

**OFFICIAL MINUTES  
NIAGARA FALLS PLANNING BOARD  
October 25th, 2017**

A regular meeting of the Niagara Falls Planning Board was held Wednesday, October 25, 2017, at 6:06 PM, in Room 17, City Hall, 745 Main Street, Niagara Falls, New York.

**PRESENT:**

Willie Dunn-late  
Robert Kazeangin  
Michael Murphy  
Earl Smeal  
Joyce Williams  
Richard Smith  
Charles MacDougall  
Tony Palmer

**ALSO:**

Thomas DeSantis  
James Bragg  
Michelle Shaughnessy  
Timothy Polka

**APPROVAL OF AGENDA**

A motion to approve the Agenda with Amendment to take action item #6 off the table and add to the agenda was made by Mr. Smith, and seconded by Mr. Murphy. **Unanimously Approved.**

**APPROVAL OF MINUTES**

Motion to Approve the Minutes for the meeting dated 9/13/17 was made by Mr. Smith, and seconded by Mr. Smeal. **Unanimously Approved.**

**PUBLIC PARTICIPATION**

None

**ACTION ITEMS**

**1) Site Plan Review: 7611 Buffalo Avenue (C1-A)**

Proposal by James Fittante, RA AIA, to construct a 2,021 sq. ft. addition with balcony for use as a fitness center.

Mr. Fittante stated that the existing building will have a second story addition on the back along with full new façade redo, as this is becoming a fitness center. The façade will be metal panels with stone columns. On the second floor there will be a balcony where patrons can go to get fresh air and look out over the water, also may possibly be a future spot where Yoga classes may be held. Their timeline for this project is 6-8 months as the project is time sensitive.

Mr. Kazeangin asked if the stand-alone sign would be removed at this time. Mr. Fittante stated that the sign would be refaced with the fitness centers logo. Mr. Kazeangin voiced his concern for the lack of planters of foliage around the base of the sign. Mr. Fittante stated he ensures they will meet the requirement's set forth in the Conditions, along with additional foliage at the base of the sign. He will submit those plans to the Senior Planner for approval and agrees for that condition to be added along with the required trees that will act as a buffer to neighboring properties.

Mr. Smeal asked if adjacent property owners had been notified as a second story is being added to the Site. Mr. Bragg stated no they had not been since it is zoned commercial and is not required. Mr. Smeal also asked if this property had Riparian Rights and Mr. DeSantis stated he did not believe so.

Mr. Polka asked if there were any issues with the current location of the dumpster due to drainage easement. Mr. DeSantis stated he does not believe that would be a issue, but the Board can ask for the

dumpster to be moved if they would like. Upon further discussion by the Board it was decided that the placement of the dumpster could remain where it is.

Upon review, staff certifies that the above action complies with the City's Codified Zoning Ordinances, in intent and purpose, specifically Chapter 1324, but only with the following conditions being satisfied in conjunction with the proposed use(s) or expansion:

- 1) **Environmental Assessment (SEQR):** The Planning Board hereby accepts and adopts the findings of the SEQR review, finalized and dated October 18, 2017.
- 2) **Compliance:** Comply with all applicable State and local building, safety, and health codes in particular those specifically identified in condition number 5. 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:** Proposed dumpster and enclosure shall comply with Section 738.08 of the Codified Ordinances.
- 6) **Landscaping:** Requirement is for six (6) trees, (1 per 50' frontage plus 1 per 10 parking spaces or part thereof) and a 5' wide landscaping strip along the perimeter of any such parking area. No landscaping plan has been provided. Applicant will provide a revised landscaping plan that addresses bringing the site more into compliance with the spirit and intent of Zoning Chapter 1322 Landscaping regulations. The revised landscaping plan is to be submitted to the Planning Office and is subject to review and approval by the senior planner. Proposed trees shall have a minimum 2" caliper. Planting areas contiguous to the parking lot should be delineated by as "raised-curb" or similar. In particular, the area along the north property line adjacent to the public R-O-W (sidewalk) and, more specifically, on either side of the existing pole sign located there shall be provided with purposeful landscaping that accomplishes the goals and objectives of the ordinance.
- 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'x18' per space.
- 8) **Lighting:** All exterior site lighting, including wall packs, shall be angled downward only and away from adjacent properties. All fixtures and luminaires 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.
- 9) **Bond:** A performance bond, or equivalent, in the amount of \$5,000 shall be submitted to the Legal Department in accordance with Section 1301.10 and 1324. 7 of the Zoning Ordinance prior to the issuance of any building permit or certificate of occupancy

Motion to Approve Site Plan with new condition of landscaping was made by Mr. Smeal and seconded by Mr. Smith.

**POLLED VOTE**

Mr. Dunn	Yes
Mr. Kazeangin	Yes

Mr. McDougall	Yes
Mr. Murphy	Yes
Mr. Smith	Yes
Mr. Smeal	Yes
Ms. Williams	Yes
Mr. Palmer	Yes
Mr. Polka	Yes
<b>Approved</b>	<b>Unanimously Approved</b>

## **2) Site Plan Review: 1117 Cleveland Avenue (R2-B)**

Proposal by Wendy Ferrie of Carmina Woods Morris to repurpose former school building into 30 apartments together with 28 spot parking lot.

Wendy Ferrie of Carmina Woods Morris stated the project involves 41,000 sq. ft. redo of the site to include 30 apartments with a total of 21 bedrooms. The four story Sacred Heart Building will mostly remain the same with the exception of an elevator to make it handicapped accessible. The one story building on the Site Plan will be gutted down to the steel structure and rebuilt including a new roof. The gymnasium will be the building that will be getting the most work done, as they will be removing the portion where the bathrooms currently are and adding another floor. This second floor will allow them to offer two story Town Houses. Parking will be offered off of South Avenue for tenants. They will be adding lighting for tenants to feel safer outside and to deter non tenants from hanging around there at night. They held a Community Meeting on October 3rd and they received tremendous positive response from the Community. Their time line is to start the project in spring of 2018 with completion in nine months. This project will be under a taxable subsidiary of True Bethel Baptist, and the Church and Rectory would remain strictly True Bethel Baptist, as is.

Ms. Williams asked what fencing material would be used for this project once completed. Mr. DeSantis stated that the City would like to see something like chain link, and no Stockade. Ms. Ferrie said that would not be an issue.

Upon review, staff certifies that the above action complies with the City's Codified Zoning Ordinances, in intent and purpose, specifically Chapter 1324, but only with the following conditions being satisfied in conjunction with the proposed use(s) or expansion:

1. **Environmental Assessment (SEQR):** The Planning Board hereby accepts and adopts the findings of the SEQRA review, finalized and dated 10/19/2017.
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:** Requirements is for nine (9) trees, (1 per 50' frontage plus and 1 per every 10 parking spaces) and a 10' wide landscaping buffer between the residential parcels and a 12' front yard setback. Proposed trees shall have a minimum 2" caliper. Planting areas planting schedule was submitted with this application. The applicant will provide a landscaping planting schedule subject to review/approval of the senior planner.

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. Minimum parking space dimensions are 9'x18' per space.
7. **Screening:** Site shall be screened with a decorative wood fencing material to be constructed and maintained along those property lines that are contiguous with the residential districts. This condition may be waived upon written request by adjacent property owners.
8. **Right-of-Way:** Sidewalks shall be maintained at owner's expense along South Avenue, Eleventh Street and Cleveland Avenue.
9. **Easement:** Applicant will file easements as illustrated on the Site plan dated 10/10/17. Applicant will provide proof that this easement has been filed and recorded with the Niagara County Clerks office prior to the issuance of any building permit.
10. **Lot/Boundary lines:** The lots consisting of 1113 Cleveland Avenue, 1117 Cleveland Avenue, 1132 South Avenue and a portion to be subdivided from 1112 South Avenue shall be legally amalgamated into a single lot/SBL number, pursuant to regulations, prior to filing for a building permit.
11. **Bond:** A performance bond, or equivalent, in the amount of \$3,000 shall be submitted to the Legal Department in accordance with Section 1301.10 and 1324.7 of the Zoning Ordinance prior to the issuance of any building permit or certificate of occupancy

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

**POLLED VOTE**

Mr. Dunn	Yes
Mr. Kazeangin	Yes
Mr. McDougall	Yes
Mr. Murphy	Yes
Mr. Smith	Yes
Mr. Smeal	Yes
Ms. Williams	Yes
Mr. Palmer	Yes
Mr. Polka	Yes
<b>Approved</b>	<b>Unanimously Approved</b>

**3) Recommendation to City Council: Encroachment of Right-of-Way: 320 & 324 Niagara Street Patio Encroachment (D1-B)**

Proposal by Savarino Companies, Encroach the Cities Right of Way to operate a 9'x32' outdoor patio as an accessory use.

Courtney Cox, of Savarino Companies, stated this was a 3.5 million dollar redevelopment. They believe this patio will draw in more tourists and their patio plans have met all codes. There will be an overhead door component for use in the summer months. The rental units above will have exposed brick, hardwood floors; high-end finishes such as stainless steel appliances. The residential tenants above will have separate entrances and access to parking in the public lot behind the building. Mr. DeSantis stated the City has a lease on the parking lot currently. Savarino's timeline on this project is to start January 2018 and complete by July 2018. Currently they are set to close on the building itself in December 2017 and progress is being made with SHIPO as well.

Mr. Smith stated that he felt ROW should be six (6) feet, so the patio should be shortened by one (1) foot. Mr. DeSantis suggested that the Board place an Amendment to the Conditions with this request. Then the Applicant will have several ways to accomplish this, such as remove grass area and extend the



#### 4) Site Plan Review: 320 & 324 Niagara Street (D1-B)

Proposal by Savarino Companies to create a 9'x32' outdoor patio in the right of way with 2'x10" powder coated metal railing to serve adjacent microbrewery and restaurant.

This was addressed in Agenda Item #3 discussion.

Mr. Polka wanted to confirm that the railing would be removable. Mr. Bragg stated that is what is mandated in the Code Ordinance, which the applicant would need to follow as the conditions state.

Upon review, staff certifies that the above action complies with the City's Codified Zoning Ordinances, in intent and purpose, specifically Chapter 1324, and 1321.12 but only with the following conditions being satisfied in conjunction with the proposed use(s) or expansion:

1. **Environmental Assessment (SEQR):** The Planning Board hereby accepts and adopts the findings of the SEQRA review, finalized and dated 10/18/2017.
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. **Storage:** Outside storage of materials/equipment shall be maintained clutter free, secure and screened, as necessary. All outdoor furniture, including tables, chairs, umbrellas and planters in patio shall be stored indoors when not in use.
5. **Public Elements:** Patio shall not block access to Fire Department connections, sewers, water works, gas valves or doors. In addition, the owner/applicant shall maintain a minimum landscape passageway of not less than six (6) feet wide from the public, in front of the enclosed patio.
6. **Railing:** Patio shall be marked off from Niagara Street by means of railing; the height of the railing shall not exceed 30 inches.
7. **Advertising/Signage:** Advertising shall not be placed or hung from the public railing. All signage shall be regulated by Chapter 1121.
8. **Lot/Boundary lines:** The parcels located at 320 Niagara Street (SBL# 159.37-1-16) and 324 Niagara Street (SBL# 159.37-1-15) site shall be legally amalgamated into a single lot/SBL number, pursuant to regulations, prior to filing for a building permit.
9. **Public Noise:** The use or operation of any sound production or reproduction devices in such a manner as to disturb the peace is prohibited. Applicant shall follow the Public Noise Ordinance in that there is to be no sound production or reproduction devices between the hours of 10:00 p.m. and 7:00 a.m.

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

#### POLLED VOTE

Mr. Dunn	Yes
Mr. Kazeangin	Yes
Mr. McDougall	Yes

Mr. Murphy Yes  
Mr. Smith Yes  
Mr. Smeal Yes  
Ms. Williams Yes  
Mr. Palmer Yes  
Mr. Polka Yes

**Approved Unanimously Approved**

### 5) Site Plan Review: 24 Buffalo Avenue (D1-C)

Proposal by Jonathan Bennett to create a 6'10"x21'10' outdoor patio on private property with 30" metal railing to serve adjacent restaurant together with sidewalk staircase to roof terrace.

Mr. Bennett presented drawings of the proposed Patio to the Board. It showed a spiral staircase off of First Street, with a swing gate that will lock at the ground level, leading to the second level. Showed large windows that could be opened in summer months for tourists and locals to enjoy the sights, sounds of smells of Niagara Falls. Mr. Bennett went on to show the Board the indoor remodels that they will also be working on. Mr. DeSantis stopped Mr. Bennett at this point as his drawing showed a rather large lighted sign on top of the new proposed patio. This sign is not what is on the agenda for tonight's meeting, the Board, tonight, is only voting on approval of the Patio. If the applicant would like the Board to consider the sign, that would need to be brought back to them with specific details at a future meeting. Mr. DeSantis also stated that no rooftop signs are allowed at this time, which is what his drawing was showing. Mr. Bennett stated he understood the Board is only voting on the Approval for the Patio at this time.

Upon review, staff certifies that the above action complies with the City's Codified Zoning Ordinances, in intent and purpose, specifically Chapter 1324, but only with the following conditions being satisfied in conjunction with the proposed use(s) or expansion:

1. **Environmental Assessment (SEQR):** The Planning Board hereby accepts and adopts the findings of the SEQRA review, finalized and dated 10/19/2017.
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. **Storage:** Outside storage of materials/equipment shall be mainlined clutter free, secure and screened, as necessary. All outdoor furniture, including tables, chairs, umbrellas and planters in patio shall be stored indoors when not in use.
5. **Public Utilities:** Patio shall not block access to Fire Department connections, sewers, water works, gas valves or doors.
6. **Right-of-Way:** The patio will not be expanded to encroach into the city right of way.
7. **Railing:** Patio shall be marked off from First Street by means of railing: height of the railing shall not exceed 30 inches.
8. **Advertising/Signage:** Advertising shall not be placed or hung from the patio railing. All signage shall be regulated by Chapter 1121.

9. **Public Noise:** The use or operation of any sound production or reproduction devices in such a manner as to disturb the peace is prohibited. Applicant shall follow the Public Noise Ordinance in that there is to be no sound production or reproduction devices between the hours of 10:00 p.m. and 7:00 a.m.

Motion to Approve Site Plan for Patio only at this time was made by Ms. Williams, and seconded by Mr. Kazeangin.

**POLLED VOTE**

Mr. Dunn	Yes
Mr. Kazeangin	Yes
Mr. MacDougall	Yes
Mr. Murphy	Yes
Mr. Smeal	Yes
Ms. Williams	Yes
Mr. Smith	Yes
Mr. Palmer	Yes
Mr. Polka	Yes
<b>Approved</b>	<b>Unanimously Approved</b>

**6) Site Plan Review: 10158 Niagara Falls Blvd (SBL#146.19-3-16(C3))**

Proposal by Larry Vann, Vann Advertising Inc., to erect a two-sided billboard. This Agenda Item was tabled at last meeting as waiting for Niagara County Planning Board to review and give their recommendation. They Recommend Denial due to:

1. Large size is not commensurate with surrounding area.
2. Illumination could have a negative impact to airport.
3. Area variance fails to meet the balancing test.
4. Traffic distraction safety issue.

Mr. DeSantis went on to express his same opinion to the Board Members along with non-compliance for intent or purpose of the City's Codified Zoning. And based on this information he cannot recommend for the Board to approve and must recommend Denial at this time.

Mr. Vann was provided a copy of the recommendation from the Niagara County Planning Board and was told upon this denial he has the right to bring it back to the Board once his Site Plan is revamped and deficiencies addressed. Mr. Palmer stated he was at the County meeting and it was discussed the NFTA was not notified and the height of the sign was the biggest concern. Mr. Palmer then suggested the Board Denies at this time.

Upon review, staff certifies that the above action complies with the City's Codified Zoning Ordinances, in intent and purpose, specifically Chapter 1324, but only with the following conditions being satisfied in conjunction with the proposed use(s) or expansion:

1. **Environmental Assessment (SEQR):** The Planning Board hereby accepts and adopts the findings of the SEQRA review, finalized and dated 9/07/2017.
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:** No landscaping plan was provided. The applicant shall provide an updated landscaping plan that meets the purpose and intent of Zoning Chapter 1322 Landscaping, Screening and Buffer Regulations.
6. **Bond:** A performance bond, or equivalent, in the amount of \$5,000 shall be submitted to the Legal Department in accordance with Section 1301.10 and 1324.7 of the Zoning Ordinance prior to the issuance of any building permit or certificate of occupancy.

Motion to **Deny** Site Plan was made by Mr. Murphy and seconded by Mr. Smith.

**POLLED VOTE**

Mr. Dunn	Yes
Mr. Kazeangin	Yes
Mr. MacDougall	Yes
Mr. Murphy	Yes
Mr. Smeal	Yes
Ms. Williams	Yes
Mr. Smith	Yes
Mr. Palmer	Yes
Mr. Polka	Yes
<b>DENIED</b>	<b>Unanimously Denied</b>

**NEW BUSINESS**

7<sup>th</sup> & Niagara Project: received application and currently awaiting SEQR completion from involved agencies to review.

Mr. DeSantis stated that the City would be abandoning the Alley in the near future. Mr. Smith asked if a Public Meeting will be held for this and Mr. DeSantis said there could be.

**OLD BUSINESS**

None

**COMMUNICATIONS**

DOS Division of Local Government Services: Sign Regulation- at 11-15-17 Planning Board meeting there will be training on the Sign Regulation.

Niagara Falls: International Airport Stakeholders Group; Broadband-friendly Policies for local Governments- Mr. Palmer attended a meeting on this and thinks it is something the City should look into.

Mr. DeSantis suggested creating a resolution to present to Council that when a street gets torn up empty conduits are put in place for future use.

Niagara County Planning Board: Denial-10158 Niagara Falls Blvd: 10'x36' billboard

**PLANNING REPORT**

None

**ADJOURN**

Motion to adjourn meeting was made by Mr. Smeal, and seconded by Ms. Williams. The meeting was duly adjourned at 7:59 P.M.