

**MINUTES
HISTORIC DISTRICT COMMISSION
ONE JUNKINS AVENUE, PORTSMOUTH, NEW HAMPSHIRE**

EILEEN DONDERO FOLEY COUNCIL CHAMBERS

6:30 p.m.

August 28, 2017

MEMBERS PRESENT: Chairman Vincent Lombardi; Vice Chairman Jon Wyckoff; Members, Dan Rawling, Reagan Ruedig, Richard Shea, John Mayer; City Council Representative Nancy Pearson; Alternate Martin Ryan

MEMBERS EXCUSED: Molly Bolster

ALSO PRESENT: Juliet Walker, Planning Director

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I. PUBLIC HEARING

Petition of PNF Trust of 2013, Peter N. Floros, trustee and owner, for property located at 278 State Street, wherein permission is requested to allow as per plans on file in the Planning Department. Said property is shown on Assessor Plan 107 as Lot 80 and lies within the CD 4, Historic, and Downtown Overlay Districts. *(This item was continued at the August 9, 2017 meeting to the August 28, 2017 meeting.)*

SPEAKING TO THE PETITION

Alex Monestero from PNF Trust along with Joe Almeida from DeStefano Architects, and Trustee Walter Cheney were present to represent the applicants.

Mr. Almeida provided a brief statement to the Board. Mr. Almeida was recently asked by ownership to participate in the project. The goal is to see the building standing for a long time. There are several ways to do this, and the commission and the public should know that is the motivation.

Ms. Monestero questioned if the Board wanted an open dialogue with John Wathne from Structures North. Chairman Lombardi confirmed that would be fine. Ms. Monestero highlighted notes from Mr. Wathne's report. Ms. Monestero pointed out that Mr. Wathne did not consider code upgrades, and those would need to be considered as the project moves forward.

Mr. Wathne owns a firm in Salem, MA and works on about 250 projects per year. Mr. Wathne commented that the Board would notice there is a mix of good and bad in the report. Because of the level of damage, the building is basically a brick shell. The vertical load carrying elements in

the structure had some rot and mold issues. There is foundation damage that does not appear to be from fire damage.

Chairman Lombardi suggested that Mr. Wathne proceed with the whole presentation and the Board and applicants could have an open dialogue as the presentation goes along.

Mr. Wathne presented the report by each floor of the structure. The First floor is framed really only at the front of the building the rear section is mostly empty. It is flooded with water, so the team could not get in to do a full survey of the first floor. It looked like most damage was a result of an ongoing problem, not necessarily from the fire. The recommended solution would be that the first floor would need to be upgraded. The second floor had very low headroom clearance. This is a residential level and it would need some upgrades to be part of the new building. The team noticed mold going up through the building, and so there is most likely rot. Mr. Wathne and his team have worked on a lot of buildings, so commonalities are noticed. If the sheet rock is in tact chances are the wall is intact from a water damage perspective. The entrance from Church Street had damp carpeting and mold. The framing from the third floor was visible from the second floor. Mr. Wathne presented a visual for the third floor and showed where there was water damage vs. active water in the building.

Ms. Monestero raised a question to Building Inspector Robert Marsilia. The question was if life safety codes could be waived as part of this project if the building was to be rebuilt. Mr. Marsilia responded that the Inspections Department couldn't waive any section of any code. The life safety codes cannot be waived. The building would likely need sprinkler systems, and improved egresses.

Ms. Monestero asked Mr. Wathne what he envisioned would be left on the second floor after everything damaged was removed. Mr. Wathne replied probably plywood and the flooring under the carpeting. Ms. Monestero asked what estimated percentage of the floor could be saved. Mr. Wathne replied as of right now probably 80-90%. Ms. Monestero commented that when all the finishes are removed all that would be left would be framing, joists and flooring. Mr. Wathne confirmed that was correct. The rot can be treated with phosphoric acid to dry it out. There are ways of stabilizing slightly rotted wood in place. Structures North worked on a building in Boston that had some fungal rot and it was all stabilized in place. Ms. Monestero commented that the second floor has a number of code problems. Part of the flooring is 6'6" tall in the living room with low windows. Knowing that the life safety codes can't be waived, what is the value of keeping that? Mr. Wathne recommended that the applicants upgrade the first floor and eliminate the second floor. Ms. Monestero questioned if the building inspector saw problems with the second floor. Mr. Marsilia responded that if the building had not been damaged as much as it had been, then it would not trigger a change. However, because the damage is at a level three, updates would need to adhere to the code.

Mr. Mayer asked for clarification on what a level three damage repair entailed. Mr. Marsilia responded that a level three damage triggers the most repair and all code would need to be met in the project. Mr. Mayer asked how the deferred maintenance impact the level three damage. Mr. Marsilia responded if this were a building that did not have a fire, then the Inspections Department would not be going in to this level of detail. If an owner came in wanting to

renovate the first floor then the code would need to be met on the first floor, so then it would come up. This is very clearly a level three damage; there is no gray area.

Mr. Almeida commented that he has been in the building, and felt that it should be a requirement to go in the building before anyone formed an opinion because it was eye opening. Mr. Almeida wants to see this building remain. However, the City would be hard pressed to find an architect that would want to design this building without meeting code requirements, especially lifesaving code requirements. People should be aware that the applicants are trying to save what can be salvaged. This building is not handicap accessible today, but the architectural plans would include that accessibility. The plans would make changes to the floors to bring things up to code. Mr. Wathne responded that the occupancy and use of the building has changed over time. The building would be able to afford a little bit of strength and still meet code for a residential building.

Mr. Shea clarified that this Board does not have say over the interior of the building. The Board is interested in the shell of the building. Mr. Shea asked Mr. Wathne to show the report on the outer shell of the building. Mr. Wathne responded that he would and clarified the reason for going through the interior as well was to show that it could be economically viable to save the building. If the shell could be saved, but the interior had to be totally gutted it may not have been viable.

Mr. Cheney commented that it was difficult for the applicants to have a report issued and then not be able to discuss it. This report stated that the entire inside could be reasonably saved. It showed that all the engineers have looked inside and outside. When do the applicants get to discuss the inside? Mr. Shea responded that this board makes a decision on the structural ability for the building to stand.

Mr. Wathne continued the presentation with the fourth floor. It showed initial rot on the joists and flooring, and some charring from fire damage. The framing looked pretty good. The floor is totally open to weather, so debris has come in. Only 25% of the roof structure was damaged. Because all the windows are open the weather is not causing a lot of damage. There is a small area that has been breached, but it should not be a large effort to repair it.

Mr. Almeida commented on the roof repair and the cost of a temporary roof. The temporary roof cannot just be a tarp over the roof with plywood. It would need to support snow in the winter. The temporary roof would create a challenge.

Mr. Cheney questioned why the applicants would need to put a temporary roof on the building if the inside is not important to the board. Mr. Wathne responded that they are referring to the how the interior would be finished. However, whether the temporary roof is important to the Board or not it is important to the building. This would prevent further damage. Mr. Almeida asked for clarification on if the entire inside of the building was to be replaced, then how long can the brick structure itself stand without damage. Mr. Wathne responded that would be covered shortly.

Mr. Wathne commented that the roof framing looks like it is in good shape. If mold is removed, and structure is allowed to dry out the framing throughout the building should look the same. The building has only been wet for a matter of months. It takes years to fully rot wood. The exterior conditions were looked at by facades and broken down into specific conditions. The mortar may need to be replaced, and there are some cracks around the windows. The North façade has some diagonal cracks. This is a fairly routine issue. Some bricks will need to be replaced. Compressed masonry is happy masonry. The arches are intact for the most part. The West façade has some areas of locally loosened masonry. Again this would just be routine replacement. It's a flat plane, so the wall is good. There are some cracks on the stone, but that would again be a routine masonry repair. The beauty of brickwork is that it can so easily replace local issues. There is some rising dampness coming up through the foundation. This is a routine concern with brick. The solution would be to clean the brick and get rid of the moisture. The South façade is in a little worse condition. This wall has brick that has crumbled, however, this still can be a local repair. There is a small percentage that will need to be rebuilt and reframed. Down toward the bottom has been protected from weather by adjacent building. The East facade is in the worst condition. The wooden studs and plaster run into an orphan wall. This is when one building is built then another building is built next to it and wall from the first building is left.

Mr. Almeida commented that prior to being on site, he had same reaction to the east wall. In a new building this would all be replaced with an elevator tower. New construction would sure up the building and support the new elevator tower. The elevator would need to support all floors. Mr. Wathne responded that worse walls have been stabilized.

Mr. Wathne commented that the mortar joints were looked at closely. The previous tooling marks are visible, but the actual material mortar is sound enough that it is still strong. There is some visible cracking from shutters that were put on the building. This can be replaced. There is a point where the foundation is failing, but the building is still supporting it. Mr. Wathne suggested knitting the brick all back together. Mr. Almeida asked Mr. Wathne if the building would last another 100 years after the repairs. Mr. Wathne responded that it would as long as it was protected from weather. Brick does not typically do well underground. It was not anticipated to be part of soil, which is why it's damaged today. In summary 25% all framing was irreparably damaged by fire and post fire weather. The Remaining 75% should be able to be saved once the building can dry out. The exterior wall construction is pretty much sound other than areas discussed in presentation.

Mr. Almeida agreed that there is a lot that can be done and anything is possible. The report was very thorough. Mr. Almeida's idea for the client was that it could be rebuilt and a survey of the building could be done to preserve as much of the original material as possible. The goal is to make the building 100% code and zoning requirements compliant. Mr. Wathne commented that Structures North have done that numerous times for other buildings. This building doesn't have to be rebuilt from the ground up.

Ms. Monestero clarified that Mr. Wathne's report stated that 25% of the framing was irreparably damaged. However, when going through the report it looks like a higher number. Mr. Wathne responded that the 25% number is only referring to what is irreparably damaged from the event.

There were other issues not all applicable to the event and some of them are related to code changes.

Mr. Cheney stated that from his point the whole inside has to come out. Mr. Wathne questioned what that statement was based on. Mr. Cheney responded the code and the damage. Mr. Wathne went on record as disagreeing with that statement.

Vice Chairman Wyckoff clarified that Mr. Almeida was hired to work for the PNF Trust. Mr. Almeida confirmed that is correct.

Mr. Rawling requested clarification that Mr. Almeida was talking about taking down the entire brick structure and replacing it. Mr. Almeida responded that was correct. Mr. Rowling questioned why that was being proposed. Mr. Almeida responded that it was for two reasons. One was to meet the code requirements and the other was to add parking underneath to meet zoning for the building. Mr. Rowling responded that would make it a new building that looks like the old one. Mr. Wathne commented the code is different for existing buildings in place, and a hollow brick box with wood floors would make it easy to abide by that. Mr. Rowling noted that a number of buildings in town that have been excavated and have added parking underneath. Mr. Almeida responded that it might not be possible with this height and mass. The other thing to remember is someone needs to insure this building, so the applicants want to make sure that this building is safe and code compliant. This approach would streamline construction. Mr. Rowling responded that generally that's the argument to build a new building and not save an old one. Mr. Wathne commented that the Building Inspector has the say in insurability.

Ms. Ruedig noted that it's a lot easier from an architectural perspective to start with a clean slate. As far as zoning compliance goes, the building is not compliant today because it's too tall. So how is that accounted for? Mr. Almeida responded that's what the board would want to keep, so then it wouldn't be an issue. The intent would be that no one would know the difference between the old building and the new one. Ms. Ruedig responded that a historic building has an element to it that cannot be reconstructed. It does not sound more economical to tear the building completely down and rebuild to the same detail. This very thorough report that shows the building can be saved and rebuilt. If the right people are hired to help rebuild, then this could be easier. Mr. Almeida responded that the building is unbelievably simple in design. There would not be a lot of hard detail to recreate. A lot of the detailing could be saved. Ms. Ruedig questioned if the building was going to be rebuilt with patina brick. Mr. Almeida responded that it would be another brick. There are one-quarter grout points, which would allow for proper brick ties. Patina is 90% pollution so if the brick was washed, then it would come off anyway. Much of the building will be new as a renovation.

City Council Representative Pearson questioned hearing the old building would need too much done to make it structurally sound. This building survived the fire and the aftermath weather. The report says 75% building is in ok condition. City Council Representative Pearson asked for clarification to understand why tearing it down would make it structurally sound. Mr. Almeida responded that anything could be done. Mr. Almeida does not believe the building is exceptionally sound. This project has to work within the client's reason and ability to complete

the project as well. Other projects Mr. Almeida has worked on have been more complicated, but the budgets were bigger.

Mr. Ryan asked Mr. Marsilia if this building were restored with the five stories and no reinforcement was added just masonry, would that meet code? Mr. Marsilia responded that the City has dealt with similar projects to this, like the Frank Jones project. The reconstructed building would not need to meet current seismic code, and it wouldn't need to meet new building code. It would need to meet existing building code. If the Mr. Almeida rebuilds from scratch then the building would need to meet current seismic code. Mr. Ryan questioned if there was anything that is lateral resistant. Mr. Wathne responded that the team may find some things and some of the foundation would need work. There is room to put in interior sure walls.

Vice Chairman Wyckoff noted that the Frank Jones project was currently being finished for housing, and pointed out that other brick buildings in Portsmouth have been burned and rebuilt. There are many large brick buildings in New England with outside walls that are actually very strong and can support a lot of weight. Looking along the wall at this building it has some of the straightest brick walls. Vice Chairman Wyckoff was not willing to accept arguments around the stairwells and elevator because that would be assuming that this building is a stand-alone building. There would be ways to construct to code and apply appropriate egress within the building.

Ms. Ruedig asked for clarification about the underground parking. Is that really the driving force? Mr. Almeida responded that it wouldn't be categorized as the driving force, but it would be a shame not to do it. It would also be a shame not to bring this building up to code when there is the chance. Ms. Ruedig pointed out that just under this building would only fit two or three cars. Mr. Almeida clarified that this would be joined with the adjacent building, so it would be more parking. Ms. Monestero noted that the first time parking was talked about with PNF Trust was when it was just mentioned today.

Mr. Mayer commented that it was hard to understand what the Board is being asked to do. There seems to be conflicting reports. What the Board is hearing is that this building can be preserved, but that the owner would economically like to tear it down and rebuild. If this application is accepted and the building could be demolished, then this would be setting a very low bar for the Committee. There has to be a way to preserve the building and economically repair it.

Mr. Shea commented that it's pretty clear the Board is here to decide if this building should be demolished or not. There has been a strong presentation from structural engineer, Mr. Wathne, saying that this building can be saved. The Board is not here to discuss design.

Mr. Cheney commented that there was just one thing the Board should understand. Based on fire code in the zoning ordinance, the applicants have a right to rebuild what was there. In addition to building what was there that gives a right to add space to add all the code improvements. For an existing building, construction would have to conform to all code other than seismic codes.

Chairman Lombardi pointed out a few things that were said that did not justify tearing this building down. The applicants have expressed there are parking issues and cost concerns.

However, the report from Mr. Wathne shows that it's probably cheaper to keep this building and repair it. The purpose of this Committee is to first preserve the district. This is a very important building. One of the suggestions was to rebuild the building exactly as it was, but that's a new building. Chairman Lombardi does not want a new building with all the older characteristics, and is hard pressed to say with everything in front of the committee to yes tear it down. The Board has not seen a plan that can justify that. The Board has seen other buildings in this city that were in terrible shape, which have been rebuilt and restored. This is an important structure in this historic district and recognized by state of NH and the NPS as a building with historical significance. It would be hard to vote to tear this building down.

Mr. Rowling summarized that out of the repair items there's 10-15% of the upper east wall, 20% of the lower foundation wall and 15% of the roof replacement that was burned through. So somewhere between 15 and 20% of the building was damaged that seems like this building should be able to be reconstructed.

Vice Chairman Wyckoff pointed out that part of the guidelines on page 7 under the demolition application review. The HDC reviews the proposed development of the site to determine if the reconstruction is compatible and would enhance the district. The applicants may have put the cart before the horse saying that the building should be torn down and the building would be rebuilt.

Mr. Montesero asked for clarification on the procedure. The applicants were under the impression that the demolition piece would be step 1 and then they would come back for step two.

Mr. Shea responded that the Board needs to determine if the property can be saved or not. Then if it could not the applicants would come back with a plan.

Ms. Walker clarified that this can be considered in separate steps for the reasons Mr. Shea said, or can be presented together.

Mr. Almeida commented that the effort to show what the potential new concept could be was attempted to be given to the Board tonight.

Vice Chairman Wyckoff noted that the plan wasn't advertised in the application.

Mr. Shea commented that the rebuild plans have been conflicting with Mr. Almeida saying that it would be rebuilt exactly, and Mr. Cheney proposing a plan that would have included a 6th floor. It did not seem like there was a solid plan anyway.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Carrie Vaultrot, Chair of Portsmouth Advocates, commented that it has been a rollercoaster tonight. This was a presentation to demolish the building. The applicants are talking about tearing down a building with no good reasons. There are other financial avenues that could be

explored, like historic tax cuts. There was not a strong argument for economic hardship. Please deny this application it would set a horrible precedent.

Rick Shulman, 225 State Street, is a professional civil engineer. Mr. Shulman has followed this project in the papers since the fire because he's an abutter. Agreeing with the previous speaker it was noted that this presentation was confusing. The initial statement from the architect was to preserve the building for the rest of time. The key component that didn't get much play was that they control all of the lot including where State Street Saloon was. His understanding was that the application is to demolish the whole building. If it were demolished then there would be a period where it would be completely torn down. Exactly what is there today cannot be recreated. Walking by as a pedestrian you would be able to tell the difference. What is in front of the Board right now is a drastic application. The North and West façade are the most important views. Mr. Shulman does not support the application to demolish the building. Tonight there was a good report and a sound basis to say this building should remain. Mr. Shulman lives in what used to be a Greek revival building, but now it's a flat roof brick building. That is a downgrade from what was there. Do not approve demolishing the building.

Rick Beckstead, 1395 Islington Street, looked at the report and it is a sound report that the HDC should justify denying demolishing the building. It was surprising how quickly the application to demolish the building and try to recreate what is there was submitted. This building could not be duplicated. The Frank Jones Brewery could meet today's standards and codes. The building across the street that was once proposed to be a library, but people said it couldn't be done because it was too old. It's now housing and it's there and standing today. The Lafayette school was decayed and falling apart and was another one that was on the chopping block. Today it's Portsmouth Housing Authority. Harbor Place was a power plant, now it's a mixed-use space. It is important that we save this building. Mr. Beckstead highly recommended not demolishing this building.

Paige Trace, 27 Hancock Street, remembered that a long time ago Mr. Almeida was chair of the HDC, and almost stopped her project because it was a brick repair. Mr. Almeida cared enough he wanted to come out to look at the brick that arrived before the chimneystack was recreated. Ms. Trace is totally against demolishing the building. It's not the most beautiful building but it represents the community that built the building. It can't be both ways there needs to be a give and take as an architect and the Board needs to work through this project. It's common sense the building is in the center of town, and it needs to be saved. If it's taken down, then it's going to look like Ms. Trace's chimneystack. As a city the line needs to be held somewhere. Everyone needs to work together on this one.

Esther Kennedy, 41 Pickering Avenue, noted that many of the public members are on the same wavelength. This building needs to be saved. What makes this city different is there is still a historical downtown. Ms. Kennedy encouraged the Board to listen to what has been said and deny the application.

Erica Dodge, 14 Sheafe Street, was stressed at the low level of technical arguments about why this building should be demolished. Brick quality has not improved beyond what is on the

building now. If the City keeps losing its historic structures, then people will have less and less reasons to come visit.

Bill Downey, 67 Bow Street, appreciated all good work and was impressed with the information. Mr. Downey has stopped at that intersection many nights and it's gorgeous and would love to see this building preserved. However, Mr. Downey can appreciate the economic hardship.

Mr. Almeida referenced the 10 years given to the city as Historic District Commissioner, and said that he did not appreciate anyone saying that his intent is to tear down a historic building. The intent is to recreate this building. Everyone keeps saying that anything is possible. If the right attention to detail is paid, then the only people who will know this was reconstructed are the people who saw it rebuilt.

Mr. Wathne noted that his team has rebuilt buildings and it's not the same. There is a cusp of material development that can be seen. If the Board were to hold the line to say that it has to look the same, then the bricks would have to be harvested for reuse. Structures North has tried to recreate buildings exactly and it cannot be done.

Mr. Cheney questioned Mr. Wathne's report where it said that the building could be rebuilt reasonably. Mr. Cheney has been building for many years and doesn't see how this could be rebuilt reasonably.

Chairman Lombardi noted there has been good discussion tonight and would like to close the public hearing to await a motion from the Board.

DECISION OF THE COMMISSION

Vice Chairman Wyckoff noted that the Board has been presented a lot of information. There have been two special meetings, 4 engineering reports and a public hearing.

Vice Chairman Wyckoff made a motion to deny the application to demolish the structure located at 278 State Street, seconded by Ms. Ruedig.

Vice Chairman Wyckoff noted that the Board has listened to a lot of arguments for and against this application. Based on the report presented tonight the building is salvageable. It is up to the board to save the building and wait for potential development plans to review. International Building Code references that repairs don't always have to come up to the most recent code and can be restored to the prior the conditions.

Ms. Ruedig agreed that the most recent report and presentation given tonight showed that the building could be saved. Ms. Ruedig has full faith that Mr. Almeida can create a good solution. The HDC focus is the outer building. The entire interior of the building could be gutted if needed. Then work within the space that's there. It will be good to see this building restored and the plans for what is going in the adjacent lot.

City Council Representative Pearson noted that this was not an easy decision. There is often a lot of responsibility on the applicant that other people don't always realize until they want to or have to make decisions. This is in a key part of the City and because of the drama of the fire, the public is invested. There was not a good argument to demolish this building. If you look at this project with the potential of a new building, then of course this decision is a little disappointing. It shouldn't be as big of an economic hardship as the applicants are thinking.

Mr. Mayer agreed with the other commissioners and stated that there needed to be good reason presented to demolish the building. Preserving the landscape of Portsmouth is important.

Chairman Lombardi thanked everyone for a very thorough review of the project over the course of many work sessions. There has been conflicting reports and opinions, and it has been a tough decision.

Given the documentation and testimony provided at the meeting, the Commission voted to **deny** the request for demolition of the structure located at 278 State Street due to the following findings:

- 1) According to Mr. John Wathne, PE, President of Structures North, Inc., his *Structural Conditions Assessment Report* dated August 22nd, 2017, determined that the existing, fire-damaged building could be reasonably rehabilitated from both a cost and method of construction standpoint. Moreover, Mr. Wathne determined that the existing conditions did not represent the level of "substantial damage" as defined under the IEBC. Therefore, waivers to the IEBC could be granted for rehabilitation of the building as supported and stated by the City's Chief Building Inspector;
- 2) The Times Building (278 State Street) is prominently located in the city center and its form, design, and overall scale is an important character-defining feature of the surrounding neighborhood;
- 3) The application and its supporting documentation as well as testimony from the applicant and their representatives did not provide adequate justification or reason(s) for approval of the demolition; and
- 4) Given the facts and evidence presented, the Commission finds that preservation of the city's distinct architectural history and character outweighs the demolition of this historically significant building.

The motion to **deny** the request for demolition of the structure passed by unanimous (7-0) vote.

Ms. Walker commented that as Planning Director, the city staff is supportive to the HDC and the applicant. It might be important to the Building Inspector to answer the question as far as securing the building. One resource the applicants could pursue is the Historic tax incentive and there are other tax incentives that can also be looked at.

Mr. Marsilia noted that a written notification was sent stating that the building needed to be secured. The applicants asked for a 30-day extension, which was approved and is up 9/13/17. The owner has asked for an appeal for the direction to secure the building. The request was sent

to the members for a hearing. A hearing date has not been set. That hearing will determine if they need to comply.

Chairman Lombardi questioned if removing the wet debris noted in the report would be part of the process of securing the building.

Mr. Marsilia confirmed that would be part of it. The Inspection Department's interest is that the building is sealed before the winter. The hesitation from applicants was to see how this meeting went. Mr. Marsilia was willing to give the applicants a permit immediately for interior demolition to remove finishes.

Mr. Cheney thanked the City for all the effort and work they have gone through with this. The applicants will move on to go through what legal processes are needed.

II. ADJOURNMENT

Vice Chairman Wyckoff moved to adjourn the meeting a 9:12 pm, seconded by Ms. Ruedig.

Respectfully submitted,

Rebecca Frey, Acting Secretary

These minutes were approved at the Historic District Commission meeting on October 18, 2017.