

NASHUA CITY PLANNING BOARD
July 14, 2016

The regularly scheduled meeting of the Nashua City Planning Board was held on Thursday, July 14, 2016 at 7:00 PM in Room 208, 2nd floor at City Hall.

Members Present: Adam Varley, Chair
Scott LeClair, Vice Chair
Michael Pedersen, Mayor's Rep.
Steve Dookran, City Eng.
Megan Giokas, alt.

Also Present: Roger Houston, Planning Director
Christine Webber, Planning Department

Mr. Varley said Mrs. Giokas will be participating and voting.

Approval of Minutes

June 2, 2016

MOTION by Mr. LeClair to approve the minutes of June 2, 2016.

SECONDED by Mrs. Giokas

MOTION CARRIED 5-0

COMMUNICATIONS

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

-) 7/13/16 communication from Jeanne Walker, Engineering, re: Case #3
-) 7/13/16 email from George Walker, Fire Department, re: Case #3 and #4
-) 7/8/16 communication from Jeanne Walker, Engineering, re: Case #4

REPORT OF CHAIR, COMMITTEE & LIASON

None

PROCEDURES OF THE MEETING

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

The Chair will then ask for testimony from the audience. First anyone wishing to speak in opposition or with concern to the plan may speak. Please come forward to the microphone, state their name and address for the record. This would be the time to ask questions they may have regarding the plan. Next public testimony will come from anyone wishing to speak in favor of the plan. The applicant will then be allowed a rebuttal period at which time they shall speak to any issues or concerns raised by prior public testimony.

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

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

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

OLD BUSINESS - CONDITIONAL/SPECIAL USE PERMITS

None

OLD BUSINESS - SUBDIVISION PLANS

None

OLD BUSINESS - SITE PLANS

None

NEW BUSINESS - CONDITIONAL/SPECIAL USE PERMITS

1. NHCG, LLC (Applicant) Spiro J. Linatsas 1993 Trust (Owner) - Application and acceptance of proposed conditional use permit allowing games of chance. Property is located at 55 High Street. Sheet 79 - Lot 98. Zoned "D1/MU" Downtown 1/ Mixed Use. Ward 4.

MOTION by Mr. LeClair that the application is complete and the planning board is ready to take jurisdiction.

SECONDED by Mrs. Giokas

MOTION CARRIED 5-0

Attorney Gerald Prunier, Prunier & Prolman P.A.

Attorney Prunier introduced himself as representing the applicant. He gave an overview of the proposal. He said they will be occupying the left side of the existing building, where the Arena Sports Bar is currently. He submitted a letter which addresses the nine points of law for a conditional use.

Mr. Varley asked if the applicant, NHCG, LLC, would be the operating entity, and are they currently licensed by the Lottery Commission.

Attorney Prunier said yes.

The Rev. Dr. Robert "Odie" Odierna, Church of the Good Shepherd, Nashua, NH

Pastor Odie said he has known the owners and operators of NHCG, LLC for over 10 years and Church of the Good Shepherd has been a charity in receipt of funds since the organization has been in existence. He said they receive about \$10,000 a year from them. The operation is clean, honest and run with integrity. He encouraged the Board to approve the proposal as it would be a great addition to the downtown area.

Laurie Dufault, Director of Development and Marketing, Humane Society of Nashua

Ms. Dufault also spoke in favor of the project as the Humane Society is also a charity beneficiary. The relationship has been incredibly beneficial to their organization.

Maryse Wirbal, CEO, Front Door Agency, Nashua, NH

Ms. Wirbal echoed similar sentiments, and encourages the Board to approve the proposal.

Bob Hesseltine, Board Member, Corpus Christi Food Pantry

Mr. Hesseltine echoed similar sentiments, and encourages the Board to approve the proposal.

Mr. LeClair asked for details on the operation.

Jim Rafferty, Owner, River Card Room, Milford, NH

Mr. Rafferty says the charities receive 35% of the revenues in a gaming day and 10% goes to the State of NH for tax. The River Card Room in Milford has about 33 employees, most of whom are dealers. The dealers are regulated by the State, and both the organization and the beneficiaries must be licensed and registered.

Mr. Dookran asked how often inspectors visit the facilities.

Mr. Rafferty said the inspectors visit the facilities at random. He said they usually have a visit about once a week.

Mr. Dookran asked if they provided a report each time.

Mr. Rafferty said no, only if there is a violation. He said they have only received 3 or 4 violations in the past 10 years.

Mr. Dookran asked what the violations were.

Mr. Rafferty said it usually has to do with paperwork that the beneficiary didn't complete. It is sometimes difficult to get the charities to do the paperwork that is required by the state. There haven't been any infractions regarding the counting of money, gaming procedures, etc.

Mr. LeClair asked how many days per year the organization operates.

Mr. Rafferty said they only close on Christmas, and open late on Thanksgiving. They have a waitlist of 10-15 charities, though it has been as high as 30. There are only about 10 of these facilities in the state.

Mr. LeClair asked how many employees they will hire at this new facility.

Mr. Rafferty said around 47 or 48. He anticipates there will be more business in Nashua than in Milford.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

MOTION by Mr. LeClair to approve New Business - Conditional/Special Use Permits #1. It conforms to § 190-133(F) with the following stipulations or waivers:

1. Prior to the Chair signing the plan, a revised plan shall be submitted showing the current uses.

SECONDED by Mr. Pedersen

MOTION CARRIED 5-0

2. Ashok Patel (Applicant) BSP Cotton Road, LLC (Owner) - Application and acceptance of proposed conditional use permit to allow an adult day care center. Property is located at 472 Amherst Street, Sheet H - Lot 136. Zoned "AI" Airport Industrial. Ward 2.

MOTION by Mrs. Giokas that the application is complete and the planning board is ready to take jurisdiction.

SECONDED by Mr. Pedersen

MOTION CARRIED 5-0

Robert Vorbach, Project Architect, Nashua, NH

Mr. Vorbach introduced himself and gave an overview of the proposed adult day care center. The day care will occupy an existing tenant space. A ramp will be added for accessibility, as well as an additional door at the front of the facility for egress. There will be 10 staff members and 90 clients. There is ample parking as clients will be shuttled to and from the facility.

Mr. Varley asked if the facility would be licensed by the Department of Health and Human Services.

Mr. Vorbach said yes.

Kirit Malaviya, Program Director, 57 Tanglewood Dr, Nashua, NH

Mr. Malaviya gave a brief overview of the operations of the proposed facility.

Mr. Pedersen asked how many shuttle vehicles will arrive at the facility each morning.

Mr. Malaviya said 9 or 10.

Mr. Pedersen asked what provisions there will be for snow removal.

Mr. Malaviya described the snow removal process for the site.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

MOTION by Mr. LeClair to approve New Business - Conditional/Special Use Permits #2. It conforms to § 190-133(F) with no stipulations or waivers.

SECONDED by Mrs. Giokas

MOTION CARRIED 5-0

NEW BUSINESS - SUBDIVISION PLANS

3. Jacqueline Whelan (Owner) - Application and acceptance of proposed two lot subdivision. Property is located at 38 Balcom Street. Sheet 95 - Lot 19. Zoned "RB" Urban Residence. Ward 6.

MOTION by Mrs. Giokas that the application is complete and the planning board is ready to take jurisdiction.

SECONDED by Mr. Pedersen

MOTION CARRIED 5-0

Richard Maynard, Maynard & Paquette Engineering

Mr. Maynard introduced himself and said the property owner, Jacqueline Whelan, was also present this evening. He gave a brief presentation on the proposed subdivision. The applicant is requesting that the sidewalk contribution fee, in lieu of building a sidewalk along Sacred Heard Dr, be waived.

Mr. Dookran said typically, the applicant will either construct a sidewalk or offer a contribution in lieu of construction, if the Board deems it appropriate. It is not typical for an applicant to request a waiver of both of these requirements.

Mr. Houston noted that the applicant has not submitted a waiver request with the application.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

Mr. Varley said the public meeting would remain open so that the applicant could further discuss the issue of sidewalks with the Board. He said this is somewhat of a unique situation because there are sidewalks along both Balcom St and National St. Sacred Heart Dr is basically the length of the property. He asked for clarification as to whether or not the fact that the lot is a corner lot has any bearing on the sidewalk waiver.

Mr. Maynard read from the ordinance in regards to sidewalk requirements for lots with multiple frontages. He said he is referring to section 190:212:D.1

Mr. Houston said the section Mr. Maynard referred to applies only to commercial lots. The section that Mr. Maynard read aloud is not part of the ordinance, but rather a comment included in the regulations.

Mr. LeClair asked if the applicant is allowed to ask for a waiver of the sidewalk regulations.

Mr. Houston said yes, but typically the Board has discouraged this in the past to be consistent.

Mr. Dookran said there are no stormwater calculations. He discussed existing issues with National St in regards to stormwater.

Mr. Maynard said the roof gutters are connected to a catch basin.

Mrs. Giokas asked for clarification on "principal frontage".

Mr. Houston said the principal frontage is the street where the door of a house or storefront faces.

Mr. LeClair asked the cost of constructing a sidewalk.

Mr. Maynard said about \$90-\$120 per foot.

Mr. Varley said the Board would now go into deliberations and recall the applicant for further testimony is necessary. He said there is a threshold question as to whether the ordinance requires a sidewalk at this location in the first instance. He said he felt the circumstances were appropriate for a contribution to be offered.

Mr. LeClair said he agreed. A useful sidewalk would be located on the other side of the street.

Mr. Dookran said it is dangerous for children to be walking in the street, especially considering the slope of National St.

Mr. Pedersen said the sidewalk should be along Sacred Heart Dr, according to the code.

Mr. Varley asked if anyone believed that the ordinance did not require a sidewalk at this location, as Mr. Maynard is suggesting.

The Board members agreed that sidewalk construction would be required by the ordinance.

Mr. Pedersen said a sidewalk at this location would be beneficial.

Mr. LeClair said the lots are already tight.

Mr. Dookran said there is enough room within the ROW to construct a sidewalk, without encroaching on private property.

Mr. Pedersen said he was in favor of sidewalk construction rather than a contribution.

Mr. Varley said they have routinely taken contributions in situations very similar to this one.

MOTION by Mrs. Giokas to reopen the public hearing

SECONDED by Mr. Pedersen

MOTION CARRIED

Mr. Varley asked Mr. Maynard to address the sidewalk contribution.

Mr. Maynard said the principal frontage is on Balcom St, where there is already sidewalk. He handed out a letter regarding the waiver request. He said the frontage totals 75ft, not 150ft.

Mr. Houston said the discussion regarding principal frontage stemmed from the diagram shown in the ordinance. The diagram relates to commercial development, which is why there is some confusion. The operable section here is NRO 190-212:A(1).

Mr. Varley asked Mr. Maynard to confirm a waiver request of sidewalks construction in lieu of a \$7,500 contribution.

Mr. Maynard confirmed the waiver request.

Mr. Varley concluded the public hearing.

Mr. Pedersen asked Mr. Dookran if it would be in the interest of public safety to install a sidewalk along Sacred Heart Dr.

Mr. Dookran said the short answer is yes. Vehicles often travel at high speeds around that bend.

MOTION by Mr. Pedersen to approve New Business - Subdivision Plan #3. It conforms to § 190-138(G) with the following stipulations and waivers:

1. The request for a waiver of § 190-221(C), which requires underground utilities to be installed, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. Prior to recording the plan, all comments in a letter from Jeanne Walker, PE dated July 13, 2016 shall be addressed to the satisfaction of the Engineering Department.
3. Stormwater documents will be submitted to Planning staff for review and recorded with the plan at the applicant's expense.
4. Prior to recording of the plan, minor drafting correction shall be made.
5. Any work within the right-of-way shall require a financial guarantee.
6. Prior to any work being conducted, a pre-construction conference shall be set up with the Planning Department.
7. Applicant has requested a waiver of sidewalks construction in lieu of a \$7,500 contribution is **denied**.

SECONDED by Mr. Dookran

MOTION FAILED 2-3 (Varley, LeClair and Giokas opposed)

MOTION by Mr. LeClair to approve New Business - Subdivision Plan #3. It conforms to § 190-138(G) with the following stipulations and waivers:

8. The request for a waiver of § 190-221(C), which requires underground utilities to be installed, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
9. Prior to recording the plan, all comments in a letter from Jeanne Walker, PE dated July 13, 2016 shall be addressed to the satisfaction of the Engineering Department.

10. Stormwater documents will be submitted to Planning staff for review and recorded with the plan at the applicant's expense.
11. Prior to recording of the plan, minor drafting correction shall be made.
12. Any work within the right-of-way shall require a financial guarantee.
13. Prior to any work being conducted, a pre-construction conference shall be set up with the Planning Department.
14. Applicant has requested a waiver of sidewalks construction in lieu of a \$7,500 contribution is granted.

SECONDED by Mrs. Giokas

MOTION CARRIED 3-2 (Pedersen and Dookran opposed)

NEW BUSINESS - SITE PLANS

4. Bible Baptist Church (Owner) - Application and acceptance of proposed site plan amendment to NR1842 to construct a 5,800 sf building addition. Property is located at 117 Fairview Avenue & 62 Caldwell Road. Sheet 105 - Lot 5. Zoned "R9" Suburban Residence. Ward 6.

MOTION by Mrs. Giokas that the application is complete and the planning board is ready to take jurisdiction.

SECONDED by Mr. Pedersen

MOTION CARRIED 5-0

Richard Maynard, Maynard & Paquette Engineering

Mr. Maynard introduced himself and said he was representing the Bible Baptist Church. He gave an overview of the proposal. Drainage for the site is handled by a drain line through the entire site and an existing detention basin in the southeast corner. Two additional catch basins will be connected to the roof gutters. The dumpster has been relocated per Jeanne Walker's request; this will need to be amended on the site plan.

Mr. Varley said the Fire Department's letter indicated that the entire building must be brought up to code. Was this anticipated as part of this project?

Mr. Maynard said it is unrelated to the site plan, and has more to do with the issuance of a building permit.

Mr. Dookran asked for clarification of the drainage calculations.

Mr. Maynard said the entire paved entrance off of Fairview is being eliminated. The amount of impervious area added from the new building addition is less than a single family house.

Mr. Dookran asked if the new addition encroaches into the perimeter of the detention basin.

Mr. Maynard said no. The emergency overflow is well below the elevation of the new addition.

Mr. Dookran asked if soil tests were conducted.

Mr. Maynard said he is familiar with the testing done back in 1987 and the soils are well draining.

Mr. LeClair asked if there is any proposed new site lighting.

Mr. Maynard said no, because they are utilizing the existing entrance. There may be some small safety lighting at the doorway.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

MOTION by Mr. LeClair to approve New Business - Site Plan #4. It conforms to § 190-146(D) with the following stipulations or waivers:

1. Prior to the issuance of a building permit, all comments in letter from Jeanne Walker, PE dated July 8, 2016 shall be addressed to the satisfaction of the Engineering Department.
2. Prior to the issuance of a building permit, stormwater documents will be submitted to City staff for review and approval and recorded at the Registry of Deeds at the applicant's expense.

3. Prior to the issuance of a building permit, all comments in email from George Walker dated July 9, 2016 shall be incorporated.
4. Prior to the Chair signing the plan, minor drafting correction shall be made.
5. Any work within the right-of-way shall require a financial guarantee.

SECONDED by Mrs. Giokas

MOTION CARRIED 5-0

OTHER BUSINESS

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

MOTION by Mr. LeClair that there are no items of regional impact.

SECONDED by Mr. Giokas

MOTION CARRIED 5-0

2. Planning Board reappointment to the Capital Improvement Committee for a 2 year term to expire, August 1, 2018.
 - Laurence C. Szetela
 - Robert Canaway

Mr. Houston said he has not yet received confirmation from Mr. Canaway regarding his reappointment.

MOTION by Mr. LeClair to table Other Business #2 to the next meeting.

SECONDED by Mrs. Giokas

MOTION CARRIED 5-0

DISCUSSION ITEMS

None

NCPB
July 14, 2016
Page 14

MOTION to adjourn by Mr. LeClair. Meeting adjourned at 9:32pm.

APPROVED:

Adam Varley, Chair, Nashua Planning Board

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DIGITAL COPY OF AUDIO OF THE MEETING MAY BE MADE AVAILABLE UPON 48 HOURS ADVANCED NOTICE AND PAYMENT OF THE FEE.

Prepared by: Mindy Lloyd

Taped Meeting