parking. The client would like to change the third floor, two condominium office spaces to two residential units. There are four parking spaces needed, two per unit. Douglas Deschenes then went over the floor plans. The units will be converted into one-bedroom units. All the work is internal. They are seeking a special permit for nonconformities.

Charlie Palmisano clarified there would be no structural changes.

Douglas Deschenes stated no major structural walls are being changed.

Charlie Palmisano then asked if any of the windows were being replaced.

Douglas Deschenes stated no.

Alden Clark asked about the exit in the back and access to it.

Douglas Deschenes stated the exit in the back is for fire egress purposes. Both will have access.

Scott Hoppe stated the third floor egress will be internal. The unit on the right will be connected. The unit on the left will go down half a flight of stairs or out the front.

Douglas Deschenes stated there are two rear exits. One is on the second floor and one on the third floor.

Public Comment opened.

Antoinette Juliano, the owner of 27 State Street, stated she fully supports the project. She asked for clarification on if work is being done for 23 State Street, and not 27 State Street, does that impact her building and tenant.

Director Port stated there is no adverse impact. It is labeled that way to conform to assessor's maps.

Rick Taintor stated that 23 – 27 State Street references the lot. The permit only applies to 23 State Street.

Public Comment closed.

Alden Clark made a motion to approve the special permit for non-conformities. Charlie Palmisano seconded the motion. All members voted in favor.

**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.*

- c) ETE Enterprises, LLC d/b/a "Banter" c/o Lisa Mead, Mead, Talerman & Costa LLC**  
**70-80 State Street**  
*Special Permit for Non-Conformities (PBNC-23-4)*  
*Special Permit for Use (PBSP-23-3)*

Charlie Palmisano recused himself for a potential conflict.

Attorney Lisa Mead stated she is representing her client Eric Eramo, owner of Banter. Banter is a storefront on the first floor of the Obrien building. They would like to permit club use and have membership events in the facility. They would also like to make an alteration on the interior of the building. It is a mixed-use building, conforming lot all around. There is parking in the rear of the building. The proposed entertainment club use is for the first floor. There are no exterior alterations, no change in parking. The applicant is offering memberships to patrons, which will allow rewards and discounts and early access to events. The applicant will also have a liquor license. The interior alterations are to the rear hallway and bathroom. The bathroom needs to be handicap accessible. The hours of Banter will stay the same. Attorney Mead then went over criteria for the special permit and how the criteria has been met. She stated that Banter has been creative with how they provide services. They have eight letters of support for change of use.

Rick Taintor asked Director Port about the special permit for non-conformities. He stated that normally you could do interior work without a special permit.

Attorney Mead stated that Jennifer Blanchet stated that because the building is a preexisting non-conforming use, they would be altering the preexisting non-conformities. Attorney Mead noted that the City's definition of "mixed use" is any combination of uses in a building, not requiring residential.

Rick Taintor clarified that the applicant would not be requesting live entertainment.

Attorney Mead stated no.

Heather Rogers referred to the existing hours and how there was no change intention. She then asked if Banter could change hours after the fact if they serve liquor.

Attorney Mead stated they would have to go to the licensing commission to change hours.

Alden Clark asked for a clarification that this applies only to this portion of the building.

Director Port stated yes.

Public Comment opened.

Dirk Casagrande, owner of 82 State Street where The Screening Room is located, stated he is concerned because 82 and 80 State Street share a wall. Loud noises could have an impact on The Screening Room. He suggested restrictions could be included concerning loud noises and disturbances to neighborhood.

Public Comment closed.

Alden Clark made a motion to approve the special permit for use with the special conditions. Bob Koup seconded the motion. All members voted in favor.

Alden Clark made a motion to approve the special permit for non-conformities. Heather Rogers seconded the motion. All members voted in favor.

**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. General Business**

#### ***a) CPC Representative***

The Community Preservation Committee is still in need of a representative from the Planning Board.

#### ***b) Approval of minutes***

- ***6/21/2023***

The approval of minutes will be postponed to the August 2, 2023 meeting.

#### ***c) Other updates from the Chair or Planning Director***

Director Port stated there might be another hearing advertised for short term rental units. This would allow the City Council more time with the process.

Rick Taintor stated the meeting would be about the same ordinance. He would resubmit the previous memo. This would restart the clock for City Council. He then asked if there would be a presentation on licensing.

Director Port stated there would not be a new version.

Heather Rogers asked if changes needed to be made two years down the road, would it be an addendum?

Director Port stated it would be a zoning amendment.

Richard Yeager stated he would be moving to Maine at the end of summer and would no longer be able to serve on the board.

### **4. Adjournment**

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

#### **Motion Approved.**

Meeting adjourned at 9:25 PM

Respectfully submitted – Caitlyn Marshall