

NASHUA CITY PLANNING BOARD
October 1, 2009

The regularly scheduled meeting of the Nashua City Planning Board was held on Thursday, October 1, 2009 at 7:00 PM in the auditorium at City Hall.

Members Present: Ken Dufour, Chair
Alderman Richard LaRose
Bob Canaway, Vice Chair
Daniel Latham, Secretary
Steve Dookran, City Engineer
William Slivinski
Ray Jurewicz, Alternate
Sandra Belknap, Alternate

Chair Dufour said in the absence of Muriel Corcoran, Mr. Jurewicz will be taking part and voting this evening.

Also Present: Roger L. Houston, Planning Director
Matt Taylor, Deputy Planning Manager

Approval of Minutes

September 10, 2009

MOTION by Mr. Canaway to approve the minutes of September 10, 2009, waive the reading and place on file with the correction that Sandra Belknap as an alternate.

SECONDED by Mr. Slivinski

MOTION CARRIED 6 to 0 (Mr. Dookran abstained)

COMMUNICATIONS

Mr. Houston went over the following items that were received after the mailing went out:

- Revised Planning Board Agenda
- Preliminary Planning Board Agenda for October 15, 2009 to determine regional impact
- Approval letter that was sent out on the discussion item relative to Lizzie's Garage Doors
- Technical Review Meeting schedule for October 5, 2009

REPORT OF CHAIR, COMMITTEE & LIASON

None

PROCEDURES OF THE MEETING

Mr. Dufour went into the procedure of the meeting as follows:

After the legal notice of each conditional, special use permit, site plan or subdivision plan is read by the Chair, the Board will determine if that the application is complete and ready for the Board to take jurisdiction. The public hearing will begin at which time the applicant or representative will be given time to present an overview and description of their project. The applicant shall speak to whether or not they agree with recommended staff stipulations. The Board will then have an opportunity to ask questions of the applicant or staff.

The Chair will then ask for testimony from the audience. First anyone wishing to speak in opposition or with concern to the plan may speak. Please come forward to the microphone, state their name and address for the record. This would be the time to ask questions they may have regarding the plan.

Next public testimony will come from anyone wishing to speak in favor of the plan. The applicant will then be allowed a rebuttal period at which time they shall speak to any issues or concerns raised by prior public testimony.

One public member will then be granted an opportunity to speak to those issues brought by the applicant during their rebuttal period. The Board will then ask any relevant follow-up questions of the applicant if need be.

After this is completed the public hearing will end and the Board will resume the public meeting at which time the Board will deliberate and vote on the application before us. The Board asks that both sides keep their remarks to the subject at hand and try not to repeat what has already been said.

Above all, the Board wants to be fair to everyone and make the best possible decision based on the testimony presented and all applicable approval criteria established in the Nashua Revised Ordinances for conditional, special use permits, site plans and subdivisions. Thank you for your interest and courteous attention. Please turn off your cell phones and pagers at this time.

OLD BUSINESS - CONDITIONAL / SPECIAL USE PERMITS

None

OLD BUSINESS - SUBDIVISION PLANS

None

OLD BUSINESS - SITE PLANS

None

NEW BUSINESS - CONDITIONAL/SPECIAL USE PERMITS

None

NEW BUSINESS - SUBDIVISION PLANS

1. Roman Catholic Bishop of Manchester and Finance & Real Estate Office (Owners) - Proposed one year extension for approved subdivision of 1 lot into 2. 61 Pine Hill Road, Sheet E - Lot 45, Zoned "AI" - Airport Industrial and "R9" Suburban Residence, Ward 1.

MOTION by Alderman Larose that the application is complete and the Planning Board takes jurisdiction of the application.

SECONDED by Mr. Jurewicz

MOTION CARRIED UNANIMOUSLY

No one was here to speak for this case.

Mr. Canaway asked if we should take public testimony is there is any.

SPEAKING OPPOSITION OR WITH CONCERN

No one

SPEAKING IN FAVOR OF THE PLAN

No one

Mr. Taylor said he wanted the Board to note that there is one added stipulation. It was discovered that there is an asbestos cap on the property and Staff is recommending a stipulation that it be

located on the subdivision plan prior to recording. This is essentially a re-approval of the plan. That would be a recommended stipulation.

Mr. Dufour said it wasn't part of our original approval. Can we do that? There is an additional staff stipulation that they want noted.

Mr. Taylor said in the rear of the property there is an asbestos cap.

Alderman LaRose asked if this is the right time to do it or if they come back again.

Mr. Dufour said they wouldn't have to come back if we grant them that extension.

Alderman LaRose asked if they are aware that there is asbestos there.

Mr. Taylor said yes, they are.

MOTION by Alderman LaRose to approve New Business Subdivision Plans #1. It conforms to 190-138(G) with the following stipulations and waivers:

1. With approval of this site plan all prior conditions of approval are incorporated herein and made a part of this plan, unless otherwise determined by the Planning Board.
2. Prior to recording the applicant shall locate the existing asbestos cap on the subdivision plan.

SECONDED by Mr. Canaway

Mr. Dookran said he is presuming the applicant did make an application for an extension.

Mr. Taylor said that is correct.

Mr. Dookran asked if it is required for them to appear for the public hearing.

Mr. Taylor said he wasn't sure why no one is here. There was a public notice that went out to the applicant. I don't believe it is a requirement if the board is willing to act on it.

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Mr. Dookran said what if I have questions of the applicants.

Mr. Canaway said we can table it.

Mr. Houston said you can table it but bear in mind technically it might expire. It was granted October 2, 2008.

Mr. Dookran said I think that is their problem.

Mr. Houston said the issue with the asbestos cap was an oversight on their part. It is an area along the railroad tracks. It was remediated and capped. It is important from a safety point of view and it is something we will stress at the time of any pre-construction conference in the future that cap not be disturbed. It is important that area be left alone and it should be a part of the recorded history on this property when we record the subdivision.

Mr. Canaway asked Mr. Dookran if he has questions about this asbestos cap.

Mr. Dookran said he wanted to get more details. If it is an oversight, why it was an oversight, how it came about, and what is the extent of the asbestos cap and what are the implications, how is it going to impact construction? Are there any neighbors concerned about working in the vicinity of an asbestos cap? Those are always concerns of ours.

Mr. Dufour asked if Staff can properly address the engineer's concerns or shall we table this?

Mr. Taylor said he wasn't sure if he can address all the engineer's concerns. Apparently this was discovered by the Department of Environmental Services in the early 1990s and the owner at the time did do the cap according to DES standards and in 1994 DES deemed it as full closure material cap in place, that is what I have in a summary of the site history from DES. They approved the closure. There was friable and non-friable asbestos that was discovered and closure was approved. Staff feels it is important to locate it on the plan. If there are future development plans for the site it should be located.

Mr. Dufour said there are 2 concerns. First is if you have any concerns and you feel that we should talk to them first then I am all for seeing it your way.

Mr. Dookran said he finds it strange. I have never seen where there is an item in front of us and no one to represent.

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Mr. Dufour said he thinks he has seen that a few times over the years where a case will come before us that is deemed routine by the applicant and after I have read it I look out in the audience and there is nobody and all of a sudden Attorney Prunier for example is here on another case and may have been the original attorney and will get up and speak to it. It is not that unusual. I have seen it before.

Mr. Dookran said again it is a public hearing and it was announced to the abutters. What if we had 5 abutters show up and they had questions.

Mr. Dufour said then I guess we would be doing what we are contemplating doing now.

Mr. Dookran said it should be made a requirement that it is mandatory for the applicant to present, or be present.

Mr. Dufour said the city engineer has concerns. He feels that the applicant could address those concerns. We have a motion before us to grant the approval.

Mr. Dookran said I am not asking you to...I am just saying that I find it highly unusual that a case be taken up in this manner. It is good we don't have anyone with concerns. That is in the Board's favor.

Mr. Dufour said there is a couple of issues. Does the plan lapse? Do we need some more answers? If we need some more answers then whether the plan lapses or not doesn't matter. If you feel you need answers I am coming your way, but you have to tell me.

Mr. Dookran said the only thing that bothers me is there was an oversight of an important issue which is the asbestos cap. Luckily Staff caught it and is making a stipulation. In some respect that has been addressed but to me that should have at least signaled to the applicant there is an important issue I need to be there. Maybe they will have questions and I should be there to address those concerns. That is what is a little bothersome to me. The disregard for the process.

Mr. Houston said in giving the question more thought, he didn't think this would effect the expiration because they have made the application prior to the expiration and the board would be the ones tabling the application to the next meeting. You could do that and request their appearance if that is what you prefer.

Mr. Dufour asked if Cuoco & Cormier was the engineer on this.

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Mr. Houston said yes.

Mr. Canaway said one of the benefits of having the city engineer as a member of the planning board is that he can bring his expertise in engineering and understanding of this. He raised in my mind questions that unless he tells me otherwise concerns me. So how does it affect the construction of the site? He asked that question and obviously our Staff isn't going to be equipped to answer that for the applicant so in my mind those are, unless the city engineer changes his position on that, I would have to make a motion to table so I want to get his opinion on that.

Mr. Dufour said I thought I had asked that and am not quite sure I have the answer. I keep telling him I am ready to go your way. If you want it tabled because you have questions. If they come back at the next meeting I think you are the one that is the most equipped to ask those technical questions. So if you feel like you would like to ask them I am inclined to not support this motion and have the matter tabled to the next meeting.

Mr. Dookran said he doesn't want to be the only one.

Mr. Dufour said but again if they come back you are the technical guy.

Mr. Dookran said as I said earlier it is a concern we always have you know. What is the limit of the asbestos cap? How is it going to impact construction? We always ask those questions. If people here are happy here that there isn't a real issue to be worried about then...

Mr. Dufour said the fact that you have concerns I think I probably have those concerns too.

Mr. Canaway asked what is the most effective way to...

Mr. Dufour said the most effective way is if the majority of the Board is inclined to table it, then we have a motion before us, we defeat that motion. If it gets defeated then someone else can make the motion to table.

Alderman LaRose said the motion to table takes precedent over the motion to...

Mr. Canaway asked if we can leave the existing motion on the table.

Alderman LaRose said if you table it, it takes precedent over the motion that I made. The difference is you don't discuss a tabled motion.

Mr. Houston said I think you can follow the procedure that Alderman LaRose pointed out. He is an expert in these areas.

Mr. Slivinski asked Staff if they know where the asbestos cap is.

Mr. Houston said we do have a plan from DES. It shows that. If the Board wants to see it now we will certainly include it in your packet. We received it late today.

Mr. Slivinski asked this is just for a subdivision, right? There is nothing on here that was submitted on what was going to be built? It was just to divide the land?

Mr. Houston said correct. The cemetery is on one side and this other lot is on the other site.

Mr. Slivinski asked it was just a subdivision. I don't remember anything having being submitted.

MOTION by Mr. Canaway to table until the next meeting.

SECONDED by Mr. Latham

MOTION CARRIED 6-1 (Mr. Slivinski Denied)

NEW BUSINESS - SITE PLANS

None

OTHER BUSINESS

1. Review of tentative agenda to determine proposals of regional impact.

None

MOTION by Mr. Slivinski that there are no issues of regional impact.

SECONDED by Mr. Canaway

MOTION CARRIED UNANIMOUSLY

DISCUSSION ITEM

1. Nashua Community College, 505 Amherst Street - proposed addition

Lucille Jordan, President Nashua Community College

Ms. Jordan said some of you may be aware but 2 years ago we received money from the state legislature to do the planning of this building. Steve Peach is here representing the architects who did the design and engineering for the building. We then received \$9.5 million to build the building. Here tonight with me tonight to share with you and give you information from the System Office representing the Community College system and the Director of our capital projects is Scott Osgood and also Steve Peach and Patrick Coburn from Keach-Nordstrom.

Steve Peach, Dennis Mires, P.A.

Mr. Peach said he is here to give an overview on the campus over the summer. We have upgraded the front lawn of the college, putting in new grass and landscape system with irrigation and we connected the city bus stop with a concrete walkway and added flag pole. You can see on the site plan the green area in front represents that area of work. In preparation for our new building which is the Health, Education and Science building we have relocated the temporary classrooms which on the site plan is the work shown off to the right which use to be where the darker shaded building is. That darker shaded building is our addition with a footprint of 18,000 square feet. In that will be 9 classrooms. It is a 3 level building that connects to the Wellness Building. In addition to the 9 classrooms we have 3 science labs on the 2nd floor. The 3rd floor houses a nurse-training suite. At the center of the darker block where the main entry is we have a 300 seat auditorium/lecture hall planned. We are excited about the project and we are rolling full speed ahead with our construction drawings. Generally in terms of the site work that is proposed what we need to do on this phase is connect the loop road that goes out around the back of the automotive building we are making that connection so the circulation will be able to continue around the campus. We are doing a small amount of work in the front parking lot for the HSH building. If funds allow we are hoping we will be able to add more parking spaces. Right now we are focused on the building. We are developing the look of the building, maintaining the campus look with the campus theme green. We did some painting over the summer.

Mr. Slivinski asked when the project will be completed.

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Mr. Peach said we will begin groundbreaking this fall. It is probably a 16 month project.

Scott Osgood, Director of Capital Projects for Community College System

Mr. Osgood said they do plan on having an aggressive construction schedule to be occupied for the fall semester of next year.

Mr. Dookran said we have seen past projects for the college. Is this in line with what was planned originally or have you made changes?

Mr. Osgood said this building is within the overall master plan.

Mr. Dookran said we in the city, in public works have had discussions about the 101A widening project. We are looking at tying into the front entrance, the Amherst Street entrance. I notice this is a little bit of a deviation to what we had planned. Overall I think it is certainly a good presentation of that façade and hopefully in the future we can still incorporate what we have talked about in the past.

Mr. Osgood said I know there was talk about with the connection of the loop road but it would continue down along our western boundary and there would be a future entrance on that side of the property. That is still where the future development would go.

Ms. Jordan said we still plan on the widening. We knew that when we did it. It will not impact the system we put in so we can still provide that frontage that you need in order to do the widening. We haven't changed our commitment to the city.

Mr. Slivinski said you had said over on the left you were hoping on possibly putting in some additional parking. Your enrollment must be up at the college now. How are you guys doing with parking now and what do you project the parking situation might be when the new building is up and going and hopefully you will have that many more students that will be coming to class.

Ms. Jordan said it is a challenge for us. We have been able to accommodate it so far but we anticipate we will need that additional parking. It is fortunate for us that the students aren't there all day long. We are looking at other ways in which to have better exit and entrance and that is part of the widening of the road. But as far as parking with the additional parking we will be able to meet the needs. We are looking and the chancellor

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and Scott we all talked about additional parking and looking at that space. We really want to keep our green space as much as we can.

Mr. Slivinski asked if students are parking illegally now?

Ms. Jordan said no, not at all. We don't allow them to park on the road.

Mr. Canaway asked if he heard there were plans as 101A corridor widening project takes place to have a specific entrance for the college. Did I hear that incorrectly?

Ms. Jordan said no. An entrance and exit. Originally when the college was built there was an entrance and exit that you could come right off, a right hand turn only. So right hand turn in and right hand turn out. That is when we met with the planning board that is what we talked about and that commitment is still there.

Mr. Dookran said that will be a welcome improvement for us because the Thorton Road intersection happens to be a very difficult intersection during rush hour traffic. Taking any traffic from that intersection would certainly be a huge improvement. There is reference here that you are going to do a public hearing as required by some regulation on the project.

Mr. Osgood said yes, basically the state does have laws and we have a form letter which we did prepare and send to the planning commission that notifies the municipality of our plans and notes that you do have the opportunity to hold a public hearing if you desire to do this which is nonbinding the way the state laws read.

Mr. Peach said he wanted to speak to the parking question. The work we did over the summer under critical maintenance with the front landscape work we also added some parking spaces along the front line of the college. We did get more spaces for the campus use which has helped the parking pressure.

Mr. Taylor said just to clarify on the public hearing. It is an option of the board. The Community College requested an informal meeting to present the plans but the board does have the right to hold a public hearing on this.

Mr. Dookran asked about the stormwater management and the reason it should be discussed is because in the public's interest there wouldn't be another opportunity to address that.

Patrick Colburn, Keach-Nordstrom

Mr. Colburn said over the years what we have done as the campus continues to expand is ensure that stormwater management provisions for each of the individual expansions are accommodated with that expansion and no additional stormwater enters the existing closed system that accommodates flow from this parking lot, this front access drive, this existing parking lot and this existing parking lot all is one closed system that discharges into a large 48" trunk line that feeds down to Pennichuck major stormwater treatment area and then further down towards Pennichuck Brook. For instance when the parking area out front was designed what we provided was shallow infiltration areas that sheet the stormwater off, filter the stormwater in a mix of seed and filter media prior to entering the sandy soil beneath the loam and seed as well when we relocated the trailers we did something similar with just a shallow depression because the soil out here is so sandy. The Wellness Center when that was expanded what we used technology put out by Hancor where the roof water and all the parking lot water sheets into these lance saver chambers and then infiltrates the stormwater into that sandy soil with only overflow during large storm events hard piped into the closed system. We are proposing something very similar to accommodate the flow from the proposed Health Science and Humanities Building. Our goal with all of these expansion projects is to ensure no additional flow during the 2, 10, and 25 year storms events enter the existing closed drainage system.

Mr. Houston said he presumes in cases the state forwards it to our Conservation Commission. There aren't any state wetlands or wetlands impacted. Shoreline Protection Act is not impacted by this. We haven't seen the detailed lines on this so I thought we would ask the question so it would speed your process up if that becomes an issue.

Mr. Colburn said within the limits of the work proposed with the Health, Science, Humanities expansion there are no jurisdictional wetlands and we aren't within the Shoreline Protection are.

Mr. Houston asked if you have had any discussion with Don Ware of Pennichuck since it is in the city's watershed.

Mr. Colburn said yes. With every one of the expansion projects Don gets a set of our design drawings as well as a full stormwater management report that our office prepares, reviews, and approves prior to construction. He has not received one for HSH because of where we stand with the project at this point but he will prior to proceeding forward.

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Mr. Houston want to know if the College any meetings with any of the direct abutters on this proposal---ultimately the city will get calls if construction starts to happen.

Mr. Colburn said he personally hasn't. I don't know if anybody from the college can speak to that.

Mr. Houston said if you had a public hearing it would give an opportunity for the abutters to come and at least make them aware of this project. The state statute refers to the governing body which is the Board of Alderman or the Planning Board may conduct a public hearing. I think historically in the past if the Planning Board wishes to conduct a public hearing they may do so. That would be the only issues that are there.

Mr. Dookran said the last project that was discussed here I believe there was some commitment by the college that they would contact the neighborhood and advise them of what is going on. I believe that is what I recall in lieu of us asking for a public hearing.

Ms. Jordan said we can send a letter and inform the abutters of the project and we will do that and we will send a copy to you.

Mr. Slivinski said don't you guys want to have a public hearing on this anyhow. It is great publicity.

Ms. Jordan said it is fine for me either way. It is wonderful for the city.

Mr. Latham said I have been in Nashua my whole life going down there and seeing what that community college use to look like and what it looks like now is really beautiful. Driving through there today seeing the hustle and bustle going on it is exciting for the city.

Ms. Jordan said she has been there 13 years. When I first started we had 425 students and today we have 2,000.

Alderman LaRose said as the alderman of that ward I can tell you I haven't received any phone calls in opposition or for it but I would suspect once it is finished there is going to be an open house. It is a great asset to the city and will give people that live in the area and throughout the city of Nashua and surrounding areas the opportunity of seeing a great facility. I am not sure we need a public hearing because there was no outcry when we had the public hearing of the widening of Amherst Street. We had a number

of people that came but that is to be expected on something like that. The college doesn't seem to interfere with the neighborhood although I am sure there are some people on Oak Drive that might take exception to me because it has become a short cut for traffic for whoever is going down in that area. It is not the college that is participating all the traffic it is the traffic in general.

Mr. Dufour said you are probably correct. I would like to have a public meeting. It would give the abutters an opportunity to err their concerns. I understand that our function in regard to the school is rather limited but I think that the school has always been receptive to whatever abutter issues there have been. I think this provides the formal setting for them to do that. I would expect the issues we will hear will be traffic.

Mr. Taylor said if you are looking for a public hearing you probably need a formal motion to that effect if you are looking for a date coming up.

Ms. Jordan said their groundbreaking is scheduled for October 30th.

Mr. Houston said we have a meeting on October 15th and that is what we were looking at for a date. We can work with Chris Webber and get a notice in the paper and if the board wishes us to do an informal abutter notice we can do that as well. It is your decision under the state law. Or you can accept the college is going to send out a letter and seek any comments or concerns from the abutters. The abutters would have to realize their comments are just that, they are comments. The state can adhere to them or not adhere to them. Sometimes you do get good comments that someone hasn't thought of. This is part of their master plan. It certainly is a well needed facility for the community and with the growing enrollment it is a plus for the community. It is just a question of how the board wishes to achieve that end.

Mr. Canaway said our options are to have us send a letter, the city send a letter to the abutters or have the community college send a letter.

Mr. Dufour said it puts the public at a disadvantage. This is kind of a neutral setting here. If the calendar works out ok then we can have that public hearing.

Mr. Taylor said in the statute there isn't any specific notification requirements so I think we can do it at the next meeting or do it at the November 5th meeting.

Mr. Dufour said I wouldn't want to have it after they broke ground. I understand because they are a state entity we have very little control. They come before us as a courtesy.

MOTION by Mr. Canaway to host a public hearing on the proposed Nashua Community College proposed addition for the city to send out notices to abutters on October 15th meeting.

SECONDED by Mr. Slivinski

MOTION CARRIED UNANIMOUSLY

2. Lizzie's Garage Doors, 4 Daniel Street - changes to building elevations

Mr. Taylor said it will just be staff to speak to that tonight. Staff went out to do an inspection on the site. There was a request for certificate of occupancy. In doing the inspection there were a number of minor changes. One seemed that it might conflict with a stipulation that was put on the approval, the one regarding building elevations. In your packet there is a memo from me along with the approval letter which was in your packet for tonight's meeting as well as the proposed elevation that was approved and a photograph of what was constructed. Staff is just looking for direction as to whether the Board feels that meets that stipulation or not.

Mr. Dufour asked if the elimination of the sign, that was just their doing.

Mr. Taylor said the elimination of the sign on the elevation with that writing was the way it was presented to the Board, where it said no front sign was the way it was presented to the Board originally.

Mr. Dufour said he didn't go down there this week because I had been down there 3 or 4 weeks ago. Have all the other stipulations been met? I remember a conversation about Roger's letter to the applicant regarding #5. The photos didn't really show that and I know we had quite a conversation about that.

Mr. Taylor said there was a line that was painted.

Mr. Dufour asked just a line? We were under the impression we were getting some type of ...

Mr. Taylor said it is basically a line similar to striping in a parking lot.

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Mr. Dufour asked just a 5 inch line?

Mr. Taylor said that is correct.

Mr. Houston said it says that in the stipulation, a painted line be drawn on the pavement showing limits of the property.

Mr. Dufour said I look at the rendering and the photos and then my modification of their photos, can we request they put those shutters in there. The building would look so much better with shutters.

Mr. Taylor said the elevation the Board approved included trim around the windows, shutters, and a front entryway. That was the variation from what was approved.

Mr. Dufour asked if that is one of the variations. They decided not to put shutters?

Mr. Taylor said that is correct.

Mr. Canaway said they left out the door.

Mr. Dufour said yes they left out the door. Personally I would like to see the shutters. Staff is looking for direction. I am not opposed to having them eliminate the door. If you don't need somewhere where you don't one it kind of breaks up the room. I can live without the door but it is not a big deal to put shutters up and to me it adds to the quality of the building.

Mr. Canaway said my feeling on this is regardless of what would work, wouldn't work, what may be as they were going through the process, made more sense, or less sense, they didn't come back, they made an alternation from their plan that they agreed on with this Board and they didn't come back to Staff at least and ask for an administrative judgment. They decided to alter it on their own without coming back to the Board or the City. In my opinion I may agree with you on the door versus the shutters, but the fact is it different happen. It wasn't our ability to make a judgment on that. My direction personally would be that they have to amend their site plan to remove this or maybe Staff can help us with what the remedy would be.

Mr. Taylor said they did not come to Staff requesting an amendment to the site plan. In this case this is tied to Planning Board stipulations so this wouldn't qualify for a minor amendment to the site plan because it is part of the original planning board approval. In order to change those elevations because it is tied to stipulation #7, they would have to come back to the board.

Mr. Canaway said we would have to undo stipulation #7 or we would have to agree to a new elevation to amend the plan so that 7 was met.

Mr. Taylor said that is correct.

Mr. Dookran said Matt, can you remind us the discussion of the intent that led to stipulation #7.

Mr. Taylor said he didn't see a discussion regarding the building elevation in the minutes of the meeting. That was something in the staff report that was there. It tied the building elevations which typically when building elevations are submitted as part of an application that is part of the approval anyway. When I reviewed the minutes I didn't see a discussion on the building elevations that would have precipitated that stipulation.

Mr. Dookran said it must have been very important to this case because it is not typically stated as a stipulation. It must have been very important to this case.

Mr. Taylor said it isn't a typical stipulation that is true I haven't seen that in any case file.

Mr. Dufour asked what else have they strayed on besides eliminating the door and not putting shutters on.

Mr. Taylor said there are some things that have been modified that probably would qualify for a minor amendment. You will notice in the picture they added a staircase on the right hand side of the building. That wasn't shown on the original plan. Their parking is a little closer to the building than what was shown on the site plan. That was a minor modification as well. The elevation is really what triggers this because it is a stipulation of the Planning Board.

Mr. Dufour said as far as the parking, it is closer to the building. As I look at the striping here I am assuming that he could just back off on that and restripe that and he still has the same effect. Is that correct?

Mr. Taylor said as far as putting the parking in the location that was originally approved that is correct. That could be done.

Mr. Dufour said the big issue here is the elimination of the door, lack of shutters, and the existence of the stairway. Was that a life and safety requirement?

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Mr. Taylor said it wasn't required. I did talk to the plans reviewer in the Building Department. It wasn't required by the Building Department. It was added and that is something that typically would be a minor amendment that could be handled administratively. That is why I did not bring that up in the memo to the Board.

Mr. Dufour asked what triggered us having this conversation tonight was primarily the elimination of that door.

Mr. Taylor said the door, the shutters and the trim. That was part of what the Board approved and it was so stipulated that they needed to build it according to those elevations presented.

Mr. Dufour said you refer to minor modifications. Would you say that as we approve these plans as they come before us, would you say that it is not unusual to have minor modifications along the way?

Mr. Taylor said occasionally it happens. I don't think I have gone out to many inspections where they built it exactly according to plans. There are occasions when small things get changed.

Mr. Slivinski asked if these guys do the work themselves? I remember these guys coming in and they were sort of doing it on a shoestring. I get a feeling they just paid the minimum thing to have some architect do something like that without even thinking about shutters, no shutters, or where the door was going to go or what they were going to do. They were just trying to get their work area set. My remembering of the guys probably would tend to be they didn't do this on purpose but they never even thought about it that much when they were submitting the plans. It is not unattractive the way it is. If we require these guys to do something to put the shutters on lets keep it at a minimum.

Mr. Dufour said I agree lets keep it at a minimum. The stairway being an after thought that enhances the safety of the building. As long as it falls within zoning requirements I have no problem with that. I think that as I look at the building and I look at the rendering they showed us 5 windows with shutters. I would like to see them. I think even in my rendering here as I put the shutters on the building it looks a lot better. We are talking about 5 windows worth of shutters.

Mr. Latham said that on that street this is still the best looking building, not to make excuses for them not to the Planning Board with their changes, but it is still the best looking.

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Mr. Dufour said there are a couple of residential homes there, it is zoned commercial but that doesn't excuse what they have done here.

Mr. Canaway said I feel like we are solving the problem with the site plan amendment but the issue at hand isn't whether they should have shutters or a door, but do we need to have them come back in and ask for a site plan amendment at which time we can then talk about should we have shutters, a door, or whatever because they didn't meet what they had said they were going to meet. I understand what Bill is saying, whether they did it on purpose or not, I don't know if that is the point. If you accidentally start speeding, you still get a ticket.

Mr. Dufour said we ok million dollar projects that the engineers lay out, you get out on the site, something doesn't work, you have to modify it, you get administrative review if it qualifies for administrative review and life goes on. I don't see the need to bring these people back in here for what's happened but I would like to see the shutters.

Mr. Canaway said what you are suggesting is that this could be handled by administrative review.

Mr. Dufour said that is correct but with a note that we will accept the elimination of the door but we want to see those shutters as they showed in the rendering. It will enhance the appearance of that building.

Mr. Dookran said he doesn't think it is a big deal to me but if took the effort, Staff did and we did when we approved this to stipulate #7 that they should meet the rendering shown, my opinion, they don't even come close. Just that roof line alone, too far up from what the rendering showed. If we took the effort to make it noted that we need a building with the elevations as proposed, and then they should take the effort to try and meet that requirement.

Mr. Canaway said or come and explain why they can't.

Mr. Slivinski said it seems to me again I am trying to think back on it but when we were looking at this I don't think we were concerned about making sure there were shutters on there, this and that, wasn't it something to do with the way the 2 buildings were going to hook up or something like that and how high it was going to be? Anybody remember?

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Mr. Dufour said no, I just remember significant conversation about the delineation of the front line.

Mr. Slivinski said it was something to do with the way the 2 buildings were hooking up, but I am not sure.

Mr. Dufour said to me the roof line has changed a little bit where there is more of an overhang but as I look at this, I mean the overhang protects the stairs on the right hand side. You would almost have to extend it on the left to get your balance. I view that as one of those things that just happen on site as they are ongoing. They should have had words with Staff. I don't see the need to get them in here.

Mr. Canaway said we get bent out of shape where we are cutting down a couple of trees and we ask them to come back with new plans. I view these as symptoms of the same issue and so if we are going to hold a line on trees, if we ask for an elevation to be met, and we put it in the stipulation, just like we did for landscaping, we make them come back.

Alderman LaRose said the staircase they put in, they added a door on the 2nd floor that wasn't there either.

Mr. Houston said you didn't have elevations on the side before if I recall. The stipulation that was in the staff report normally, in this particular case, and I am not quite sure why the Board worded this stipulation as it is worded, normally variations are allowed subject to approval of Staff. I concur with Mr. Dufour that shutters would improve the appearance. The door is what it is. I think it probably affects how they use interior space. They probably didn't plan it out very well. It probably is the nicest looking building on that street. It certainly is a big improvement from what they had. I don't know how they are going to react to this. They certainly didn't want to come to this meeting. It may end up as an enforcement issue. I am not sure how the Board wants to go with this.

Alderman LaRose said I agree with the chairman. If they put the shutters up I think the elimination of the door makes a lot of sense to them. It is a business in there. The addition of the staircase and door on the 2nd level is certainly a good safety factor. I am sure that gives them 2 egresses from upstairs. I don't think it is that much off what they were proposing in the first place.

Mr. Dookran asked if they meet all building safety requirements.

Mr. Taylor said the building department has signed off on the certificate of occupancy. This isn't a public hearing so I am not necessarily looking for a motion but more concurrence on the direction the board wants. If the majority of the board wants shutters that is fine. I will relay that to the owner.

Mr. Dufour said my thought would be they met #7 once they have installed the shutters.

Mr. Canaway said #7 states the building design façade features and materials as shown on the one page rendering and conveyed at the meeting to the Planning Board are incorporated as part of this approval. So what you are going to say is that with shutters the building they built looks like this.

Mr. Dufour said Staff views that as a minor change and we are telling Staff, or it would be my thought, that if the shutters are installed it is my thought that they have complied with the rendering with whatever Staff modifications are in order.

Mr. Canaway said I may agree with everything everybody said but procedurally I don't feel like it is the right remedy.

Mr. Dufour said I understand that but once we get them back in here what are we going to have them do. What is the corrective action?

Mr. Canaway said amend the site plan to change the stipulation or the site plan. I know it sounds academic but we continue to get these sorts of things and we hold the line in some places and we don't hold it in others.

Mr. Dufour said what we don't realize is that Staff makes changes and we just don't see them.

Mr. Canaway said I understand Staff makes minor changes. This one the problem was, in my mind, we made it a stipulation for some reason, we may not remember, or it might be an oversight.

Mr. Dufour said we may not remember and Staff having gone through the minutes can't find specific conversation it would be hard for us to hang our hat on what we said if Staff isn't even finding it.

Mr. Canaway said we do ask as part of our practice is asking the applicant if they agree these stipulations. This is just my feeling on that.

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Mr. Jurewicz asked what if they decided not to have any windows on the top level of the house?

Mr. Dufour said we would be discussing that.

Mr. Jurewicz said they made minor adjustments and they did vary quite a bit on the roof line. They did put a door and a stairway on the right side of the house. They did adjust the door from the front to the side. They did stray far from stipulation #7 in addition to shutters.

Mr. Dufour said he will entertain a motion to either have the applicant to come in to modify their site plan. We don't seem to be coming to a resolve with this.

Mr. Houston said I am not sure voting on something in a motion. I think if you go around the table you can tell if you have a consensus. This is a small business it could be anywhere from \$400 to \$500 to come back before this Board. I would rather see the money go into the shutters. It is a small business.

Mr. Canaway said I appreciate the fact that it is a small business but I am trying to weigh that against the overall process.

Mr. Dufour said this side of the table is all for Staff working it out with them and putting the shutters in the front as noted on their rendering. Does anybody on that side of the table feel the same way?

Mr. Dufour said so we are at 4 to 3.

Mr. Dookran said whenever we do something like this the next time we better make sure we are looking for what we want and hope we can catch if there is a change during construction I hope we can catch them early enough to make them correct the changes before the building comes to the point of occupancy.

Mr. Canaway said I agree with you. These are big investments that these small businesses are making in their business to put the building up. Maybe it is something Staff can guide them something a little bit more on. There is the preconstruction workshop that Staff has but maybe it needs to be reinforced more because we see a lot of these.

Mr. Dufour asked if we are at general consensus, the majority that we will leave up to Staff for minor modifications and that they put the shutters in.

NONPUBLIC SESSION

MOTION by Alderman LaRose to enter into Nonpublic Session under RSA 91-A:3II(e) for consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the public body.

SECONDED by Mr. Canaway

Role Call

Ken Dufour - yes
Bob Canaway - yes
Dan Latham - yes
Alderman Richard LaRose - yes
Steve Dookran - yes
William Slivinski - yes
Ray Jurewicz - yes

MOTION CARRIED UNANIMOUSLY

Mr. Dufour said this will conclude our agenda for this evening. We are entering into nonpublic session as noted and we will not be returning until our October 15th meeting.

APPROVED:

Ken Dufour, Chair, Nashua Planning Board

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Prepared by: Linda Panny

Taped Meeting