



## PLANNING BOARD MEETING

Monday, May 8, 2017 7:00 PM  
Council Chambers, City Hall

### MINUTES

Approved 5/22/2017

Mr. Wahrlich called the meeting to order at 7:05 PM as asked for a roll call.

#### I. Roll Call

**Present:** Bruce Kolenda, James Short, Victor Bergeron, Richard Wahrlich, David Putnam, Nicholas Koloski (in audience)

**Absent:** Charlene Lovett, Marilyn Harris, Marlene Jordan, William Greenrose

**City Staff:** Michael McCrory, City Planner

#### II. Review of Minutes

There were no minutes to review.

#### III. Old Business

There was no old business.

#### IV. New Business

- a. **(PL 2017-00006) Gertrude Holl Rev. Trust, 289 Stepping Stone Rd, Lee NH –** Site Plan application for a 4,640 SF restaurant at **214 Washington Street**. Tax Map 121, Lot 46. Zoning District B2

Mr. Wahrlich read the public notice.

##### **Planner's report**

Mr. McCrory explained that there had been an easement between the Claremont Plaza and the restaurant, but the easement expired in 2013 after 50 years. The easement allowed crossing and parking between both properties. The easement was not renewed in 2013. At the same time, the restaurant was closed. There has been renewed interest in reopening the restaurant, but with no easement, the question has been how to provide parking, dumpster space, circulation, etc. Earlier site plans just incorporated the easement. Now the owner has had to look to their own property to resolve these issues as there will be no renewal of the easement. The applicant applied to the ZBA for a variance to reduce the number of parking spaces needed to 20 spaces (100 seats require 25 spaces).

The site is somewhat constrained by existing conditions. The applicant has asked for a new curb cut to allow internal traffic circulation and additional parking. The curb

cut is onto a state highway that in the urban compact where the City maintains it and regulates driveway permits. Thus, DPW is responsible for the permit.

The applicant has engaged an engineer and is working with the head of DPW to design the curb cut. It will be an exit only and a right-turn only.

The proposed site circulation has been reviewed by staff. Everyone has been challenged by this property given its constraints. Staff has been working with the owner to find a solution.

The fire department requires an access route of 20-ft width; in some spots the alley is only 16 or 18 feet. However, the fire chief feels he can get a fire truck through. He is trying to make sure the site is reasonably safe, but there can't be any additional constraints.

Mr. McCrory said he has some comments on some of the parking spaces – two spaces he is encouraging to be removed. He said the Planning Board needs to consider site circulation, parking, onsite utilities, dumpster; pedestrian circulation, and safe access to the site.

Mr. McCrory said the application meets the site plan requirements and finds the application complete.

**Motion:** To accept this application as complete.

**Made by:** Mr. Short                      **Second:** Mr. Kolenda

**Vote:** Unanimous in favor

### **Applicant's Presentation**

Tom Dombroski, surveyor, presented the plan to the board. He said it is a tight site to work with, but felt they had done their best. He said the plan shows 22 parking spaces – 21 regular spaces and 1 handicapped space.

He said the exit plan is being done by Dufresne-Henry. He is proposing a guard-rail fence along property line as per the ZBA condition. The guard rail complies with Claremont Plaza's concern that the fence not obstruct visibility.

Mr. Dombroski said the drainage is all natural. All snow will be removed from the site. (He said he should have noted that on the plan.)

Mr. Bergeron said he was very concerned about safety, traffic flow, delivery trucks, how to prevent someone from turning left (signage doesn't work) and back up of traffic on Washington Street.

Ms. Holl said that deliveries will have to be made to the restaurant before 11 AM or they will be refused. There will be no deliveries on weekends. (The restaurant will serve lunch and dinner during the week and all three meals on weekends.)

Ms. Holl said that Mark Belisle has offered parking space on his property for employees of the restaurant. She thought Arthur Street might also be a good place for employees to park. The restaurant property will be reserved for patron parking only.

Mr. Dombroski said that the parking requirements specified in the ordinance include employee parking. Mr. McCrory confirmed that statement.

There were no other questions from the board.

Mr. Putnam said he wanted all of the parking issues answered before voting on the plan.

Mr. McCrory said the Traffic Advisory Committee had reviewed the request for the new curb cut. The City does not promote new curb cuts on Washington Street, but was willing to accommodate this business.

The Police Chief was concerned about stacking with one parking space just 31 feet from the entrance. Mr. McCrory said it's a concern in his opinion. He advises keeping the northwest area clear for site distance. He also advises removing the diagonal parking space on the southwest side of the building near the handicapped space. Having a car parked in that space makes it too constraining on the handicapped space.

Ms. Holl said she may be removing the walk-in freezer on the northeast rear of the building as it has fallen into disrepair. She said the propane tanks can be moved toward building to free up space behind building.

### **Open Public Hearing**

Mr. Wahrlich asked for an abutters' roll call. He invited comments from the public.

Paul Bauer, attorney for Rosen Associates said his client's primary concerns are for the safety of the public and CPA's private property rights.

He said 1<sup>st</sup> responders may have access, but only if everyone parks where they are supposed to.

Claremont Plaza Associates (CPA) sees guard rails as critical to prevent trespass. Mr. Bauer said his client wants to see the guard rail installed before any work begins on the site.

Mr. Bauer said his client wants signs to be placed on the guard rail warning people that CPA property parking is for CPA customers only. He is also asking for a sign inside the restaurant that any restaurant patron caught parking on CPA property will be towed at the patron's expense.

Mr. Bauer said that off-site parking for employees should be made a condition of site plan approval.

Mr. Bauer said that CPA is very concerned that the narrow passage around the building will be too challenging for large delivery trucks, and that the trucks may choose to park on CPA property instead. He said CPA should not have to monitor this. He said according to their consulting engineer, the passageway is only big enough to permit a standard-sized commercial van and asked that delivery truck size be limited to that.

Mr. Bauer said his client is also concerned about the proposed curb cut. He said it has not been approved by the appropriate authorities. He said that it must be approved first and the board agree that it's safe. He said no traffic study had been conducted and NH DOT has not been consulted.

Mr. Bauer said that his client wants it safe for everyone using Washington Street. He expressed concern with pedestrian safety with patrons crossing the entryway to get into restaurant.

Mr. Bauer said that the handicap spot against the building is hemmed in by the parking space next to it. Passengers can't get in or out of their vehicle if someone is parked in the diagonal spot.

Mr. Bauer said there are no details on the plan regarding site lighting. An exterior lighting plan is required by the site plan regulations.

Mr. Bauer repeated his clients demands that approval not be granted until all concerns have been met and the approval is conditioned on installation of the guard rail, signage, and truck size restrictions.

Mr. Bergeron asked why a company would want a guardrail in the middle of their parking lot. He said the lot is never full occupied, except on July 4<sup>th</sup>. He said the arrangement between the two businesses used to work for everyone. He asked if CPA will require their customers to move their cars from the CPA lot to the restaurant lot if they want to eat at the restaurant after shopping at the plaza. He asked if that was truly was CPA wanted.

Mr. Putnam said people will have to move their car if they shop and then want to go eat – what kind of neighbor are you?

Mr. Bauer said the easement wasn't renewed for several reasons.

Mr. Bergeron said your client claims that he is not trying to obstruct the development of the restaurant, but that's all your client is doing.

Mr. Putnam said you are making it harder and more dangerous for people to come to the restaurant. He asked if CPA would allow Brickers customers to cross CPA property to get to Brickers?

Mr. Bauer said he couldn't negotiate.

Mr. Putnam said, "You say you're concerned about safety, but you are not."

Mr. Bauer said the property could be used for something other than a restaurant that needed less parking.

Mr. Kolenda said Mr. Bauer's client is causing the problem; that his client doesn't care about the safety of people in Claremont. He said the new curb cut is dangerous; and that he didn't think confining the entire area inside a fence is safe. He said he wanted to see this work out the way it was before for the mutual benefit of the plaza and the restaurant. He said he wants to see the restaurant reopen and the plaza entrance used as both an entrance and exit for both properties. He said, "If I spend money at your shops, and then decide to get something to eat, you are going to tow my car?" He said this used to be mutually beneficial.

Mr. Putnam asked, "Is the grudge that great it can't be worked out?"

Mr. Bauer said his client had been sued by Brickers.

Mr. Bergeron said that happened a long time ago and isn't it time to put it aside and sit down and work this out. Isn't it worth a try? He said it's just smart business to work it out. He said he had never seen this happen before in Claremont. The restaurant brings patrons to the plaza and vice versa.

Mr. Bauer said his client has no interest in renewing the easement. He said he would take other ideas to his client, but at present they are expressing concerns over this site plan. He repeats his client's concern over safety. He said it is not his client's responsibility to design a site plan for the restaurant.

Mr. Putnam said, "That's a little hollow – if he were really concerned, he'd work it out; put forgiveness on the table and work it out."

The board had no further questions for Mr. Bauer.

Nick Koloski, abutter to the plaza, said he wants to see Brickers open. He said he appreciates their "jumping through hoops" to get this far. He said he is not interested in another curb cut, and would appreciate another way being found. He said Dunkin Donuts eliminated 50 feet of curb cut when they built their new shop, but even still, when he leaves Moody Avenue at the same time someone wants to turn into Dunkin Donuts, it causes a "stand-off". He said he can see the same thing happening here. He said he would like to see the conditions implemented before anything happens on the site, before the CO is issued.

Mr. Koloski said that food deliveries are a concern – as a restaurant owner himself, he knows that deliveries don't always arrive when you want them to, and you can't control that.

As to signage, Mr. Koloski said “CPA” won’t have any meaning to most people and asked that other terminology be used. He said having the sign in the restaurant was “a bit harsh”. “Welcome to Brickers –your car may be towed while you eat”.

He said the off-site parking proposals should be researched a bit more, as, for example, Belisle’s offer may not be acceptable.

Mr. Koloski said he feels like he is being asked to choose one business over the other. He said it is very offensive to think his car would be towed and that he would have to re-park his car between shopping and dining. He felt this was very poor business. He said he finds the word “trespass” offensive. He said towing vehicles is harder than CPA may think.

He said he appreciates the efforts of the applicant to try and make this work.

Mr. Dombroski said that Washington Street had been widened twice since the Idlenot Restaurant was built, and if NH DOT had known that the restaurant was going to be without an exit, it would have given them another way out. He felt the plaza entrance with the traffic signal was intended to be used by everybody.

There were no other comments or questions. Mr. Wahrlich closed the public hearing.

Mr. Bergeron called for a site visit. He said, “We’re the ones making the decision. Everyone else has been there, we need to.” He said he is very concerned there will be an accident and needs to visualize the property.

**Motion:** To conduct site visit

**Made by:** Mr. Bergeron      **Second:** Mr. Short

**Motion and second withdrawn to allow Ms. Holl to speak.**

Ms. Holl said she appreciates the support. Between two and four, there is usually nobody at the restaurant. She said she can’t have delivery during mealtimes. She said she was willing to reduce the number of seats in the restaurant to 90 if that would help. She said they just want to open. Anything the board can do to help she appreciates.

**Motion:** do site visit and vote at the next meeting on the 22<sup>nd</sup>

**Made by:** Mr. Bergeron      **Second:** Mr. Short

**Vote:** Unanimous in favor

Mr. Putnam said Mr. Bauer had offered to take back any proposals of the board to his client. Mr. Putnam said the proposal is, based on the premise that your client is concerned about public safety, that this community was founded on people getting along. Every once in a while, there is a conflict. People here find a way to work out conflicts and move forward. He said his request is that Mr. Bauer and his client work on finding a way of working out the differences so that the good neighbor relationship that you could have with all the businesses, including BJ Brickers only

helps set a role model for people in Claremont for how things can be worked out. He said he'd like to make that a request from the board and a motion "that you go back to your client, and that you have a really hard discussion. That this is from the Planning Board with a vote; to see what you can do to work this out."

Mr. Wahrlich asked, "Are you asking that they come up with some type of resolution and present it to the owners of BJ Brickers?" Mr. Putnam said yes, and to the board.

Mr. Bergeron said he thought Mr. Putnam was trying to urge Mr. Bauer to convince his client to sit down and talk.

Mr. Putnam said, "But I want him to take it seriously. That's why I made it in the form of a motion."

**Motion:** Find a resolution.

**Made by:** Mr. Putnam                      **Second:** Mr. Bergeron

**Vote:** Unanimous in favor

Mr. Bauer said he always brings things back to his client – whatever was discussed, what the board's concerns were. He said with that said, he would certainly bring this back to his client.

Mr. Bauer said that the proposals he had made at this meeting represent his client's effort to try and reach a compromise so that this proposal will work for everyone. He said his client is not trying to obstruct them from opening the restaurant. He said they are saying, if this is the site plan, these are our concerns and here are some conditions that we feel should be put in place to make sure we are comfortable with it, that our property rights won't be impacted. He said we are not coming to this board looking for site plan approval. So for the tables to be turned, for us to come up with a revised site plan that is going to work – certainly we can look at what our requests are, look at the use of the plaza's entrance and if there is something that can work with that; we are not the ones proposing a site plan here.

Mr. Putnam said that his client was creating a hardship for Brickers.

Mr. Bauer said he is only asking for a guard rail and signs and restrictions on delivery truck size.

Mr. Wahrlich said we're asking your client to come up with an easement where customers can come through the lighted entrance to get onto the Brickers' property.

Mr. Putnam said what would be best is for Mr. Bauer's client to develop a new relationship where there is no guard rail. He said he and his wife used to eat at Brickers and then shop at the Plaza. He said his shopping at CPA has dropped by about 80% since Brickers closed.

It was agreed to conduct the site visit at 5:30 PM. The exact day will be worked out.

**V. Reports from Boards and Commissions**  
None

**VI. Other**  
Nothing

**VII. Correspondence**

1. Alteration of Terrain application – 492 Washington – request for more info
2. Wetlands Permit - Rice Reservoir spillway reconstruction project
3. Town and City Magazine

**VIII. Adjournment**

**Motion:** To adjourn the meeting

**Made by:** Mr. Short **Second:** Mr. Bergeron

**Vote:** Unanimous

The meeting adjourned at 8:31 PM.

Respectfully submitted,  
**d e F o r e s t B e a r s e**  
Resource Coordinator