

**CITY OF NEW BRUNSWICK  
PLANNING BOARD  
DECEMBER 9, 2014  
MINUTES  
7:30 p.m.**

**I. ROLL CALL**

x	Suzanne Ludwig
x	Linda Hunter
X	David Fitzhenry
X	Joseph Catanese
x	Jeff Crum
x	Carly Neubauer
x	Clary Barber (Class I)
	Kevin Jones (Class II)
	Betsy Garlatti (Class III)
X	Josepha Rojas(Alternate #1)
	Andy Kaplan (Alternate #2)

Staff Attending:

x	Board Attorney Aravind Aithal
x	Board Secretary/Director of Planning Glenn Patterson
x	Principal Planner Mark Siegle
	Board Planner Henry Bignell
x	Board Planner Todd Bletcher
x	Board Engineer Tom Guldin
	Conflict Engineer Chas. Carley

**II. PUBLIC ANNOUNCEMENT (OPEN PUBLIC MEETING ACT)**

**III. SALUTE TO THE FLAG**

**IV. MINUTES OF THE BOARDS NOVEMBER 18, 2014 MEETING**

**Motion to Approve: page 5 correction – campaign treasurer, not manager  
Hunter**

**Second: Catanese**

**Approved by unanimous voice vote**

**V. COMMUNICATIONS AND REPORTS**  
**Resolutions of Memorialization**

**A. None.**

**VI. OLD BUSINESS**

**A. CONSTRUCTION MANAGEMENT ASSOCIATES, PB-2013-25**, Site plan and variance application for the construction of a residential building located at 17 Mine Street, Block 71 Lot: 4.01, Zoning District: R-5A and Redevelopment Area 2  
Continuation of the hearing from November 18, 2014

Preliminary Matters:

Mr. Aithal address the status of the application as a “new” application, as the issue had been raised at last month’s meeting. He reiterated that this is not a new application, but a de novo hearing. The board will disregard testimony prior to the October hearing, but any documents submitted prior to that as part of the application would be considered. Also, do not consider advice from the previous Board attorney.

Mr. Patterson discussed that a review of the project file earlier today showed no environmental impact statement on file despite the checklist showing it as having been received. The applicant has been advised to submit this prior to the January hearing date. New Jersey Zoning and Land Use Administration (Cox, 2014) states that completeness checklist items are not jurisdictional items and the board can hear an application that is not complete. Therefore, the Board can continue with the hearing.

Objector Cross-Examination:

Mr. MacArthur stated he wanted to start his case but did not want to have other members of the public put off if there would not be a lot of comment at this time. It was agreed that Mr. MacArthur would proceed directly with his cross examination and his witnesses at this time.

He placed a procedural objection on the record regarding the status of the application. He agrees it is not a new application and is a continuation of the original application. He disagrees with how the record is being handled as he believes the entire record of the proceedings has to be considered, particularly the public comment from April. Those people may not have come to the later hearings. He cited Cox 2013 30-1 and 30-3, stating that a line could not be drawn between the hearings. Either all of the hearings are in or none are in.

Mr. Aithal asked if Mr. MacArthur could cite a court case on point. Mr. MacArthur said he had looked but did not find a case. Mr. Kelso stated that the

reason for the de novo hearing was due to another objector raising the objection to Mr. Bucca and it is not equitable to the applicant to make them have a new application with new fees, as the reason for the de novo hearing is not a fault of the applicant. The de novo hearing is to remove the taint that may have come from Mr. Bucca. Also, the plans were significantly amended and all professionals needed to testify again anyway in October.

Mr. MacArthur said the April transcript should be considered if the board wants a fair hearing as much comment was given that night that the board should consider. Mr. Kelso pointed out that the April hearing was on a different set of plans.

Mr. Aithal suggested the objection is double-speak. The applicant did not put themselves in the position of needing a de novo hearing. It was because of a member of the public raised an issue with a board professional. Additionally, we are in December and have are now in the third session of the de novo hearing and counsel has not raised this issue before. Also, it is an objection of form over substance as calling it a “new” application would not change what the board has previously heard or change his advice to the board as to what testimony they could consider. He advised that the Board could go forward with the hearing.

Mr. MacArthur said he would cross examine Mr. Broder. He asked if there was an agreement with Hillel, Rutgers or the Seminary with CMA to provide housing at 17 Mine Street. Mr. Broder said no.

Is there a contract between Devco and the Seminary to provide housing for the Seminary? He replied: no. Broder indicated he did not know of any Devco contracts for housing with the other entities either.

Broder stated in response to a question that the majority of units are not for the seminary and could be rented to families.

Broder stated that the condition of the houses on the property in December last year were in similar condition to their current condition according to his recollection.

MacArthur asked about whether cars from project residents would park on the street. Broder said no, they were giving up rights to parking permits and that the number of spaces provided was appropriate.

MacArthur asked if the car share agreement was terminable. Broder said yes. MacArthur asked: What did you mean by providing “more spots for car share” in your testimony. (O-4 November 18, 2014 hearing transcript) (The October transcript was introduced as O-5.) Broder said this was the first time such a service was being offered and they were flexible as to how the service would operate. He indicated that if Enterprise needed more than one spot to address

demand, they will provide additional spaces for Enterprise. MacArthur asked how the car share worked. Broder said the details were not worked out yet. He described how such a service works in general terms. He said they were attempting to solve problems with parking but did not have a magic wand.

MacArthur proceed to cross examine Steve Schoch, Archt. He asked if the predominate architectural styles were federalist and Victorian. Schoch indicated there were a variety of styles. Schoch did not agree that the proposed building was out of character to the neighborhood style. He said there were no federalist or Victorian architectural elements in the proposed building.

Mr. MacArthur asked if some properties in the area were well maintained and were not all derelict as shown in exhibit A-3. Schoch said some were derelict and others were reasonably maintained.

MacArthur asked about the materials proposed for the proposed building exterior. Schoch said houses on Mine Street used many materials and the new building is not intended to mimic the existing but to be compatible.

MacArthur asked: Are most homes 2-storey on Mine St. and are there no 4-storey buildings? Schoch said some had occupiable 3<sup>rd</sup> floors but no 4-storey buildings. He also agreed that this would be the only building with in excess of 50 units on Mine Street.

Does the redevelopment plan talk about framing a view corridor? (O-6 College Avenue Redevelopment Plan) Schoch replied, yes. Is it your testimony that despite the lesser setback of the proposed building that the view corridor is not impacted? Schoch said only from certain viewpoints.

How many people can live in the building? Schoch stated cover sheet CS of the plans stated 124 potential occupants. Would the building be more compatible if it was only 2 stories? Schoch said no, as the redevelopment plan said how to accommodate density, not to not do higher density.

The proposed square footage is 97% of the original square footage but you testified this was a significant reduction. Is it? Schoch said yes.

Schoch stated that an updated shadow study was not done as the building became smaller and would have less impact.

Schoch stated the garage was not gated and persons were not physically prevented from entering it.

He stated the cornice line of the 4<sup>th</sup> floor could be seen from across Mine Street.

He was asked if the building would affect the light and view of 15 Mine. He said any building would have an impact but this was attempted to be mitigated by the H design. He said they had not done a shadow study on this current design.

MacArthur asked if the surrounding buildings were less wall-dominant than the proposed building. Schoch said that in the context of the redevelopment plan guideline, the design is not a wall-dominated design.

MacArthur asked if he testified in March that the building was compatible in terms in mass and scale with the neighborhood. Schoch said he testified about how the design was compatible.

MacArthur directed questions to Ed Bogan, Engineer. Bogan listed the documents he reviewed in preparation for this testimony including the zoning and land use ordinance. He was asked if the lighting standard at the boundary was exceeded? Bogan said yes and this was identified in engineer's report and that they would comply with the design standard.

He was asked what the lowest point in the underground parking lot was. He said 61.82 feet elevation above sea level, with the highest point on the floor being approximately 65 ft. He said drainage was covered in the utility plan. MacArthur asked where the detention basin was depicted. He said on the utility plan and the detail sheet. He was asked if the 100 year mean high water table was at 72 ft above sea level? Bogan said yes and that this was below the top grade of the basement. He was asked if the top of the garage was below the 100 year mean high water table. He said yes. He said he did not do any field inspections related to this but he said he has done several projects on nearby Union Street and conditions are consistent. He was asked if the basin would fail if the water level was higher than the mean high water table? He said no. He was asked if his firm conducted any shadow study. He said no, he did not do such studies.

He was asked if the infrastructure improvements he testified to, such as the hydrant, would take away from on-street parking spaces. He said it was possible.

He was asked if he was aware if there would be a off-street parking area across Mine St and did he consider this in his analysis. He said he did not consider it.

He was asked if he reviewed the Bignell planning report. He said he did. He said on-street parking in front of the trash door was partially prohibited by the driveway apron.

He stated that trash was typically picked up by a 30 ft long WB truck. He indicated that such a truck might partially block traffic during pick ups or could pull in at the driveway entrance. He agreed that on-street parking was usually well used at all times and the truck would probably not be able to pull to the curb but that the truck had other options.

He was asked if he did a historical analysis. He said no.

He said he was not familiar with the development going on at College and Hamilton Streets.

He was asked if privacy shrubs had not been provided between 15 Mine and the proposed building. He said this was correct. He said 3370 sf of the lot was not covered by pervious surface. He was asked if the ordinance required certain tree plantings for this area. He said he was not familiar with this. He was asked if buffers were important and were any provided. He said that was not his testimony and that a 6 ft high estate fence was provided around the property.

He was asked if any delivery trucks would service the property and would there be a loading space. He said there was no loading space provided and he was not aware of need for deliveries for things like vending machines.

Does the impervious surface exceed a quarter acre? Yes. Does it need a major stormwater permit then? Bogan said he did not believe so.

If all 43 spaces are occupied does a car have to back out? Bogan said they would back up in the garage and do a k-turn in the garage to exit.

He was asked to review the maneuvering of the garbage truck. He said they would pull in front of the trash room and then dumpsters would be moved out. The truck could position in front of the driveway apron.

He stated that he had testified that a building like this did not need a 36 ft driveway aisle. If it had the wider aisle, he was asked if spaces would be lost. He said it was possible but based on his experience it was not needed.

Mr. Kelso asked on re-direct if any of the bulk standards he reviewed were in violation. Bogan said no. He was asked if the applicant would comply with the lighting standards. He said yes. MacArthur asked if the bulk standards were for the R-5 or the IN-1 zone. He said it was the redevelopment plan standards.

Charles Olivo, traffic engineer was cross examined. He was asked about his testimony about the project being a low traffic generator and he discussed its context. He was asked if occupants would use mass transit. He said it was an option for residents. He said the proximity of transit was relevant to the number of parking spaces needed.

He was asked if any shared parking facilities existed in the area. He said he did not know of any other car shares in the area.

He said he did not do a traffic study specific to Mine and Easton, Union and College Ave and no Mine Street parking study. He said the project provided adequate on-site parking. He said the parking report was based on industry standard information.

He was asked about how car share worked. A car would be shared and take up one of the parking spaces. He said the car share would be available to all building residents and possibly the general public. He was asked if it prevented a resident from bringing a car. He said no.

If the number of units were reduced could the ordinance be complied with for parking? He said he believed the ordinance was complied with.

He was asked about Olivo's report statement about financial viability of the project. Mr. Kelso objected as this was not his area of expertise. MacArthur rephrased and asked if financial viability was a traffic engineering consideration. Olivo said it was discussed in a broad discussion of the project. He was asked if the intensity of the project should be reduced or more spaces provided. He said no. He discussed that RSIS is broadly conceived and allows for alternate parking standards to reflect local conditions.

Olivo said seminarians and other students have similar travel needs.

He was asked if he was familiar with the lot across the street that was being developed as a Rutgers parking lot. He said he wasn't.

He was asked if he was familiar with the project being constructed at College and Hamilton and whether he factored this in. He said it was not a factor in the analysis.

He was asked if adequate car passing width was allowed for on Mine Street. He stated it was for the typical car or SUV, which is 6 to 7 feet wide. A WB60 vehicle might be 8-9 feet wide.

He was asked about the statistic of 44% of New Brunswick residents using non-car modes to travel to work. He said this was not Mine Street specific but reflected the community. He also discussed proximity of transit facilities.

He reviewed his testimony that 34% of New Brunswick residents do not own a car. It is not a Mine Street specific statistic.

He was asked if the ITE urban central business parking standards applied? He said they were a useful guide. He said RSIS is also a guide that also provides for alternate standards.

He was asked if there was an undo hardship standard for an RSIS design change. He deferred this question to the planner.

He was asked if the parking supply is reasonable and if he concluded this without looking at Mine Street parking conditions at all hours. He said it was adequate and that it was unrelated to the Mine Street conditions. He discussed that providing more parking distorts the choice that residents can make about which mode they chose to use and that an oversupply of parking will cause less use of a good transit system.

He was asked if the required parking was required would it require a larger structure. He said it probably would.

He was asked if it would be better to have a smaller building and comply with the parking standard. He did not agree with this.

He was asked if there were off-site parking resources for the project. Olivo said there were off-site decks.

Were alternate side parking rules considered in the analysis? Olivo said this was not germane to the parking study.

He reviewed again that census data show 43% of local residents do not use single occupancy vehicles for commutes.

Regarding car share, will one space provide parking for 15 units and is this an ITE standard. He responded yes and no. He was asked if this would reduce the need for 15 parking spaces at this site or city-wide. He said it could be at this site.

Would open market residents with cars be turned away? He said not necessarily as they would have a choice as to whether they would rent or not with the conditions present.

He was asked when was the highest use of residential parking. He said in the evening.

Did Rutgers or the City do a parking study? He said he did not know.

He was asked if snow events reduced on-street parking. He said it could.

A short adjournment was taken. Roll was taken when the meeting was resumed and all members originally present were still present.

Keenan Hughes, Planner was cross examined. He was asked whether the proposed building was compatible. He said he was not aware of any others in the area that were as tall as this building.

He said the bus routes were a 5-10 minute walk away and the Gateway deck was 2-3 blocks away. The Wellness deck is a little further. The train station is 5-10 minute walk away. He said this was within walking distance from the site.

Is the zone for the site R-5A or IN-1. He said IN-1. He said an MLUL purpose of zoning was not financial viability.

He was asked if undo hardship was a condition for granting a variance. He said it was but that he had used a C2 analysis to justify the variance.

Is the reason that trees are not being planted and money is being provided instead is that the building takes up most the site. He responded that is part of the reason.

Did he conduct an analysis of the historic aspects of this property. He said he only reviewed the letter submitted at the October hearing.

Under the existing conditions the FAR is 0.3. He was asked if the proposal was for an increase and if this was an improvement. He said it was an improvement. He reviewed other bulk standards and their greater intensity and stated these were improvements as it represented smart growth.

His firm did not prepare a new shadow study. He said the 4<sup>th</sup> floor step back would increase light and air to the adjoining property.

He stated there was no use variance required for this proposal. He discussed that the redevelopment plan superseded the R-5A zoning. He agreed the project was not a detached 1 or 2 family home, school or community residence.

Does the IN-1 zone, does apartments have to include classrooms. He said the redevelopment plan superseded those standards.

He discussed that the plan required the RSIS parking standards but that flexibility was allowed for when those standards were not appropriate for the site.

Is it a self-imposed hardship that the applicant can not meet the standard. He said no, relief from the standard is based on the C2 standard not the C1 hardship standard. He said the City was attempting to address the strained parking situation by discouraging additional cars being brought to the area and by striking a better balance between travel modes.

He agreed there was a lot of demand for on-street parking, but that there would be no overflow parking from the project.

He said having the parking variance was not a detriment to the zone plan of the City.

He agreed that the variance was not based on the C1 physical features of the property and that it was justified on a C2 basis.

He agreed that 13 and 15 Mine had more front and rear yard setback than the proposed project. He did not agree that the proposed building was not harmonious with the other buildings based on setbacks. He said that if this standard was that important, the plan would call for a similar setback but it does not.

He said a project benefit was that the underground parking eliminates headlight glare and other negative impacts from surface parking.

He did not agree that the town could modify the RSIS parking standards at any time. He did not agree that granting a variance would run counter to the towns parking standards.

Are the three market-rate floors of the project contradictory to the redevelopment plan objective of supporting the university? Hughes said he did not agree.

MacArthur asked about Hughes' testimony that the historic regulations had no teeth for a private development in New Brunswick. Hughes said this was correct.

He reviewed the master plan re-exam statement about student parking standards and agreed this had not been adopted in the City zoning code.

He reviewed his testimony about Montclair zoning and car sharing. He said this was a good comparison for the New Brunswick project.

He said that though parking permits are foregone, a "bad apple" may park on Mine Street but that he felt the project was adequately parked.

He said low and mid-rise apartments are permitted in Area 2. They are not defined in the redevelopment plan. Therefore, the ordinance definition would apply.

He said MLUL purpose e was met and the project was appropriate, i.e., it was an appropriate density of housing at this location.

He was asked if the driveway width was inadequate. He said that it was adequate. He said this was a waiver request, not a zoning variance.

MacArthur asked if Hughes was familiar with the WaWa v Ship Bottom case. Hughes stated he was.

He stated he had no more questions for Mr. Hughes.

The Chairman said the meeting would adjourn due to the late hour of 10:40 PM. Mr. Fitzhenry made a motion to adjourn and Ms. Hunter seconded it. The Board approved it unanimously.