



## ***Planning Board***

April 9, 2014 – 6:02 PM - **Minutes**

Brooklawn Park Senior Center Warming House, 1997 Acushnet Avenue  
(Approved at May 14, 2014 Meeting)

**\*\*View Agenda\*\***

### **MEMBERS PRESENT:**

**Chairman Colleen Dawicki**

**Arthur Glassman**

**Janine DaSilva**

**Kathryn Duff**

**Peter Cruz**

### **ALSO IN ATTENDANCE:**

**Jill Maclean, City Planner**

Chairman Dawicki called the meeting to order at 6:02 p.m. and called the role.

A motion was made (KD) and seconded (AG) to approve the March minutes as amended.  
Motion passed unopposed.

A motion was made (KD) and seconded (PC) to take Case #11-13 out of order.  
Motion passed unopposed.

### **Public Hearings:**

#### **CASE #11-13** – continued public hearing

Ms. Maclean noted the public hearing was left open for any major changes from the Conservation Commission, which has not occurred. She suggested closing said hearing and discussion of the board's decision.

A motion was made (KD) and seconded (JD) to close the public hearing.  
Motion passed unopposed.

Ms. Dawicki sought review on each waiver. Members voting no on a waiver are still able to vote yes on the subdivision in total.

Ms. Dawicki read the project description into the record.

Ms. Maclean noted to the board that the critical environmental concern is a designation by the city council and not the state.

Ms. Dawicki stated that the applicant had requested three waivers from the rules and regulations of the

planning board. In addition, the Conservation Commission and Department of Public Infrastructure have also each made one request.

Ms. Maclean stated the first waiver request is for the dead end street and its length is not to exceed more than four hundred feet in length. From the end of Ava's Way to the public way would be more than four hundred. There were no comments from public safety or the fire department that that presents any issue. A draft finding would be that the board finds the site drive to the proposed Ava's Way is within a reasonable accessible distance for public safety.

A motion was made (JD) and seconded (AG) to grant Waiver Request #1 for Cardinal Place allowing for greater than four hundred feet in length for the dead end street, and that the board agrees with the finding that it is within a reasonable accessible distance for public safety. Motion passed unopposed.

Ms. Maclean stated the second waiver is with regard to the width of the right of way which shall be a fifty foot minimum. The applicant is proposing a forty foot right of way. The finding for this would be that the board finds the proposed forty foot width of Ava's Way is adequate for site access and utility layout uses based upon DPI comments and defers to their judgment on this waiver.

There being no discussion, a motion was made (JD) and seconded (KD) to grant the waiver and approve the finding that the board finds the proposed forty foot width of Ava's Way adequate for site access and utility layouts based upon DPI comments and defers to their judgment on this waiver. Motion passed unopposed.

Ms. Maclean stated that the third waiver dealt with the width of pavement. The applicant is proposing a twenty foot side paved roadway. A draft finding would be that the board finds that the proposed twenty foot wide paved Ava's Way is adequate for site access, and the board further finds that reducing the width of the road limits the impacts of impervious surface runoff in the area by decreasing the amount of impervious surface required for the roadway.

A motion was made (JD) and seconded (AG) to approve the finding that the proposed twenty foot wide paved Ava's Way is adequate for site access, and that reducing the width of the road limits the impacts of impervious surface runoff in the area by decreasing the amount of impervious surface required for the roadway, and that the planning board grant the waiver. Motion passed unopposed.

Ms. Maclean stated that the fourth waiver request came from the Conservation Commission and has to do with subdivision regulations requiring sidewalks. Given that this area was found by the city council to be an area of critical environmental concern, we were trying to lessen impervious surface in the area, and one thought was the sidewalks. They do not join any sidewalks off of this street, Swallow Street, Cardinal, Sassaquin Avenue until Acushnet Avenue. So the surrounding neighborhood does not have sidewalks either. The Conservation Commission request is that sidewalks not be required due to the project being located within the area of critical environmental concern and refers to a letter dated March 10, 2014 and accepted as part of the decision from the Conservation Agent Sara Porter, which was then read into the record.

A motion was made (JD) and seconded (KD) that the planning board approve the finding of the Conservation Commission agreeing that due to the project's location within an area of critical environmental concern, sidewalks not be required as they would not be in the best interest of the public good and would not be beneficial to the environment, and the waiver be granted. Motion passed unopposed.

Ms. Maclean stated the fifth waiver request was from the Department of Public Infrastructure, who requested that the tree islands in the middle of the cul-de-sac not be required, as it make it difficult for maintenance since it is intended this road be publicly accepted by the city. The draft finding would be that the planning board concur with the Department of Public Infrastructure and agree that the island is unnecessary for this subdivision given the width of the street and the difficulty that would arise when the city accepts the street and is required to maintain the island plantings and road during winter months.

Ms. Duff found it odd to remove the sidewalks but pave a planting island when trying to increase pervious surface. She prefers a tree and green space given this environmental critical area.

Ms. Dawicki noted the waiver was a DPI request due to maintenance issue. Mr. Cruz inquired whether any subdivision had complied with the island regulation. Ms. Maclean stated any subdivision street anticipated to be publicly accepted has not had a tree island in about fifteen years.

Ms. Duff stated while she respects public infrastructure, this particular site is calling for measures to reduce paving. She thought perhaps neighbors would take responsibility for the plantings.

Mr. Glassman agreed with the snow plowing concerns.

Ms. Dawicki noted this issue should be discussed with DPI input so the ordinance reflects reality.

A motion was made (JD) and seconded (AG) that the planning board approve the finding of the DPI, agreeing the island is unnecessary for the subdivision given the difficulty that would arise when the city accepts the street and is required to maintain the island plantings and road during winter months and to grant the waiver.

Motion passed 4-1

The board discussed conditions of approval prior to the board's endorsement, such as the submission of the form B covenant, in accordance with Mass General Law; that the road streetlights, common areas would be the applicant's responsibility until accepted; submission of a municipal lien certificate demonstrating that all taxes for the property are paid in full; submission of utility and drainage easements; and a final set of plans for endorsement must incorporate a sheet including all conditions from the certificate of action. Additionally, prior to construction there are several conditions. Submission of the certificate of action to the registry of deeds; that the applicant is required to obtain approval from the conservation commission and that a copy of that decision be submitted to the planning board and accepted as part of this decision; that the Form B covenant and all easement documents are reviewed and approved by the city solicitor; and submission by the applicant of proof of recording at the registry of deeds to the board.

Ms. Maclean stated that most importantly, under Mass General Law the applicant can give three types of surety. The request of waivers gives the board leverage to require which type of surety they want. This condition applicant shall submit to the planning board a performance bond, savings account, passbook or a letter of credit in the amount of \$400,000.00 to ensure the public infrastructure is constructed and necessary plans prepared for the acceptance of Ava's Way as a public way within a three year period from the date of filing the decision with the city clerk. This amount is based upon the cost estimate provided by the Department of Public Infrastructure in a memo dated March 20, 2014. The performance bond, savings account, passbook or letter of credit will be submitted to the city treasurer and shall be maintained by the applicant until construction has been deemed completed by the planning board. Should the applicant fail to construct the public infrastructure within a three year period from the date of filing the decision with the city

clerk and the planning board does not grant an extension, the city shall have the right to secure funding through the performance bond, savings account, passbook or letter of credit to ensure that the infrastructure is completed to city standards and that all plans and documentation necessary for the acceptance of Ava's Way as a public road or way is completed. Ms. Maclean stated this ensures we don't have to go after covenants and the land not be of the value it is today, and any public infrastructure will be completed and people buying into it earlier will have public services by the end of three years. This also gives the board the ability to extend it if the board determines the applicant is operating in good faith. The amount reflects the removal of the sidewalks and the handicap ramps. The applicant must notify the city engineer and city planner of the pre-construction meeting 24 hours in advance.

Ms. Mclean stated the general conditions are more or less what the plans state, discussing utility work. No building permits shall be issued until all drainage work, all utilities, including New Bedford style streetlights and construction up to but not including the top coat of asphalt, granite curbing and street trees have been properly installed and approved by the subdivision inspector, city planner and city engineer. Again, ensuring the utilities are getting in quickly and the infrastructure is done before building permits are pulled and houses start going in.

Ms. Maclean noted the applicant must repave Swallow Street from Sassaquin Ave to Cardinal Street according to city of New Bedford regulations. Condition Number 25 being that all structure ad storm water management systems must be constructed and completed within three years from the date of filing the decision with the city clerk. The applicant must request an extension from the planning board prior to the time of expiration of the approval if construction has not been completed. In the event the applicant does not construct the public infrastructure and/or the storm water management system as approved, the city shall have the right to complete the required public infrastructure and storm water management system and shall seize the performance surety for all costs associated with completing the required work.

She stated Condition Number 26 is that all subdivision work including the installation of the top coat of asphalt granite curbing and street tress must be completed within seven years from the date of filing the decision with the city clerk, and approved by the subdivision inspector, city planner and city engineer. The applicant must request an extension from the planning board prior to the time of expiration of the approval if construction has not been completed.

Ms. Mclean noted that in addition, following the completion of construction, applicant shall submit an as built drawing to the planning board prior to release of the surety bond. As built drawing must show all roads, driveways, utilities and drainage system components and provide a full title examination of Swallow Street 40 feet southerly beyond the accepted limit of Swallow Street.

Ms. Duff eliminate the two words the road.

A motion was made (JD) and seconded (KD) to approve the site plan, the preliminary subdivision plan and the definitive subdivision plan for Cardinal Place, plans dated April 22, 2013 with the revisions dated February 27, 2014 and March 7, 2014, as prepared by Prime Engineering referencing the twenty-six conditions included in the decision to be dated this week.

Motion passed 5-0

**CASE NUMBER #7-14** – Proposed zoning change

Ms. Maclean informed the board that Mr. Almeida had requested the planning continue this to the meeting of May 14, 2014.

A motion was made (JD) and seconded (AG) to open and continue this case to May, 14, 2014 meeting. Motion passed unopposed.

**CASE NUMBER #8-14** – Proposed zoning change

Ms. Maclean informed the board the owner sought to withdraw, but the matter having been heard by City Council and sent to the planning board and ordinance committee, action is required. Ms. Maclean explained this is another lot on Dartmouth Street where some 80% is mixed use business and the remainder is zoned Residential B. Owner was looking to have the entire lot zoned mixed use business. Ms. Maclean suggested the board favorably recommend the matter to the ordinance committee for their decision. She stated in this way there would be no negative reflection should another applicant seek one zoning category across their lot. The recommendation represents that the board has no issue and has found no reason that the entire lot not be zoned mixed use business. It is merely a zoning recommendation and not a change.

Mr. Glassman inquired of any negative impact. Ms. Maclean indicated it was a small back piece of the lot.

Ms. Dawicki clarified with Ms. Maclean what such a motion should contain.

A motion was made (JD) and seconded (AG) to open the public hearing.

There was no response to Ms. Dawicki's invitation to speak in favor.  
There was no response to Ms. Dawicki's invitation to be recorded in favor.  
There was no response to Ms. Dawicki's invitation to speak in opposition.  
There was no response to Ms. Dawicki's invitation to be recorded in opposition.

A motion was made (JD) and seconded (KD) to close the public hearing.

A motion was made (JD) and seconded (AG) that the Planning Board recommend that 232 Dartmouth Street, Plot 28, Lot 50, be rezoned from Residential B to Mixed Use Business District.  
Motion passed 5-0

**CASE NUMBER #9-14** – Proposed ordinance

Ms. Maclean invited the assistant city solicitor or Department of Public Infrastructure to address questions from the board.

Jane Medeiros Freedman, city solicitor's office, addressed the board. She explained that the ordinance before the board was simply an amendment of the existing ordinance, revised in 2009. This further revision would reflect the new flood zone maps taking effect 7/16/14. The City has been advised that if the ordinance is not amended prior to that date, the city will be suspended from the national flood insurance program, which would have implications for New Bedford property owners. As such, the solicitor's office is recommended the matter be acted upon favorably.

Ms. Maclean informed everyone that FEMA and DCR would be in the city on 4/22/14 for a public meeting to be held at the Fort Tabor Community Center, she believe there would be session from 4:00 – 8:00 pm. The towns of Acushnet, Fairhaven and Dartmouth are also invited to attend.

Manny Silva from DPI displayed the new FEMA flood zone maps for the board members. Flood elevation in the area will increase by another foot; the Cove Road area being the most affected.

In response to Mr. Glassman’s inquiry, Mr. Silva explained according to FEMA the increase in sea level has necessitated the changes.

A motion was made (JD) and seconded (KD) to open the public hearing.

There was no response to Ms. Dawicki’s invitation to speak in favor or in opposition.

A motion was made (KD) and seconded (JD) to close the public hearing.

Ms. Duff noted that “President Saunders” was not present.

A motion was made (JD) and seconded (KD) that the planning board send a favorable recommendation to the city council recommending a vote in favor of the proposed amendment to the flood hazard overlay district ordinance to meet the 7/16/14 deadline.

Motion passed 5-0.

#### **CASE NUMBER #14-14 – Proposed zoning change**

Att. John Williams, 651 Orchard Street, New Bedford, addressed the board on behalf of the applicants. Mr. Messier owns the property at 674 Summer Street, which was built in 1930 and has been assessed general retail since that time, but is zoned Resident C. There are no bedrooms or bathrooms and no residential use in the building. It is currently used by Design Temps for storage and repair use. Mr. Messier cannot sell the property as commercial and was given a \$200 abatement.

The second property is owned by Nelson and Patricia ?? who purchased it late last year. Built around 1930, it is also zoned general retail. Again, no bedrooms or bathrooms, zoned Resident B, but cannot be used as anything else. Used as Lebeau Electric from 1978, when he received a variance, to the recent purchase by his client.

Att. Williams stated these pieces should have been cut out when zoning came into New Bedford in the 1950’s because they never had a residential use. They were built as businesses. He noted that though neighbors may complain and he understands their concerns, when they moved in there was a business there. It’s like someone moving next to an airport then complaining about the airplanes.

Att. Williams stated the only way to right the problem is to change the zoning to mixed use business, enabling the owner to sell the building. He stated he is seeking a favorable recommendation from the planning board as the matter will go to the Ordinance Committee and the elected officials can address the matter.

Att. Williams stated that if not granted it is tantamount to being a taking by the city, which necessitate a

payment from the city. The city cannot tell a property owner they cannot do anything with their building. Changing it to mixed use would make everything right and status quo. He invited questions.

Ms. Maclean noted that the motion submitted by Councilor Bousquet only requested a change for 671 Summer Street, not 674. Att. Williams stated he had put in for both and would like to see both done to avoid any potential spot zoning issue, as both properties have the exact same circumstances and situations and were both built in 1930. Att. Williams provided illustrations of the buildings.

A motion was made (PC) and seconded (JD) to receive paperwork.  
Motion was unopposed.

Atty. Williams reiterated that the property had never been a single family residence and to say it cannot be used for its intended purpose makes no sense. He noted any opposition would likely be to both properties.

Ms. Maclean informed the board that they have a certain number of days to act on matters forwarded by city council, so continuing the matter for a further motion on the other property will not help. She suggested making their recommendation on the submitted property.

Assistant Solicitor stated the planning board should take a vote on the matter submitted. The ordinance committee can choose to not act and the matter will die without a hearing within 65 days. The matters could then be refiled together.

Ms. Duff does not understand why the building cannot be used as a business. Mr. William stated the City Solicitor had no answer. Though there was a pre-existing use, the zoning was incorrect. Ms. Duff stated the existing business would be grandfathered.

Mr. Glassman confirmed that where the business certificate lapsed that may have been the issue. Att. Williams stated the Building Department gave that explanation, but a corporation does not need a DBA certificate.

A motion was made (JD) and seconded (KD) to open the public hearing.

There was no response to Ms. Dawicki's invitation to speak in favor.  
There was no response to Ms. Dawicki's invitation to be recorded in favor.

In response to Ms. Dawicki's invitation to speak in opposition, Joseph Abraham and Carol Maslank of 537 Sawyer St. addressed the board. A fourteen year resident, he stated there was no noise or disturbance when the property operated as Lebeau's electric. He stated the new owners brought various occupants to the 3 garages, two of whom have autos coming in and out, and he believes there has been a fire in one of the bays. Ms. Maslank stated there was an engine fire. Mr. Abraham stated there is a lot of noise and the street is very busy and noisy already, and this adds more to it. Ms. Maslank said she has been in touch with Assistant District Attorney Espinola and was apprised that there was a cease and desist issued on the business. She informed him that did not happen and is ongoing. She stated she has a problem with someone coming into the city opening a business as one thing and installing something diametrically opposed to what is supposed to be there. There are people renting out space there and there are two functioning mechanical garages there with collision trailers dropping off and picking up vehicles. Ms. Maslank stated the six houses are totally surrounded by businesses and experience a tremendous amount of traffic, and vehicle parked on the sidewalk all day and night, preventing egress on the sidewalk. She stated property owners paying taxes should be able to get some relief from the infringement on peace and quiet and security.

In response to Ms. Dawicki's further invitation to speak regarding this matter, Nelson and Patricia Metil, owner of 671 Summer Street, addressed the board. A New Bedford Voke-Tech graduate who has lived in the city all his life, he stated he does not want to move. He loves cars and to make people happy. He stated he told his guys to keep the noise down and be nice to your neighbors, and has snow blown his neighbors on Summer Street. He stated there are alarms in the building connected to the city. He stated they do automotive detailing and work, but no big jobs like changing engines. He stated motorcycles are loud and they are not the only ones making noise. He stated there are tickets from the market all over, but he does not complain. Mrs. Metil stated there are broken bottles. She stated they are not there with their motorcycle early, early in the morning. She was upset that people think they are disturbing them. Mr. Metil stated just like the backbone of the country, he is a little business trying to survive and make a better living for himself.

There was no response to Ms. Dawicki's invitation to be recorded in favor or opposition.

A motion was made (JD) and seconded (KD) to close the public hearing.

Ms. Dawicki clarified that in accordance with the table of mixed use regulations, motor vehicle general repairs would require city council special permit; that regardless of a zoning change to mixed use business, the applicant would need to overcome another hurdle.

Ms. Maclean stated light service may be allowed by right. Ms. Dawicki noted it is not and body repairs are not allowed. She did reiterate that the board is only looking at Parcel 671.

Att. Williams noted his letter to the ward councilor was a request for both parcels, one on Zone B, one if Zone C.

Ms. Maclean informed the board, with regard to spot zoning, a major difference in this case is that this has always been a business operating, and as such is not really spot zoning. The zoning changed but the use has always been a business.

Ms. Dawicki noted with uniformity standard this building is a commercial building and cannot be turned into residential. Her concern was with not knowing what the business will be in the future. She stated the noise and automotive issue raised by speakers would meet an additional threshold with the requirements of city council, as a form of protection for residents concerned about a business less desirable in a residential neighborhood.

Mr. Glassman stated in addition to the zoning situation, the board is confronted with the actual use. Ms. Duff concurred that the use is outside the board's jurisdiction.

Ms. Dawicki stated previous applications on this issue have presented the concern that one use may be okay, but others are not in a residential neighborhood, again reiterating the use will be regulated by another layer of restrictions. She stated that in consideration of economic development within the city and public benefit, to not change the zoning affects economic development in the neighborhood. Ms. Dawicki stated these issues will likely present themselves in the future with commercial buildings within the walkable residential neighborhoods. Ms. Duff concurred. Ms. DaSilva also concurred in light that it is not even a residential structure, and would likely need to be demolished to become one.

Ms. Maclean stated under today's requirements, she does not believe it would be a buildable lot.

Mr. Glassman agreed that a mixed use zoning will still present the applicant with hurdles down the road with other city authorities.

A motion was made (JD) and seconded (PC) that the planning board send a favorable recommendation to City Council rezoning 671 Summer Street, Plot 91, Lot 152, be rezoned from Residential B to Mixed Use Business.

Motion passed 5-0

**CASE NUMBER #10-14** – Site plan review

Heather Dudko, 2 Feedy Way, Worcester, MA, addressed the board on behalf of Philadelphia Sign. Tonight's application before the board is to install a new 25 sf, internally illuminated ground sign for All State Insurance, with a 6' setback and an overall height of 15'. She noted the legal add contained a 10' height, which is actually a 10' clearance and a 5' sign box. Ms. Dudko stated the sign meets all sign regulations and is a new sign in a mixed use zone.

Applicant confirmed Ms. Duff's notation that the 6' setback is to the pylon not the edge of the sign. Ms. Duff stated that would make it 4' to the sidewalk. Applicant stated that is an error and that the leading edge of the sign will be 6' back from the edge of the sidewalk. Applicant offered submission of a new drawing if needed and stated it will be corrected for the building inspector. A motion was made (KD) and seconded (JD) to open the public hearing.

There was no response to Ms. Dawicki's invitation to speak in favor opposition.

A motion was made (KD) and seconded (JD) to close the public hearing.

Ms. Dawicki noted the site plan would need to reflect the 6' setback from the leading edge of the sign to the sidewalk, and invited discussion on hours of illumination.

Mr. Cruz suggested 8:00 pm on days of operation and Ms. Duff agreed. Mr. Glassman noted it would provide a lit corner.

Ms. DaSilva inquired as to egress on the site if the sign is 6' and 6' to pylon. Applicant stated the drawing is incorrect.

A motion was made (JD) and seconded (AG) to approve the site plan for a proposed ground sign at 260 Ashley Boulevard (Map Plot 98, Lot 35) in the Mixed Use Business District, application submitted by Philadelphia Signs, with conditions that the applicant submit a corrected site plan, and that the sign be illuminated from 8:00 am to 8:00 pm.

Motion passed 5-0

**CASE NUMBER #12-14** – Site plan review

Ms. Dawicki noted Mr. Glassman, as an abutter to applicant, had recused himself, and as such applicant would need a unanimous vote for the special permit. Ms. Dawicki extended an option to continue the matter until an addition board member were present. Applicant requested to present and have an opportunity to review the video, which was granted.

Luke DeSteffano of Bowler Engineering, 352 Turnpike Road, Southborough, MA, addressed the board. He

stated the current 1.25 acre vacant piece of land on Church Street has a semi-circular driveway with two curb cuts. If approved, Dollar General would construct a 9,100 sf Dollar General retail facility in the northwest corner of the property, with 30 parking spaces. Under current zoning requirements, there would be a need for 47 parking spaces. Applicant is seeking a waiver from that requirement. Dollar General operates some 11,000 facilities in 45 states and estimates 10 trips an hour to their facility. This results in a need for 30 spaces during peak hours/peak seasons, and adding more parking comes at the expense of green space. Mr. DeSteffano stated he is not sure, given the size of this property, that they could even fit another seventeen spaces. Property access is proposed through a single curb cut on the southeastern portion of the property, and would be a single lane in and dual lane out, a preferred Dollar General driveway.

Mr. DeSteffano stated there is a significant amount of green space at 24,000 sf, with 44% of the lot remaining undeveloped. Landscaping on the north side will buffer the abutter on the north, and sod and green space on all four sides of the building.

Mr. DeSteffano stated all underground utilities would be new, with the exception of electric which would run to a pole in the northwest corner.

Dollar General is a single story block front building.

Mr. DeSteffano stated there is a site plan application for a single free standing ground sign adjacent to the driveway on the north side. He stated the Dollar General has a national sign vendor who will come in for the building permits for both the building and ground sign once the special permit is granted. As such, tonight's ground sign site application is for the location.

Ms. Dawicki suggested to the board addressing traffic, parking, storm water, landscaping/lighting and then the sign. She also noted that DPI had requested a concrete sidewalk apron across the entrance to the site.

Applicant indicated that was no problem.

In response to Mr. Cruz the applicant stated there would be ADA compliant curb cuts. The applicant indicated they were willing to install a pedestrian ramp on the northeast corner, but there is no right of way there and it is on private property.

Mr. Cruz confirmed the striped island was needed for the turning move and had no questions regarding storm water/drainage.

Ms. Duff inquired as to the roof color and applicant responded it was not a white roof but could likely be agreed to as a condition of approval. Ms. Duff then discussed landscaping and noted to the applicant that a 3.5 caliber tree is required. She encouraged the applicant to look into no mow lawn options.

Ms. Duff inquired as to the poles on the back northwest corner and in the front, which are the proposed electric utility poles. Ms. Maclean noted that DPI has commented that utilities must be installed per City of New Bedford regulations, which Ms. Duff believes must be underground. The applicant indicated if necessary, it will be put underground.

Ms. DaSilva asked if lighting was required in the parking lot, which applicant indicated was present in the proposed plan packet, with 3 yard lot lights traditionally on timers. In response to an inquiry by Ms. DaSilva,

applicant also indicated the dumpster was fully enclosed.

Ms. Maclean clarified that the applicant had agreed to monument style rather than pylon. Applicant indicated hours of operation are 8:00 am – 9:00 pm Monday thru Saturday and 9:00 to 9:00 on Sunday.

Ms. Maclean informed the board of DPI Comment #9, that open infiltration basins do not meet city policy and will require a re-design with underground basins and the spill way cannot be to abutting properties.

Ms. Duff noted that as designed pedestrian access would require walking into the drive area to enter the building, and asked applicant to consider wrapping the sidewalk. Applicant assured the issue would be addressed.

A motion was made (KD) and seconded (JD) to open the public hearing. Motion passed unopposed.

In response to Ms. Dawicki's invitation to be heard in favor, Councilor James Oliveira, of 39 Briarwood Drive, addressed the board. He spoke in support of the special permit based on the green space and beautification. He noted it will add to the tax base, provide jobs, and improve the current lot conditions. He noted that there are not many people walking on Church Street, but concurs with the board suggestions. He also approves of the hours of operation. And looks forward to another responsibly developed north end property.

In response to Ms. Dawicki's invitation to be heard in favor, Ralph Medeiros, property owner, and owner of Ralph's Auto Center next door, stated he is in support of the development. He noted the substantial investment in our community and hopes it is a catalyst to growth in the area. After checking out one of the applicant's stores, he was impressed and believes they would be an asset to the community.

There was no response to Ms. Dawicki's invitation to be recorded in favor.

In response to Ms. Dawicki's invitation to be heard in opposition, Doug Barboza who lives across the street addressed the board. He inquired as to if any thought was given to the five houses across the street from the proposed site, as the traffic on Church Street is horrible. As the driveway is across from his house, he stated he takes his life in his hands to check the mail. He stated when walking his dog, it takes him a half an hour to get across the street with school buses and industrial park traffic. He stated the road is horrible and having lived there fifteen years he has had to have his front end aligned. He believes this is a bad idea for his way of life. He expects this will result in more lights and more litter, and will attract riffraff and break-ins.

There was no response to Ms. Dawicki's invitation to be speak in opposition.

Ms. Maclean clarified for the public that applications for site review are a by right use and as such must be approved by the planning board as the use is allowed under zoning. While the board can make conditions and approve or deny special permits for the site, the use cannot be denied. Ms. Maclean also noted that if the applicant is made to cram in the extra parking necessary, all the green space would be lost.

Mr. Oliveira asked if taking the land mattered to conservation, as five deer used to come across the street

each morning.

A motion was made (JD) and seconded (KD) to close the public hearing.  
Motion passed unopposed.

Ms. Dawicki noted that traffic concerns on Church Street should be brought to the Traffic Commission. Ms. Maclean noted this would require approval of the traffic commission as well.

Mr. Oliveira stated they looked forward to Saturday and Sunday peace. Ms. Dawicki reminded him that public hearing was closed.

Ms. Duff confirmed that the project is Industrial A zoned, which can be hard for residents mixed in the area. She confirmed with applicant that there was low wattage lighting which should not create issues for abutters.

The board discussed items to be included in conditions. After inquiry by Ms. Dawicki, the applicant indicated they would be comfortable with a vote this evening.

A motion was made (JD) and seconded (KD) to approve the Special Permit for Minimum Off- Street Parking reduction in off-street parking from 47 spots to 30.

Motion passed 4-0.

A motion was made (JD) and seconded (KD) to approve Site Plan Review for Case #12-14 at WS Church Street, (Map Plot 130F Lot 16) in an Industrial A District as submitted by New Bedford DMP IX, LLC, with the following conditions: that applicant adhere to all comments submitted by DPI; that the applicant place a white roof on top of the building; that the applicant plant 3.5" caliber trees; that the applicant use low maintenance grasses and fescues; that the applicant place pedestrian access from Church street that does not coincide with driveway access; and that applicant turns off lights 30 minutes after closing of the retail business.

Motion passed 4-0.

A motion was made (JD) and seconded (KD) to approve the location of the ground sign and Site Plan Review for the WS Church Street, (Map Plot 130F Lot 16) in an Industrial A District as submitted by the applicant.

Motion passed 4-0.

#### **CASE # 4-14** – Site plan review

Christian Farland, principle engineer Thompson Farland on behalf of the applicant addressed the board. He stated the proposed airplane hanger is 13,200 sf located at New Bedford Municipal Airport on the easterly side of Downey Street. It is a mixed use zoning district consisting of impervious pavement where the planes are stored. There is a bordering vegetative wetland buffer shown on the plan and a notice of intent will be filed with the Conservation Commission. Mr. Farland stated the construction will take up the majority of the lease area with twelve proposed parking spaces as required with an ADA compliant space. The maniple water and sewer will be extended approximately 150 feet. Storm water requirements are being met and a storm ceptor unit will be added and tie into the airport storm water system.

Mr. Farland noted the plans show shrubs on the front of the property as there is very little area for landscaping.

Mr. Farland indicated there is no parking lot lighting, only egress lighting on the building entrances.

Mr. Farland noted the applicant is in agreement with DPI comments. He felt the plan met all requirements. He stated the applicant wanted to present this evening and hear from abutters, but was seeking a continuance due to a meeting with the airport commission and possible revisions.

Mr. Farland noted that though they expect the site will be used very little, they have proposed the parking spaces necessary rather than seek a special permit. This would also allow for potential future office space in the building.

In answer to Mr. Grossman, Mr. Farland indicated this would be a private hanger for storage of one plane.

In answer to Ms. Duff, Mr. Farland indicated he believed there were utility poles along the street. Ms. Duff inquired as to the directing of roof water. Mr. Farland indicated the water was piped into downspouts and into the airport storm water facilities.

Mr. Farland indicated the black top would be cut up for any planting and again confirmed Mr. Cruz there was storm ceptor and airport requirements have been met.

Mr. Farland confirmed for Ms. Dawicki that no signage is proposed as this time. A motion was made (JD) and seconded (KD) to open the public hearing.

There was no response to Ms. Dawicki's invitation to speak in favor.  
There was no response to Ms. Dawicki's invitation to be recorded in favor.  
There was no response to Ms. Dawicki's invitation to speak in opposition.  
There was no response to Ms. Dawicki's invitation to be recorded in opposition.

A motion was made (KD) and seconded (JD) to continue the matter to the May 14, 2014. Motion passed unopposed.

#### **CASE #11-14** – Site plan review

Christian Farland, principle engineer Thompson Farland on behalf of the applicant addressed the board. He stated the subject property contains 6.41 acres of land and the applicant is in need of additional parking and is seeking site plan approval. Applicant has been required by insurance to do something with the two vacant unused properties, one of historic nature. The parking lot improvement plan increases spaces to 45 to address patients and employees parking on the grass of the facility. Mr. Farland stated he believed the existing handicap spaces were not compliant and will be with this improved plan. He noted they are providing a crosswalk for patients to enjoy the outdoor surroundings and landscaping improvements. Applicant has added trees. Existing light poles will be relocated and used. Mr. Farland spoke to abutters who were notified and reported they seemed pleased and voiced no concerns.

Mr. Farland stated that there will be a net decrease in the impervious area in light of the demolishing of the previous two buildings. There is no drainage change proposed.

Ms. Dawicki noted there appears no change in access to the site.

Mr. Cruz noted that the last accessible spot on the right needed adjusting to five feet. In answer to Mr. Cruz who inquired if the striped island was because of deliveries, Mr. Farland indicated the reason was for storm water due to the grading.

In answer to Ms. Duff, Mr. Farland indicated there was a reduction in impervious surface due to the roof tops not a reduction in pavement. The application proposed is for 45 additional spaces, to what is presently an inefficient parking layout. He confirmed the space containing the previous buildings would be turned into green space with tree plantings. Ms. Duff suggested planting along Acushnet Avenue, which Mr. Farland indicated was already pretty well treed already with no removals planned.

The applicant is attempting to leave an area available for a potential future building.

Ms. Dawicki noted DPI had addressed storm water and drainage in their comments.

A motion was made (JD) and seconded (KD) to open the public hearing.

There was no response to Ms. Dawicki's invitation to speak in favor or opposition.

A motion was made (JD) and seconded (AG) to close the public hearing.

A board discussion was held on conditions.

A motion was made (JD) and seconded (PC) to approve Site Plan Review for the proposed expansion of an existing off-street parking area at 4499 Acushnet Avenue (Map Plot 137, Lot 171) in a Residential A District for 45 additional parking spaces with the condition that the applicant adhere to the comments of the Department of Public Infrastructure.

Motion passed 5-0.

#### **CASE # 13-14** – Sidewalk café permit

Ms. Maclean noted the applicant was told they did not need to be present in light of previous board appearances for the café which will use the same tables, chairs and planters as previous seasons.

Ms. Dawicki confirmed the outdoor seasonal use of May 1<sup>st</sup> thru October 31<sup>st</sup> for seven days till 10:00 pm.

A motion was made (JD) and seconded (KD) to open the public hearing.

There was no response to Ms. Dawicki's invitation to speak in favor or opposition.

A motion was made (JD) and seconded (KD) to close the public hearing.

A motion was made (JD) and seconded (AG) to approve the sidewalk care permit for use by Cork Wine &

Tapas Bar at 90 Front Street (Map Plot 53 Lot 231) by applicant Matterhorn RE, LLC.

Motion passed 5-0.

Old business: none.

Under new business, the board has been asked to make motion in support of the certification of the open space and recreation plan and approve the letter of support as sent. There being no discussion, a motion was made (KD) and seconded (JD) to support certification of the plan and approve the letter of support.

Motion passed 5-0.

Ms. Maclean informed the board they were requested to send a board member representative to the regional planning commission.

A motion was made (JD) and seconded (AG) to approve Jill Maclean as the certified commission delegate representing the City of New Bedford Planning Board for the period of May 28, 2014 to May 31, 2015.

Motion passed unopposed.

There was board discussion about planned training seminars. Ms. Maclean indicated meetings would likely now be for June, July and August and she will forward e-mails to board members. Ms. Maclean indicated she would look into Ms. Dawicki's request for the forwarding of materials pre seminar for review.

A motion was made (AG) and seconded (JD) to adjourn.

Motion passed unopposed.

The next meeting is May 14, 2014

Meeting adjourned at 8:49 p.m.