

NASHUA CITY PLANNING BOARD  
August 4, 2016

The regularly scheduled meeting of the Nashua City Planning Board was held on Thursday, August 4, 2016 at 7:00 PM in Room 208, 2<sup>nd</sup> floor at City Hall.

Members Present: Adam Varley, Chair  
Scott LeClair, Vice Chair  
Michael Pedersen, Mayor's Rep.  
Dan Kelly, Secretary  
Ald. Sean McGuinness  
Steve Dookran, City Eng.  
Dave Robbins  
Ed Weber

Also Present: Roger Houston, Planning Director  
Linda Panny, Deputy Planning Manager  
Scott McPhie, Planner I

**Approval of Minutes**

July 14, 2016

**MOTION** by Mr. LeClair to approve the minutes of July 14, 2016.

**SECONDED** by Mr. Pedersen

**MOTION CARRIED** 4-0-4

**COMMUNICATIONS**

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

- ) Amended agenda
- ) Communication from Jeanne Walker re: Case #2
- ) Several communications re: Case #3
- ) Communication from Jeanne Walker re: Case #4
- ) Tech Review
- ) Letter from Attorney Gerald Prunier

**REPORT OF CHAIR, COMMITTEE & LIASON**

HDC: Mr. Weber discussed proposed renovations at 9 Amherst St. He said the contractor is going to restore the building to its original construction.

**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. John J. Flatley Company (Owner) - Application and acceptance of proposed conditional use permit to allow a 7,500 sf restaurant. Property is located at 200 Innovative Way. Sheet A - Lot 798. Zoned "PI" Park Industrial and "RC" Urban Residence. Ward 8.

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

**SECONDED** by Mr. Weber

**MOTION CARRIED 8-0**

**NEW BUSINESS - SITE PLANS**

3. John J. Flatley Company (Owner) - Application and acceptance of proposed site plan amendment to NR 2165 to construct a 7,500 sf restaurant. Property is located at 200 Innovative Way. Sheet A - Lot 798. Zoned "PI" Park Industrial and "RC" Urban Residence. Ward 8.

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

**SECONDED** by Mr. Kelly

**MOTION CARRIED 8-0**

Chad Branon, Civil Engineer, Fieldstone Land Consultants

Mr. Branon introduced himself as representing the applicant. He said Kevin Walker of the John Flatley Company was also present. He gave an overview of the proposed restaurant site. He said the applicant is requesting a waiver of landscaping requirements. He said the project meets all of the requirements for a conditional use permit.

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Mr. Varley said they had received a communication from City traffic engineer Wayne Husband. Mr. Husband is not comfortable with the project and requires further information.

Kevin Walker, John Flatley Company

Mr. Walker said he and Mr. Flatley met with Mr. Husband earlier this week. Mr. Husband requested a memo from the project's traffic consultant, VHB, prior to final sign-off. VHB was unable to provide a memo for tonight's meeting but anticipate having it ready by next week.

Mr. Kelly asked the hours of operation for the restaurant. He said he has concerns with additional traffic at that intersection.

Mr. Walker said he is unsure of the exact operational hours but he anticipates 11am to a typical closing time.

Mr. Weber said the plan shows enclosed dumpsters but there are other dumpsters on site that have not been enclosed.

Mr. Walker said it is on the list of things to do.

Mr. LeClair asked if the proposed exit from the site will impact parking counts.

Mr. Branon said the new exit will take up about 3 parking spaces. There will be a net of 150 parking spaces total.

Mr. Dookran asked for clarification on the seating number.

Mr. Branon said the seating number is 485.

Mr. Dookran asked Mr. Branon to speak regarding the wetlands on site.

Mr. Branon detailed the proposed mitigation.

Mr. LeClair asked if the second exit will be functional or a fire access.

Mr. Branon said it would be for emergency access.

**SPEAKING IN OPPOSITION OR CONCERN**

Elizabeth Cepaitis, 16 Shakespeare Rd, Nashua, NH

Ms. Cepaitis said she is not opposed to the restaurant but the blasting that might occur during construction of the restaurant. She said the blasting companies have been less than honorable during previous development of the Tara site.

**SPEAKING IN FAVOR**

Mary Ann Melizzi-Golja, Ward 8 Alderwoman

Ald. Melizzi-Golja said she reached out to Ward 8 residents and did not receive any specific opposition to the project. However, she received concerns from several residents regarding blasting. There were also questions regarding the proposed second emergency gate. She asked if the applicant could address maintenance of the emergency access i.e. snow removal on both sides of the gate.

**SPEAKING IN OPPOSITION OR CONCERN - REBUTTAL**

Mr. Walker clarified that the second emergency access will be a 12ft.-wide travel-way, exit only with islands on each side. It will not be gated. It will be an exit for patrons to leave the restaurant and a secondary means of access for the Fire Department, should they need it. He said based on the grading of the site and location of the drainage structures, they do not anticipate any blasting.

Ms. Panny said the Board received correspondence from the Traffic Engineer, Fire Marshal and Jeanne Walker. If the Board decides to move forward with the application, these items should be incorporated as conditions of approval.

**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. Approval of the conditional use permit is contingent on the applicant receiving a Special Exception from the ZBA.

**SECONDED** by Mr. Kelly

**MOTION CARRIED 8-0**

**MOTION** by Mr. LeClair to approve New Business - Site Plan #3. It conforms to § 190-146(D) with the following stipulations or waivers:

1. Prior to commencement of any site work, permit must be approved by the New Hampshire Department of Environmental Services (NHDES).
2. The request for a waiver of § 190-184(D)(1) which requires a landscape median for every ten interior parking spaces, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. Prior to the issuance of a building permit, stormwater documents will be submitted to the Planning Department and Corporation Counsel for review and will be recorded at the Registry of Deeds at the applicant's expense.
4. Prior to the issuance of a building permit, a recommendation from the Nashua Conservation Commission and approval from the Zoning Board of Adjustment must be obtained and all stipulations shall be incorporated herein. Approval of the site plan is conditioned on the applicant receiving a Special Exception from the ZBA.
5. Prior to the issuance of a certificate of occupancy, all site improvements will be completed.
6. Prior to the issuance of a building permit, all comments in the email from Wayne Husband dated August 2, 2016 shall be address to the satisfaction of the Engineering Department.
7. Prior to the issuance of a building permit, all comments in the email from the George Walker, dated August 2, 2016 shall be address to the satisfaction of the Fire Marshal's Office.
8. Prior to the issuance of a building permit, all comments in letter from Jeanne Walker, PE dated August 4, 2016 shall be addressed to the satisfaction of the Engineering Department.

**SECONDED** by Mr. Kelly

**MOTION CARRIED 7-0**

*Alderman McGuinness left the meeting. There was a 5-minute recess.*

**NEW BUSINESS - SUBDIVISION PLANS**

2. Jean B. Makris (Owner) Raisanen Homes Elite, LLC (Applicant) - Application and acceptance of proposed two lot subdivision. Property is located at 31 Dane Street. Sheet 110 - Lot 173. Zoned "RA" Urban Residence. Ward 6.

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

**SECONDED** by Mr. Weber

**MOTION CARRIED 7-0**

Chad Branon, Civil Engineer, Fieldstone Land Consultants

Mr. Branon introduced himself as representing the applicant, Raisanen Homes Elite, LLC. He gave an overview of the proposed subdivision. He said the applicant is requesting a waiver for providing an existing conditions plan. They are also requesting a waiver for sidewalk construction; they will offer a contribution to the sidewalk fund in lieu of construction.

Mr. Varley asked if the contribution represented the entire frontage.

Mr. Branon said yes, the entire frontage along Dane St.

Mr. Robbins asked if this lot would need to meet the 110% requirement as it is an odd-shaped lot.

Mr. Branon said it is up to interpretation as to what is considered odd-shaped. Even so, the lot has enough area that it could meet this requirement, with a minor adjustment to the common boundary line. He said the applicant would be happy to make a modification if the Board felt they needed to meet this this requirement.

**SPEAKING IN OPPOSITION OR CONCERN**

Jim Dacey, 29 Dane St, Nashua, NH

Mr. Dacey voiced concerns with the potential location of the second house.

**SPEAKING IN FAVOR**

None

**SPEAKING IN OPPOSITION OR CONCERN - REBUTTAL**

Mr. Branon said the applicant has looked at a couple different footprints for the potential location of the new house. The house would meet all setback requirements.

Mr. Dookran asked for clarification of the proposed 18" stormwater drip line.

Mr. Branon said the drip line of crushed stone promotes infiltration within the vicinity of the home.

Ms. Panny said the Board received correspondence from Jeanne Walker. If the Board decides to move forward with the application, this item should be incorporated as a condition of approval.

**MOTION** by Mr. LeClair to approve New Business - Subdivision Plan #2. It conforms to § 190-138(G) with the following stipulations and waivers:

1. The request for a waiver of § 190-212(A)(1), which requires that sidewalks be located on at least one side of the street, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation. A contribution of \$8,198.00 has been offered by the applicant in lieu of sidewalk construction; payment to be made prior to recording the plan.
2. The request for a waiver of § 190-282 B(9), which requires existing conditions plan be required, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. Stormwater documents will be submitted to Planning staff for review and recorded with the plan at the applicant's expense.
4. Any work within the right-of-way shall require a financial guarantee.
5. Prior to any work being conducted, a pre-construction conference shall be set up with the Planning Department.

**SECONDED** by Mr. Weber

**MOTION CARRIED 7-0**

**NEW BUSINESS - SITE PLANS**

4. Colonial Imports Corp (Owner) - Application and acceptance of proposed site plan to demolish existing residence and construct a 163 space parking lot with associated site improvements. Property is located at 117 West Glenwood Street. Sheet 132 - Lot 31. Zoned "RA" Urban Residence. Ward 7.

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

**SECONDED** by Mr. Pedersen

**MOTION CARRIED 7-0**

Jim Petropulos, Hayner/Swanson, Inc.

Mr. Petropulos introduced himself as representing the applicant. He gave an overview of the proposed site improvements. He said the applicant is requesting a waiver of the required landscaping plan. He said the applicant has had discussions on several occasions with a member of the Sienkiewicz family and their attorney. Regarding their concern with access, an access easement to their property off of West Glenwood St will be maintained. The property will also be snowplowed and maintained up to the Sienkiewicz property line. Regarding utilities, the applicant has agreed to provide a utility easement so the Sienkiewicz family can gain access to sewer, water and power utilities.

**SPEAKING IN OPPOSITION OR CONCERN**

Kerry Sienkiewicz, 344 Osgood Rd, Milford, NH

Mr. Sienkiewicz, representing his mother who is an abutter, said most of his concerns have been addressed. He still has concerns as to whether City trash pick-up will continue at his mother's residence, and whether her street address will change from 117 West Hobart St.

**SPEAKING IN FAVOR**

None

**SPEAKING IN OPPOSITION OR CONCERN - REBUTTAL**

Attorney Gerald Prunier, Prunier & Prolman, P.A.

Attorney Prunier said the applicant has no issue with where Ms. Sienkiewicz wants to place her trash bins, so that trash pickup can continue. The applicant also does not have an issue with Ms. Sienkiewicz maintaining her current address, but this is at the discretion of the City, not the applicant.

Ms. Panny said the Board received a letter from Jeanne Walker in their packet. If the Board decides to move forward with the application, this item should be incorporated as a condition of approval.

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

1. The request for a waiver of NRO § 190-279(P), which requires a landscaping plan be prepared, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
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. All stipulations of the Zoning Board of Adjustment dated April 12, 2016 are incorporated herein.
4. Any work within the right-of-way shall require a financial guarantee.
5. Prior to the issuance of a certificate of occupancy, all site improvements will be completed.
6. Prior to the issuance of a building permit, all comments in letter from Jeanne Walker, PE dated August 2, 2016 shall be addressed to the satisfaction of the Engineering Department.

**SECONDED** by Mr. Kelly

**MOTION CARRIED 7-0**

5. 43 West Hollis, LLC (Owner) - Application and acceptance of proposed change of use from a fabric store to a restaurant. Property is located at 43 West Hollis Street. Sheet 81 - Lot 103. Zoned "GB" General Business. Ward 4.

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

**SECONDED** by Mr. Weber

**MOTION CARRIED 7-0**

Attorney Gerald Prunier, Prunier & Prolman, P.A.

Attorney Prunier introduced himself as representing the applicant. He gave an overview of the proposed change of use. He said the applicant is requesting several waivers for the following items: minimum parking requirement, building design standards, and for providing an existing conditions plan and stormwater report.

Bill Gately, Owner, 43 West Hollis, LLC

Mr. Gately said if they were to add a door to access the outdoor seating they would allow the painter of the mural to come back and touch up the door or they would allow someone to redo the entire mural. They are not looking to replace or repaint the back of the building.

Ms. Panny said the proposal is a permitted use in the zone but the site does not meet the parking requirement. Regarding outdoor seating along the Heritage Trail, stipulation #6 should reflect that approval is required between the applicant and the City for a licensing agreement.

**SPEAKING IN OPPOSITION OR CONCERN**

Louis Michaud, 42 West Hollis St, Nashua, NH

Mr. Michaud said he is concerned with patrons of the restaurant parking along Walnut St. It makes it difficult for residents to access their properties. He said he is also concerned with where delivery trucks will park.

**SPEAKING IN FAVOR**

None

**SPEAKING IN OPPOSITION OR CONCERN - REBUTTAL**

Attorney Prunier said there are businesses all along West Hollis St. They cannot control what people do.

Mr. Varley asked if the current hours of the pizza shop will change.

Attorney Prunier said the present hours are 11:00am to 1:00am.

Enrique Marrero, Owner, Gate City Pizza

Mr. Marrero said he has never received a complaint or citation. He cannot control what goes on West Hollis St. He said he picks up trash if he sees it in front of neighboring properties.

**MOTION** by Mr. Weber to approve New Business - Site Plan #5. It conforms to § 190-146(D) with the following stipulations or waivers:

1. The request for a waiver of NRO § 190-198, which establishes minimum parking standards, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. The request for a waiver of NRO § 190-172, which sets building design standards, is not granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. The request for a waiver of § 190-279(EE), which requires an existing conditions plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
4. The request for a waiver of § 190-214(B), which requires a Stormwater Report, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
5. Prior to the issuance of a building permit, all comments in letter from Jeanne Walker, PE dated July 22, 2016 shall be addressed to the satisfaction of the Engineering Department.
6. Prior to outdoor seating on the Heritage Rail Trail being utilized, approval must be obtained between the city and owner for a licensing agreement.
7. Prior to the Chair signing the plan minor drafting corrections will be made.
8. An enclosed dumpster will be placed onsite.

**SECONDED** by Mr. Robbins

**MOTION CARRIED 7-0**

6. 22 Marshall Street LLC (Owner) - Application and acceptance of proposed one year extension to site plan NR 610 to construct four multi-family residential buildings (152 units total). Property is located at 2, 16, & 26 Marshall Street. Sheet 29 - Lots 65, 64, & 26. Zoned "GI" General Industrial, "GB" General Business, and "RB" Urban Residence. Ward 7.

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

**SECONDED** by Mr. Kelly

**MOTION CARRIED 7-0**

Vincent Iacozzi, 22 Marshall Street, LLC

Mr. Iacozzi introduced himself. He said he is requesting an extension due to some complexities that arose regarding the timing of the start of construction.

**SPEAKING IN OPPOSITION OR CONCERN**

None

**SPEAKING IN FAVOR**

None

**MOTION** by Mr. Weber to approve New Business - Site Plan #6. It conforms to § 190-146(D) with the following stipulations or waivers:

1. All prior conditions of approval are incorporated herein and made a part of this plan, unless otherwise determined by the Planning Board.

**SECONDED** by Mr. Kelly

**MOTION CARRIED 7-0**

**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. Kelly

**MOTION CARRIED 7-0**

2. Planning Board reappointment to the Capital Improvement Committee for a 2 year term to expire August 1, 2018.

- Laurence C. Szetela
- Robert Canaway

**MOTION** by Mr. Kelly to approve the reappointment of Mr. Szetela and Mr. Canaway to the CIC for 2-year terms to expire August 1, 2018.

**SECONDED** by Mr. Weber

**MOTION CARRIED 7-0**

**DISCUSSION ITEMS**

1. Attorney Prunier - "L" Crown Street site plan

Attorney Prunier said a variance was obtained for outdoor storage on the property for a piping company. A site plan approval is required; however, it is a small piece of property. Nothing else is going to be done to the property except to add a fence. Staff determined that an administrative review would not be appropriate, so he would like to request site plan approval, waiving some site plan requirements. He is asking for feedback on this proposal.

Mr. Kelly asked how long the pipes will be stored on the property.

Attorney Prunier said for as long as the business continues.

**MOTION** to adjourn by Mr. Kelly. Meeting adjourned at 11:02pm.

APPROVED:

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Adam Varley, Chair, Nashua Planning Board

DIGITAL RECORDING OF THIS MEETING IS AVAILABLE FOR LISTENING DURING REGULAR OFFICE HOURS OR CAN BE ACCESSED ON THE CITY'S WEBSITE.

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

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Prepared by: Mindy Lloyd

Taped Meeting