



# *Planning Board*

October 8, 2014 – 6:06 PM - **Minutes**  
Buttonwood Park Senior Center Warming House

## **MEMBERS PRESENT:**

**Colleen Dawicki, Chairperson**  
**Janine DaSilva, Vice Chairperson**  
**Kathryn Duff, Clerk**  
**Peter Cruz**  
**Arthur Glassman**

## **ALSO IN ATTENDANCE:**

Jill Maclean, City Planner

Kreg Espinola, Assistant City Solicitor

Chairperson Dawicki called the meeting to order at 6:06 p.m.

A motion was made (KD) and seconded (AG) to approve the August and September meeting minutes. Motion passed 5-0.

## **PUBLIC HEARINGS**

### **CASE # 37-14** - Proposed Zoning Change

Ward 1 Councilor Jim Oliveira addressed the board, stating the motion was put forth to bring an appropriate perspective on Shawmut Avenue. He noted most of the lots have been residentially owned over the years. Though mixed use for some time, he felt it made sense to change the zoning to Residential B, as that side of the street is all family homes.

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

In response to Ms. Dawicki's invitation to be heard in favor of the proposal, Greg Sirois of Shawmut Avenue addressed the board, noting he was already zoned as residential. He stated that his intersecting street, Falmouth Street, has an added cul-de-sac with single family homes and duplexes. He feels there is already enough activity on the street with A-1 Asphalt, the flight school, and the airport. He stated residents would not welcome additional businesses in the neighborhood, as they would like to keep it a residential neighborhood.

In response to Ms. Dawicki's further invitation to be heard in favor of the proposal, Mrs. Roy of Shawmut Avenue addressed the board and stated she is one of the plots requesting the change, having purchased her home some nine years ago. She stated she has three small children and does not want any more businesses. She feels the businesses already present make the area busy enough with small children present. She stated it is a young neighborhood with many kids and she would like no further businesses allowed on her street.

In response to Ms. Dawicki's further invitation to be heard or recorded in favor of the proposal, Tom Welch of Shawmut Avenue addressed the board and stated he is in favor of the zoning change. He stated they are under siege with all the trucks there; that it is dirty and dusty and the house shakes. He stated he wants the area to

become Residential B to keep it at bay.

In response to Ms. Dawicki's further invitation to be heard or recorded in favor of the proposal, Councilor Linda Morad addressed the board, having been one councilors to make the motion. She stated the change of this neighborhood over many years has now made it a residential neighborhood. She seeks a favorable recommendation to the city council from this board so that the neighbors can live a residential life and retain the value in their property.

In response to Ms. Dawicki's further invitation to be heard or recorded in favor of the proposal, Andrea Welch of Shawmut Avenue stated she is home a lot during the day and has her grandchildren there. She stated it is very busy with large trucks going by every 30 seconds, which is extremely dangerous. She stated they cannot support another truck on that road with the dust and the noise. She stated she is in favor of rezoning.

There was no response to Ms. Dawicki's further invitation to speak or be recorded in favor of the proposal.

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

The public hearing was suspended.

Ms. Duff expressed that she hates losing an industrial zone because you never get it back.

Ms. Dawicki expressed that this change is for six lots and not a single lot, which mitigates the concerns the board typically has with this type of proposal.

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

A motion was made (JD) and seconded (AG) that the planning board make a recommendation to the City Council that Assessor's Map Plot 124, Lots 150, 48, 34, 162, 161 and 160 be rezoned from Mixed Use Business to Residential B.

Motion passed 5-0

### **CASE #39-14** – Petition for Rehearing

Ms. Maclean informed the board that in the repetitive petition process, the planning board, in addition to the zoning board, must determine whether there has been a significant change in the project. The matter initially went before the zoning board for hearing, and then was before the zoning board again on whether there had been a significant change in the project. Ms. Maclean noted that the first case before the board is on the repetitive petition only. After the applicant presents his changes, the public will be allowed to comment on the significant change issue only. If, after a vote, the planning board determines there has been a significant change, the board will move on to the site plan review with its own public hearing on the entire plan.

Edward Redmond of Preferred Realty Services addressed the board. He displayed a certified plot plan for this 475 Union Street property. He stated the non-conforming existing use property was created prior to the building code. The structure currently on the property is also a nonconforming use, which encompasses some 70% of the 7,000 sf property. In its current state it provides for no off-street parking and does not comply with current codes regarding setbacks, et cetera.

Mr. Redmond stated that after meeting with city officials, his original application was reduced from 10 to 8 units voluntarily, and he filed for variance and special permit. He initially sought variances on lot width, side yard reduction and parking reduction, as well as special permit for property access at other than the legal

address. This property, the width of an entire city block, fronts on two streets.

Mr. Redmond displayed a site plan for the original 8 unit proposal, explaining that though he met front and rear yard, as well as lot to area ratio, he still needed relief.

Mr. Redmond then displayed the existing proposal, and characterized the design of the 4 story building as an old ship captain's house, with discharge stairs on the side yard.

He stated with written recommendations from the planner suggesting the project be further reduced to 6 units, as well as neighbor and zoning board concerns, he has made significant changes and significantly reduced the building footprint. Mr. Redmond stated major concerns expressed were related to parking and any transfer of a parking hardship onto the surrounding neighborhood. The footprint reduction allowed him to comply with the parking requirement of 2 to 1 or 12 spaces. Additionally useable open space was gained. He stated everything else complies 100%. He stated the land under the zoning code qualifies for 10 units. He stated he had changed the project so that only the original land requires relief for frontage. The special permit he is seeking is still to access the property from the rear. He invited questions from the board.

Ms. Duff asked for clarification on the egress stairs. Mr. Redmond explained that the original building plan had a cat walk deck with a switchback staircase discharging to grade and putting him in violation. He stated the new building elevation has a catwalk discharge area cantilevered into the building which will only be the required width to discourage entertaining.

Mr. Redmond explained the units are duplex style, showing a 1<sup>st</sup> and 2<sup>nd</sup> floor and then a 3<sup>rd</sup> and 4<sup>th</sup> floor. He indicated the discharge from the 3<sup>rd</sup> floor of the structure. He stated that from Union Street it appears as a Juliet balcony as opposed to the large switchback staircase originally proposed.

Ms. Dawicki clarified that the applicant's significant changes presented are the building footprint, the number of units, the increase in parking, and the move of the discharge stairs to the rear of the building. Mr. Redmond added the increase in open space, full side, front and rear yard code compliance, as well as height and story. He stated he is seeking no relief for the building itself.

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

Ms. Dawicki clarified to the audience that comments would be heard on whether there had been specific material changes to the previous plan denied, and welcomed input on whether the plan as presented this evening has differences in the areas related to the basis of the previous denial; namely, parking, building footprint, number of units. She asked that speakers keep their remarks specific to those items. She advised that if approved, the board would then move on to site plan review where all aspects of the plan could be addressed.

There was no response to Ms. Dawicki's invitation to speak in favor of the petition.

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

In response to Ms. Dawicki's invitation to be speak in opposition, specifically as to whether the changes presented address the previous application denial, Councilor Linda Morad stated that several residents present would likely speak on the 2<sup>nd</sup> case. She contended the building had not significantly changed. She stated that while the number of units was reduced and the footprint decreased, the building had not changed. She stated the building does not fit in the neighborhood and there is nothing like it within the neighborhood. She stated it will be an issue for many of the neighborhood residents if the case goes on to the 2<sup>nd</sup> stage. Ms. Morad stated that reducing the number of units in the building does not change the fact that this will be a large apartment complex in the middle of Union Street, not in conjunction with remaining houses in the neighborhood. She stated that from that perspective alone, the project had not significantly changed.

In response to Ms. Dawicki's further invitation to be speak in opposition, Steve Macedo, a neighborhood property owner at 70 Ocean Street, expressed agreement with Councilor Morad that there is no other 4 story high building in the neighborhood or anything that comes close to that. He expressed that he expects the catwalk will be an issue. He stated that while not meant to be a place of public enjoyment, it will be. He stated he believes parking will still be an issue even with the reduced footprint.

In response to Ms. Dawicki's further invitation to speak in opposition, Eric Stotts of 214 Court Street spoke in opposition, stating there were not significant changes, as stated by the previous speakers. He expressed that this was a massive building. He noted that while mixed use business may allow for a 4 story building, everything around it is Residential B. He stated this building will be very out of place with what's already there and asked that the board reject it.

In response to Ms. Dawicki's further invitation to speak in opposition, a male asked to be recorded as unfavorable towards the project. He stated that despite the significant changes, he did not feel it was in the character of the neighborhood.

In response to Ms. Dawicki's further invitation to speak in opposition, Diane Eccleston asked to be recorded as opposed.

In response to Ms. Dawicki's further invitation to speak or be recorded in opposition, Councilor Kerry Winterson signed in opposition.

In response to Ms. Dawicki's further invitation to be speak in opposition, Thomas Melanson of 38 Newton Street stated he is disabled and has a disabled tenant, as well as a disabled family across the street and next door. He stated there are 3 handicap parking spaces in the area and they cannot find space. He stated that in snow storms the handicap people have to fight for their parking, as then there is parking on one side of the street only. He stated it is a hardship on the handicapped and elderly people, as they must park blocks away from their houses almost every night. He stated there is vandalism to the cars.

Ms. Dawicki encouraged Mr. Melanson to raise those issues if and when the matter goes to site plan review. She again stated the board is merely hearing comment on whether the change is significant enough to move forward.

Mr. Melanson stated that the square footage of all lots in the area are under 3,000 sf and are single families. He stated the area is already too congested, and even two families complicate matters so that people don't want to live in the area.

In response to Ms. Dawicki's invitation to be recorded in opposition, Richard DeSouza of 468 Union Street, stated he feels the building will look out of place. He stated he is curious about the parking with the school a half a corner away with kids and the bus situation. He stated he opposes the project.

In response to Ms. Dawicki's invitation to be recorded in opposition, the following people approached the podium:

Nancy Andrade of 470 Union Street stated she is so opposed to the project;

Rene Nunes 226 Court Street, an abutting property owner;

Idalina Da Silva of 483 Union Street stated she is opposed;

Jose Pao of 10 Newton Street stated he is opposed to the project;

Randall Ramos of 225 Court Street stated he is against this. He stated he parks where their driveway is going to be as he is right across the street.

There was no response to Ms. Dawicki's further invitation to be recorded in opposition, and as such the public hearing was suspended.

In response to Ms. Dawicki's invitation for additional comment, Mr. Redmond expressed his appreciation for all the neighbors coming out, and stated he had listened to their concerns at the ZBA. He stated he wanted to clarify some misleading and inaccurate statements.

Mr. Redmond again stated that the building footprint had been reduced, meaning the foundation had been reduced in width and length, increasing the open space area. He again stated he is in full parking compliance and is not putting any cars on the street, but is actually taking them off. He stated the surrounding area, zoned Residential B two family, has numerous multifamily properties on the block, including his direct abutter, a 4 story 4 family with no parking or setbacks. He stated these are non-conforming existing uses. Mr. Redmond stated the current commercial building has outlived itself. He stated the city planner letter stating it is not a detrimental impact speaks for itself. He stated he has made significant changes, and the Zoning Board, after reviewing the changes, voted 5-0 that there were significant changes.

Ms. Dawicki asked for clarification in the building footprint.

Mr. Redmond stated the building was in excess of 25' wide by 85' long. He stated it has been reduced to 23' x 74', along with a reduction in height, and it now allows handicap access to all ground floor units.

Ms. Maclean reiterated that the only consideration for the board is whether or not significant changes have been made to the previous application. Any decision on whether or not the project is good for the neighborhood, fits the character, or is a public benefit is not applicable at this time.

Mr. Glassman asked for the definition of significant change. Ms. Dawicki directed him to a memo from Jane Friedman in the packet which outlines the process and contains some pertinent language. Ms. Dawicki read the language into the record as follows:

*"The planning board will determine if there have been specific and material changes in the conditions upon which the previous unfavorable action was based, and will make findings setting forth the reasons for the board's decision."*

Ms. Dawicki directed her colleagues to the zoning board denial of the initial application, namely the building footprint, the number of units, the number of variances being sought, parking and open space concerns, and the stairway.

Assistant Solicitor Espinola stated that in *Ranney vs Board of Appeals of Nantucket*, the Court focused on the materiality of changes necessary to constitute a sufficiently revised re-application. In that case, the Court held that the board may give weight to differences which in an absolute sense are relatively minor. Where several changes were cosmetic standing alone, the board could consider whether taken together they altered the conditions causing the unfavorable vote of the board. So, the specific material changes required under Section 16, must be something less than differences so radical that they obviate scrutiny under the statute altogether. Solicitor Espinola stated that in essence the Court indicated the board can give weight to differences which in an absolute sense are relatively minor.

In response to an inquiry by Ms. Dawicki, Solicitor Espinola advised that the board should mention the specific changes they found.

In response to an inquiry by Ms. DaSilva on any height change, Mr. Redmond stated the overall height had been reduced about 1.5'. He stated the accommodation of handicap ramps into the building took off almost 2'. He stated he is lower than the direct abutter on the left, with his mansard roof versus their 12/12 pitch roof.

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

Ms. Dawicki again clarified the decision before the board at this point, namely whether the items that were the basis for the previous zoning board of appeals denial have changed in specific and material ways.

Ms. Duff noted the ZBA minutes seemed to indicate substantial criticism over the building size, the number of units, and the fact that not all the parking was onsite and would produce spillover onto the street. She indicated having lived on Ocean Street, she could sympathize and would agree with that issue. She stated the revised drawings accommodate parking onsite and reduce the number of units by 25% and changed the building footprint in what she sees as substantive and relative to the issues causing the initial ZBA denial according to the minutes. She felt in accordance with the training she had received by Attorney Markey, the matter was straightforward.

Ms. Dawicki agreed. She expressed that her reading of the ZAB minutes showed one of the biggest concerns was the number of residential units. She stated many ZBA members were calling for a reduction from 8 to 6, which is what the applicant is now presenting.

Mr. Glassman felt the applicant had addressed the concerns.

Ms. Dawicki reviewed items that she had listed for consideration as specific and material changes; namely, reduction in the footprint area, the number of units reduced by two, parking increased by two spaces, reduced number of variances required, layout change of the discharge stairs, and open space increase.

Ms. Maclean clarified there was now one variance and one special permit for parking to enter from the rear of the lot rather than the front.

After clarification, a motion was made (JD) and seconded (KD) that the Planning Board find that there has been a substantial and material change to Case #39-14, a re-hearing of an application unfavorably acted upon by the Zoning Board of Appeals, and the proposals for a multi residential unit at 475 Union Street, and the Planning Board has found that the changes in footprint, which has been reduced, the diminution of the variance requests has been reduced, with one special permit request, an increase in open space, a decrease in the number of units, the meeting of the required parking regulations, as well as the orientation of the egress stairs, constitutes a material and substantial change.

Motion passed 5-0

Ms. Dawicki announced that the board would proceed directly to site plan review where the board, with public input, will determine if there are conditions to be made. She welcomed input on parking, lighting and other aspects of the design.

Ms. Maclean clarified for the general public that site plan review is an “as of right use” and cannot be denied by the planning board. She stated that the applicant currently does not have the needed approvals from the zoning board of appeals, but after consultation with solicitors it was decided to let site plan move ahead and make all requirements and conditions the planning board is able to make to make it the best project possible for the neighborhood. The matter will proceed to the zoning board, along with the planning board's decision, and the zoning board will vote on whether the variance and special permit are approved. If the zoning board denies either the variance or special permit, tonight's site plan decision is null and void.

#### **CASE #38-14** – Site Plan Review

Mr. Redmond addressed the board and presented photos of the existing landscaping around the property, some of which shows encroaching landscaping from an abutter. He noted that on the east side there is less than 8” between buildings. Mr. Redmond explained the orientation of the property.

Mr. Redmond stated the reduction in the building footprint allowed him to accommodate parking and opened up the area for more vegetation and address snow loading concerns. He stated he is planning a row of arborvitaes for his abutting neighbor on Court Street to act as a screening buffer between the properties.

He stated the increase in open space will now accommodate barrel storage, located on Court Street with a fence screening. He stated large trees on the east side will be maintained when the existing building is razed.

He stated the existing building has a zero lot line, and by pulling it back and meeting compliance at 15'5" it will provide a nice green space with grass. He indicated he is proposing fast growing Japanese maple trees with a 10' maximum height. These will provide shading and green space for the subject property. He is proposing another fast growing Japanese maple tree with a maximum height of 12-15 feet. The building height is just over 38'.

Mr. Redmond noted the increase in the brick paver walkways and stated the Union Street curb cut will be closed and will add neighborhood parking. He stated his direct abutter is a 4 story with one spot for four units. Mr. Redmond stated that the rear of the building was at one time a fish processing market with a loading zone which eliminated parking. It will now be removed and provide additional neighborhood parking. He said the project lends itself to many points of entry, and he does not believe people will be cutting through the lot.

Mr. Redmond displayed proposed planting beds consisting of perennials and seasonal plants to soften the walkways, and he invited recommendations from the board. He then noted his lighting plan will have sconces on the building controlled by residents, but exterior building lighting will be installed with motion sensors as well. In addition, he proposes some pole lighting in the parking area. He displayed his proposed lighting cut sheet. He stated the lighting could be on timers so as not to be obtrusive to abutters or on all night. Mr. Redmond indicated he is proposing a 2-3 foot high privet hedge for the east side.

Mr. Redmond stated there is no current drainage system. His plan shows retention of impervious roof water into drywells in the parking area. He stated the abutter has his water shed onto Mr. Redmond's property, which floods the existing basement, so his plan will benefit this abutter. He said this new drainage will also help with snow melting and ice buildup.

He expressed that he felt they had done a lot with this tight and narrow lot and invited input from the board.

In response to a question from Mr. Glassman, Mr. Redmond stated air conditioning will likely be individual room units, like the Mitsubishi ductless systems for the apartments which are just under 1,000 sf. Confirming Ms. Duff's comment, he stated this has small condensers which can be hung off the building or hidden and screened on the mansard parquet. He expects the bedrooms will be the most desirable location for these AC units.

Ms. Dawicki asked the applicant to address parking and traffic flow. Mr. Redmond explained that Court Street is a one way, with the property being located between Newton and Park Street. He noted the nearby school and stated the school buses will run on the off hours of his young professional and empty nester occupants. He stated that though 2 to 1 parking is required he expects the small units will be one individual occupied. He stated his observations are that many of the buses turn prior to his lot. He feels the less traveled Court Street is a better access point to the parking lot. He stated with the ample setback there is no blind pull out.

Ms. Dawicki noted conditions from the DPI, one of which is a cement sidewalk on the Court Street side. Mr. Redmond explained a curb cut was approved for the Court Street side when the property operated as a fish plant. He also stated, in response to an inquiry by Ms. Dawicki, that the Court Street loading zone would be eliminated.

Mr. Cruz asked if the curb cut could be relocated so that people exiting the site don't shine headlights into someone's living room. Mr. Redmond responded that the proposed location is the most significant width of the lot. He stated that there are houses all the way along Court Street, so that regardless of the discharge driveway being on the west or east side the condition would still exist.

Ms. Duff inquired of paving material that might add permeability, noting the applicant is over on the percentage of permeable surface. Mr. Redmond stated that allowable lot coverage is 25sf and he is at 17.5. Ms. Duff clarified that figure represents the building and she is asking about permeable surface such as the parking area. Mr. Redmond stated he is proposing catch basins on the asphalt surface, which Ms. Duff noted is not permeable. She also noted that Mr. Redmond had left blank his permeable open space numbers. She suggested permeable asphalt or concrete precast units where some water moves through them.

Ms. Dawicki noted that Mr. Redmond's green space calculation may be inaccurate and asked the applicant to update the Page 5 numbers and add the permeable open space figures. The applicant agreed.

Ms. Duff stated she would want to see a permanent bike rack put in place. Mr. Redmond stated the basement contains 125 sf of individual storage cages for residents.

Ms. Duff noted she had seen creative bike storage areas made, such as under the egress stairs, which could be enclosed with a locked door. Mr. Redmond agreed.

Mr. Cruz stated he is somewhat concerned with 12 parking spaces along the property line and next to the abutter's houses. He asked if Mr. Redmond could provide some protection such as curb stops. Mr. Redmond agreed to some type of edging such as granite cobblestone with a higher elevation on both sides of the lot, or a six inch reveal cobblestone uniform around the perimeter.

Mr. Cruz noted that would also help control the onsite drainage.

In response to an inquiry by Mr. Cruz, Mr. Redmond stated the spaces are 9' by 18' and the aisle width is 20'. Mr. Redmond stated there is a handicap accessible with an additional loading. Mr. Cruz stated one space would need to be van accessible. He also noted that Mr. Redmond shows a 5' striped loading area which needs to be 8' wide to be compliant per CMR 21. Mr. Redmond stated the architects would revisit that issue.

Mr. Redmond confirmed for Mr. Cruz that the appropriate signage would be installed.

Mr. Redmond, in response to Mr. Cruz and Ms. Duff, explained he is making the units accessible and adaptable, but being under ten units there is no Group 1 handicap unit requirement. He stated lowering the elevation and installing the ramp way makes all the ground floor units in full compliance.

Mr. Redmond and Mr. Cruz discussed relocating the barrel storage area closer to the building.

Mr. Cruz inquired about snow removal. Mr. Redmond indicated he had allowed for room in corners of the property. He expected significant snowfall would have to be removed and trucked out, but 2-4 inch snowfall should be stackable.

Mr. Cruz asked if fencing was planned for the property lines so snow removal would not spillover to an abutter's property. Mr. Redmond stated there is an existing chain-link fence on one side. He believes the privet hedge will stop any overflow of snow. He stated he prefers natural boundaries as opposed to fencing.

In response to an inquiry from Mr. Cruz, Mr. Redmond stated he believes the curb cut will be 12' wide. Mr. Redmond confirmed he will have accessible ramps with tactile warning strips on either end.

With regard to landscaping, Ms. Duff noted that by taking down such a large building, much of the site will have to be restored. She discussed a large tree that appeared to be in the proposed parking lot, which Mr.

Redmond stated was hard on his property line and will remain. He noted the roots do encroach the neighbor's yard and has overhang. He stated he plans to raise the canopy on the tree. He also noted a city sidewalk tree on Union Street shown in the photos.

Ms. Dawicki noted that DPI comments ask that the contractor protect that tree while working on the project.

Ms. Duff noted that privet hedges must be pruned. She also recommended low maintenance colonial lawn, and suggested flowering shrubs to take advantage of the southern sun coming in. She again suggested the applicant look into permeable pavement surfaces.

Ms. DaSilva inquired about the style of lighting on the building. Mr. Redmond stated they would be exterior sconces similar to the New Bedford Washington light fixtures, and there would be one at every entry and egress way, as well as one on the Union Street entryway. He stated there would be illumination onto the catwalk and brick pavers from the building. In addition there are two planned on the parking lot corners, two on the west side, two on the east side, and one where the barrel storage is shown. Ms. DaSilva inquired about any light spillover into the neighbors' homes. He explained one direct abutter has a large yard and significant vegetation screening. He stated the arborvitaes will provide a wall buffer to the other abutter. Mr. Redmond again stated lights could be on timers and motion sensors. He stated the wall sconces are controlled by the occupants. He stated he had not gone far into lighting specifics and welcomed suggestions, as he has not actively been a builder for some seven years.

Mr. Cruz suggested the board would need a plan showing foot candles and neighborhood effects, as well as cut sheets. Mr. Glassman and Ms. Duff agreed.

Ms. Duff suggested the lights have shields to focus light only on the parking area and not the neighbors.

Ms. Dawicki asked the applicant to incorporate board suggestions into a thorough lighting plan the planning staff could review with the board.

With regard to drainage, Mr. Cruz noted there were no DPI comments regarding the dry well, but asked the applicant why he had chosen a dry well system as opposed to a full underground chamber with full infiltration. He noted the drainage plan was very unclear as to piping, et cetera. Mr. Redmond explained he had not supplied a full set of construction documents, still having to appear before the Zoning Board. He stated any plan generated and any permit activated will have to comply with code.

Mr. Glassman expressed his hesitance to approve a project subject to zoning without the proper plans.

Mr. Cruz concurred that the plans appeared incomplete, with many unanswered question on drainage, lighting, parking and landscaping.

Ms. Maclean noted lighting and parking are often deferred. She noted DPI comments did not flag drainage and she did not want to see the board compete with DPI.

Mr. Cruz noted the plans were unclear where the overspill connection is. Mr. Redmond explained there is a lot going on with the project plan consultations and he has to cut and cap existing dormant water lines and bring a fire and domestic line in off of Union Street. He noted two different sewer connections from Court and Union Streets. Mr. Redmond further stated he had had preliminary discussions with Manny Silva of DPW and that loose ends need to be tightened up. He stated he is looking for the variance relief to go forward and generate full construction documents. He noted that DPW suggested overflow pipes into the storm water system on Court Street, and noted that abutting two streets he has access to a lot of city infrastructure to manage storm water runoff.

Ms. Glassman inquired of Chairperson Dawicki whether the board should wait to get full plans after the applicant's ZBA appearance.

Ms. Maclean noted that in the past the ZBA has wanted the planning board to make site plan approval, similar to Kempton Street where the applicant and abutters had to come back and forth to some four meetings. She noted someone has to go first. She suggested the board state their concerns this evening so the applicant is aware of them. She stated that she believed the ZBA had kicked it back to the planning board on the last two occasions.

Mr. Redmond asked if any decision could be made on the preliminary site plan as presented, even with provisos, such as a cut sheet for the lighting plan, a final and approved DPW plan, which can be confirmed prior to any building permits being issued. He stated he believed they had addressed concerns with snow, landscaping and parking. He noted the drainage plan will evolve.

In response to Mr. Glassman, Chairperson Dawicki suggested the board make a rigorous set of conditions and requirements with what the board wants to see and review, in an effort to limit the times the neighbors have to keep coming out.

Mr. Cruz noted that typical drainage plans contain calculations of existing condition and what is being proposed. He stated that as Ms. Duff had mentioned, the current building has all this roof runoff, and though the applicant is decreasing the size of the new building, he is adding impervious area. He stated he believes the parking lot and building planned may exceed what is currently existing on the site.

Ms. Duff agreed.

Mr. Redmond apologized and stated where the plan lacks details, they can and will be added. He noted he and his engineer need a definitive answer from DPW on where and how he is accessing the many utilities.

Mr. Cruz expressed concern that the drywells are shown in close proximity to the abutter's foundation and the applicant is looking to do 100% recharge. He suggested it be centered in the parking lot.

Mr. Redmond stated the first set of plans, with eight units, showed drywell overflow directed into the city system off of Court Street.

With regard to erosion, Mr. Cruz asked what the applicant would use to address erosion control during construction and demolition. Mr. Redmond stated hay bales or straw bales. Mr. Cruz recommended straw bales or wattles.

With regard to protection for existing catch basins, Mr. Redmond stated he was unsure if any were near him, but would protect them. He stated if successful at the zoning board, the process would be to tighten up the demolition plan and seek the permit to raze the building, then continue with drainage and DPW water and sewer plans simultaneous with the foundation plan. He explained that he had an incomplete plan about how the building will be razed and trucked offsite and the protection associated with that, but will be finalize it before the demolition permit is issued.

Mr. Redmond acknowledged to Mr. Cruz that he has something in place to protect the abutting building and stated he has worked with zero lot lines before, and all the details will be spelled out in the final demolition plan.

Ms. Duff inquired as to the exterior materials of the building. Mr. Redmond stated it will be clapboards 6-8" to the weather. He stated in the past he has used a Hardy plank which holds paint well and is easy to maintain. He stated it is a wood structure with a mansard roof with scalloped asphalt shingles and an EPPM flat rubber roof system. Ms. Duff noted they would want a white roof rubber membrane or white PVC.

Ms. Maclean suggested the wording on that requirement be more open, such as a low reflectivity roof.

Mr. Redmond stated he expects to use PVC trim boards.

Ms. DaSilva suggested he move the windows closer together to be more aesthetically pleasing.

In response to an inquiry by Mr. Cruz, Mr. Redmond stated he did not yet have a color scheme, but expects it may be tan with a white gloss exterior trim. Ms. DaSilva suggested a trim color similar in shade to the building body color, which would look more elegant.

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

Ms. Dawicki explained to the general public that the board would now take comments both in favor and in opposition, but as mentioned, the planning board cannot deny a site plan. As such, she explained the board was looking for input on how the project could be made to be the best project for the neighborhood and what conditions the board might include.

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

In response to Ms. Dawicki's invitation to speak in opposition, Steven Macedo expressed to the board that Mr. Redmond's comments had shown that, as most absentee landlords, he has little concept of what goes on in the neighborhood. Mr. Macedo stated that even 4" of snow will be an issue and Mr. Redmond will not be onsite to deal with it immediately. He stated that it is a pipe dream to think there will only be one car per unit. He stated the neighboring property is not a four story building but a three story with a roof. He stated Mr. Redmond's building is totally out of place in this predominantly one and two family neighborhood. Mr. Macedo believes drainage will be a problem as existing water and sewer is outdated. He felt that visitors to the building would park on the street and infringe on neighbors. Mr. Macedo added that a six inch cobblestone will not stop a car from going through.

Ms. Duff asked Mr. Macedo where the 4 story building was located.

Mr. Macedo was interrupted by inaudible comment from Mr. Redmond and then the general public.

Councilor Morad inquired of Chairperson Dawicki whether the meeting would be conducted per Robert's Rules of Order. Chairperson Dawicki stated they were planning on doing so.

In response to Ms. Dawicki's invitation to speak in opposition, Thomas Melanson stated there are no more than five three family homes in a two block radius. He concurred that the multi-story on Park and Court Street is a three family; a store with two apartments above it. He expressed concern for a building here as well as the land across the street, and whether this will encourage a housing authority project that may bring an additional 6-8 units. He feels it is ridiculous and does not feel the area needs the congestion. He did not believe anyone living in that neighborhood would want a four story building next to a beautiful home on the corner of Newton and Court Streets. He felt it was shameful to put residents through this procedure.

In response to Ms. Dawicki's invitation to speak in opposition, Eric Stotts, a direct abutter, addressed the board. He stated the single family home on the corner of Nelson and Court Street had a peak roof and was not a big massive complex. He reiterated that the area is Residential B but for a couple of mixed use businesses sprinkled in. He stated a six family complex in this two family neighborhood is very out of character to the area. Mr. Stott noted that even with the hedge on the east side, headlights will shine on his property, perhaps into his bedroom window, and he requested a fence. With regard to pole lighting, Mr. Stott said there is no vegetative screening as represented by the applicant, and that directional lighting would be needed to prevent him from

being kept up the entire night. With regard to parking at the current loading zone area, Mr. Stott stated that people already park there and there will be no increase in parking by removing it. He stated that in fact the creation of the complex parking lot entrance will take away current parking. He stated these streets are already full at night. He stated that Mr. Redmond was incorrect when he said the buses don't travel down Court Street. He stated they travel there every day at 2:45 and this will add congestion to the area. Mr. Stott stated the petitioner had answered questions with "probably" or "maybe" throughout the night, suggesting he does not seem to have a plan with respect to lighting or landscaping, which he believes should be a problem for the board.

In response to Ms. Dawicki's invitation to speak in opposition, Rene Nunes indicated the location of his home. He stated he often gets up at 3:00 am to go to work, and is concerned that the parking area, which will be right beside where he sleeps, will generate noise. He stated the property is 45' wide and he does not understand how such a huge building and parking area can be fit in. He stated he too is concerned about what will be developed across the street. He stated three school buses are parked in front of his garage and there is a lot of traffic and children. He stated Mr. Redmond was asked questions and did not know the answers. Mr. Nunes stated the system is not working properly. He stated it was a beautiful concept, but really felt people would not want that beside their house. He stated with a parking lot beside him, the value of his home will drop tremendously and he will lose everything he has invested to better his property and the neighborhood. He added that as someone who had plowed for years, he felt there would be quite a problem getting the snow out of the parking lot. He expressed concern over how close the building was in the event of a fire and the access to fight it. He stated he had pictures of the trees and the depth of the alleyway. He stated he has spoken to people who don't understand how this is feasible in New Bedford. He stated he is a lifelong resident of New Bedford and cannot fathom how this will work. He stated this area is not the proper area for this building.

In response to Ms. Dawicki's invitation to speak in opposition, Councilor Carey Winterson felt the building was outside the character of the neighborhood. He expressed that he was troubled by the planning process. He felt that simple questions could not be answered and he is opposed.

In response to Ms. Dawicki's invitation to speak in opposition, Nancy Andrade, a resident living across the street from the proposed project, addressed the board. She stated she has lived in her home since 1978 and this is the worst scenario she has even been put through. She submitted documents to the board.

A motion to accept the documents was made (AG) and seconded (PC).

Ms. Andrade stated she has a two and half car garage. She stated this proposed property is on the market. She stated she has even more questions than she did at the first meeting. She stated she has a catch basin in front of her home located at the corner of Union and Atlantic Streets, as well as one on around the corner on Atlantic Street and one across the street. She stated the area was flooded out today. She is concerned about more housing with more runoff, as they have a problem already. She stated she has an issue with the barrels, which are big. She inquired if there was going to be a dumpster.

Mr. Redmond indicated in the negative.

Ms. Andrade, asked how many barrels there would be, which Chairperson Dawicki deferred to board discussion on the application. She asked members of the public audience to conduct any discussion outside the hearing room.

Ms. Andrade noted that the nearby school has some 400 students, and she expects the potential residents will have children. She stated the "field of dreams project" at 478/480 has contaminated soil since '74 and she has been told housing will be going in there. So there will be two projects, and she does not need any more neighbors. She asked what the address would be, as she considered this an alley. She stated there will be cutting through with parking on Union Street. She stated it looks beautiful, but not in that area. She stated it

will be like the Acushnet Avenue housing that towers over all the regular homes, and she feels that is an eyesore. She stated the neighborhood does not need more housing, that there are plenty of places for sale and rent. She feels this will be like a project. She stated you can only put so many people in one area, and this will draw an element. She stated she has a big question and feels this project has been misrepresentation. Displaying a sales ad, she stated she is concerned about who will take over this property, so she doesn't care what Mr. Redmond says as it will not be him. She stated the neighbors are appalled and she is upset. She reiterated the area is congested both in the morning and when school releases. She stated there is nothing about this project that will enhance their neighborhood. She stated it is breaking her heart that this could actually take place and the strain it will be on the area. She stated she has gotten no answers.

Ms. Andrade stated she wanted to know if there would be a 21E done. She stated her garage was already damaged and wanted to know about rodent control if the current building is going to be knocked down. She also requested a list of those notified, because she stated one abutter never received notice. She stated her notice was postmarked the 29<sup>th</sup> and delivered the 3<sup>rd</sup> and she felt it was a tight timeframe for neighbors and abutters to get things together. She then submitted a document which she represented were from people unable to attend this evening who were opposed.

A motion was made (PC) and seconded (JD) to accept the document. Motion passed unopposed.

Ms. Andrade stated the project does not work for her and she does not see a plus and feels it will be detrimental to the neighborhood and everything will go down the tubes. She stated it is incomprehensible to her that this could take place.

In response to Ms. Dawicki's invitation to speak in opposition, Councilor Linda Morad asked Chairperson Dawicki to read into the record the number of signatures submitted in opposition.

Ms. Duff stated there were thirty-five line items which she had not yet verified.

Councilor Morad asked that the board table this matter on behalf of the taxpaying New Bedford residents. She stated the developer has told her that he too is a taxpayer. She stated the people who spoke this evening are long-term residents of the city who have lived here many years and invested in the city. She stated they had come up one after another and expressed they did not know what the plan is, don't understand it and can't see a picture of it. Ms. Morad stated that each board member, but for Ms. Dawicki, had expressed they do not have enough information with regard to various aspects of the project to determine what it will look like. She stated the city planner had said there was prior precedence where this board approves a project contingent on other people reviewing aspects of a plan on your behalf. She stated there is no plan here. Councilor Morad stated that on behalf of the people here and the thirty-five that signed the petition, the item be tabled until there are plans for the board and residents to see and discuss. She stated that in her ten years she has never attended a meeting where this type of drawing is what the board uses to approve a plan. She stated there are always detailed architectural drawings. She stated she was unsure if in the minutes read from the ZBA there was an indication that the developer did not want to spend the money to have detailed plans done until he was sure he would have his approval. She stated she understands that, but that is not the way business is done in the City of New Bedford. She stated the various boards and commissions receive detailed plans from which they can make educated decisions. She asked if the board could make a decision on the lighting and where it will shine, or what it looks like, or the turn onto the very narrow Court Street, et cetera. She asked if the board could show her what the plantings will look like and whether they will be mature, et cetera. Councilor Morad stated that she believed the answer to all those questions was no, and again asked the board on behalf of those present this evening and those who signed the petition to table the matter and let Mr. Redmond go to the zoning board and then prepare his plans. She stated she understands the as of right use, but would like to see what it is the board is going to approve.

Ms. Dawicki noted the planning board had received a full set of plans that were available for view at City Hall. She noted the required utility and grading plans were absent.

In response to Ms. Dawicki's further invitation to speak or be recorded in opposition, Diane Eccleston of Atlantic Street stated her concerns were snow removal, parking, and the fact that the building was for sale. She wondered if the frontage requirement had been met. She stated that aside from the all the specifics that those present can talk about, the resounding theme has been "I don't know, I'll do that later, I'll start demolition and then worry about drainage plans." She stated that went on for almost every subject and she does not understand how the board can approve a plan if there is no plan. She felt it important that the board hear that all those present have that concern and she feels the board should have that concern as well.

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

Ms. Dawicki suspended the public hearing.

Mr. Redmond asked to speak, to which Ms. Dawicki asked him to wait.

Ms. Dawicki sought to clarify several of the questions proposed. She stated that the lack of a drainage plan is in the purview of the Department of Public Infrastructure, and the board could approve the site plan with the condition that DPI conditions must be met.

Ms. Maclean stated that all abutters should have been notified two weeks in advance and she could confirm the same within a couple of days, as well as verify the green cards returned, should the abutters notified wish to follow up with the planning office.

At Ms. Dawicki's request, Ms. Maclean clarified that there was no longer a variance being sought for the frontage requirement.

Ms. Duff noted that the lighting issue was frequently raised and a detailed lighting plan would have to be reviewed by planning staff.

Ms. Dawicki clarified that detailed lighting plans will show the degree to which lighting spreads beyond the perimeter. She stated it is required and will be addressed. Ms. Duff and Ms. Dawicki noted the board may wish to discuss whether a fence on the east side makes sense and should be included as a condition.

Ms. Dawicki suggested the applicant address some of the questions raised on snow removal, trash barrels/recycling bins, and fencing on the east side.

Mr. Redmond stated that in light of his twenty-six years of experience he appreciated the concerns and difficulties associated with residential housing in tightknit communities. He stated there were misleading and inaccurate statements based in opinion.

Ms. Maclean asked that Mr. Redmond address the board and not the audience.

Mr. Redmond stated everyone has opinions, but he is presenting fact. He stated his building complies with all setbacks.

Ms. Eccleston made an inaudible comment. Ms. Dawicki again instructed those present that there was not to be an exchange.

Mr. Redmond stated that with regard to comments about there being no plan and him not spending any money, he had invested eighteen months and tens of thousands of dollars in architectural plans. He stated the plans are open for viewing as a public record. He stated there is a preliminary drainage plan, which will be developed in accordance with the Department of Public Works, as he cannot proceed unless it complies with all requirements. He stated there are landscape plans identifying species of trees and grass. He stated the lighting plan is

preliminary and board recommendations will be addressed. He stated with regard to a fence, he will work with any abutter who will work with him. He stated he has extended his card to neighbors, as well as invited Ms. Andrade, the spokesperson, to meet to discuss concerns. Yet he has received no calls.

Mr. Redmond stated a lot of thought and effort has been put into the plan before the board and it is 85-90% complete. He stated he needs to be granted the variance before going forward. He again invited any direct abutters to sit down and discuss their concerns prior to the ZBA hearing.

Ms. Dawicki asked Mr. Redmond to address trash and recycling concerns. Mr. Redmond stated he will meet city barrel requirements. He stated he was open to considering a dumpster and saw those type of issues as fine tuning.

Mr. Redmond stated that with regard to snow removal and management, he will do the best he can with the land he has to work with. He stated his abutters have snow removal and management problems, having zero parking and little open space to manage their snow. He stated that the drainage proposed will take the runoff of melting snow and any excess snow will be trucked offsite.

In response to comments that everything will go to pot if he is an absentee owner who does not live there, Mr. Redmond stated he is not going to invest thousands of dollars in his property to let it go to pot. He stated numerous abutters are absentee owners, living in Florida and Stoughton.

Ms. Dawicki asked where a snow plow would deposit the snow. Mr. Redmond stated snow management would consist of shovels and snow blowers which will direct and pile snow in the corners of the significant open space.

Mr. Redmond stated that the lights shining on the parking area will not come anywhere near the dwelling residence of his abutter. He stated the privet hedge screening buffer will also help any concerns.

Ms. Duff stated that lights do bleed and it is important and is helped by shields.

Mr. Redmond again stated he is open to erecting a fence, but has not directly heard from this abutter.

Ms. Dawicki stated that was not germane.

Ms. Duff noted with regard to frontage that this non-confirming lot was in existence prior to zoning regulations. She stated currently lots require 150 feet of frontage, and this lot has 45.98'. Likewise this lot is 10,084' and current requirements are 15,000'.

Mr. Redmond stated the lot allows for one unit per 1,000 sf, equaling ten units. He stated he is not subdividing the lot and did not create it, and that is the hardship.

Ms. Dawicki raised the issue of possible conditions and whether the board had adequate information to proceed.

Mr. Glassman felt the preliminary plan was not fine tuned to the aspects the board was looking for. He questioned whether the matter should go before the ZBA and then the petitioner come back before this board to address their concerns. Mr. Glassman stated he had four issue listed.

Ms. Maclean noted that colors were not within the board's purview.

Mr. Glassman noted the lack of drainage plans, lighting plans, and was not clear on AC units. He did not feel he had enough information to vote on the matter.

Ms. Duff felt the barrels would require a large storage area which may take up the same area needed for a

dumpster.

Ms. Dawicki stated that, if continued, the board could be provided an updated representation of the barrel storage area, since it is being relocated.

Mr. Cruz expressed his agreement with Mr. Glassman, Councilor Morad and the residents that there needs to be more definitive answers not included in the preliminary plan set before him. He expressed his concern with the drainage and wants more definitive calculations and storm water management answers prior to plan approval.

Mr. Cruz noted the large resident turnout and expressed his desire to see something that everyone in the neighborhood could live with that would enhance the neighborhood. He also commented that he felt the lighting plan was huge and should show the dwellings, not merely lots.

Ms. DaSilva stated the light pole on Court Street must already be in the windows of the nearby house.

Ms. Dawicki noted the site plan review application checklist and noted the lighting plan description and the applicant's lack of some of the items listed.

Mr. Redmond clarified that it needs to include the locations of abutter dwellings.

Ms. Dawicki referred the applicant to the site plan review application checklist, Item 3L on the Lighting Plan, and 3F on the Utility and Grading Plan.

Mr. Cruz noted the demolition plan checklist was also not complete. He felt there were many loose ends, and he desired a more definitive plan prior to making a decision. Mr. Cruz directed the applicant to go through the checklist to address the missing pieces.

Ms. Dawicki added that she would like to see a plan for the fence discussed.

Ms. Duff agreed, citing the need for the layout for the 1'5" on such a tight lot; i.e., where is the fencepost, will there be 16" of grass, et cetera. She also expressed concern about the parking and the turn off of Court Street, as well as car stops to prevent accidents.

In response to Ms. Dawicki, Ms. Maclean stated she had taken extensive notes to advise the applicant on the board's concerns.

Ms. Dawicki stated the public hearing would remain open with Case #38-14 being continued to the next meeting on November 5<sup>th</sup>.

Mr. Redmond requested his matter be continued to the hearing date of December 10<sup>th</sup> to afford him time to make the changes.

A motion was made (JD) and seconded (PC) to continue Case #38-14 to the December 10, 2014 Planning Board meeting. Motion passed unopposed.

Ms. Maclean noted for the general public that the continuance announcement just made meant they would not be receiving notification by mail.

In response to Ms. Dawicki, Ms. Maclean stated that the planning office prefers to have plans available two weeks prior to the meeting. Ms. Dawicki noted that the public could contact the city planner's office to view plans.

## **OLD BUSINESS**

Ms. Maclean updated the board with regard to the Bismark Meadows Subdivision. She reminded the board that they had seized remaining funds on the project. She stated the DPI had subcontracted the work and the detention basin had been fixed and will be seeded in time for the winter season. She stated the Conservation Commission was working with Mitch Engineering to provide the as built plans for the detention basin, and DPI was working on the street as built plans. She expected these to be submitted to City Council within a month for street acceptance.

In response to an inquiry by Mr. Glassman, Ms. Maclean stated that Eastland Terrace had completed all work but had not yet submitted final plans to the city. Ms. Maclean stated she believed DPI was verifying the completion of the items. She stated they will receive snow removal this winter if the street acceptance plans are submitted by the owner/developer as those funds were not seized by the city.

There being no further business, a motion was made (KD) and seconded (PC) to adjourn. The motion passed unopposed and the meeting adjourned at 8:50 pm..

The next meeting will be November 5, 2014.