

**OFFICIAL MINUTES  
NIAGARA FALLS PLANNING BOARD  
April 10, 2019**

A regular meeting of the Niagara Falls Planning Board was held Wednesday, April 10, 2019, at 6:04 PM, in Council Chambers, City Hall, 745 Main Street, Niagara Falls, New York.

**PRESENT:**

Tony Palmer  
Timothy Polka  
Charles MacDougall  
Peter Heuer  
Robert Kazeangin  
Michael Murphy

**ABSENT:**

William Dunn  
**ALSO:**  
James Bragg  
Michelle Shaughnessy  
Thomas DeSantis

**EXCUSED:**

Joyce Williams

**APPROVAL OF AGENDA**

A motion to approve the Agenda was made by Mr. Kazeangin, and seconded by Mr. MacDougall. — **Unanimously Approved.**

**APPROVAL OF MINUTES**

Motion to Approve the Minutes for the meeting dated 3/27/19 was made by Mr. Polka, and seconded by Mr. Kazeangin. — **Unanimously Approved.**

**PRESENTATION BY PENN TERRA:**

Mr. Kingston and Mr. Clark were present to discuss where they are on the Cannon Block project. The project will consist of a four story building with 50 units and a total of 47,000 sq. ft. Existing building has been torn down and they currently working on a solution for the parking needed for their project. Due to the grade elevation, they are looking into the cost of underground parking along the south-west corner, along with cost of the finishes and construction system for the units.

Mr. polka asked if they go with underground parking, would that provide enough parking spaces. Mr. Clark stated that it would be close to enough but that they would also keep north above ground parking lot as well.

Mr. Murphy asked if they owned the vacant lot north of the property. Mr. Clark stated that they did not but may look into purchasing.

Mr. DeSantis asked what the time frame would be for them to have a definitive answer on if they will be going the underground parking route. Mr. Clark stated that he should have a answer in the next few weeks once he hears back from the contractors on cost.

Mr. Murphy asked what the garbage situation would be. Mr. Clark stated that they would have a indoor chute that would collect the garbage and then totes would be taken out weekly. Mr. Murphy expressed his concern for Quality of Life with increased truck traffic as some of the existing neighbor houses are directly on alley and the alley is very narrow. Mr. Kingston and Mr. Clark both said they would address this issue and look into options once they are at that stage of construction.

**ACTION ITEMS:**

**1) Recommendation to City Council: Encroachment of projecting sign into the right-of-way at 2525 Pine Avenue**

Proposal by Aarons Inc. to install a sign that would encroach onto City ROW.

There was no one from Aarons present to address the Boards questions.

Motion to **Table** Agenda Item was made by Mr. Kazeangin, and seconded by Mr. Polka.

**POLLED VOTE**

Mr. MacDougall	Yes	Mr. Heuer	Yes
Mr. Polka	Yes	Mr. Kazeangin	Yes
Mr. Murphy	Yes		<b>Approved Unanimously to Table</b>
Mr. Palmer	Yes		

**2) Site Plan Review: 763 Portage Road: Oakwood Cemetery (OS)**

Proposal by David Guisiana, on behalf of Oakwood Cemetery, to construct a 32' x 58' single story crematory

Mr. Guisiana stated that they was to construct this crematory as existing one is not energy efficient and that new DEC regulations will be coming out next year that the existing crematory does not meet. They have received all the needed licenses and approvals from the state including the DEC and would like to begin this project this summer and should be completed 120 days from the start. The design of the structure will emulate the existing structures on the property in design.

Mr. Kazeangin asked what would happen to the old crematory as it is a part of Niagara Falls history.

Mr. Ralph Aversa stated that they would keep it in tack and find a use for it, such as a chapel area as it previously was used for. They want to keep it as is as much as possible because they realize the Historical value and beauty of it.

Mr. Polka asked where the rain water would be drained to. Mr. Guisanna stated to existing Oakwood sewer system.

- 1) ***Environmental Assessment (SEQR)***: The Planning Board hereby accepts and adopts the findings of the SEQRA review, finalized and dated April 4, 2019.
- 2) ***Compliance***: Comply with all applicable State and local building, safety, and health codes. Deviation from or non-compliance with any conditions of this Site Plan approval, shall render this approval null and void
- 3) ***Expiry Date***: Applicant shall act to implement and substantially complete the proposed action, as approved, within 18 months from the date of approval. Failure to substantially complete the proposed action shall render this Site Plan Approval null and void unless an extension is granted.
- 4) ***Signage***: Signage shall comply with Chapter 1121 of the Codified Ordinances.
- 5) ***Storage***: Outside storage of materials shall be screened from view. Outside storage of materials/equipment for use on the patio shall be maintained clean and secure and screened as
- 6) ***Landscaping***: Applicant shall strive to maintain the existing historic landscaping.
- 7) ***Lighting***: All exterior site lighting, including wall packs, shall be angled downward only and away from adjacent properties. All fixtures and luminaries shall be of a full cut design and shall be of a type that does not exceed a 90° cutoff angle. Any light standard shall not exceed 25' in height. Lighting details shall be provided as part of construction drawings.
- 8) ***Lot / Boundary lines***: The proposed site at 763 Portage Road (SBL# 144.79-1-65) and 753 Portage Road (SBL# 144.79-1-65) shall be legally amalgamated into a single lot/SBL number, pursuant to regulations, prior to filing for a building permit.

Motion to Approve Site Plan was made by Mr. Kazeangin, and seconded by Mr. Polka.

**POLLED VOTE**

Mr. MacDougall	Yes
Mr. Polka	Yes
Mr. Palmer	Yes
Mr. Heuer	Yes

Mr. Kazeangin	Yes
Mr. Murphy	Yes

**Approved Unanimously**

**3) Site Plan Review: 7101 & 7121 Niagara Falls Boulevard (C3)**

Proposal by Sean Hopkings, on behalf of Kavcon Development LLC, to redevelop site into a 14,473 sq. ft. Consumers Beverage plaza and a 3,402 sq. ft. Bank on Buffalo building.

Mr. Kavanaugh, of Consumers Beverage, was present to address any questions the Board may have.

Mr. Polka asked if he had the side elevations for the 71<sup>st</sup> Street side for review as promised at last Planning Board Meeting. Upon review of this Mr. Polka asked that the landscaping be up graded to add scrubs to spruce up that side for the residents as previously discussed, Mr. Kavanaugh stated he would be happy to enhance those plans. Mr. polka also stated he did not like the idea of a fence in the back of the property. Mr. Kavanaugh stated that the neighbors had requested a fence along with landscaping by the Retention pond so he agreed to do both to make them happy.

Brenda Cicco, resident at 655 71<sup>st</sup> Street, asked if the parking lot in the rear of the building on the 71<sup>st</sup> Street side was for store employees only. M. Kavanaugh stated that is the intention. She then stated she felt that driveway would be used more by the public as a pass through and would increase traffic on 71<sup>st</sup> Street. She asked if that driveway could be removed altogether. Mr. Kavanaugh stated that this had been previously reviewed and discussed and that they can not remove that driveway as they need it for their delivery trucks.

Mr. Palmer stated that if people are used that driveway as a pass through, that is illegal and residents should contact the police to address that issue and issue tickets. Mr. Murphy suggested a elevated sidewalk there to deter people from using that driveway as pass through as well.

Brenda Cicco then read a letter from a neighbor that couldn't be present, Laura Bonfo Nowak. She lives at 652 71<sup>st</sup> street and is also asking for that driveway to be removed.

Mr. Wayne general, resident at 672 71<sup>st</sup> Street, felt that this driveway and back parking lot will cause a quality of life issue for his family. It will cause more people to park on the side of the street and cause him to be unable to access his driveway. He had to "tag" a car while he was off duty just this week because he was blocked into his driveway. Mr. Kazeangin asked why he felt adding parking spots to the parcel would cause more people to park on the street. Mr. General stated because they do so now and will continue to do so. Mr. Polka and Mr. Heuer both stated they thing the increased parking spots would actually help lower the number of people parking on the street to visit Consumer's and the other business's in the plaza.

Keith Poss, resident 639 71<sup>st</sup> Street, asked who would maintain this parking area. Mr. Palmer stated that Mr. Kavanaugh would as the land owner. Mr. Poss asked what about in 10-20 years? He does not want this parking lot because no way to guarantee Mr. Kavanaugh will maintain it. Mr. Palmer stated that the Board can not hold applicant reasonable fro a what if scenario.

Mr. DeSantis spoke and said that there is no way of knowing of people will park on the street more after there are more parking spots added to the Site. He doesn't think that would be the case as why would

someone want to park on the Street when they could park in front of the business they are visiting. Either way, the Board cannot make a judgment on something that hasn't happened and have no way of knowing will even happen. Mr. Murphy suggested that if that ends up being the issue, they can start a petition and have no standing signs installed and offenders can be ticketed.

- 1) **Environmental Assessment (SEQR):** The Planning Board hereby accepts and adopts the findings of the SEQRA review, finalized and dated March 26, 2019.
- 2) **Compliance:** Comply with all applicable State and local building, safety, and health codes. Deviation from or non-compliance with any conditions of this Site Plan approval, shall render this approval null and void
- 3) **Expiry Date:** Applicant shall act to implement and substantially complete the proposed action, as approved, within 18 months from the date of approval. Failure to substantially complete the proposed action shall render this Site Plan Approval null and void unless an extension is granted.
- 4) **Signage:** Signage shall comply with Chapter 1121 of the Codified Ordinances.
- 5) **Landscaping:** Requirement is for 18 trees, (1 per 50' frontage plus 1 per 10 parking spaces or part thereof) and a 5' wide landscaped strip along the perimeter of any such parking area. The applicant provides 22 trees. Proposed trees shall have a minimum 2" caliper. Planting areas contiguous to the parking lot should be delineated by a "raised-curb" or similar. The applicant shall provide an amended landscaping plan for the western property line alone 71<sup>st</sup> Street.
- 6) **Parking:** Parking area and associated driveways and access aisles shall be paved and drained to the City sewer system as per City Engineering Department standards and approvals. Handicapped parking spaces shall be marked and signed in accordance with NYS requirements. Improvements undertaken by the applicant shall be at their own expense and in accordance with all NYS DOT and City Engineering requirements and approvals. Where any new sidewalk/dropped curb is installed, such sidewalk/dropped curb will be ADA compliant specifically with cast-in-place detectable warning strips. All such improvements in the right-of-way shall be inspected and verified by City Engineering Department. Minimum parking space dimensions are 9' x 18' per space. Minimum parking space dimensions are 9' x 18' per space.
- 7) **Lighting:** All exterior site lighting, including wall packs, shall be angled downward only and away from adjacent properties. All fixtures and luminaries shall be of a full cut design and shall be of a type that does not exceed a 90° cutoff angle. Any light standard shall not exceed 25' in height. Lighting details shall be provided as part of construction drawings.
- 8) **Right-of-Way:** Sidewalks shall be maintained (or re-constructed) along Niagara Falls Boulevard, 71<sup>st</sup> Street and 72<sup>nd</sup> Street property line. Improvements undertaken by the developer/applicant shall be at their own expense and in accordance with all NYS DOT and City Engineering requirements and approvals. Any existing driveway or dropped-curb that is removed shall be replaced with new curbs, sidewalks and grass margin. Where any new sidewalk/dropped curb is installed, such sidewalk/dropped curb will be ADA compliant specifically with cast-in-place detectable warning strips. All such improvements in the right-of-way shall be inspected and verified by City Engineering Department. Evidence of such shall be provided to Code Enforcement Department prior to the issuance of any Certificate of Occupancy.
- 9) **Screening:** Site shall be screened with a solid privacy decorative wood fencing material that shall be constructed and maintained along those property lines that are contiguous with the

residential districts. . Such fence shall be reduced to a four foot height where the fence is aligned with the front yard setback of adjacent residential properties.

**10) Lot / Boundary lines:** The proposed site which currently includes (i.) 665, 671, 675, 679 71<sup>st</sup> Streets, (ii.) 7101 and 7121 Niagara Falls Boulevard and (iii.) 676 72nd Street shall be legally amalgamated into two lots, one lot for operations of Consumers Beverages and another for Bank on Buffalo, pursuant to regulations, prior to filing for a building permit.

**11) Bond:** A performance bond, or equivalent, in the amount of \$10,000.00 shall be submitted to the Legal Department in accordance with Section 1301.10 prior to the issuance of any building permit or certificate of occupancy.

Motion to Approve Site Plan with additions/corrections on Conditions #5 and #9 (landscaping enhanced and verbiage for fence) was made by Mr. Kazeangin, and seconded by Mr. Murphy.

**POLLED VOTE**

Mr. MacDougall	Yes
Mr. Polka	Yes
Mr. Palmer	Yes
Mr. Heuer	Yes
Mr. Kazeangin	Yes
Mr. Murphy	Yes

**Approved Unanimously**

**4) Site Plan Review: 200 Rainbow Boulevard (D1-A)**

Proposal by Rupal Hospitality to construct new porte cochere, 910 sq ft addition and create new outdoor parking area with parking.

Representatives from the Hotel stated they want to remove 25 parking spots to construct a 910 sq. ft. outdoor patio area. This would be an outdoor space to host events and parties and make a walkable atmosphere. The Patio would be named Cadence after the famous Father Hennepin quote. This would be using Niagara Falls History to draw people in and promote Niagara Falls and this addition as a public Art space.

Mr. Palmer asked if this was an extension of the Site Plan that they brought in front of the Board a few years ago. They stated this was actually a reimaged version of that.

Mr. Polka, Mr., Kazeangin and Mr. DeSantis voiced that they felt this was a great project and a great addition to Niagara Falls.

Mr. Bragg stated this would be contingent on the four Encroachment approvals that will be needed from City Council.

- 1) Environmental Assessment (SEQR):** The Planning Board hereby accepts and adopts the findings of the SEQRA review, finalized and dated 2/19/2019.
- 2) Compliance:** Comply with all applicable State and local building, safety, and health codes. Deviation from or non-compliance with any conditions of this Site Plan approval, shall render this approval null and void

- 3) **Expiry Date:** Applicant shall act to implement and substantially complete the proposed action, as approved, within 18 months from the date of approval. Failure to substantially complete the proposed action shall render this Site Plan Approval null and void unless an extension is granted.
- 4) **Signage:** Signage shall comply with Chapter 1121 Sign or Chapter 1319.2 Design Overlay of the Codified Ordinances. If there should be a conflict between Chapter 1121 and 1319.2 then whichever chapter imposes greater restrictions on rules, regulations, permits or other authorizations shall control.
- 5) **Landscaping:** Requirement is for five (5) trees, (1 per 50' frontage). Applicant will provide a landscaping plan together with planting schedule for the outdoor patio. Planting areas contiguous to the parking lot should be delineated by a "raised-curb" or similar. The revised landscaping plan is to be submitted to the Planning Office and is subject to review and approval by the senior planner. This will be considered fulfilling the purpose and intent of the requirements of Chapter 1322 Landscaping, Screening and Buffer regulations. Proposed trees shall have a minimum 2" caliper.
- 6) **Lighting:** All exterior site lighting, including wall packs, shall be angled downward only and away from adjacent properties. All fixtures and luminaries shall be of a full cut design and shall be of a type that does not exceed a 90° cutoff angle.
- 7) **Parking:** Parking area and associated driveways and access aisles shall be paved and drained to the City sewer system as per City Engineering Department standards and approvals. Handicapped parking spaces shall be marked and signed in accordance with NYS requirements. . Minimum parking space dimensions are 9' x 18' per space.
- 8) **Right-of-Way:** Sidewalks shall be maintained (or re-constructed) along Second Street and Rainbow Boulevard property line. Improvements undertaken by the developer/applicant shall be at their own expense and in accordance with all NYS DOT and City Engineering requirements and approvals. Any existing driveway or dropped-curb that is removed shall be replaced with new curbs, sidewalks and grass margin. Where any new sidewalk/dropped curb is installed, such sidewalk/dropped curb will be ADA compliant specifically with cast-in-place detectable warning strips. All such improvements in the right-of-way shall be inspected and verified by City Engineering Department. Evidence of such shall be provided to Code Enforcement Department prior to the issuance of any Certificate of Occupancy.
- 9) **Accessory Off Site Parking:** A parking agreement between the City and developer, for exclusive use by the developer's affiliates' employees, tenants or guests, which shall fulfill Chapter 1325.7 requirements. The developer shall maintain the availability of any required spaces unless or until such spaces are provided elsewhere. Evidence of such parking agreement shall be filed with the Planning Office.
- 10) **Other Approvals:** Approval is contingent upon City Council approval of all encroachments associated with the porte cochere, additions, bollards and back wall.
- 11) **Bond:** A performance bond, or equivalent, in the amount of \$3,425 shall be submitted to the Legal Department in accordance with Section 1301.10 and 1324.7 1 of the Zoning Ordinance prior to the issuance of any building permit or certificate of occupancy. Release of the bond shall be upon verification of compliance.

Motion to Approve Site Plan was made by Mr. Polka, and seconded by Mr. Murphy.

**POLLED VOTE**

Mr. MacDougall	Yes
Mr. Polka	Yes
Mr. Palmer	Yes
Mr. Heuer	Yes
Mr. Kazeangin	Yes
Mr. Murphy	Yes

**Approved Unanimously**

**5) Site Plan Review: 210 24<sup>th</sup> Street (C1-A)**

Proposal by James D. Fittante, on behalf of Damascus Baptist Church, to construct new 2,056 house of worship with parking.

Mr. Fittante stated this would be a new house of worship next to existing building with parking in rear off of McKenna Street.

Mr. Polka asked where the parking and roof drainage would go. Mr. Fittante stated into existing sewer lines on site. Mr. Polka asked if curb cut was required along alley and parking lot. Mr. Bragg stated it was not required and parking lot would just bump up to the alley itself. Mr. Polka asked if the parking lot would be lit, Mr. Fittante stated it would be.

Mr. Kazeangin asked what the building would be made of. Mr. Fittante stated hardy board that would require no maintenance. Mr. Kazeangin asked if any improvements on existing building are going to be made and Mr. Fittante stated no there not.

- 1) ***Environmental Assessment (SEQRA)***: The Planning Board hereby accepts and adopts the findings of the SEQRA review, finalized and dated April 4, 2019.
- 2) ***Compliance***: Comply with all applicable State and local building, safety, and health codes. Deviation from or non-compliance with any conditions of this Site Plan approval, shall render this approval null and void
- 3) ***Expiry Date***: Applicant shall act to implement and substantially complete the proposed action, as approved, within 18 months from the date of approval. Failure to substantially complete the proposed action shall render this Site Plan Approval null and void unless an extension is granted.
- 4) ***Signage***: Signage shall comply with Chapter 1121 of the Codified Ordinances.
- 5) ***Landscape***: Requirement is for six (5) trees, (1 per 50' frontage plus 1 per 10 parking spaces or part thereof) and a 5' wide landscaped strip along the perimeter of any such parking area. Proposed trees shall have a minimum 2" caliper. Planting areas contiguous to the parking lot should be delineated by a "raised-curb" or similar. The site plan provides three (3) trees and "green space" but provides no landscaping plan.
- 6) ***Parking***: Parking area and associated driveways and access aisles shall be paved and drained to the City sewer system as per City Engineering Department standards and approvals. Handicapped parking spaces shall be marked and signed in accordance with NYS requirements. Improvements undertaken by the applicant shall be at their own expense and in accordance with all NYS DOT and City Engineering requirements and approvals. All driveway aprons shall be no wider than 35'. Where any new sidewalk/dropped curb is installed, such sidewalk/dropped curb will be ADA compliant specifically with cast-in-place detectable warning strips. All such improvements

in the right-of-way shall be inspected and verified by City Engineering Department. Minimum parking space dimensions are 9' x 18' per space. Minimum parking space dimensions are 9' x 18' per space.

- 7) ***Lighting:*** All exterior site lighting, including wall packs, shall be angled downward only and away from adjacent properties. All fixtures and luminaries shall be of a full cut design and shall be of a type that does not exceed a 90° cutoff angle. Any light standard shall not exceed 25' in height. Lighting details shall be provided as part of construction drawings.
- 8) ***Right-of-Way:*** Sidewalks shall be maintained (or re-constructed) along Mackema Avenue and 24<sup>th</sup> Street property line. Improvements undertaken by the developer/applicant shall be at their own expense and in accordance with all NYS DOT and City Engineering requirements and approvals. Any existing driveway or dropped-curb that is removed shall be replaced with new curbs, sidewalks and grass margin. Where any new sidewalk/dropped curb is installed, such sidewalk/dropped curb will be ADA compliant specifically with cast-in-place detectable warning strips. All such improvements in the right-of-way shall be inspected and verified by City Engineering Department. Evidence of such shall be provided to Code Enforcement Department prior to the issuance of any Certificate of Occupancy.
- 9) ***Lot / Boundary lines:*** The proposed site which currently includes 202 24<sup>th</sup> Street (SBL# 159.49-2-27) and 210 24<sup>th</sup> Street (SBL# 159.49-2-26) shall be legally amalgamated into a single lot/SBL number, pursuant to regulations, prior to filing for a building permit.
- 10) ***Bond:*** A performance bond, or equivalent, in the amount of \$2,000.00 shall be submitted to the Legal Department in accordance with Section 1301.10 prior to the issuance of any building permit or certificate of occupancy.

Motion to Approve Site Plan was made by Mr. Murphy, and seconded by Mr. Polka.

**POLLED VOTE**

Mr. MacDougall	Yes
Mr. Polka	Yes
Mr. Palmer	Yes
Mr. Heuer	Yes
Mr. Kazeangin	Yes
Mr. Murphy	Yes

**Approved Unanimously**

**NEW BUSINESS -NONE**

**OLD BUSINESS -NONE**

**COMMUNICATIONS-Zoning Practice April 2019: Infill Housing**

**PLANNING REPORT-NONE**

**ADJOURN**

Motion to adjourn meeting was made by Mr. Polka and seconded by Mr. Dunn. The meeting was duly adjourned at 7:34 P.M.

