

NEEDHAM PLANNING BOARD MINUTES

June 30, 2009

The regular meeting of the Planning Board held in the Selectmen's Meeting Room at Town Hall was called to order by Martin Jacobs, Chairman, on Tuesday, June 30, 2009 at 7:30 p.m. with Messrs. Warner, Ruth and Eisenhut and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Public Hearings

7:30 p.m. – Amendment to Site Plan Special Permit No. 2003-02: Personal Best Karate, Inc., c/o Christopher Rappold, 250 East Main Street, Norton, Massachusetts, 02766, Petitioner (Property located at 322 Reservoir Street, Needham, MA).

Upon a motion made by Mr. Eisenhut, and seconded by Ms. McKnight, it was by the five members present unanimously:

VOTED: to waive the reading of the public hearing notice.

Roy Cramer, representative for the applicant, introduced Mark Gluesing, architect, and Christopher Rappold, owner. He noted this is in the Industrial District on a dead end on the other side of 128. It is a rough area with old style parking areas and very winding. Ms. McKnight asked if it was a public way and was informed it is not, it is private. Mr. Cramer noted it was a 2 story building occupied by NE Silks on the first floor and office upstairs. Petrini Corp. owns it. They got a Special Permit in 2003 to do some structural changes, an elevator and the parking area. There are 22 spaces on site, 4 spaces half on the site and half on the private way, 12 spaces across the street and 4 more. They required a waiver of 24 spaces for the dance studio. Cathy McCrohan purchased the property and is on the second floor. NE Silks left and the entire first floor is vacant. They had asked for a parking determination for a dog walking applicant for the back of the first floor. The Karate Studio rents the front part of 3,500 square feet and want to permit the front of the first floor. The maximum number of students is 30 with parking required for 15. Mr. Eisenhut asked if it was 48 for the whole building and was informed it was. The hours will be 9:00 a.m. to 10:00 p.m. 7 days per week. It is busiest from 3:00 p.m. to 8:00 p.m. and on Saturdays. They anticipate a maximum of 3 employees on site. They want to increase the waiver by 2. There will be very little construction and the only change would be to upgrade the zoning table to introduce the new uses. Mark Gluesing noted some work was done by the owner and the change in use is from the building side not the zoning side. They will apply for a building permit to get a correct occupancy type. It is a straightforward process he hopes. They will be replacing fixtures in one toilet. Mr. Cramer noted Vanesse did a traffic study originally but they have not done one this time. The karate studio has already been in place for several months. They did not think they needed a permit but they do. The dance and karate will stagger classes to keep the traffic down. There have been no complaints about drop off or pick up. They have the unusual advantage of knowing this is working. They have a handicap ramp.

Mr. Eisenhut stated they are not ratifying or condoning what has been done before. Ms. McKnight asked if there are markings on the parking area such as cross-hatching or triangles. Mr. Cramer noted there is no curbing, just striped areas to separate it from the street. Ms. McKnight asked if there was any greenery. Mr. Gluesing noted there is a planting bed along the edge and stairs. Ms. McKnight asked if there was a bike rack. Mr. Cramer noted he did not think so. Mr. Jacobs noted the following correspondence for the record: memo from the Fire Department, dated 6/1/09, with no comments; a memo from the Health Department, dated 5/26/09, with no comments or concerns; a memo from the Police Department, dated 5/1/09, with no safety concerns and a memo from the DPW, dated 6/30/09, with no comments or objections. Mr. Ruth asked if the landlord has found a back tenant. He noted there needs to be a tenant that has little parking. Mr. Cramer noted they are aware and are upset to have lost the dog walker. Mr. Eisenhut noted there are a fair number of off and on site parking spaces. A big waiver needs to be justified. Mr. Ruth stated he could get himself to this waiver but is concerned what will happen in a few months if they come back. Mr. Cramer noted they are aware of the box they are in. The numbers worked

when the first floor was all NE Silks. Mr. Ruth commented his concern is the owners of parcels down Reservoir Street may want to do something more active with their buildings. They could clog or block further development. He has taken note there is parking off site but he is not aware parking is anything other than informal arrangements and if they go away they would need to come back. Mr. Cramer noted this is a study area but a number of spaces were only those on site. Ms. McKnight stated they are severely deficient in parking troubles and she is reluctant to give another 2 spaces. They need to find out who owns the land on the other side of the private way and maybe lease them. Or, she asked, if they could restrict the number of students to 26 to reduce the need for a further waiver. Mr. Cramer stated they counted every square foot in the building including the common area and vacant area, elevators and hallways. He gave the lowest possible number on the By-Law. Ms. McKnight noted she does not see parking requirements for private schools. Mr. Cramer noted it was in 5.12. Ms. McKnight asked if there were any residents around and was informed there were not.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously:

VOTED: to close the hearing.

Mr. Eisenhut stated he had no quarrel with 2 waivers but they need to be careful with the language they discussed regarding on site and half on/half off site parking. Also, any change in use or rental of vacant space would require a filing. Mr. Ruth stated it should be issued for the Karate School. Mr. Jacobs noted in the legal notice 7.4 is repeated twice.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously:

VOTED: to grant a Special Permit for further Site Plan Review of a Major Project pursuant to Zoning By-Law Section 7.4, Article 2 of the Planning Board Rules and Section 4.2 of Site Plan Special Permit No. 2003-2.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously:

VOTED: to grant a Special Permit pursuant to Section 3.2.1 of the By-Law for a karate school in the Industrial Zoning District (Private School).

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously:

VOTED: to grant a Special Permit pursuant to Section 3.2.1 of the By-Law for more than on non-residential use on a lot.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously:

VOTED: to grant a Special Permit pursuant to Section 1.4.6 of the By-Law for the alteration of a non-conforming structure.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously:

VOTED: to grant a Special Permit pursuant to Section 5.1.1.5 of the By-Law to waive strict adherence to the requirements of Sections 5.1.2 and 5.1.3 of the Zoning By-Law under the circumstances discussed.

Mr. Cramer requested they waive the filing fee on the basis it is a small operation and there will be no outside work. Ms. Newman noted that was a slippery slope due to the staff time and preparation involved. She suggested they waive a portion of the fee. Mr. Eisenhut noted the use is already in place. He is not inclined to waive it.

Upon a motion made by Mr. Ruth, and seconded by Ms. McKnight, it was by four of the five members present (Mr. Eisenhut abstained):

VOTED: to reduce the fee to \$600.

8:00 p.m. – FY 2010 (Program Year 2009) HOME Funds Re-Allocation.

Mr. Jacobs requested Ms. Newman provide a quick background and introduction for Mr. Warner. Ms. Newman explained what has gone on up to now. They have received about \$499,000 so far. They have earmarked the money for the High Rock Homes development. The purpose is to reorient some of the money. There are \$13,000 in administrative funds they are not using and want to move it to the other fund. Sheila Pransky, representative for Needham Opportunities Inc., is the new director. They are responsible for designated affordable housing in town. Mr. Jacobs noted the revised budget adjustment should be \$0 not \$60,644. Ms. Newman noted that was correct. They are taking \$13,408 from administration and putting it in the foreclosure project. Ms. Pransky stated by June 2010 they must become developers to keep the HOME funding. There is a likelihood the funds will be re-designated from foreclosure to something else. Mr. Jacobs suggested she check with banks for bank owned properties. Ms. Pransky noted they have already looked into that. They are leaning toward that route.

Upon a motion made by Ms. McKnight, and seconded by Mr. Ruth, it was by the five members present unanimously:

VOTED: to accept the revised Town of Needham HOME Program allocation for FY 2010.

Submission of Needs Assessment for HOME Program.

Ms. Clee informed the Board as part of the requirement HUD has a lot of reporting participation necessary. Every 5 years the consortium puts together a consolidated plan and each year a needs assessment. They want every community to publicly participate. She met with some stakeholders and had a dialogue regarding questions being asked by HUD. Mr. Jacobs asked if this was on the agenda for informational or approval. Ms. Clee stated it was not approval, just informational in a public setting to meet HUD's requirements. Her results go to Newton and they compile all the towns into one. Mr. Ruth expressed concern this may not be in accordance with the housing plan. Ms. Clee stated it was created with a lot of the same information and the same players but she would look at all the nuances and see if there are any differences. Ms. Pransky stated she would be interested to see if there is a different vision after the year and one half since the housing study. Mr. Jacobs asked if Ms. Clee was prepared to send it along to Newton. Ms. Clee stated she was but wants to follow up with Mr. Ruth's suggestion first.

8:30 p.m. – Site Plan Special Permit No. 2009-02: Northbridge Communities, LLC, 15 Third Avenue, Burlington, MA 01803, Petitioner (Property located at Duncan Drive off Old Greendale Avenue, Needham, MA 02494). Note: This Public Hearing has been continued from the June 16, 2009 meeting of the Planning Board.

Roy Cramer, representative for the applicant, stated he was anticipating closing the hearing but they have a draft decision with a few open issues. One issue surfaced this afternoon that he wants to address. Mr. Ruth asked for LEEDS information. He looked at other projects and did an unofficial point count. He looked at this property to get a general sense. Mike Lin did that and sent in a letter last week. He noted the letter was listed as part of the plan and it should not have been. This was an exercise to give the best judgment. He does not want this in the record as it was just informational. Mr. Jacobs clarified he was not prepared to commit to this. Mr. Cramer stated that was correct. They filed the plan with a lot of material and engineer studies. He does not want this letter to be an obligation. Mr. Ruth noted he legitimately asked as an informational only and did not intend it to be a commitment. He commented in Exhibit 9 in the draft, they should remove "plan" on the bottom of page 3 in the decision. It was noted under the LEED credit they could get 2 points. They are capturing 90% of run off and treating it. They are capturing 100% not infiltrating 100%. They get a second credit for infiltrating 90%. They meet under the storm water regulations keeping the flow the same as it is currently. Ms. McKnight noted the drainage and treatment. She asked if after treatment, would the water go to the storm water scepter or bodies of water. She was informed 80% infiltration back on site with an additional 20% going to the town system then to the wetlands. Mr. Ruth commented the concept of continuing the same flow is an environmental benefit so the flora and fauna are not disturbed. Mr. Cramer stated the DPW is fine with

this. Mr. Jacobs asked if reducing the parking down to 44 is an option and what their thoughts are on that. Mr. Cramer stated they would like to keep it at 50. They do not want to be in a position to have a lack of parking in the future. Ms. Newman asked if there was a way to show 6 spaces but not construct them. Just to show them as reserved. Mr. Cramer reiterated they would like to keep 50 spaces and not have issues in the future. They do not want to have to come back in the future and spend money if they need to go back to 50. There is parking in back surrounded by town property where no one can see it. Lois Sockol stated she would rather allow 50 spots on the premises rather than parking on Greendale Avenue. Sue Bonaiuto agreed she would rather see 50 spaces. Ms. Newman noted there was a question regarding adding a retaining wall on the south side of the property. Mr. Ruth noted the question was should the disturbed area be lawned or trees put back. Mr. Samda noted they were keeping it as mowable grass but they could increase the landscaping. Mr. Cramer noted the landscape plan has been approved. Mr. Eisenhut asked if they had resolved the triangular piece. Mr. Cramer noted he spoke with Lance Remsen and they will cut it down from time to time.

Mr. Cramer noted the financing structure. The typical language in the decision does not work. They would like to create a single purpose entity. In 3.14, Wingate is the same and Avery is the same. Northbridge conveys the property then leases it back to Northbridge who will operate it. Mr. Cramer asked that 3.15 be deleted. Mr. Jacobs noted in 3.14 Mr. Cramer should suggest language changes. If he suggests they delete 3.15 does he have any alternate language for 3.14. Mr. Cramer stated he did not -- he was just throwing it out to the Board. He noted there are a couple of shifts 3:00 to 11:00 and 11:00 to 7:00. The shift changes at 11:00 p.m.. He thinks the turning down of the lights should be after 11:00 p.m. Ms. Newman noted it is already in there. Mr. Cramer noted the emergency generator is in back 130 feet from the property line. It was recommended they create a sound attenuation structure to reduce by 20. They intend to do that but it takes time and money. They need to hire an engineer. He suggests they be responsible to design that so the decibel level does not go above 10. They want to do this during the construction phase then come back for approval. They would like this as a condition of occupancy not as a plan modification. Ms. Newman noted they could do the generator later in the project. Mr. Ruth noted as long as the Planning Board gets to review it later in the process is fine. Ms. Newman suggested they take it off the plan for now. Mr. Cramer stated he would show the location but not the detail. They should indicate it is not approved for construction. Mr. Cramer noted they would need to test the generator. They would like to test not between 7:00 p.m. to 9:00 p.m. but want between 9:00 a.m. and 5:00 p.m. The mechanical guys are on site and most of the neighbors are gone. Mr. Eisenhut agreed but noted not more than a 2 hour duration. Mr. Cramer stated they should notify the police and state police. They also call the Fire Department but in 3.11 "or its equivalent" is not there. Ms. McKnight asked on the lighting plan sheet C13, how high are the poles. Mr. Samda believed they were 20 feet. They are fully shielded, downward light. No light shines up. Ms. Newman noted they have not granted a waiver formally down to an average. It has been done but not formally. She supports this request.

Upon a motion made by Mr. Ruth, and seconded by Ms. McKnight, it was by the five members present unanimously:

VOTED: to close the hearing.

Mr. Jacobs reviewed the changes to the draft decision. Page 1 – change Special Requirement to Special Permit; Page 3 – remove 9 from Exhibits; Page 5, 1st line, add "in" before "a limited area"; in 1.1 make a finding. Mr. Eisenhut added on Page 8, move d. Mr. Jacobs noted 3.5 should be "inpatient" not "impatient." He asked what 3.4 means. It was noted Mother's Day parties, etc. Ms. McKnight noted the section regarding illumination she does not see a finding on lighting. Ms. Newman noted it is covered under 1.19. Ms. McKnight stated it should say "given a lighting plan and waiver that we found the level of illuminations objectives would be met." Mr. Jacobs noted Page 9, remove "that" from 3.7. In 3.14, they are working on new language such as "grant a Special Permit to operate to the operator or lessee and if there is any transfer of title to unaffiliated they must come back." Mr. Eisenhut stated "remove owner and prospective lessee" and add "the operation." Change "owner" to "operator." Mr. Ruth noted "transferred to affiliated entity" and add a period. Remove the last 2 lines. Affiliated entity under common control with Northbridge without Board approval or action provided the Board has the name and address of such entity. Section 3.14 should read "...Burlington, Massachusetts, operator. This operation may not be transferred, set over, or assigned by Northbridge ..." "Notwithstanding the above. This

permit may be transferred to an affiliated entity (under common control with Northbridge Communities, LLC) without Board approval or action provided the Board is provided with a copy of the name and address of such entity.” Mr. Jacobs noted they will delete 3.15 and on Page 11, Section b – should be “spring” not “sprint”. Section c, change to “clean two times per year” rather than four. Section 3.32, add “shall” after diligence. Ms. McKnight noted in 3.30 it says wooden fence. On the plan it is chain link. They should keep it as wood. This would need to be a plan change. She asked in 3.31, what is meant by reduction. Ms. Newman noted it is turning off the lights in the lot at a certain time. Mr. Jacobs noted the lighting shall be so neighbors cannot see the source of the light. Ms. Newman noted she would e-mail some revised language. Mr. Jacobs noted on Page 13, 3.37 (f) “Notwithstanding” should have no space. Mr. Cramer asked if they should grant an easement to the town at the Building Permit stage or the Certificate of Occupancy stage. They would prefer the Certificate of Occupancy stage or during construction have continual access rights. Mr. Jacobs noted they could grant the town a license and an easement to be held. This was agreed. Mr. Jacobs clarified on Page 14, in 4.6 if construction has not begun they need to come back and explain why.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. McKnight, it was by the five members present unanimously:

VOTED: to grant the requested Major Project Site Plan Special Permit under Section 7.4 of the By-Law.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. McKnight, it was by the five members present unanimously:

VOTED: to grant a Special Permit under Section 3.2.1 of the By-Law to operate a convalescent or nursing home in the Single Residence A Zoning District.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. McKnight, it was by the five members present unanimously:

VOTED: to grant a Special Permit under Section 5.1.1.5 of the By-Law, to waive certain parking plan and design requirements as set forth in Section 5.1.3, more specifically in Section 5.1.3 (a).

Upon a motion made by Mr. Eisenhut, and seconded by Ms. McKnight, it was by the five members present unanimously:

VOTED: to waive the minimum parking lot illumination level, as shown on the Plan, to require an average of at least one-foot candle in all parking areas instead of “at least one-foot candle.”

Upon a motion made by Mr. Eisenhut, and seconded by Ms. McKnight, it was by the five members present unanimously:

VOTED: to adopt the decision as drafted and amended.

Discussion: Board of Health Draft Resolution Relative to the Built Environment and Community Design.

Mr. Warner noted he had been invited to the League of Women Voters and asked if he should attend or not. Mr. Eisenhut noted there is no conflict. Mr. Jacobs stated they are just asking for comments. Mr. Eisenhut noted if it was very general there should be no problem at all. Mr. Warner stated they wander all over the place. Mr. Ruth asked what are they really saying -- it relates to small urban retail but does not apply to Needham and where they are now. Mr. Jacobs suggested they discuss this further at the next meeting.

Endorsement of Decision: Deminimus Change: Major Project Site Plan Special Permit No. 2007-09: High Rock School: Town of Needham, Petitioner (Property located at 77 Ferndale Avenue, Needham, MA).

Ms. Newman noted this was voted at the last meeting. The Board signed the decision.

Endorsement of Decision: Amendment to Babson College Major Project Site Plan Review Special Permit 2005-01, Shelley Kaplan, Babson College, 231 Forest Street, Babson Park, MA, 02457, Petitioner (Property located on Map Hill Drive, Needham, MA).

Ms. Newman noted this was voted at the last meeting. The Board signed the decision.

Finalize Summer Meeting Schedule.

The Board decided to meet July 28.

Planning Director and Member Reports.

Ms. Newman noted they are in the process of hiring a student intern to look at LEED and what other communities are doing, from a commercial context, about cost and requirements from an economic standpoint. Mr. Ruth noted they need to develop a rule for projects of a certain size. Do a scorecard and look at the scorecards. Mr. Jacobs noted they are putting Needham at a competitive disadvantage by forcing people to do what others are not requiring. Ms. McKnight stated she would like the intern to look at the Special Permit By-Law and see if other towns have something. Mr. Jacobs noted they should put together a set of rules and regulations pertaining to LEEDs requirements.

Request to authorize the Planning Board to approve issuance of the Permanent Occupancy Permit: Major Project Site Plan Review No. 2008-05: Patricia Guzman, d/b/a Tu Y Yo, II, LLC, Petitioner (Property located at 66 Chestnut Street, Needham, MA).

Ms. Newman informed the Board there is no inspection yet. She thinks they are ready.

Upon a motion made by Mr. Ruth, and seconded by Mr. Eisenhut, it was by the five members present unanimously:

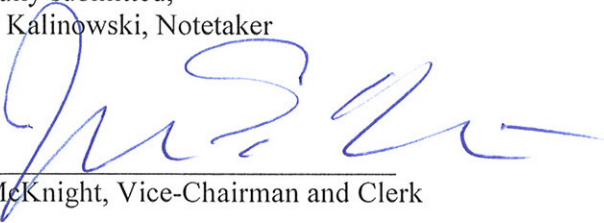
VOTED: to issue a permanent Certificate of Occupancy when the Planning Director has a positive inspection report.

Ms. Newman noted she needs to update the Citizen's Petition Plan for the HOME Funds and wants to make sure they are still the Board that should make the decision. Going forward there may be some projects that are not as easy as previous ones. Jurisdiction can be either the Planning Board or the Selectmen. Mr. Eisenhut commented it should stay with the Planning Board. Mr. Jacobs noted he has no problem either way. Ms McKnight is interested in it. Mr. Jacobs noted he is hearing the Planning Board should keep it.

Upon a motion made by Mr. Ruth, and seconded by Mr. Eisenhut, it was by the five members present unanimously:

VOTED: to adjourn the meeting at 11:20 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Jeanne McKnight, Vice-Chairman and Clerk