

DOCUMENT 95/2013 – MINUTES OF A HEARING HELD ON MARCH 25, 2014, PETITION FROM PAUL ARSENAULT, APPLICANT/OWNER FOR 12-13 HIGH STREET REALTY TRUST, REQUESTING SPECIAL PERMIT FOR A 7 UNIT BUILDING REHAB ON 12 HIGH STREET, MAP 515, BLOCK 295, LOT 3 TO MAKE 7 RENTAL UNITS

SUBJECT: Document 95/2013 - Petition from Paul Arsenault, applicant/owner for 12-13 High Street Realty Trust, requesting Special Permit for a 7 unit building rehab on 12 High Street, Map 515, Block 295, Lot 3 to make 7 rental units.

Present: President John Michitson, Councillor Robert Scatamacchia, Councillor Melinda Barrett, Councillor William Macek, Councillor William Ryan, Councillor Thomas Sullivan, Councillor Mary Ellen Daly O'Brien, Councillor Michael McGonagle, Councillor Colin LePage

City Clerk Linda Koutoulas: Petition has been received from Paul Arsenault, applicant/owner for 12-13 High Street Realty Trust, requesting Special Permit for a 7 unit rehab on 12 High Street, Map 515, Block 295, Lot 3 to make 7 rental units. This has been postponed from February 4, 2014. Favorable recommendation from the Planning Board; Favorable recommendation from William Pillsbury Jr, Economic Development & Planning Director, on the basis of adopting the proposed conditions.

President Michitson: We did not open the hearing the last time, but I am going to open the hearing now.

My name is William Faraci, I'm an attorney. I have a practice, an office located in Bradford. I've got before you, first of all, so you will know, Mr. Arsenault as I reported to you last time is not involved with this project. The owners of the property, who are on the petition, the realty trust, are here tonight. I spent a little time at my copy machine today putting together some items for you to look at. I did that because I wanted to let you see the state of the building. This building needs work, but I don't want you to get confused as to the nature of the building. You can see on one of the buildings the cement block portion to the rear. And you can see that on the elevations as well. Although we are calling this one building, it's really two. There's an old three family and store in the front and that will be made into a three family and lobby and service areas. And then there's a warehouse in the back to which nobody has access except thru the front. There are no driveways to it and it has no use except to match what goes on in the front. That rear building is two stories and you have some pictures in there to the size of the building. To say that it is over dense to put two units on each floor, is really stretching the situation. So it's not so much the seven units as it's 3 units and 4 units which add up to 7. I know there's been some discussion about parking. First and foremost, I have included in the package the variance that was granted and recorded and now runs with the land concerning the parking. As far as the zoning issue goes, that has been resolved. I would point out to you the language of the variance says "that the parking will have signage". I was at that meeting for something else when this was presented. I can tell you what they are referring to there is that they wanted specific spaces assigned to specific units so there wouldn't be a hodge podge out there. The plan that was presented to the boards was a plan that called for tandem parking for 7 units, each unit has 2 spaces. Now, I don't know that each unit is going to have 2 cars. I don't know if there are going to be some units that have no cars. But, it's there and it's adjacent. It's across the street and it's paved already. You can see that some work has already started on this building if you've gone by it. New windows are beginning to appear in the front and work goes on. You can see from the other pictures in here, the premises are essentially going to be gutted. It has to be. When you are doing this level of renovation, you must bring everything up to code and that's why the Fire Department put in their recommendation relative to smoke alarms, fire retardant systems, sprinklers and all those things will be followed. This still has to go thru a process with the Planning Board for a definitive plan which would be the definitive floor plans as well. This got delayed before because of a change in floor plan. I think that what's come out of that is a much better design. If you look at that neighborhood, even the picture on the front, right around the corner, there's a large brick building that has 14 units and 4 spaces of parking. Right next door there's a

building which has 3 units, has 2 spaces of parking unless they do tandem parking to give them the required units. If you take a look at the building on the left of this current building that has 2 to 3 units, it has no parking. So as your Economic Development Director said in his letter to you, that in actuality the parking for this building is better than any of the building in the surrounding area and because of the variance, it conforms. So that issue, I think has been taken care of in that we are not causing any further on street parking issues. Parking is going to be off street. It's not going to be a burden to anybody. It's not going to block snow removal and those matters. The other issue that I heard mentioned before was an issue of, well, if there are children in the building, and I am going to assume there will be at some point, I don't know how many, where will they play? If you take a look of the neighborhood, that's a question that can be asked for every single building on that street. Where are they going to play? There's a little room behind the house next door. But the reality is, this is a very tightly packed urban area. The plot plan I've shown you shows that the building comes right up to the sidelines. There's no room for anything else there without destroying a building. We are not trying to destroy a building. We are trying to renovate a building. Also, keep in mind, that the location of this project is approximately 4 blocks away from Cashman field. It's another 4 blocks away from, I still call it Swasey field, I don't know what it's called today, but Swasey field. There's the Wysocki playground at the top of Arch Street, which is a matter of 3 or 4 blocks away and I am on the Board of Directors from the Haverhill Boys and Girls Club which is another 3 or 4 blocks away with an excellent after school program and transportation is provided. It's not an impossible situation, but it's not an unusual situation either. To say that by allowing families a place to live, your exacerbating that problem. Again, I think doesn't really stand well. I have also included in the materials for you, a letter from a local realtor, who obviously hopes to get some commissions by renting these places out, but it does speak to the lack of rental housing, especially in certain price ranges. These are not going to be \$1500 \$2000 month apartments by any stretch of the imagination. They are 2 bedroom apartments with basically living rooms and kitchens. They are going to be fit for a small family or for roommates or single person, something like that. It's within easy reach of all public transportation. I think that's a factor. I've also heard mentioned that the number of units may be excessive. Well, first of all, as I said, you really have to think of it as 3 units in the front and 4 units in the rear. It makes sense that way. But, I did a little figuring and that's on the last page of the presentation. I'm not an economist. I just put these figures down as a sample. I don't think they are unreasonable, but it shows you where we would go with this. These gentlemen have got their loan commitment for the rehab. Their budget for rehab is \$450,000 and if you understand that everything has to be built from scratch inside and brought up to code, that's not an unreasonable number. If you put on top of that the land acquisition cost, which was \$55,000, peanuts you say and peanuts it is. However, it's peanuts because nobody wanted this building. Everybody knew what the problem was with this building and how much work was going to have to be made to put it back into any kind of viable use. These gentlemen have come forward with the plan to do so. They also would like to do other buildings in Haverhill, but we will start with this one. You can see that a 7 unit return with modest rent and a mortgage is never modest, but it's there, yields a very small return on an investment. Let's face it, this is capitalism. It's not altruism. People are not going to put this kind of time and effort into something that benefits the city without some return. I would suggest to you that the normal expected real estate return is 10%. And this is less than that. It's almost half of that. This is a special permit. This is not a variance and I want to put into the record, and I am sure it's already part of the record, the fact that the conditions set forth for a special permit are set forward in the letter from the Planning Director, and the Planning Director in recommending this project, has agreed and pointed out that all of these conditions have been met. The Planning Department speaks for the number of departments in the city. You people speak for the citizens. But there is no opposition. There's been no opposition to this all the way along. So, let's get this building built, rehabbed, back in the market, produce some living space for people. This will be the second building up the street that gets rehabbed. Maybe the next one will go. Maybe it will move up the street. But you have to start somewhere. It's got to make sense financially. This project does. I would very much ask for your support on this issue.

President Michitson: Thank you very much. Is there anybody else that would like to speak in favor? Is there anybody opposed that would like to speak? Is there anyone opposed? I now close the hearing. Council what is your wish?

Councillor Macek: For protocol reasons, I would like to move for passage of the request for a special permit. I'd like to also just note that I will not be supporting the passage of the permit.

President Michitson: Motion by Councillor Macek seconded by Councillor Daly O'Brien.

Councillor Macek: We did somewhat have an airing of this at this Council level before Attorney Faraci was brought on and it maybe a little repetitive, but it's been some period of time, so I am going to go over some of my thoughts on this. I do believe from my experience in the city, we are looking to move forward and make improvements. I believe that's why we have the current zoning that we have. I have been sitting on the Zoning Review Committee that is going to be actually updating that and improving again what we are looking for our city to be. We do have a Master Plan but I am not going to get into that. Our zoning would never allow for this under its current regulations that's why it needs variances. It needs special permits but I think this is an excessive request. I think that there is a density issue. While the buildings you are mentioning, the couple that you mentioned a 14 unit and a 3 unit close by exist, I don't think we should add to that issue. I think they probably all pre-date the current zoning. I am almost willing to say they pre-date zoning. I did take the time to go in and check out 12-13 High Street in our zoning office and spoke to our assessor. He said the building pre-dated records. That's how old the building is. Over 100 years he said. The only thing he could tell me, and I have copies of those records that I got, is that that building has never been more than 3 units, one commercial unit and 2 residential units; one on the second floor and one on the third floor. Now I am sure they were bigger units on the second and third floor but they were still only two residential units maximum in that building from the time it was constructed. The other commercial unit was originally marked as a market and then it was converted to a store. That's just some of the history and also some of the reasoning why I think going from 3 units, we'll call it 3 units, to 7 is excessive. The parking variance does tie to the property. I understand that but it doesn't mean it has to. It doesn't tie itself to the other property across the street. It doesn't tie itself to this special permit I don't believe.

Attorney Faraci: It does. It's a specific item of the variance. In the first line of that

Councillor Macek: But you could do something else with that property besides follow the terms. It doesn't have to be a parking lot. Somebody could construct a house on it at some point in the future.

Attorney Faraci: It states that the variance was granted based on the fact that those spaces would be forever linked to this piece of property by covenant. So no. Nobody could just go and build a house on that without coming back in without some other further relief on the parking.

Councillor Macek: Well they could come in and get relief if there was a change in usage or if you chose to not go forward with that. I still think that's a storage lot and I don't agree with the Board of Appeals decision on allowing that tandem parking as it's being called. I think it will be very chaotic. It's also very tight at that point. There's no room for say snow storage which we something we are getting into an discussing in our new zoning because we have lots of snow as we've just experienced over this past winter. I think that the parking might be an advantage but it is across to a housing project in that area. However we, I want to just remind my colleagues, I don't even know if it was in this term, but we not too long ago permitted a property on River Street to put their parking up around on Washington Street. Anybody who has paid close attention to that, while they have their technically legal parking for their housing complex, nobody uses it and everybody just parks on River Street. It's just the nature of people driving. They take the closest spot if it happens to be near their house they are going to stop there. They

are not going further to park especially in inclement weather. I will next go to a few of the comments in our Economic & Planning Director's letter of March 21st which he does ultimately recommend passage but he also puts in here, some language that says on the second page about half way down, he says, "I believe this project is in the best interest of the City of Haverhill in that it provides needed in fill housing in the inner city area," but then it goes on to say, "without requirements to add additional utilities to service the project", I am not sure utilities to service the project, there are utilities there. We are not extending utilities, but I think there will be an increase in demand. The next sentence down says "specifically pursuant to zoning ordinance 255-80 as applicable, the following findings must be made by the City Council relative to the project." There's at least three of those findings that I don't believe fit. The first one would be that the request meets all pertinent conditions listed in Article XI of the ordinance that "the request is desirable to the public convenience and welfare". I think we are trying to rebuild Mt. Washington and that this will not add in a positive way to what we are trying to do in rejuvenating the Mt. Washington area which is known as the hill by the Police Department because of all of its current issues with the tenancies that are there and the problems with drug and crime in that area. I don't want to add to it. "The request will not impair the integrity or character of the district or adjoining zones nor be detrimental to the health, morals or welfare and will be in conformity with goals and policies of the Master Plan." I don't believe this fits in conformity to the Master Plan due to its density; "and that the requested use provides for convenience and safety of vehicular and pedestrian movement within the site and in relation to the adjacent streets." I also think that's at least a gray area. I don't believe it really is going to be helpful. I think it will probably be harmful. I am going to stop there. I just feel this is not a good project for the City of Haverhill. I think it's the density. I said earlier probably 4 units. I could probably see that working on that site. I think this is going to bring a lot of people, a lot of children, cars, trash. A lot of everything that the area just cannot support any more of. So for that reason, at the appropriate time I will not be supporting this special permit request. I would like to say Mr. President, that whether I do it or another one of my colleagues does it, I do believe we need to also add to this special permit the letter from Mr. Pillsbury for conditions and recommendations because if it should pass, those need to be attached.

Attorney Faraci: We have no problem with that.

Councillor Daly O'Brien: First of all, I am not buying any of your argument. I must say. You didn't convince me cause what you are saying is, we made bad decisions at different times in the City of Haverhill, maybe even before it was a city, due to the age and the density of that area, and we can just continue to do that. I think where that really falls off, some the decisions that were made around the apartments and condos that were put in in historical downtown Haverhill over a very short period of time without enough parking and without enough green space. I don't think people realized then how that was going to roll forward. It didn't roll forward very well and in fact by the time I came on City Council everybody who got permitted in downtown Haverhill had to provide parking. It became a monthly issue how we were going to convince owners and developers to provide some parking downtown. They were buying land, the Cordovan building was certainly one of the most immense buyouts of parking I ever saw. It wasn't until we got the garage built that we had a relief valve that really helped. People were parking on side streets that were on a train out of town every day and that wasn't helping. That aside, I just wish it was smaller. It's not that I don't want the building renovated. I would love to see that building renovated. I can see it has great bones and I live in a very old house myself just two blocks from here in very dense neighborhood. Very dense. I have off street parking. I don't have parking. I park on the streets. I live in a neighborhood that's not much different from this, other than it is located two blocks that way instead of over in that section of the city. As I was thinking about this project coming here tonight, a few years ago, we let a project go forward on my street, Webster Street, that was going to provide off street parking and I was dead set against it because of the size of my street, and knowing how thin it was in the problems we have in the winter, which were totally exacerbated this year. It was crazy. Just in an average winter and sure enough, everybody in that 7 apartment building parks on the street. Nobody uses that side parking.

You might see one or two cars there. But there's always cars out in the street and it's very dangerous when you are trying to come down or go up Webster Street in the winter time. It's not a problem in the summer, but it's definitely a problem in the winter. That's why I see that happening. You can say they are going to park over there, but it's been pointed out, no they won't. We say it downtown. I've seen it in my own neighborhood. I just wish it was less apartments so that we wouldn't be looking at that problem. To say that it's okay because of those other older buildings means nothing to me. Eventually, whoever it is sitting up here is going to be tackling that problem in that neighborhood. It's difficult. It's very difficult.

Councillor Sullivan: I basically disagree with everything that has been said by my colleagues tonight only because I view this, perhaps differently. I see this as an improvement to the neighborhood. I see this as an improvement to a building that has stood idle for I don't know how long. It's a blighted eyesore. I don't know who we are to say that we know people aren't going to park across the street. They may not, but I don't know how we know they won't. I understand the River Street scenario. But the River Street project had parking on a whole different street. It wasn't directly across, it was around the corner and up the hill. I don't intend to vote against this project. If it does to get voted down, and you do come back with lesser units or some other idea. I hope you will come back because there is one thing that's clear about lower High Street right now. It's not a very desirable location. There's not a lot going on down there. It's a depressed area. It needs someone to spur some life back into that section of downtown. It's right on the cusp of our downtown and eventually it could actually become part of the downtown as downtown continues to expand down Essex Street and right into Lafayette Square. Invariably it's going to happen in the next wave. There's only so much room in downtown proper. So I do intend to support your project with the recommendations of the Planning Board and I wish you luck.

Attorney Faraci: Could I just, I'll point out one thing legally when you were talking about numbers of units. If this were six, it wouldn't be before the City Council. It would be before the Board of Appeals. It's the 7th unit that brings us to the City Council.

Councillor Barrett: Councillor Macek covered a lot of my issues but density is in my notes. I've been driving around High Street. I must look like I am looking for a deal. I've been there often, it is just so tight. That building is the tightest of them all. Everyone is tight, some have porches. They have a little side yard. They've got nothing there. Right to the backyard. I don't think I can support this.

Councillor Scatamacchia: I am going to support this tonight. I don't see how you can set the same standards for a project on High Street as you do for one in the Central Business District. That building has been vacant 20 years, 25 years and if this doesn't pass tonight it's going to be vacant for God knows how long as well. I think any incentive will further develop the area. I think Councillor Sullivan said it is a depressed area. I don't see, we had the Hamel Lofts, Cordovan, they were shoe factories. They weren't apartments and what we did was we made it so they could become housing, because it was a good deal for downtown. We actually changed the parking. If you recall, parking in the Downtown Business District was 1.5 per unit and we knocked it down to 1.4 units to make those two projects work. I am certainly not comparing 12-13 High Street with Hamel Mills or the Cordovan building. It will be a benefit to the neighborhood. If people don't park the way they are supposed to park we have a Police Department. I have heard no complaints about the River Street area parking problem that we voted on a few months ago. I am going to support this because I think it's going to be a benefit. I think if it doesn't pass, it is going to be a further detriment to the High Street area.

Councillor McGonagle: I would like it if it were a smaller program just for all the same reasons. I don't want to be hypocritical here. We just allowed the Surplus Building on Washington Street, which I think is going to be a very nice project, to take their parking over at the parking garage. It is a little bit, it's the same type of deal. I would love to see this, I'm not a contractor, I'm not a rehab guy, but I find it very difficult to accept those numbers that it's going to cost \$450,000 to renovate that building. Maybe if you

cut it down to five units or six units, you have a couple of toilets you don't have to buy. That comes down to \$300,000 and therefore your return on investment increases and it makes it viable. That neighborhood is going to come back. It's really going to come back. It can be a nice property. I just think, that's the old try to put too much stuff in that one sock. I am not going to vote against it only because I am going to go with the recommendation of our Planning Director. I think it can be a nice project. I'd like reconsidered but I am not going to stand in the way. Again, like some of the Councillors said, I think something in there is better than what we have right now. I intend to support it.

President Michitson: I think there are a lot of positive aspects to this proposal. The fact that somebody wants to make that a better place. But I think there are too many units.

Attorney Faraci: May I go back, I do want to get a few things on the record.

President Michitson Yes, you may.

Attorney Faraci: For purposes known best to attorneys, first of all, the whole issue with parking. The variance made it legal. It cannot be a basis to say that it's not in the best interests of the city when another board, whether you agree with them or not, has ruled on the parking. Has granted the variance. The variance is recorded as a matter of record, it is tied to the land. So, from a legal point of view, and that's what we lawyers do, from a legal point of view the parking is not an issue. The idea that somebody is going to go look elsewhere for parking, when there is a flat space right across the street, takes some imagination. This is not a little narrow street like Webster Street. This is High Street. The parking is right there. It really is a stretch to say they are not going to go across the street and use it. As far as the density issue goes. That's the one thing that Bill Pillsbury was very adamant about that the density did not bother him. And it did not bother him because the building is there. I can't change the lot lines. I can't change where the walls are. The building is there. It is what it is. It has to be used for something. Unless there is a return on this, unless there is a way to get this into residential housing, that's makes somebody want to put money on it, it will not be used. That's not a threat, that's a reality. It will not be used. \$55,000 to buy a building and a lot. What's it going to be worth? Who's going to buy it next time around? The City Council won't allow three units in the front and 2 units per floor in the back. That's not density. That is just plain simple use of space. Now, like I said, I know I am not going to change any minds, but I wanted that to be on the record. I want you to very much understand that this is not a variance, this is a special permit. The conditions of 9 are met because it says "that we can have a special permit for this". That's all article 9 says. As far as water and sewer, public water public sewer. The idea that there is no opposition to this from anyone in the public; from any of the boards in the city; from any of the departments in the city has to be considered. I think that's what I have to say and thank you very much.

President Michitson: Thank you very much. Councillor Macek would you like to add

Councillor Macek: I would like to move that we amend the special permit request to add the March 21, 2014 letter to the City Council from William Pillsbury regarding High Street special permit 7 units and that the full content including his recommendations and also includes other departments recommendations. It's all encompassing and I would like to add that as conditions to the special permit.

President Michitson: There's an amendment motion by Councillor Macek and there's a second by Councillor Barrett.

Councillor Ryan: Mr. President, as I have disclosed at a prior meeting on this very issue because I have property very close to the building under discussion, the City Solicitor has advised me that I should abstain from voting.

President Michitson: Any further discussion on the amendment? Madame Clerk please call the roll.

Clerk Koutoulas: Councillor Scatamacchia-yes, Councillor Barrett-yes, Councillor Macek-yes, Councillor Ryan-abstain, Councillor Sullivan-yes, Councillor Daly O'Brien-no, Councillor McGonagle-yes, Councillor LePage-yes, President Michitson-yes. 7 yeas, 1 nay, 1 abstain

President Michitson: The amendment passes.

Councillor Macek: Move the special permit as amended for passage.

President Michitson: Motion by Councillor Macek seconded by Council Vice President Scatamacchia. Madame Clerk please call the roll.

Clerk Koutoulas: Councillor Scatamacchia-yes, Councillor Barrett-no, Councillor Macek-no, Councillor Ryan-abstain, Councillor Sullivan-yes, Councillor Daly O'Brien-no, Councillor McGonagle-yes, Councillor LePage-yes, President Michitson-no. 4 yeas, 4 nays, 1 abstain

President Michitson: That fails.

Respectfully submitted,

Barbara S. Arthur
Administrative Assistant to the City Council

April 4, 2014

REASON FOR VOTE - DOCUMENT 95/2013
Special Permit for 12-13 High Street Realty Trust
7 Unit Rehab, Map 515, Block 295, Lot 3 to make 7 Rental Units

In granting the special permit, those members voting in favor found that the application fulfills all of the general conditions contained in Chapter 255-80 (as applicable) of the Haverhill Zoning Ordinance.

President Michitson: I voted against the project because there are too many units (density).

Councillor Scatamacchia: I voted in favor because it will rehabilitate a long vacant building and it would improve the neighborhood.

Councillor Barrett: I voted against the project because of a concern that the request does not provide adequately for parking with its “stacked” parking. The planned parking does not provide for off street loading nor for the safety of pedestrians crossing to and from the parking area. It is a major change to a building that has historically been a 2 unit with a storefront below to a building of 7 units. The impact of maximizing is not in conformity with the Master Plan and will be detrimental to the welfare and the revitalization of the district.

Councillor Macek: My vote against the special permit request heard before the Haverhill City Council on March 25, 2014 was based primarily, but not limited to, the applicants failure to present all required certified plans, and associated information as conditioned in the Haverhill zoning code now or formerly referenced as Chapter 355-80 subsection D and its parts and due to applicants failure to present a project that addressed the minimum threshold, as stated in Ch. 255 -80 showing that the special permit request is desirable to the public convenience or welfare; that the special permit request would be in conformity with the goals and policies of the Haverhill Master Plan; that the request would provide convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent street(s); and that adequate off street loading and unloading of service vehicles would be provided.

Councillor Sullivan: I voted in support of the special permit for 12-13 High Street because of the favorable recommendations given by the Planning and Appeals Boards and Planning Director, and also because the project meets all additional conditions pursuant to zoning ordinance Ch. 255-80 as applicable. I also voted favorably because of the obvious improvement this project would have had to the blighted property and to the inner city neighborhood.

Councillor Daly O’Brien: I did not support this special permit because of the number of units proposed for this renovated building and I do not believe it provided for adequate off street loading and unloading of service vehicles due to the size of the area around the building.

Councillor McGonagle: I voted for the project because it met the necessary requirements for a special permit. The project has no opposition and the Economic Director has endorsed the development of the property.

Councillor LePage: I voted in favor of this special permit with the recommendations and stipulations provided by the appropriate city departments as it conforms to all other special permit requirements.