

**CITY OF NEW BRUNSWICK  
PLANNING BOARD  
FEBRUARY 10, 2015  
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)
X	Chris Stellatella (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 JANUARY 13, 2015 MEETING**

Motion to approve the minutes: Hunter

Second: Fitzhenry

Approved by unanimous voice vote

## V. 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 January 13, 2015.

Mr. MacArthur discussed procedural matters, including asking for Mr. Aithal to direct the Board as to which party has the burden of proof for the application. He further stated that Mr. Kelso's statements in the last meeting about parking at other projects had no foundation and should not be considered. Mr. Kelso replied that previous testimony had directly discussed parking at other projects and they were appropriate questions to the objector's experts. Mr. MacArthur said the statements could not be used directly and the Board should only consider what is on the record about this project. Mr. Kelso disagreed with this and it was appropriate to question the witness about this. Mr. Aithal said the Board can't rely on other approvals to sustain this approval in and of themselves, but in both direct and cross, both the applicant and objector have discussed or questioned the parking at other projects as to how it works there. Mr. Aithal stated that Mr. MacArthur asked similar questions about parking at other projects.

David Drinkwater, 13 Mine Street

He stated he is a retired Rutgers professor. The 17 Mine Street property is a deep lot and has two driveways. He moved to Mine Street in 1958 at 29 Mine Street. He has always needed a car to do errands, shopping etc. He bought 13 Mine in 1976.

(Mr. Crum arrived at the meeting.)

Mr. Drinkwater stated that he has dug up many old artifacts at these properties. He feels the applicant is not aware of the history of the area. An old copper mine had been in the area. In an architectural survey of the area, 16 pages were devoted to discussing Mine Street. Further, NJDEP issued a letter stating the area was eligible for historic designation.

The setbacks to the proposed building are not in-line with the other buildings on the street. The current rear yard will be replaced by a 4-story apartment building. There will be no green space to be in harmony with the other houses on the block. Many of the new apartments in the neighborhood look like they are cheaply built. The Planning Board should do the right thing with this application for the city's future. Mine Street is not much different than it was 100

years ago. Has the Board thought what in impact the new building will have on the street. Harmony is a good thing. This new building will completely destroy the neighborhood. The building is a monstrosity and a symbol of greed.

MacArthur asked if he was noticed when the City rezoned 17 Mine Street? Mr. Drinkwater said no.

Mr. Kelso said he had great respect for Mr. Drinkwater. He asked Mr. Drinkwater if he had taken steps to put his house on the historic register? Drinkwater said no. He said he did not know if any other houses were on the register. He was asked if he was aware of the 1980 study when it was conducted. He said he was vaguely. He said he was not aware of any others pursuing historic registration for their properties. He also said he understood that the DEP letter was a preliminary step to be designated and was not the designation. He said he was not aware of any properties on the street that were listed on the register.

Jennifer O'Neil, 15 Mine Street  
Ms. O'Neil was previously sworn in.

She referenced the recent large fire in Edgewater where light-weight construction methods were used and that legislation was proposed to have a moratorium on this construction and to require more sprinklers. She asked this hearing to be suspended until these codes were updated. She said this was a matter of public safety and that the Board had an obligation to determine what the method of construction was to be used. Chairman Ludwig said the hearing would proceed.

Ms. O'Neil said she and her family lived on the street and that she had two degrees from Rutgers. She was also involved in the Catholic Center that was previously at 17 Mine Street. It has been her neighborhood for 24 years. In 2000, she bought 15 Mine Street through a State program that provided down payment assistance to encourage homeownership. Her neighborhood is about to be destroyed by this proposed building.

Nearly all the Board members live in single-family or two-family zones. He house was in the R-5A zone as was 17 Mine. Now only 17 Mine is not in the R-5A zone.

O-17: Map from page 6 of College Ave Redevelopment Plan  
She stated the map only showed Lot 4.01 in the redevelopment area but did not include the other Rutgers owned property at 31 Mine. She said Mr. Broder told her that living in a city you had to expect to live next to a big building. She stated that she felt the burden was on the objector not the applicant to prove that the variances were supported.

O-18: Photo from Jan. 11, 2015 of the west streetscape on Mine St south of 17 Mine.

She stated there are no 4-story buildings on the streetscape nor buildings that have a minimal rear setback.

O-19: Photo from Jan. 11 of the west streetscape on Mine St. north of 17 Mine. She said the architect's testimony about a multifamily building being on the north side of the property was not correct. None of the buildings are multifamily apartments. The existing buildings are consistent in style. They show the proposed building to be out of scale and character

O-20: Photo from Jan. 15 of the properties on the east streetscape of Mine Street looking south.

The photo showed detached houses. The applicant's EIS states that her setback is 30 feet, She said this setback allows her to view all the houses on the street. The proposed building's 10 ft. setback will cut off her views and she will not see the other neighborhood features and her house will be isolated. The loss of light, air and sky is disturbing.

O-21: Sunshadow study done by the applicant's architect

The study shows the old building design but she said she had correspondence from Mr. Broder stating there was no change to the shadow study from the new design. She said the build would tower over her property. She said she gardens and her son plays in the back yard. She said extensive shadows are cast. There will also be a loss of privacy and this will change the way they use their back yard.

She said the testimony that the new building will be experienced as a 3-story building is not the experience she will have; as she will experience the side and rear as a 4-story building. She said Board members wouldn't want something built next to them like this and that Board members should not only look at what the building looked like from the front, but what it looked like from the sides. The impact on the immediate neighbors should be given more weight. The building will not be experienced by the neighbors as a 3-story building.

O-22: Rendering of new New Brunswick Theological Seminary, prepared by Devco.

O-23: Rendering of the proposed 17 Mine building

She stated the 17 Mine St building is twice the size of the seminary it is to provide housing for. The seminary only uses 5 apartments this year and only 10 are proposed for the seminary at 17 Mine. Why is the project labeled as seminary housing when only a few units are for seminary use? It is insulting to call it this.

O-24: Photos of Jan. 11 and Feb. 7 showing 17 Mine Street.

She said the photo showed the property before and after demolition of the existing building. The new building will fill the space shown. She criticized the EIS statement that the 70 ft gap between 17 Mine and 29 Mine was a “glaring gap”. The gap had been filled by a holly tree. It is now a much larger gap after demolition. Filling it with the proposed building will be a severe detriment to the character of the neighborhood.

The parking variance requested is unacceptable as it is 55% less than required. She said cars exiting the Rutgers lot across the street often have blocked views when exiting due to the parked cars.

Referring to O-15, she said many construction vehicles are in vicinity due to the Hillel construction and will continue with the Rutgers parking deck construction. This creates a very bad traffic situation. The applicant wants to add 124 new residents at this location with 43 new cars. This project along with Hillel, the Devco project and the Rutgers project is an overbuilding in the area. Double parking will ensue and emergency vehicles will be slowed down.

Can board members imagine living next to a building like this? She said the board would be setting a bad precedent by approving this project. She urged the board to reject the application and for the applicant to imagine a more appropriate solution for this site.

Mr. MacArthur asked if her personal observations showed a correlation between being closer to the campus and students having fewer cars. She said no, the street is parked to capacity. Students park there and take their backpacks and walk to campus.

Gordon Gemma, Planner

He said he had reviewed the city's master plan, zoning ordinance and redevelopment plan. He said the property is in the medium density R-5A area and in the College Ave Redevelopment Area.

The redevelopment plan at 5D says the plan's zoning standards supplement the IN-1 zoning. The redevelopment plan doesn't define low and mid-rise standards but the zoning code does. Low and mid-rise housing is not permitted in the IN-1. He says only 25 units would be permitted under this standard. He referred to earlier Devco plans that proposed 20 townhouses, which were developed as the original concept for the site when the redevelopment plan was being prepared. He said the Board had to decide what the density standard is.

The redevelopment plan also talks about the development being in the context of the surrounding properties.

He said that neighbors did not get notice about the zoning change.

He said there is a density constraint that is different than FAR and this is an ordinance violation. There is also a violation of the character neighborhood.

The goals of the master plan are said to be met by the redevelopment plan. The design waivers are not the only deviations from the master plan. Pages 19-21 establish design standards. Additionally, the neighborhood surrounding the property is not the redevelopment area, but the R-5A zone.

He agrees with the Bignell report stating that the proposed project is inconsistent with the master plan. Bignell does discuss the re-exam report calling for student housing. But the re-exam doesn't override all the concerns raised in the master plan. The master plan discussed the loss of homeownership and single family housing and parking problems.

Page 1-5 of the master plan discusses parking problems from conversions to multifamily. It discusses protection of residential neighborhoods and the conversion to multifamily where it would be inconsistent with the neighborhood.

The Board, to approve the project, has to say the project is consistent with the neighborhood. He cited several statements in the master plan to this effect. Mr. O'Neil had talked about how the neighborhood will be diminished by the project. The design standards of the redevelopment plan show that the standards of the 2004 master plan still exist. The Board needs to look at this.

The re-exam report discusses the need for more student housing. It also says developing owner-occupied housing is complimentary to this. But is this project complementary to the adjacent neighborhood? The redevelopment plan calls for balance. This project is not balanced.

Is the parking variance a de minimus exception? The zoning ordinance allows a reduced standard for Rutgers-owned housing. Otherwise, the RSIS standards apply. The applicant has the burden of proof to show that what the city says the standard is is not what is needed. Additionally, the applicant is not dedicating these units to student-housing. He says it is market-housing. If he wants the reduced parking standard, he should dedicate the units to only student housing.

The applicant has to meet the C2 standard of advancing the purposes of zoning. How can he do this with the parking variance which provides less than half the required zoning and it not be a detriment?

The applicant can't make the "but for" argument that this number of units need to be constructed. The applicant has not done an economic impact analysis to show that this is the minimum number of units to be built to allow the project to be feasible and minimize the parking variance.

Gemma said the applicant could not show what purpose of zoning was advanced by providing less than half the parking required. The applicant hasn't deed restricted the use to student housing, it is just market housing.

The applicant hasn't satisfied the negative criteria as to the parking. He does not believe there is a basis for approving the parking variance.

The Bignell report discusses the importance of the design standards. He described the area as the heart of the campus. The design standards say all new buildings should be related harmoniously to buildings in the surrounding area. It discusses the visual relationship to other buildings. The design is not harmonious. The setbacks are out of character with the surrounding building. There is not a porch, which other buildings have. The height: the neighboring buildings are 2-story with gable roofs, whereas, the proposed building is 4-stories with a non-gabled roof. A 52-unit building is not harmonious to the surrounding single-family housing. Even the redesigned building, though better, is not harmonious. He cited several passages of the design standards that discussed harmony in the design features. He said the plan says deviations from the design standards require a finding that they promote an overall design standard for a functional environment, it relates to an overall plan for the design and would not subvert the intentions of the plan for creating a coordinated area. The project doesn't meet the design standards and does not meet the exceptions. There is also nothing that says the building has to be this big.

He discussed that density is a consideration and this could be a jurisdictional issue for this board.

He said this was not a better zoning alternative for the city. He said it has not been shown that the application is not detrimental, including that it is market-housing not student-housing, and this is not what the re-exam report called for when it discussed student parking.

Mr. Kelso asked if Gemma was saying the Board could find they don't have jurisdiction. Gemma said yes. Kelso and Gemma discussed whether the Board had power to determine what a permitted use is.

Kelso asked if he thought the redevelopment standards had no density requirement. Gemma agreed but said other ordinances did. Kelso asked if the Board should look to the bulk standards. Gemma said the bulk standards did say

how many units should be on the site. Gemma agreed that the bulk standards are met but if a standard isn't mentioned you look to other areas.

Kelso and Gemma discussed the rear yard standards. They agreed that there is no rear yard variance but that there is a also need to comply with the design standards.

Kelso asked if the City Council approved the redevelopment plan and that the applicant had to be designated as a redeveloper by the redevelopment agency, which has to find that the project is consistent with the redevelopment plan. Gemma said yes, but it wasn't relevant to the board's review. Kelso asked if it wasn't it relevant that the redevelopment authority had approved this number of parking spaces. Gemma said no, as they have a different jurisdiction than the planning board. Gemma said the redevelopment agency saw a concept plan, not this detailed plan. Gemma said they could consider the redevelopment approval though.

Kelso stated that Gemma didn't give credence to the re-exam statement that student housing have a 1:1 parking standard. Gemma said it's a good standard but this is not deed-restricted student housing. Kelso asked if it wasn't reasonable that this housing would be most likely be overwhelmingly student housing and shouldn't the board consider this. Gemma said that the applicant has said it would be market housing and you can't say it will only be students but the board can consider if students will live there.

Mr. Kelso asked if the design standards are not general guidelines. Gemma said yes and no. Gemma said they talk about style, setbacks and other factors and should be taken into account.

Kelso asked if he heard the architect's and planner's testimony as to how the project met the guidelines. Gemma said the board should look at O-23 and ask if that is consistent with single-family houses.

Kelso asked if it was the intention of the board to have single family homes wouldn't they have said that in the redevelopment plan? Gemma said the applicant has built smaller buildings that have fit in the neighborhood better.

Kelso asked if it is relevant for the board to consider similar projects in the nearby neighborhood that were recently built? Gemma said if similar was defined so that the projects were actually similar. He said no basis was made to show the cited projects were actually similar.

Regarding public transportation, Kelso asked if this was relevant to consider. Gemma said it was.

MacArthur asked about the .5 parking standard not being adopted into an ordinance and that the project was still inconsistent with the re-exam report. Yes.

MacArthur asked if it was wrong to say the board should approve this application because the redevelopment authority approved the plan. He said this was correct.

Gemma said that using other projects to justify this project on the negative criteria can't be done unless the other projects are shown to be similar and the applicant didn't do that.

MacArthur asked if it was the burden of the objector to look at other projects. Gemma said no, it is the applicant's burden.

A short adjournment was taken. Roll was retaken when the meeting restarted and all members were present.

Mr. Aithal asked Mr. Gemma questions for clarity sake as to his credentials. He stated he had prepared redevelopment plans as a planner and had handled them legally. He did redevelopment planning in Carteret.

Regarding the jurisdiction of the board, is he saying there is more than one variance is required? Gemma said no and that the driveway and foundation plantings are waivers.

Gemma stated that his opinion that the applicant hadn't provided enough information about the projects cited as similar to this project to determine if they were actually similar. Aithal asked if the Board should be allowed to use its own knowledge. Gemma said yes.

Regarding high-rise, mid-rise and low-rise dwellings. Where in the ordinance does it limit the number of units per acre in R-6, R-7, C-3B? Patterson said the R-6, R-7 have no density requirement as to units. The C-3B has a density limit only as a condition on a conditional use. Mr. Aithal asked where Mr. Gemma was citing this. Mr. MacArthur objected. Mr. Aithal said that Mr. Gemma was making an important point but that we can't find where this standard is in the ordinance and it impacts the board's jurisdiction potentially. Gemma said the Board could decide that the density standard doesn't apply here but the Board has to state that if they find they have jurisdiction.

Mr. MacArthur moved all of the exhibits into evidence.

Public:

Bruce Newling, Huntington St.

He was previously sworn in.

He said a building doesn't have to be on the historic register to have historic interest. He cited Oscar Wilde's definition of a cynic in suggesting how the board should view the granting of the variance. There is a value to small gardens and openness.

The applicant should commit to hiring labor at prevailing wage if they construct the project. What guarantee is there that this owner will retain ownership? What if it gets sold to a religious group and no longer pays taxes? The applicant should be required to pay taxes for a minimum number of years.

He said reference was made to the redevelopment authority's approval and was their deliberation open to the public and did the public participate. Mr. Patterson said it was a public meeting of the authority.

Steve Ostregren,

He stated he had been a Rutgers student and was now a landlord and merchant in New Brunswick. He wants what's best for Rutgers and the city. He thinks the applicant's building is great and the city needs more buildings like this. He has a 16-year old daughter who may go to Rutgers and he'd rather have her live in one of these new student buildings than in one of his 90-year old rentals. He said it was no longer 1957 and the 6<sup>th</sup> ward is almost all college kids. It's not an owner-occupied neighborhood. The city needs to accommodate Rutgers growth. He said he can put "band-aids" on his old rentals but it's putting "lipstick on a pig". The proposed building is much safer than the old buildings in town. He wants more housing like this that is built to modern code standards with security systems. He asked: what is the right thing for the city's future, as Mr. Drinkwater said. He said it is improving housing stock by building housing like this. He agreed he wouldn't want to live next to this building either, but that's life. He described how his shore house was impacted similarly and he accepts that.

Jacquelyn Gray, 33 Mine Street

She is a Rutgers grad. She said she lived on this street and did not own a car and uses public transit. She said it takes her all day to get to a grocery store. She said NJ Transit is not as connected as transit in other cities. She doesn't think the city caters to students yet.

Chairman Ludwig adjourned the meeting and Mr. Patterson announced the hearing would be continued on March 10, 2015 at the Freeholder's Meeting Room.