



Planning Board

June 10, 2015 – 6:18 PM - **Minutes**

New Bedford Free Main Public Library, 613 Pleasant Street

MEMBERS PRESENT:

Colleen Dawicki, Chairperson

Katherine Duff

Peter Cruz

Arthur Glassman

Also in attendance: City Planner Jill Maclean

Chairperson Dawicki called the meeting to order at 6:18 p.m.

Ms. Dawicki asked board members for approval of the prior meeting minutes.

A motion was made (KD) and seconded (PC) to approve the May 2015 meeting minutes. Motion passed unopposed.

PUBLIC HEARINGS

CASE #13-15 – Site plan review

Steve Gioiosa of SITEC addressed the board on behalf of the applicant. The applicant seeks to redevelop 1771 Acushnet Avenue, the former Sullivan Brothers Clothing Store. He stated there were two properties on the site spanning from the north side of the property all the way down to Belleville Road bordering the site on the south side.

Mr. Gioiosa stated that additionally on the property was a paved parking facility with access onto Belleville Road. He stated there was a second free standing structure had a small office and garage space.

He stated there were commercial uses on the property with the portion of the land was zoned mixed use business, which extends westerly. He stated the last 50' of the property is zoned resident C. So, historically we had a commercial parking lot and commercial use in a Resident C zone.

He stated the proposed was superimposed on an aerial photograph showing the context of the site and the surrounding streets. He stated there is primarily commercial mixed use along Acushnet Avenue, and moving west of the site it becomes primarily multi-family residential.

When the site was originally purchased by the applicant the site was nearly 100% lot coverage with pavement and buildings, and no landscaping, and the smaller building encroaching on an adjacent lot.

The applicant is requesting approval for redevelopment of the site. The same basic concept will be maintained with two separate buildings significantly less in size. He stated the original Sullivan Brothers building, approximately 4,500 sf, including a full basement area. The proposal calls for a 1,680 sf building, a significant reduction in square footage, translating into a significant reduction in overall use on the property and impact to the surrounding area.

Mr. Gioiosa stated the smaller building on the back, originally some 1,600 sf, will be reduced to 600 sf. Again,

another significant reduction on building size. The applicant is proposing off-street parking to further better the site.

He stated historically Sullivan Brothers relied on parking on Acushnet Avenue, Belleville Road or other adjacent roads. The proposal will create more formal parking on Belleville Road and additional parking with the Acushnet Avenue access. He stated he believes the result will be less on street requirement. He stated a curb cut will be added on the north side of the property facing Acushnet Avenue with eight parking stalls. He stated a van accessible handicap spot will be installed. He stated the proposal contains an additional parking facility with five parking stalls accessing onto Belleville.

Mr. Gioiosa stated the applicant is looking at creating pedestrian links between both streets, both buildings. He stated there will be sidewalk connections to both Belleville and Acushnet Avenue leading to the both parking facilities.

He stated the proposed changes reduce lot coverage and add green space, from zero presently to nearly 30%. Again, providing a significant improvement.

He stated new utility service is proposed directing waste water connections out to Belleville Road. In addition, there are three LED parking lot lighting fixtures proposed. Mr. Gioiosa explained their locations.

Mr. Gioiosa stated the applicant had done a landscaping plan adding three trees along Acushnet Avenue, three additional trees and additional landscaping near the dumpster pad, and adjacent plantings, shrubbery, and lawn area in the front of the site.

He again stated the proposal offers significant improvement to the site. Additionally, the applicant is creating onsite drainage control, which does not currently exist. The site currently is 100% impervious and absent catch basins, retention control, and recharge capability.

The applicant is proposing two deep sump catch basins located in each parking area. The basins will be directed into an onsite recharge system. He stated the catch basins will have water quality filters. The roof drainage will also be collected and inserted into the recharge system. The location of the recharge system was selected in consideration of existing old concrete.

Mr. Gioiosa stated the developer currently has no set tenant. He displayed architectural drawings. He stated both buildings are designed with very similar architecture.

He stated the project will rehabilitate a tired piece of land with significant improvements in green space. He stated, as is typical, the applicant proposes reconstruction of the sidewalks, creating a ribbon system per DPI along Acushnet Avenue and Belleville Road.

Mr. Gioiosa stated there is a handicap parking stall in front of the site, coinciding with the proposed driveway. The applicant is looking to relocate this space a few feet to the east with new signage and stripping.

Improved landscaping, reduced lot coverage, improved drainage, new utilities, new structures and a significant investment in the city and significant improvement to an older commercial property. He invited questions from the board.

Mr. Duff inquired if the handicap space in the parking lot is to serve both buildings. Mr. Gioiosa indicated it was, and the current design brings them out of the passenger side and at the van accessible loading area, as opposed to circulating around the car.

Ms. Duff expressed a concern that someone could pull in from Belleville Road to visit Building #2 and not see

provisions for a handicap space, and would them back out onto Bellville and see a handicap space for the resident to the west.

Ms. Maclean noted that any handicap spaces on the road are for anyone with a handicap plate. They do not belong to a certain address.

Ms. Duff asked if the required number of parking spaces had been met. The applicant responded affirmatively, and stated they have an additional spot with twelve required, the applicant providing thirteen.

Mr. Cruz inquired if the standards are met with both buildings sharing spots or if each building meets the standards. Mr. Gioiosa stated it is a single site/single owner. On this combined facility the parking meets both.

Mr. Cruz inquired if someone with a handicap van is able to pull in and unload with the configuration presented. Mr. Gioiosa responded affirmative. He stated that ADA code allows for the accessible spot to be on either side of the loading zone. He stated this more conventional plan has the spot on the left and loading on the right.

Mr. Cruz asked if the applicant had an anticipated use for the two buildings. Mr. Gioiosa stated they did not. Mr. Cruz asked if the applicant had considered delivery trucks in the parking lot design. Mr. Gioiosa stated due to the size of the two buildings, deliveries would be limited to a Fed-Ex truck size, not tractor trailers.

Ms. Dawicki confirmed that the applicant had received DPI comments. Mr. Gioiosa stated he had some confusion with DPI's request that seven trees be planted along the sidewalk ribbon strip. He stated the applicant is already showing six trees along the frontage. He stated three trees have been left on the applicant's property due to the concern about the narrow strip and the lifting of sidewalks. He stated they do not want to interfere with the handicap stall. He stated he believes seven trees would overwhelm the corner.

Ms. Dawicki noted that street trees stay with the city and trees on the developer's property could not exist in the next year. She stated the city has a new direction regarding street trees and they are planted in a way that does not require long-term maintenance. She stated her concern is to make sure the trees are there for time in memorial.

Mr. Gioiosa requested leaving the number of trees uncertain till a discussion with DPI to ensure code is met, but not overplanted.

Ms. Duff stated that typically they are spaced 20' from center. She stated she agreed with Mr. Gioiosa in this instance with the ideal location from curb cut being 8' to ensure root ball health. She felt a happy medium could be reached as long as the visual tree line continued.

In response to an inquiry from Ms. Dawicki with regard to fencing, Mr. Gioiosa stated there would be a 6' chain link fence with slat screening. He stated being adjacent to residential use in areas, the applicant is proposing a 6' stockade fence in those areas for screening from the commercial development.

Ms. Duff inquired about the whether the planting strip shown extends to the properties immediately north and west. Mr. Gioiosa responded affirmatively. He stated a handicap ramp is being constructed.

Ms. Duff confirmed that the sidewalk in front of the west residence is concrete all the way to Ashley Boulevard.

Mr. Glassman felt the applicant's planting of grass and trees definitely adds to the area.

Ms. Dawicki asked the applicant to expound on signage. Mr. Gioiosa stated there is a proposed pylon sign on the front of the site on the Acushnet Avenue side and the setback and size requirements are met. He stated the sign will contain both businesses. In response to Ms. Dawicki, Mr. Gioiosa stated there was a generic image

showing dimensions. He stated it would be an interior illuminated sign.

In response to inquiry by Ms. Dawicki, Mr. Gioiosa affirmed there will be signs on the buildings as well. He stated the applicant has created dormers as an architectural feature, similar to the 177 Cove Street property and 776 Ashley Boulevard. He stated those too will be lit with internal illumination.

Ms. Duff confirmed that the sign would be double-sided.

Mr. Cruz confirmed that the sign would likely be divided into two panels if two separate tenants.

In response to Ms. Duff, Mr. Gioiosa stated the buildings would have clapboard siding and an asphalt shingled roof.

Ms. Dawicki stated the applicant seemed so confident about the outcome of this evening's meeting that the foundation is already set. Mr. Gioiosa stated there had been a number of starts and stops on the project. He stated originally the applicant was looking at renovation rather than a totally new project, and as such preserved some of the old foundation. He stated the building had a full basement which they backfilled, and wanted it to sit for compaction. He stated the ultimately determined the buildings were not worth salvaging.

Mr. Panagakos addressed the board. He stated that when they started to take down the foundation, the lower section of foundation on the old building had different construction layers. He stated part of it was maintained in fear that removing it may have parts of Acushnet Avenue sliding into the site. He stated they filled it and compacted it more as a retaining wall.

Ms. Maclean asked if the applicant had any landscaping plan with regard to the wall facing Belleville Avenue. She confirmed that the sidewalk goes right up to the building. Mr. Gioiosa stated they had considered putting an entrance there to make it appear as the building front, but there was a grading issue. He stated again that the handicap loading and unloading is the applicant's basis for not installing another tree in that area. He stated the applicant will attempt to look into doing something in that area.

Mr. Gioiosa stated the plan calls for three LED light poles on the outside of the parking area shining in. Ms. Dawicki inquired with regard to building lights. Mr. Gioiosa stated their architect shows some lighting sconces, which have not been finalized, but are expected to be incorporated.

Ms. Duff asked if the residential building to the west of the property came all the way to the lot line. Mr. Gioiosa stated it was pulled back a little. He stated it was not on the property line and had a driveway separating the properties. He noted all the houses on Belleville are close to the street. He stated the logic of hugging the building on the lot line is that, as indicated, they were trying to preserve the line. He stated the alternative would not allow the parking as it is designed now and makes it a little more disguised into the site for a better aesthetic fit. Mr. Duff confirmed that was the portion of foundation that was kept. Ms. Duff agreed that the pulled back parking was better than out in front.

Ms. Maclean noted the applicant had included architectural detail to break up the appearance of the wall.

Mr. Cruz commented the plan looked good. He stated one question he had was the system going to serve all three parcels as one parcel. Mr. Gioiosa responded affirmatively. He stated that he believed the deed is a single parcel of land, though the assessors' show three separate parcels. Mr. Cruz addressed adding silk sacks in the street for construction. He noted the silk fence, but asked the applicant to add hay bales on the southeast corner of the lot for sedimentation. The applicant agreed.

Ms. Maclean suggested that, in light of DPI comments stating the parcels may be combined, the zoning enforcement officer or the building commissioner review it to ensure there is no harming to the grandfathering

property rights.

Mr. Cruz noted that technically the small building and the parking lot sit on one parcel. The applicant agreed. Mr. Cruz stated that, if not combined, the applicant provide a different drainage system in anticipation of the possibility of any future sale of one parcel.

Ms. Maclean noted that you cannot make a preexisting non-conforming lot more non-conforming. Technically if the lot is sold off the back lot is not zoned appropriately. She again suggested leaving the matter at the discretion of the Building Commissioner.

Ms. Dawicki affirmed that adopting DPI comments would capture the issue

Mr. Cruz asked if the applicant planned to add the extra curb cut with regard to the wheelchair ramp. Mr. Gioiosa noted the southwest corner already has a handicap ramp. Mr. Cruz asked for another to facilitate movement and clarified the location with Mr. Gioiosa. Mr. Gioiosa stated they would seek clarification with DPI.

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

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

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

Ms. Dawicki suspended the public hearing.

Ms. Dawicki reviewed items the applicant needs to supplement. She then raised discussion on the hours of operation. She stated the applicant has proposed twenty-four hours. She noted the board, at its last meeting with the applicant on an unspecified use project at the Cove Street property, restricted the hours from 7:00am to 11:00 pm., along with a restriction on sign illumination from 9:00 am to 9:00pm. She clarified that on that project the decision was that once occupied, the planning staff would review restrictions.

Mr. Glassman agreed that he was not comfortable setting hours without knowing the use. He felt that like Cove Street, once there was a tenant, the matter could be reviewed.

Mr. Gioiosa stated that a limitation on hours presents difficulties with some tenants. He inquired that in the event a tenant is found where a twenty-four hour operation is a reasonable use for the property, how will that be treated. He asked if the applicant would have to come back before the planning board. He noted Mr. Panagakos has prospective tenants for Cove where the extension of hours of operation is an issue.

Mr. Gioiosa asked if there was a way to amend the restrictions once a tenant is found without having to redo the formal process.

Ms. Maclean stated that is the board's decision. She expressed that she was unsure that such an issue should be left to staff absent a public hearing. She felt abutters should have the right to address a twenty-four hour operation next to them. She stated she believed twenty-four hour operations is not something the city necessarily want in terms of its direction, citing the problems that exist with the few remaining.

Ms. Maclean stated, unlike signs, she did not believe the issue oh hours of operation should not be left to staff.

Mr. Cruz agreed.

In response to Ms. Dawicki, Ms. Maclean stated it would be a site plan modification and would require a public hearing and abutter notification, but would not require new plans. Ms. Maclean clarified her concern with regard to a mixed use residential area as opposed to an industrial area.

Ms. Duff agreed.

Mr. Panagakos addressed the board. He stated as a developer that building will not be built with those hour restrictions, as he can't get a tenant. He stated no one would put a million dollars in a property and then chase a tenant who cannot live with those hours. He stated he can't put a restaurant or convenience store in. He stated without lifting those hours, Cove Road will remain the way it is as well as this property. He stated it is not a doable thing. He stated after building a building they chase a tenant, and he cannot talk to a tenant and say these are the hours you can be open. A business that wants to stay open till one or two o'clock in the morning will have to come back to the board, and at that point they walk. He stated he had been in the business for forty years and it just doesn't work that way.

Mr. Panagakos stated he had very few twenty-four hour tenants even on properties that can be twenty-four hours. He stated most twenty-four hour tenants are convenience stores, although even Subway is pushing breakfast. He stated you can't tell a tenant they can't get in till nine o'clock in the morning. He stated the board needed to be realistic, as it was a limited market that will service the population in the area. Mr. Panagakos stated he does not take pawn shops, cash checking or tattoo businesses. He stated his leases call for tenants to not create neighborhood problems. He stated his tenants rent the building and are allowed to use common areas, allowing him to make the rules and regulations for common area spaces, preventing problems. He stated his girlfriend has both a yoga studio and spin class with classes starting at 5:00 a.m.

Ms. Dawicki noted that a tenant wishing to have 5:00am classes would simply mean coming before the board to modify the site plan.

Mr. Panagakos stated it was not that easy. He stated first he must get a tenant with a letter of intent. Then the lease must be agreed to. This costs the developer and the tenant money which they are not willing to spend when there is no guarantee. They will instead go to a site where they don't have to have that.

Mr. Glassman stated the board could not give the twenty-four hours and asked Mr. Panagakos what he could live with.

Mr. Panagakos stated he would like to see 6:00 in the morning. He stated though he did not have many, if a restaurant wanted to have a late night business and has no problems, it is allowed. He stated the Route 18 Dunkin Donuts has a twenty-four hour license and has never had a problem, and it closes at eleven o'clock with the drive-thru sometimes open till 2:00a.m.

Mr. Panagakos said his theory is that nothing good happens after midnight. He stated that's how he runs his life and picks his tenants. He stated he believes most tenants could live with midnight to five. He stated a Cove Road convenience store would be at a disadvantage with a nearby 7-eleven that has twenty-four hours. He stated he is into the Acushnet Avenue site for approximately \$450,000. He stated it will cost another half million dollars to develop the site. He stated after investing nearly one million dollars and chasing a tenant, the chances of getting a return on that site is slim to none. He stated they were the first to clean up Coggeshall Street. He stated they will make the area look good and will put the right tenants in which will bring more business. He stated they have, in the past few years, invested in properties in areas that need investment.

Mr. Cruz expressed that the board is not trying to restrict tenants, but merely protect both sides; the developer and the residents. Mr. Cruz acknowledged that he understood it may be tough to sell.

Mr. Panagakos stated it was not tough, it was impossible. He suggested the board look at his track record with police and abutters, as they will find it spotless. He stated he works with his abutters and addresses complaints immediately. He stated he is in six or seven different communities and has not a single problem with any abutters and elaborated on the work he has done.

Ms. Dawicki thanked the petitioner for sharing and asked him to bear in mind that the board must also consider and balance what could happen in the event that this petitioner were no longer the property owner.

Mr. Panagakos stated he has never sold a piece of commercial real estate and cannot imagine he will.

Mr. Glassman stated he has always been pro-business and wants to see businesses succeed, and that is one reason he serves on the board. He expressed that he felt the board should grant the petitioner a little more on the hours, perhaps 6:00 a.m. to midnight.

Ms. Dawicki noted the Cove Street property hours were 7:00 a.m. to 11:00 p.m.
Mr. Glassman stated that too late for a restaurant.

Ms. Dawicki noted the Cumberland on Hathaway Road also sought a twenty-four hour operation, and the board granted 5:00 a.m. to midnight. She felt that example also had residential on two sides.

Mr. Glassman suggested giving this petitioner the same.

Ms. Dawicki felt that was reasonable. She asked the board what their wish was for sign illuminations hours while unoccupied. There was discussion centering on other cases where the hours were 9:00 a.m. to 9:00 p.m.

Ms. Maclean suggested allowing signs to be turned on at the start of business and shut off a half hour after closing, thereby avoiding another appearance before the board on the sign illumination issue.

Ms. Dawicki noted that the limitation was so that the sign would not be illuminated while they building was absent a tenant.

Ms. Duff agreed that the 9:00 a.m. – 9:00 p.m. hours were appropriate while there is no tenant.

In response to a question from Mr. Glassman, Ms. Dawicki stated that there is no research showing that lighting improves safety. Mr. Glassman felt a dark parking lot might encourage people to hang out.

Ms. Dawicki and the board reviewed the contents and conditions of any motion.

Ms. Duff raised the issue that regulations do not allow for roof signage.

Mr. Gioiosa stated the applicant would defer to the building commissioner and inspectional services for interpretation. He stated they will not look for a variance to allow signs on the roof

Ms. Dawicki asked Ms. Maclean about whether the sign ordinance would address the definition of a roof as it appears to be a gray area at present. Ms. Maclean stated she did not recall and would make a note.

Ms. Duff confirmed with Ms. Maclean that any double sign would still meet the sign code.

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

A motion was made (KD) and seconded (AG) to approve the request for site plan review for the property located at 1771 Acushnet Avenue (Map 108, Lot 43) to be developed into a commercial property with the following stipulations: that the applicant's negotiate with DPI regarding the number of street trees to be planted along Acushnet Avenue and Belleville Road regarding the 7 proposed by DPI and the 3 setback onto the applicant's property; that the applicant agree to add the building height onto the drawing elevations; that the applicant agree to the hours of operation from 5:00 a.m. to midnight; and that the applicant agree to the lighting of the sign while the project is not occupied but being advertised from 9:00 a.m. to 9:00 pm., and once occupied

by a tenant to be during hours of operation with the turning off of the sign one half hour after the close of business; and that the applicant agree to add silk sacks and the Belleville Road and Acushnet Avenue streets; and that the applicant agree to add silk fence and straw bales along the south and easterly edges of the site for erosion control.

Motion was unopposed and passed 4-0.

Ms. Dawicki suggested Mr. Panagakos speak with Ms. Maclean on the Cove Road property regarding the possible waiver of application fees should he need to come back to the board for modification of the site plan regarding hours of operation, leaving the applicant only the financial responsibility of notifying abutters.

A motion was made (KD) and seconded (PC) to waive the application fees for 177 Cove Road. Motion was unopposed and passed 4-0.

CASE #14-15 – Sidewalk Café Permit

Ana Lourenco of 58 Reservoir Road, Acushnet addressed the board. She stated she is proposing a 30' x 10' sidewalk café with ten tables in the front of the building.

Ms. Dawicki reminded the board that images were available on their tablets.

Ms. Duff confirmed that this would be on the newly expanded sidewalks along the area.

Ms. Maclean stated the applicant could proceed once that work is completed and this would allow them to proceed to the licensing board in the meantime.

Ms. Duff stated she thought the project was great and represented exactly what the expanded sidewalks were intended to be used for.

Ms. Duff confirmed with the applicant the screening in the image submitted.

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

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

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

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

There being no questions from the board, a motion was made (KD) and seconded (AG) to approve the sidewalk café permit for Café Europa, located at 1236-1256 Acushnet Avenue. Motion passed unopposed. (4-0)

OLD BUSINESS:

CASE #38-14 – Site Plan Review

Ms. Dawicki read into the record correspondence from the applicant seeking a continuance of the matter to the July 2015 board meeting.

Ms. Maclean had nothing to add and stated the board should have the plans ahead of time for review. In response to Ms. Duff, Ms. Maclean confirmed that an abutter had appealed the Zoning Board of Appeals decision, which was settled out of court.

A motion was made (KD) and seconded (AG) to continue Case #38-14 until the Planning Board meeting on July 8, 2015. Motion passed unopposed. (4-0)

NEW BUSINESS:

Ms. Maclean informed the board that the Edge (the former Davy's Locker) has applied for the Chapter 91 permits to use the outdoor space for a deck and Tiki bar. She stated it had been approved and signed off by the city and next proceeds to the state.

FORM BASED ZONING

Ms. Duff expressed her excitement regarding the kick off. She stated that whomever was involved in choosing the consultant, did a great job. She stated their precedents were on point, and it was a very inclusive process, with a great handle on working with communities to really engage input and develop zoning that is reflective of the community from all avenues, not just from the residential community, but from the business community, from the professional community, from the municipal community. She shared that she was very impressed and felt very hopeful. She suggested that board members be very alert to the events that they're holding. She stated they're going to have an office down on Purchase Street, and she suggested that people make an effort to attend one of the public events, as it is really important for them to get a lot of input. She asked the board members to spread the word to attend.

Ms. Maclean added that the public design week will be July 21-27. She stated there are multiple meetings with one in each district; Acushnet Ave., Goulart Square, downtown on Purchase Street, and et cetera.

Ms. Duff added that form based zoning addresses many issues the board is tasked with; i.e., lighting, office hours, proximity to schools, tree plantings, landscaping and other sustainable initiatives the board works with developers on. She stated they are engaging the community to get input to draft zoning regs that encourage development while respecting and responding to community needs. She felt this would take a lot of weight off the board's shoulders in terms of drafting the regulations. She felt this went a long way to developing the type of development desired in the city.

Ms. Dawicki and Mr. Glassman noted the passing of Ken Ferreira who had appeared before the board on many occasions. They expressed positive remarks on his character, his performance before the board and his appreciation for the needs of New Bedford. All agreed he would be missed by this board and many others.

There being no further business before the board, a motion was made (KD) and seconded (AG) to adjourn. Motion passed unopposed.

Ms. Dawicki announced that the next meeting is scheduled for Wednesday July 8, 2015.

Whereupon proceedings adjourned at 7:46 pm.