

PLANNING BOARD MEETING OF June 22, 2010

Place: Town Hall Banquet Room

I. ADMINISTRATIVE BUSINESS

Chairman Hayward – Opened the meeting at 6:32 PM advising the forum the hearing is being televised.

A. Quorum/Attendance

Members Present: Chairman Wayne Hayward, Raymond Fleurent, Albert Borges, Joseph Morra, Gary Staffon, Albert Silva and Peter Nopper.

Members Not Present – Marinus Vander Pol, Jr.

Planning Director William Roth was also in attendance.

B. Acceptance of Minutes –

Albert Borges motioned to accept the minutes for the June 8, 2010 meeting. Joseph Morra seconded. The vote was unanimous. The motion passed.

C. Planning Board Bills: None.

II. CURRENT PLANNING

A. Receipt of Plans: None

B. Approval of Plans - Form A – Joseph and Susan Swift, 23-25 Nelson Avenue.

Joseph Swift and his attorney came before the Board with the Plans of 23-25 Nelson Avenue for approval.

Director William Roth – addressed the board and explained and discussed the parcel and plan. He recommended the Board approve the plan. Raymond Fleurent motioned to approve the Form A Plan and Gary Staffon seconded the motion. The vote was unanimous. The motion was passed.

III. LONG RANGE PLANNING – None.

IV. PUBLIC HEARING – .

1) Special Permit – Francis Budryk – 1 Main Street – continued from 6/8/10.

Chairman Hayward – Opened up the continued hearing. He introduced the Board members and indicated that this was a continued hearing from June 8, 2010. Chairman Hayward addressed the forum indicating the hearing is being televised and that would be following the new meeting laws effective July 1, 2010. To address the forum it would necessary to go through the Chair.

Chairman Hayward – at the last meeting a detailed explanation in writing of the business plan from the Petitioner Mr. Bedrick was requested. The petitioner's engineer, architect and attorney were present at the last meeting. Two sets of plans have been introduced already. At one of the hearings the abutters were heard from and one of the sets of plans were revised to be in compliance. The Board will be hearing all questions and voting. A letter from the Petitioner dated Friday, 6/18/2010 is before the Board. Was the letter received today?

William Roth - Correct.

Chairman Hayward – The letter won't be read. Let's give the members time to read the letter. (pause for reading) We are looking for what type of restrictions to be placed with the Special Permit was the purpose for the letter. This is a mixed use district and was increased to Church Street for this one parcel years back. It was felt that the large home should be part of the mixed use. The letter gives background of the Polish Culture, resources to fix the property, a little history about the property and some non-profit corporation information.

William Roth –The letter needs more details. Such as: proposed hours for cultural center events; are the events generally Saturday and Sunday? Seven to eight cultural events per year? We don't know the times of the year of the events. The letter did discuss prior events. The letter also discussed an anticipated \$150,000.00 to \$200,000.00 on renovations. Do the events run from three to four hours? We need exact, specific information. Do we limit Saturday and Sunday events? Hours Noon to 5 pm? – I don't know. The Board could condition events. I would recommend the fence on north side should also be for the east property line (Borges Property). The Board refers to the plans and discusses same. The light, with a small shield can be put on only in the evening. (cut sheet of lighting handed to Board). Fire Chief approved the site plan only, different building requirement will be required when building plans are submitted. Mr. Holmes second email dated 6/7/10 was referred to and read to the forum. Mr. Holmes did email about a ½ dozen letters.

William Roth – Direction of Board can: Hear additional testimony, close hearing and vote. Approve with conditions and I can recommend a set of conditions. Recommend that you don't just craft conditions at meeting, as is bad policy.

Chairman Hayward – Applicant?

Mr. Budryk –I am applying for a special permit to add a small addition to include a handicap bathroom and kitchen. I want to follow the rules. I believe a second kitchen is allowed for the bed and breakfast. The other part of the addition is the bathroom and small lobby. No one's view is being blocked. I have a list of events. The events are usually Sunday from 3 pm to 7 pm. Most people who attend are middle age or seniors. There is no rowdiness. There has not been a parking problem. I can make specific arrangements. I intend to put up a fence for screening. The lighting would not be offensive. Lights would not be on that long, remediated perhaps 7 maybe 8 cultural programs and 3 pm to 7 pm approximately. I want to present Polish Culture in a civilized way. Cars are allowed in the streets. If you have questions please feel free to let me know.

Anna Surma, (Architect for Applicant) – Mentioned that we did meet with the Building Commissioner. The terrace was reviewed with his satisfaction. No setback regulation from him. Restricting the number of people with the Special Permit also was okay with him.

Chairman Hayward – The occupancy of 65 and 31 spaces for parking. Board is familiar with these numbers as discussed at last two meetings. Concrete conditions on paper are needed. Permit could be at risk. No conditions by owner were proposed in his re-submittal. Do we have any new evidence?

Nate Holmes – I was not present at last two meetings. Why is the mixed district extended past South Street?

Chairman Hayward – It was deliberate to extend South to Church Street to include One Main Street, this property.

Nate Holmes – The issue is what will happen to the neighborhood? My family has lived there for 70 years. There are a lot of neighborhood houses with bedrooms on the second floor. Animals could set off light; anything could set off light, excluding an intruder. Number of parking spots is an increase 6 times more. Number of people is up 7 times. Mixed commercial and residential use goes both ways. Rules are for safety. This would be a significant change to neighborhood. Why would an owner spend \$150,000 to \$200,000 if he did not think he would make money from it.

William Roth - \$150,000 to \$200,000 is indicated in the applicant's letter. I do not feel it is the Board's purview to look at what an applicant is spending. The Board reviews the expansion and use regardless of cost.

Chairman Hayward – We don't regulate lighting. Motion detectors are sold that way. On a Special Permit, we require down lighting with a shield. For the parking lot it needs to be down facing lighting type is okay. Residential style lighting is okay. I don't envision security lighting on property.

Anna Surma (Architect) – Motion light on with timer. Switch can be off most of time. Security light on other house. Lighting would be on 7 to 8 times a year.

Steve Ledogar (94 Fort Street) – Question on the addition. Part of the view from my house, a slice, will be obstructed by the addition. Isn't there already seven full baths and 2 ½ of them on first floor. Can't Mr. Budryk put the bathrooms back to back without extending any further? Wouldn't it be easier on the sewer? That's my only concerns.

Chairman Hayward – Seven bathrooms and 2 ½ of the bathrooms are downstairs. Some of the bathrooms included with the bedrooms.

Mr. Budryk – Yes.

Anne Surma (Architect) – Architectural issue of levels. House is on many levels. Handicap level for the bathroom is part of the addition. You would need a 24 foot ramp for handicapped bathroom and a ramp is not practical. As to the question of view, they don't have rights to view of someone else's property.

Richard Urban – Mr. Budryk to comply with minor restrictions is cooperating fully. Green screen of fencing and lights. Lights only would be downward facing. No effect on neighbors.

Chairman Hayward – Order! He's got the floor. He is not proposing commercial lights. Lights being used can be purchased at Home Depot. This is not an issue here. He will not have large sodium type commercial lights. The light needs to be facing down with a shield. Planning Board does not restrict residential light. There is no need for flood lights. Board won't regulate lighting.

Daryl Manchester – I am a direct abutter. You continued the last meeting so the applicant could propose conditions and that has not happened. Mr. Budryk is a businessman and sat through two meetings with an architect and engineer. He has had already several events. The 9/2009 Polish event was advertised as the "Grand Opening". The web pictures for the 11/2009 event was advertised on the web with donation of \$20.00 per person, with singing and piano playing with someone from Boston coming down. The event for 1/3/2010 has a poster with a mass at St. Lawrence Church and a Christmas Dinner of \$40.00 a person and kids and seniors were \$35.00. Mr. Budryk is quite about this web site information. I figure 50 people times \$20.00 a person to be \$2,000. This is a commercial venture. The Southcoast article kicked off the 2010 season of the Polish Club in the article of 1/3/2010. He had no permits to kick off the event. Mr. Tolik to be the Polish Administrator is significant for Mr. Budryk and is not only a businessman. There is the dentist practice across the street. Special permit for home occupation requires you to live there. Has he lived there? Enforcing conditions is the problem. Enforcing agency is the neighbors. Density of use for 30 cars against properties is an issue. Why not rent the VFW or Seaport Inn? Mr. Budryk states most events are Saturday and Sunday. That is when the neighbors use their properties, May through October. We have been up and down; he is here to put conditions on it. This is not fair.

Chairman Hayward – Don't misread this. We are working on conditions. Mix use: The amendment to keep South Street marketable for mixed use. Everyone in residential is residential. Commercial in middle and abutters can speak to it. Density of use: Number of 31 cars includes bed and breakfast, staff parking and Mr. Budryk's own parking.

Daryl Manchester – Web site shows events well attended. Mr. Budryk is a businessman. This is a

commercial use surrounded by residences. I am opposed.

Chairman Hayward – This is mixed use. Determining application and reviewing plans is our job with these meetings.

Daryl Manchester – Mr. Budryk has a right to apply but does not have a right to this special permit.

Chairman Hayward – He has rights to apply for a special permit and a meeting.

Mr. Budryk 's Attorney – This is not residential. It is mixed use. Here under the rules requires a special permit. Mr. Budryk wants to follow the rules and abide by his neighbors. Come view the property and make suggestions. Mr. Budryk can have a party any time he wants to. He is entitled to 30 to 35 cars. Specifically, 8 functions a year is enough. Between 3 pm to 7 pm and half of the events will be when it is day light so no lights will be on. He is willing to put up a fence and shrubs. It is up to the Board to approve with conditions. Mr. Budryk wants to be a good neighbor. He does not want to cause problems. Yes, Mr. Budryk is a businessman and bought the property foreclosed. There may be more noise on with illegal 4th of July fireworks. Mr. Budryk 's, the majority, events are inside. Anyone can form a 501c, non-profit organization. It is a charitable sense. Off street parking is available. He will meet with neighbors to get suggestions on conditions.

Chairman Hayward – There is a maximum build out.

Richard Charon – I represent the owner of the vacant property to the east of the site. My client wants to build a residential house and knew there was a bed and breakfast next door but they did not know a commercial venture could go in. Double backed up for parking is impractical. He has not met intent on parking? Town extended mixed use. Now it's up to discretion of Board.

Chairman Hayward – This is why we have a Special Permit here.

Sally Mahoney – I am not Polish. Mr. Budryk is agreeable and willing to do what needs to be done. I have been to 3 of the 4 events and they are just lovely. Music, art and poetry. No parking problem. From St. Lawrence some people car pooled over. No problem. I have a disability and in 2 or 3 years might need the handicap bathroom. Web site ask for donations, I didn't pay. I brought brownies. It didn't feel commercial. I understand conditions may be needed. There is no crowd noise.

Chairman Hayward – What is the biggest fear?

Maura Askue (abutter on Main Street) – What about the other 350 days a year? Why put in \$150,000 to \$200,000? Two kitchens are only necessary if want to provide more commercial type cooking.

Chairman Hayward – I would think the abutters would feel better knowing an architect and engineer were hired to make plans of property. There are no notes on napkins of what is to be done. Mr. Budryk came to three meetings with an architect and engineer. This shows commitment to the property. Projects before us with an architect present are not typical. You can see what \$200,000 will look like is very impressive.

John Gage (9 Fort Street) - I have been there 35 years. What is bothering me is the spending of money on the property that was on the market, was a foreclosure and no one is making it fly. Don't they see coming back the second time, up and down on the market and the flood plain?

Chairman Hayward - Do you know what it was purchased for? It was purchased to be a viable project.

John Gage (9 Fort Street) - I only know what the newspaper says.

Father Murick of St. Lawrence Church - I have known Mr. Budryk for 10 years. He has been looking for a property just like this. I believe it is his personal mission to fulfill the Polish and Portuguese Culture for hundreds of people and it would be wonderful for promoting culture and for him to help generations of people in need. As far as Mr. Budryk 's "insanity" I believe he is extremely happy he found this place. It is his life achievement. He has been down so many roads looking for this property that did not work. I believe Mr. Budryk to be sincerely truthful.

Gail Stetson (Fort Street) - Parking lot is a fear. Putting it in how? It is beautiful now. Will it be paved?

Chairman Hayward - You were not here at the last two meetings?

Gail Stetson (fort Street) - No.

Chairman Hayward - Some of it is paved now and crushed gravel. Don't want to be jamming up streets. It is being worked along. The applicant is proposing an additional gravel parking area and event parking on natural lawn. Plans show it.

Gail Stetson (Fort Street) - Thank you. (plans made available to be seen)

Chairman Hayward - No regulations on economic. Nothing on site. Numbers ½ million, 1.2 assessed.

Attorney for Mr. Budryk - \$675,000. Purchase price.

Mr. Budryk - I am not here about economics. It is a non-profit.

Chairman Hayward - Comments?

Rich Charon - Future use? 8 events a year? Who is monitor? Is 15 to 20 people, 3 to 4 times a year, an event? It is the people who monitor and the neighbors.

Chairman Hayward - Any specific fears? We should address: a restaurant was mentioned.

Daryl Manchester - Enforcement. Board cuts conditions. Who is bean counter? Enforcement on the neighbors is what it comes down to. The value of property goes down to my house.

Chairman Hayward – The same people in town enforce it as any other permit and police and court and the entire system. It is the same people that enforce Wal-mart, labor, fires and bars. For a full-time cop we have no authority. The permit is only as good as we craft it.

Daryl Manchester - Fear is density.

Alice Sherman - I've been present for two events. There was a parking helper. No trouble and no commotion. Mr. Budryk planned well. A good size kitchen is necessary.

Chairman Hayward - Event parking. Three hour event and they normally stays until event is over. In an emergency situation then it is dealt with. Event parking can work.

Attorney for Mr. Budryk - Most of the people know each other. We need to move a car outside and direct them where to park. There are no blasting horns. This is a Polish event and is not rowdy. They read poetry, listen to opera, and share the history of events Polish and American. If there are any complaints Mr. Budryk wants to know.

Ms. Marnik (56 Green Street) - Polish culture feels good about this and continuing heritage. Younger generation doesn't want it. How could this not pass? It would be a disappointment if not to preserve the heritage.

Chairman Hayward - Rotch Duff has no parking. My daughter's wedding was held there. It is a good size property and very valuable.

Person at forum - residential property around it?

Chairman Hayward - Pretty much behind it is.

Joseph Morra - I have a comment on heritage. Involved with Italian culture. He comes in dedicated and driven. He is not trying to be a deterrent. He is trying to do what neighbors want. You should be glad to see it.

Chairman Hayward - It is mixed use. It is why we put it in. Conditions have to be concrete; our authority stops at the permit. One issue not addressed is sunset permission. It is good for two years. It is not a common practice. Our authority ends on the permit. Applicant is willing to have conditions. 65 occupancy seems agreeable to applicant. Some of it is in writing. Board would have to draft conditions. I'm not an attorney. I have drafted a few things for conditions. (typed draft list of conditions on paper handed to rest of Board)

Chairman Hayward - (read out loud the draft conditions items 1 through 10)

William Roth - A set of recommendations can be offered by me next week. We could meet on the 29th. Conditions could be available on Thursday. I'll write them and have it available.

Albert Borges - He wanted to see conditions. No problem.

Raymond Fleurent - Motioned to close the public hearing. Gary Staffon second the motion. Vote was unanimous. Motion passed.

Chairman Hayward - We will meet on June 29, 2010, at 630 pm. Public invited. We will take a hard look at conditions.

Albert Silva - I might be out of town on that night coming back at 4:30.

Attorney for Mr. Budryk - The next meeting will be to discuss conditions only.

Chairman Hayward - Yes. Public hearing is closed.

William Roth – If anyone wants a draft set of conditions sent to them they will have to email me. My email address is on the web for Town of Fairhaven.

V. OTHER BUSINESS –.None.

Albert Silva - motioned to adjourn. Joseph Morra seconded. The vote was unanimous in favor. Motion passed. The meeting was adjourned at 8:43 pm.

Respectfully submitted,

Shirley Monte,
Recording Secretary