

City of Hudson Planning Board
Minutes of Public Hearing
July 15, 2025

In attendance: Randall Martin, Acting Chairman; Gene Shetsky; Kali Michael; Gaby Hoffmann; Veronica Condra; Cassie Britton, Counsel; Christian Bertram, Engineer
Absent: Theresa Joyner, Chairperson; Dr. Bettina Young

Old Business

360 State Street (Tax ID #110.37-1-1): Site plan application from Pennrose Development to redevelop the former John L. Edwards Elementary School into 65 affordable senior housing units.

Mr. Martin opened the meeting at 6:33 p.m. The Common Council notified the Planning Board that it intended to seek lead agency status for the environmental review of the John L. Edwards Elementary School redevelopment project, which would require a zoning change from R-1 (single-family residential) to R-4 (multi-family residential). During its July 8 meeting, the board discussed whether it was better suited to be lead agency or to let the Council proceed.

Ms. Britton explained that the zoning change would have the greatest environmental impact, not the building itself. “For that reason, it makes more sense in this specific instance to have the Common Council do so,” she said. If a site plan was required, the board would get another pass at the application; this part is for the state Environmental Quality Review (SEQR) portion of the process.

Mr. Martin said he would like the board’s response to the Council to indicate that it would like its consultant(s) to be used “so that we can feel comfortable and transparent with the engineering for that project as we seek to also enter the SEQR portion of the process.

Motion by Ms. Hoffmann to give consent to the Common Council to serve as lead agency, second by Mr. Michael. Approved.

Motion by Ms. Hoffmann to send a letter to the Council stating that the Planning Board believed it was better suited to serve as lead agency and recommended that the Council consult with Mr. Bertram, second by Mr. Martin. Approved.

21 North Sixth Street (Tax ID #110.53-1-32): Amended site plan application from Chris Lindstrom to add an internal lift at the property known as Hudson Harmonic.

A lift was added to the interior of the building. There were no external changes and no other changes to the site plan. When the project was originally approved a café in the lower level was not Americans with Disabilities Act (ADA) accessible. It was agreed that staff would go between the ground and lower levels to make sure that service was available to everyone. An exterior lift was approved in the original site plan.

The application was referred to the county Planning Board because of its proximity to a county building. County Planning Department Director Patrice Perry indicated that the project was exempt from review.

Motion by Mr. Shetsky to approve a resolution to approve an ADA amendment to the site plan on the condition that all fees and escrow be paid, second by Ms. Hoffmann. Approved.

175 South Front Street (Tax ID #109.15-1-1: Conditional use permit application for dock operations from A. Colarusso and Son Inc.

Mr. Martin asked if the applicant wished to make a presentation and was told no. He said the board had heard many comments and was taking everything into account. The public hearing was reopened “in light of perhaps new information coming.” He urged people to limit their comments to new information to help advance the process. In response to a question from the audience, he said all of the board’s discussions regarding the application would be on the record unless it was privileged, such as legal advice. “It’ll all be done on the record in a public meeting.” He then opened the hearing to public comment.

Annick de Bellefeuille of 203 Allen Street and a part of Our Hudson Waterfront (OHW) said the group collected 517 signatures on its latest petition launched on May 20. The petition urged the Planning Board to either reject a conditional use permit or impose strict, enforceable conditions.”

She presented the following numbers: 1,200 signatures on an OHW petition in 2019-2020, 14,000 signatures on a petition opposing the proposed St. Lawrence Cement plant between 1998 and 2005 and another 3,000 in 2011 submitted during the Local Waterfront Revitalization Plan process. That amounted to 18,717 signatures from people who wanted to protect the waterfront.

“This current petition asks that the Planning Board avoid undermining Hudson’s economic progress, limit expansion of truck trips, keep the public meeting open according to state law, conduct a review of the dock permit under city zoning code, require the applicant to address urgent public and board concerns,” she said.

Hudson resident Hilary Hillman said she looked forward to hearing the board’s deliberations. “While it’s important to hear your deliberations on this...I would really like to hear the applicant’s response to the public comment and to keep the hearing open through this time so that there can be discussion and further continued dialogue on these very important topics to the future of our city.”

She said the board had received 134 letters regarding the application this year alone and of those 117, or 87 percent, supported protection of the waterfront; 15, or 11 percent, did not express an opinion on the waterfront issue but addressed concerns about process, such as requesting that the public hearing be reopened; and two, or less than two percent, supported the applicant and one of those was from Colarusso’s lawyer. “I ask you to take into consideration the fact that these letters are from the residents of this city like you and me. These letters necessitated squeezing out precious time, passion and love for the city for people to write. These letters represent our future and our children. Planning for the future requires deep, thorough consideration of the ramifications of industrial uses and appropriate restrictions for the future trajectory of the city itself, economy, livability and its residents.”

Donna Streitz, a First Ward resident and OHW member, said that the board never fully examined truck volume and permit data in prior public hearings, largely because the 2020 Creighton Manning truck study wasn’t submitted until the final day of the original hearing in July 2020.

“In 2016, nine years ago, the applicant significantly under-reported truck traffic in its permit applications to three agencies... The applicant answered no to the question about whether the proposed action would substantially increase traffic above present levels. The combined application to the New York State Department of Transportation and U.S. Army Corps of Engineers reported only 2,000 loads per year, or 4,000 trips per year, approximately 20 trips a day and claimed, quote, ‘this volume of traffic is very low and will have no discernible impact on road capacity,’” she said. “However, the 2020 Creighton Manning truck study showed much

higher actual volumes—in 2015 over 5,400 trips per year and 2019 almost tripled to over 15,000 trips per year.”

Ms. Streitz said that without strict daily and annual limits, “traffic could escalate dramatically up to 284 trips a day, 250 days a year, equaling tens of thousands of trips annually. This scenario must be considered for both current and potential future dock owners. We strongly recommend that the board require updated permits from all agencies based on actual and proposed truck findings.”

Lastly, she urged the board to treat the application similar to others before it and to keep the hearing open throughout the review process. “Much has changed relative to the dock permit since the initial hearing on the dock. The public deserves continued participation throughout the process, including the applicant’s response to the public’s concerns.”

Melissa Auf der Maur, a co-founder of Basilica Hudson, said that public statements made by company owner Paul Colarusso had come to light “that directly reinforce concerns raised by our community. In his own words ‘If we can get our trucks out of the city, we have less potential of something terrible happening. God forbid a little kid chases a ball in front of a truck. Our company is committed to the expenses of the improved haul road in order to increase public safety and enhance the community character by removing our trucks from the truck route through Hudson.’” Those comments were made during the boards’ review of the haul road. “Why don’t we hear the same concerns now from the applicant that seeks approval for the dock, which brings the same risks to the city streets, to the kids...and to our community character?”

Ms. Auf der Maur said Mr. Colarusso’s statements affirmed the boards responsibility under the zoning code, which requires all conditional uses “to protect the health, safety and welfare of the community. The board has the authority and the duty to impose appropriate conditions and safeguards which you did for the haul road, but why not now? I feel like there’s a schism in the way you treated the first application to this one. During that process, the board Chair, Theresa Joyner, and other board members openly acknowledged the impact of truck traffic on residential streets,” she said. “We need a healthy, happy, thriving waterfront for everyone.”

She said Basilica Hudson and other businesses in the area needed the waterfront. In her opinion, the waterfront was the city’s greatest asset, and it was threatened by “unchecked industrial activity. Our key recommendation is simple, enforceable daily and annual truck limits.” She also said that the applicant should be required to provide sidewalks and landscaping.

Ben Fain, who also owns businesses in the waterfront area, emphasized conditions. He said the board had heard an enormous public outcry about the need to protect the waterfront and to impose meaningful conditions on the dock. He presented a written list of conditions proposed by OHW, which he said were all grounded in the City Code. “The critical condition from our point of view is volume. Without limits on volume, you have a shocking expansion at the dock with no recourse.” If the board felt it needed clarity about its authority to limit truck traffic, members could refer to the Zoning Board of Appeals for clarification, he said.

Mr. Fain said there was no reason to close the public hearing yet. There were people who wanted to speak at this hearing but could not come because a Common Council meeting was going on at the same time. “I’m just begging you to keep it open. It’s not a process to rush. It’s clearly the biggest decision to happen to Hudson and will be for decades.”

Hudson resident Nicole Vidor referenced a recent study by another Hudson resident, Yves Jaques, who works for UNICEF and helps design air quality monitoring programs at children’s schools. She said he had tracked the air quality at the waterfront park for the past month. “What he found is pretty alarming,” she said. “The air down there isn’t just a little bad, it appears to be

dangerously bad. The amount of fine dust and pollution in the air is about three times higher than what the World Health Organization says is safe to breathe, and that's not just one day of testing. It was true almost all of the days in that entire month Breathing this kind of air over time is known to cause serious health problems, especially in kids, and it's happening right next to our park, our playground and where families gather."

The Colarusso application began as a land use or zoning issue, she said, but the findings by Mr. Jaques also made it a health issue. She asked the board to take that information seriously before approving any industrial permit at the waterfront. "We need a full independent environmental review paid for by the company. We also need regular air quality monitoring and help from state and federal environmental agencies. The numbers don't lie. The longer we wait the more we put our community at risk. We owe it to each other and to future generations to protect this place we all call home."

The City Code prohibited emissions of dust, smoke, gas, odor or air pollution that adversely affect the surrounding area or create a nuisance, she said. One section banned any use that was noxious or objectionable due to air pollution, waste discharge, noise or light, especially when the activities caused injury or disturbance to surrounding properties or their occupants. Another section of the City Code directed the Planning Board, when considering conditional use permits, to weigh the public health, safety and welfare of both the general public and immediate neighbors and to impose conditions and safeguards that fulfill the goals of the zoning code, she said.

Mr. Martin asked her where the monitoring was done. She did not know but believed it was on South Front Street. Mr. Martin said the location would be helpful.

Amy Flanagan Bogle, a resident of the First Ward, attended on behalf of Our Hudson Waterfront. "We're not here in opposition to you. We're here because we share the same hopes for a healthy, thriving Hudson, for our children's future and for responsible stewardship of our waterfront. That's why I urge you to keep the public hearing open, not just tonight, but throughout your review and deliberation. This is a major decision with long-term consequences, and it deserves a process that's transparent, inclusive and worthy of the city we all care so deeply about."

She said the situation felt like a David and Goliath moment. "On one side we have a well-resourced Greenport-based corporation represented by out-of-town lawyers. On the other side we have a community of citizen volunteers, teachers, small business owners, parents, retirees, just regular people doing their best to raise concerns, ask questions and participate in shaping Hudson's future."

Ms. Flanagan Bogle said concerns were evolving as new information came to light, specifically the air quality study. "That data really enlarges this from a land use question to also include public health concerns, so to close the hearing now would be premature. It would cut off a vital channel for public input just when it's needed the most. We're not asking for special treatment, we're asking for a chance to be heard throughout this process, not just at the beginning, so please keep the hearing open, keep the conversation going and let's work together, citizens and board members alike, to ensure Hudson's future reflects the values we all share."

Basilica Co-Founder Tony Stone expressed serious concerns about air quality and health risk from increased truck traffic at the Colarusso dock. He said his daughter suffered from asthma and had been hospitalized multiple times, "including once when she had to be airlifted to the Albany Medical Center, an emergency triggered on a day of intense truck activity when she was nearby. This is not a theoretical, it is lived experience."

He also referenced the study by Mr. Jacques and said the initial assessment of the area came in three times higher than what the World Health Organization considered safe. "If truck traffic is expanded or maximized at the dock, these levels will only worsen," Mr. Stone said. It is critical when we establish a baseline air quality data now for any increase in industrial activities allowed." He urged the board to either deny the application outright or require a third-party air quality monitoring study. "The study must be independent, transparent and funded by the applicant as a standard practice in any responsible environmental review."

Mr. Stone said there was growing pressure to rush the application, but there were board members who were new to the dock review process. "Rushing it will not protect the public." He said the City Code emphasized the need to protect public health. "If the board fails to properly assess current air quality conditions while trucks are actively operating exposes the city to significant legal risks, including an Article 78 challenge by its citizens."

Colarusso was running a relatively low number of trucks at present, he said, yet despite repeated community concerns, had refused to compromise on volume, hours or types of materials. "That refusal makes it all more critical that the city step in and protect the public. This is especially important given that approvals like this run with the land." He said if Colarusso sold the property, the conditional use permit would transfer to the new owner. "That's why the permit must be written to protect the public, not just today, but for decades to come." There could be no gray areas or reliance on verbal assurances. The board, he said, must anticipate the worst-case scenario and impose clear and forceful conditions "even if Colarusso claims they have no plan to expand volume of operation. If that's true, then there should be no objection to codifying those limits in the permit. It costs them nothing, but without firm, enforceable caps, future owners, including multinational corporations, will exploit any ambiguity to expand operations unchecked."

The board's decision would impact a growing family-friendly neighborhood and an evolving waterfront district. Without conditions, "we are putting public health, especially our children's behind the priorities of industrial expansion. ... We urge the Planning Board to keep the public hearing open following each meeting so residents can continue to provide vital input as new information and assessments emerge."

Hudson resident Julie Metz said she had been through many public hearings on the Colarusso application through several versions of the Planning Board. "Throughout the process, the overwhelming feelings of the public has been opposed to this project. You have the opportunity to preserve our Hudson waterfront for its residents now and into the future. The expansion plans proposed will, simply put, destroy the enormous economic potential of our waterfront. Responsible developers have already begun the work of restoring buildings and repurposing them for small, non-polluting businesses and have hired local workers to run those businesses. Other developers are interested in the potential of the Dunn warehouse, but they will likely walk away if there is a noisy, polluting gravel depot next door. All the positive effort that we have seen at the waterfront will be destroyed if the Colarusso plan goes forward without strict limitations on truck counts and hours and mitigations to address concerns for public health and safety such as noise and dust."

Ms. Metz said residents who live near Colarusso's quarry in Greenport told her there was dust everywhere all the time. She said that dust was not good to breathe.

"Imposing strict limitations on operations or outright denying the conditional use permit will oblige Colarusso to consider other viable alternatives to bring their gravel to market," she said. "Let me be clear that we're not saying that the company cannot continue to function."

Colarusso is based in Greenport. The company pays most of its taxes to Greenport. Apart from some fireworks on Flag Day, the company does nothing for Hudson. In fact, an expansion of Colarusso operations will damage the growing waterfront economy and impede the construction of housing and small non-polluting business that we desperately need.”

She asserted that if Colarusso sold to a larger aggregate company expansion would continue and that the city would have no recourse. “We will be handing over our city’s greatest asset to a company that doesn’t care about the health and safety of our residents, let alone the future economic potential of our one and only waterfront.”

Environmental Attorney William Demarest of the firm Rupp Pfalzgraf LLC, representing residents and businesses, including in the waterfront area, discussed limiting truck traffic volumes as a condition of approval. Noise, safety and over-industrialization were concerns and most recently, the introduction of particulate matter (PM 2.5) at the waterfront. His takeaway from the study by Mr. Jacques was not necessarily a question of whether or not all of the particulate matter came from Colarusso’s operations. “The significance is it appears to be an existing problem, concern, and there’s no question that Colarusso’s proposal for the dock presents sources for particulate matter, the type of fine particulate including heavy duty trucks. Their engines release particulate matter as well as their brakes and their tires. Going over unpaved roads and construction sites has been recognized to release particulate matter. The diesel barges that move the material down the river when they’re idling, they release particulate material, all in the waterfront.”

He said the board had the ability to address a concern about an existing problem and to “limit the further impacts that the Colarusso application presents.” He cited a section of City Code that conditions dock operations, which included prohibiting emissions of air pollution that adversely affect the surrounding area. “This is something you absolutely should be considering imposing limits on.” He said the question of whether or not the company could exceed 2011 levels was brought up at the last hearing. Interpretation of the City Code would fall to the Zoning Board of Appeals, which would have to make a determination on the meaning of any portion of the task. He said the Third Judicial Department has said to the extent that there are pertinent ambiguities in the zoning code, “the Planning Board is obliged to request an interpretation from the ZBA before rendering its determination. So I would submit that before the board can issue an approval that would allow for construct levels beyond 2011, it should instead request the ZBA clarify this issue [of] whether the board has the ability to approve that or the board should approve with a condition limiting them to 2011.”

Resident Lloyd Koedding suggested that ongoing monitoring of particulate matter be a condition of approval.

Nick Zachos of the Hudson Riverfront Coalition said the group was concerned about the future of the waterfront and came up with a list of conditions that could be imposed on the applicant. “We believe that these conditions are a balance to the needs of the community, the long-term safety of the community to balance with the existing use of the dock by Colarusso and the ability for them to continue to do their business in a safe and healthy way to the community.”

He said the Coalition felt that its suggested conditions were the middle ground and ones that could potentially be agreeable to the applicant. The conditions were to limit hours of operation for truck traffic from 7 a.m. to 5 p.m., prohibit expansion of industrial material handling or processing, prohibit hazardous and refuse materials, secure public access for ownership of the 4.4-acre waterfront parcel, permit non-operational hours access to the haul road

for recreational use, dust mitigation via a vegetation buffer, pave the loading areas to minimize airborne particulates and replace inadequate culverts to restore tidal flow to the South Bay.

Fifth Ward resident Sean Roland reflected on his experience before the Planning Board in 2021 with PBF Hudson, a large project with a significant impact. The process lasted more than six months and a public hearing was open for about five months. He said his application was an easier lift than Colarusso's, "we were really put through the ringer" and asked to go back and do more work on its application—not the board or public—and present conditions. "It was really our job to listen to the concerns of the board and of the public and to go away and come back with solutions."

He said he was treated fairly when asking for the board and residents to accommodate a new project. "What I'm hearing here is the public really coming forward and trying to work with the applicant but there's this lack of the other side of how do we meet in the middle or how do we find some way to protect the concerns of the waterfront and also allow them to continue to do business?"

Mr. Roland said the board had the option to deny the permit, "particularly when there are very serious concerns and questions of even the legality of what is going on."

Attorney T.J. Ruane, representing the applicant, reminded the board that there were many projects that went through public hearings that lasted months. "The difference here is that this application was submitted in 2017, so it's been before this Planning Board for seven years and I can't think of another project in the State of New York that I'm aware of that has gone through as much public participation as this project has for a project that is not evolving and has not evolved."

Colarusso did not have a planned increase in truck traffic; "there is nothing that is going to happen at the permit decision that is any different than what is happening today."

He said Colarusso had received the public's comments and was reviewing them and had several meetings with some members of local organizations as recent as this week. Some of them were productive and there had been some collaborative efforts. He thought that the logical next step was to have the applicant work with the Planning Board to come up with conditions and make a determination on the permit. That being said, he requested that the board close the hearing and start working on what those conditions would be at the next meeting.

Ms. Metz contended that much of what Mr. Ruane said was untrue. "There are expansion plans. They have indicated their request to expand the number of trucks. That is specifically what they are asking to do, so I think there's some dishonesty here from the attorney and the way that he is representing the request of the applicant."

She asked the board to look at health and safety issues. "Once we make a decision on this, this is the future of this city, really the future. It is for us who are living here now, all of us and everybody who is going to live here for decades to come, our children and maybe our grandchildren."

Mr. Stone said the dock portion of the application had only been before the board since March, not seven years, and only two public hearings were held. "Colarusso got what they wanted in the last lawsuit that slowed things down for many years, which was to have the road and the dock be separate and so now here we are with a separate application about the dock. We need the time to discuss this and get this right."

Mr. Ruane said a statement that he had been untruthful was "a complete fabrication." He also said that all documents pertaining to the application were posted online and dated to 2017. "It's for a simple dock repair. There's nothing else before the board at this time. There's no

proposed plans or increased industrialization. We've put in every single response to comments since 2017. I don't know how to make it any clearer for the board."

Ms. Hoffmann told Mr. Ruane that she did not plan to recuse herself from deliberation. She then asked for clarification on the dock repair and the conditional use permit for the entire operation. Mr. Ruane said the zoning official at the time indicated that a permit was not needed for the repair, so various permits were obtained and the bulkhead was repaired. He said the applicant was told afterwards that the repair triggered the need for a conditional use permit. "Our view is that the only thing we need to do is come to the Planning Board to get a conditional use permit for the Planning Board to determine whether there are any additional conditions. There's already 10 conditions that we operate under in the zoning code," he said. Any additional conditions because of the repair would be those necessary to protect human health and safety, "not conditions on our use of the dock."

Ms. Britton recommended that the board have such a discussion once the applicant came back to the board and that members ask questions all at once. She urged them to prepare questions, though they were free to ask questions now. Mr. Ruane said his request to close the public hearing was not intended to cut off or avoid public participation. "There's been immense public participation in this. I don't think cutting the public hearing off tomorrow or in two months or three months is going to make any difference with the level of participation that has happened with this. I think people are going to participate whether the public comment period is open or it's closed," he said. "But the point is to move forward to the next step where we can sit down the Planning Board, talk about the public comments we received, the meetings that we've had, the things that we believe are reasonable conditions... That's what we've been trying to get since 2017, and we just haven't been able to get there."

Mr. Koedding said there had been no response from the applicant, yet the board would go ahead and deliberate. "I think now is probably an appropriate time for Gabby and anyone else to flush out what the applicant's intentions are and how they plan to go about resolving because that's how you move it forward." He felt that some back and forth was needed after conditions were established.

Mr. Martin said there was a process and at this point the Planning Board had to make a decision. "I know that everyone cares deeply about the waterfront. I care deeply about the waterfront as much as you do, however the Planning Board has work to do in this particular thing. It's our understanding of your public input. It gives us information. All the great information that you've given us, everything that the applicant gives us all goes into a decision process but at the end of the day, the Planning Board has to make the decision. It's not a we decision, it's you giving us information, then we make the decision. I understand that you want to continue to be in the process, which I think from the perspective of transparency you will be entirely in the process, but this is, again, like every other applicant, a Planning Board decision."

Mr. Martin said the board was nearing the point where it had to take the process, internalize it, ask questions, synthesize what it had and then get into the deliberative part of the process. "I know you guys would hold onto it because you love this waterfront. You're here because you love this town and we respect that, but you have to respect that the Planning Board has a job to do, a legal obligation to do in a legal fashion and you must let us do it."

Once the hearing was closed it would not mean the end of input, he said.

Ms. Hoffmann said it would be helpful for the public and herself to discuss what the process was meant to be. She said the Boulevards and Pocketbook Factory projects had processes in which the hearings were open for extended periods of time. "I'm genuinely asking

to walk us through what the process is meant to be because I've heard that we have to close the public hearing so that the applicant can respond so that we can then deliberate and I've heard that there have been many processes where the public hearing is left open. The public comments, the applicant responds, the public comments, the applicant responds. There's deliberation happening continuously through that process or at the end. I'm just trying to understand why one process is applied to some applicants and another process is applied to other applications. I think it would help the public to have that understanding too so that they can respect our process."

Mr. Martin said the hearing was reopened to hear new information. Though the air quality study was interesting and compelling, he said the issues of pollution and particulate matters were not necessarily new. He said people had done a good job presenting helpful information, "but it's still the same information synthesized in different ways."

Ms. Hoffmann wondered what was different about the process for other applicants. She asked why the Boulevard and PBF Hudson approval processes take so long "because it seems like the public thinks that this public hearing could and should be left open and it sounds like from what you're saying that that's now how the process works."

Ms. Britton said the hearing had been open since before 2020 and only a couple of them pertained solely to the dock, but comments about the dock had been received at the other hearings. "This public hearing has been going on for years." She explained that the hearing process for the Boulevards and Mill Street projects was lengthy due to state Environmental Quality Review (SEQR) concerns, such as traffic and flooding. The Colarusso application was classified as a type two action under SEQR, which is part of the reason it was being treated differently.

"The public hearing is meant for the public to talk about the current proposal by the applicant. It's not meant for the board to have a back and forth with the public. It's meant for you to take in their comments and then deliberate amongst yourselves," Ms. Britton said. "The only reason that sometimes the board will leaving a public hearing open is when it's related to SEQR or a SEQR question that's outstanding. The short point of this is, every application has unique challenges and unfortunately SEQR is not part of this review because the court has said this is a type two action. Of course you're looking at the dock application and things in the zoning code, but you're not doing a SEQR review, so that's part of the differences."

She added that though there were new board members, the hearing could not be held open for that reason, "and that's true for any project and that's documented in courts. You can't just hold a process because you're a brand new member. You should, as everyone on the board whether you're new or old, should be refamiliarizing yourself with every comment, even the original comments...all the way from the beginning to now need to be reviewed and they are part of the entire record."

Mr. Demarest hoped that the board would consider issues raised after the hearing was closed. "That's the type of thing that I think that the public is hoping to have the opportunity to weigh in on those types of submissions."

He also responded to a question regarding the scope of the review. "It's correct that the bulkhead repair prompted the need for a conditional use permit, but it was very clear in the court decisions and the litigation that has come in that it is not limited to the bulkhead. Neither the scope of the conditional use permit nor the scope of the conditions are limited to the bulkhead. That argument was presented by Colarusso to the court; two different courts in two different decisions in two different cases came back and rejected the argument that this board is limited to just the bulkhead repair. This is absolutely about the entire use of the dock."

Mr. Demarest alleged that the company probably should not have been operating this whole time because they do not have a conditional use permit. "They've been able to benefit from non-enforcement and continue to operate and they've had that benefit, but it is the entirety of the dock operation that this board is review and has the authority to impose conditions on."

Green Street resident Jason Foster felt that there were conditions built into Colarusso's haul road approval that would be appropriate for the new board members to read and understand because they, in a way, affect the dock operations.

Mr. Martin said he was just one member of the board but if something new came up he would not be opposed to reopening the hearing.

Ms. Hoffmann said she spoke to the leader of a recent training program about public hearings and was told that it was up to the Planning Board on how long to keep a hearing open. Boards often closed hearings, heard the applicant's response and then deliberated. "It often stays open throughout the process. She did make it clear that if it closes and any new information comes in from the applicant or anything changes in terms of zoning, then absolutely it should be reopened. That seems like good information for the public to have..."

Ms. Britton said a substantial change to an application would require that a hearing be reopened. "What if the change or the new information wasn't coming from the applicant?" Ms. Hoffmann asked. Ms. Britton responded that it did not matter if the information was from a resident or the applicant; "substantial changes require the public hearing to stay open or to close and reopen. The law is all about individual circumstances." Ms. Hoffmann said she heard audience members' concerns, but it was helpful not to play "what if forever, but to try to lay this out clearly so we all understand the process."

"Are you saying that there was no new information brought this evening?" Ms. Vidor asked. Mr. Martin said the board heard information about a study done by a person he did not know and could not validate, but it was information that could be talked about in deliberations "and then figure out, again, where was it sourced? How credible this is." He said pollution was not new as it was something that the board had looked at.

Mr. Demarest said the person who did the monitoring was out of town, but it "might be something to consider in terms of opening and closing the public hearing."

Resident Kate Treacy wanted clarification on the process. Ms. Britton explained that the code enforcement officer reviewed a proposal to see if it was part of zoning and whether a site plan was required. If the code enforcement officer felt that a site plan or special permit was required, the application was forwarded to the Planning Board, which would determine the type of action and then set a public hearing if needed. The purpose of the hearing is for the board to take in the public's comments, not necessarily respond to each comment. Speakers typically talk to the board, not the applicant. The board then closes the hearing or leaves it open depending on the circumstances. The board would start deliberations after the hearing was closed. "Some projects take years because they're large scale and they require tons of engineering and some projects are simple, such as putting up a simple fence." Some communities might have just two meetings. The next step in this case is deliberation. "There'll be conditions imposed, and the resolution will look like the haul road resolution..." She said deliberation could take months but must happen legally.

Ms. Treacy said it sounded like the Planning Board could decide to do its own independent monitoring. She wanted to know how the public would be included should that happen. Ms. Britton encouraged all to attend the meetings or listen to the recordings. Ms. Hoffmann added that there would be no private discussions other than legal consultations.

Asked about whether a 60-day clock started once the hearing was closed, Ms. Britton explained that City Code did not have a clock for special use permit applications.

Lengthy discussion followed about the process and whether the public would have the opportunity to respond, especially if something stated was incorrect or required clarification. Ms. Streitz said many had been involved with the application for years and were familiar with the existing documentation. “We could be a resource to you for providing that kind of input.”

Ms. Britton said there was no rule that the hearing be kept open while it deliberated. Ms. Hoffmann pointed out that the applicant had said that they would not respond until the hearing was closed. “We volunteered to respond to the public comments given the amount of confusion that exists with this case,” Mr. Ruane said. “It seems like no one understands the scope or the conditions no matter how many times we’ve written response to comments. The record is replete with letters from my firm explaining the scope of the review, the scope of the reasonable conditions, conditions that we were willing to agree to, response to comments on almost every single comment that was raised here in this public comment [period], which are repeats of comments that are coming in.”

He said the point of closing the hearing was not to block out the public, “it’s so that we can have a record and then that record is what the Planning Board looks at to make its determination. In this case that is particularly important because if the Planning Board makes a decision that people in this city do not agree with, those groups will sue the city to get that application revoked, and it needs to be clear to the courts what was looked at on the record when that decision was made. So that’s why we’ve refused to meet in private with people and have any discussions of deliberations that are not in front of the public on this hearing because we don’t want to come to an agreement with the city and you guys issue a permit that has four or five conditions in it then we say, ‘okay, those are our conditions we live with’ and then we get sued by a local organization and now we’re all back to square one again. The reason to close the public hearing is to finite the record that the decision is made of.”

Mr. Ruane said the public does not participate in the deliberation process and under law could not. “The planning Board cannot delegate its authority to the mayor, to the Common Council to pass a local law while our application is pending. It does not matter. It is all irrelevant. All that matters is the comments that are provided by the public,” he said. “You provide your comments. We have volunteered to listen to those comments, to respond to those comments, to provide the Planning Board with any necessary facts that weren’t being considered when the comments were made. So that was our way of clearing the air to provide some clarity, to provide our legal position on some of these points. It wasn’t a way to leverage the closing of the public hearing because we can start a clock to get a determination. I think that ship sailed in 2017 when this application wasn’t acted on.”

“When you say you have volunteered to list to or read the public’s comments, you’re not required to?” Ms. Hoffmann asked. Mr. Ruane answered no. Ms. Britton added that the applicant did not have to respond to public comments but did have to respond to the board’s comments. “That’s why deliberation needs to happen because the applicant needs to respond to what the board wants. The board can take a listen to all these comments that they might not necessarily agree with all of them or maybe they do. It doesn’t matter. The board as residents have their own opinions as to how this project affects the waterfront. They have to individually review each one and go through the comments. That’s why the deliberation period has to happen so then the applicant and the board can have a back and forth, not so the applicant and the public can have a back and forth. That’s not the purpose of the process.”

Mr. Roland again referred to his experience before the board and how the hearing was kept open beyond SEQR so the public could comment on conditions.

Mr. Zachos, speaking as an individual instead of a coalition member, disagreed with Mr. Roland and felt that his strategy was akin to fighting. "Let's force the applicant's hand and say you have to provide your comments while the public hearing is still open," Mr. Zachos said. "I feel like we need to come to the middle. We need to move forward with this, figure it out. I really want to hear the applicant's responses to a lot of these things."

Several questions and requests for continued public participation followed. Mr. Ruane reminded the board that it was under a court order to act on the application in a timely manner.

Mr. Martin made a motion at 8:33 p.m. to enter into an attorney-client session to understand the legal implications involved. Ms. Hoffmann offered a second and the motion as approved by all members in attendance. The board returned to regular session on a motion by Ms. Concra at 8:51 p.m., a second by Ms. Hoffmann and approval by all members in attendance. Mr. Martin announced that no decisions were made during the session.

Motion by Mr. Martin to close the public hearing, second by Mr. Michael. Approved.

Motion by Mr. Martin to reopen the public hearing until July 31 to accept only written comments, second by Ms. Concra. Approved.

Minutes

Motion by Ms. Hoffmann to approve the minutes of July 8 with a correction to show that Ms. Concra was in attendance. Second by Ms. Concra. Approved.

Bills

Motion by Mr. Martin to approve payment of the following invoice:

From: Barton and Loguidice

Dated: July 10, 2025

Amount: \$14,591.75

Second by Ms. Concra. Approved.

Escrow

Motion by Mr. Martin to replenish escrow for the Colarusso account by \$11,200, second by Ms. Concra. Approved.

Motion by Mr. Martin to replenish escrow for The Boulevards by \$3,558.41, second by Ms. Concra. Approved.

Motion to adjourn at 9:08 p.m. by Mr. Michael, second by Ms. Concra. Approved.