NEEDHAM PLANNING BOARD MINUTES

September 28, 2010

The regular meeting of the Planning Board held in the Performance Center of the Eliot School, was called to order by Ronald Ruth, Chairman, on Tuesday, September 28, 2010 at 7:30 p.m. with Messrs. Warner, Eisenhut and Jacobs and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Correspondence

Mr. Ruth noted the following correspondence for the record: an e-mail from Tony DelGaizo, dated 9/17/10, with an update on the status of Beth Israel; and a letter from Vanasse & Associates to Tony DelGaizo, dated 9/17/10 with work remaining to be done.

Minutes

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the five members present unanimously:
VOTED: to adopt the minutes of 6/15/10 with changes discussed.

7:30 p.m. – Amendment to Major Project Site Plan Special Permit No. 2009-06: Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, Petitioner (Property located at 1471 Highland Avenue, Needham MA). *This hearing is to be reopened.*

Mr. Ruth noted this is to be reopened but continued tonight.

Upon a motion made by Mr. Jacobs, and seconded by Ms. McKnight, it was by the five members present unanimously:
VOTED: to reopen the hearing.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the five members present unanimously:
VOTED: to continue the hearing to 11/1/10 at 7:30 p.m.

7:35 p.m. – Amendment to Major Project Site Plan Special Permit No. 2009-06: Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, Petitioner (Property located at 1471 Highland Avenue, Needham, MA).

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to waive the reading of the public hearing notice.

Tiffany Shaw, representative for the applicant, noted they have made changes to the balcony to make it accessible. They are seeking relief under Section 1.4.6. They have submitted a revised zoning setback plan and revised floor plan. She gave a brief overview. The auditorium is existing but only has one egress and does not meet ADA requirements. They will add a bridge to satisfy the ADA requirements. They will take the elevator up and go over the bridge. They are adding 101 seats for a total of 457 seats. Mr. Eisenhut noted this has been submitted to the CPA and they are satisfied. His concern was he will not approve any plan that will change the exterior but he has been assured this will not significantly change the exterior of the building. Steven Popper noted they will not change any exterior. Mr. Jacobs asked how the balcony will be used and was informed they do not see it being used separately from the auditorium. Mr. Popper stated the Town Manager is encouraging it be isolated so it is not open to the public. They would have access control over the 2 egresses. Ms. McKnight stated she is reassured all are satisfied with CPA funds being used. She noted she does not see any correspondence from the Historical Commission and asked if they had seen this. Ms. Shaw noted they did a walk through with the Historical Commission. Mr. Ruth asked if she could talk about the parking ramifications. Ms. Shaw noted they have a revised traffic study. They are adding 101 seats and increasing parking by 34 for a total of 153 for assembly use. They are not providing additional parking but looking for an additional waiver. Mr. Ruth clarified this Board discussed this and decided this is an off-cycle parking use and other lots would be used.

Upon a motion made by Mr. Jacobs, and seconded by Ms. McKnight, it was by the five members present unanimously:
VOTED: to close the hearing.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to grant an Amendment to Major Project Site Plan Special Permit to permit the renovations as represented as per the legal notice to the Town of Needham.

Request to release bond and to authorize issuance of Permanent Occupancy Permit: Major Project Site Plan Review No. 2009-04: Danversbank, One Conant Street, Danvers, Massachusetts, Petitioner (Property located at 827-835 Highland Avenue, Needham, MA).

Mr. Ruth recused himself from this matter. Ms. McKnight will chair this hearing. Ms. Newman noted with the inspection there were 2 outstanding items – the placement of the bench and the bike rack installation. Both are done now. The DPW has inspected and are satisfied. Ms. McKnight noted she drove by and went in the parking lot. She would like to commend them for a marvelous job landscaping the lot. They are well done plantings.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to authorize the release of the bond and issuance of a permanent Certificate of Occupancy as requested.

8:00 p.m. – Major Project Site Plan Special Permit No. 2010-04: The Mackin Group, LLC, 7 Harvard Street, Brookline, MA 02445, Petitioner (Property located at 916-932 Great Plain Avenue and 36-58 Dedham Avenue, Needham, MA).

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to waive the reading of the public hearing notice.

Robert Smart, representative for the applicant, noted they want mixed use and 28 apartments on the top 3 stories. They want to encourage a village atmosphere. There will be retail on the first floor. Town Meeting has established an off-street parking fund. The project meets the goals for Needham planning. There will be a new building along Dedham Avenue. The apartments will be 776 to 1,200 square feet. There will be 20 2-bedroom units and 8 1-bedroom units. Eight apartments will be affordable. There will be a 1,342 square foot increase in the commercial space on Great Plain Avenue. The proposal is to have 28 parking spaces on site. The Design Review Board is satisfied with the materials and design. There is an FAR of 1.995. They are requesting a waiver of 35 parking spaces. They cannot create more than 28 spaces on site and are requesting a waiver of 14 spaces for the apartments. They feel most will have only one car or make other arrangements. There is enough street parking to cover the demand for the retail use. The parking area is enclosed so they do not need landscaping. Ken Mackin, owner, noted this is a 20,184 square foot lot on Great Plain Avenue with Dedham Avenue access. They will preserve the Great Plain Avenue side with 3 stories on top. There will be windows at both ends on the 2nd, 3rd, and 4th floors. They will close them if developed further. The 4th floor is at a 45 degree pitch. The front façade on Great Plain Avenue will be granite based. The retail on Great Plain Avenue will be approximately 4,000 square feet for 3 stores. There will be 5 units on each of the 2nd and 3rd floors and 4 units on the 4th floor. Dedham Avenue will be 2,100 square feet of retail in a separate building. There will be an elevator in each building. There will be 43,350 square feet of building space. The affordable housing brings the FAR to under 2.

Parking access will be from Dedham Avenue. The dumpster will be placed in the back of the parking. Mike LeBlanc explained the existing storefront. They are proposing to maintain the façade and building above. There will be cast stone, hybrid brick, a simulated slate roof, 2 set back roof decks and red brick. It conforms to the 3 plus 1 guidelines. There will be aluminum panels around the windows. Mr. Mackin noted the rear of the property has individual decks on the 2nd, 3rd, and 4th floors. There are elevators and back stairs and parking is in the back. Mr. LeBlanc noted there will be a similar concept on Dedham Avenue with a wood clapboard concept and aluminum storefronts with granite base at the bottom. There will be some kind of trellis or louvered system painted to match. It will be painted taupe or cream color. Mr. Mackin noted the Dedham Avenue entrance will be recessed in back, well lit and differentiated from the retail. Mr. LeBlanc noted the mechanical systems on the roof are screened. Ms. McKnight requested they clarify the parking is entirely private for residents. Mr. Mackin stated it is inside and private. They will be designated. He noted the 2nd floor does not overhang the 1st floor and will have awnings.

Bob Larson, Town Meeting Member in Precinct H, noted he is concerned with the impact of the retail operation and the effect on parking in downtown. There are no empty spaces along Great Plain Avenue. This will place undue traffic burdens on that end of town. He is concerned with the egress and ingress that is close to the center of town. He noted offering payments in lieu of spaces just shifts the burden to others.

Carl Franceschi, of the First Parish Church, stated this was a well thought out proposal. It is a very positive step for the center of town. He has some concern with the height of the proposal. It does not directly impact them but it seems a little high. He feels they should have some reconsideration. He is supportive of the project in general.

Fred Hartman, Jr., of 919 Realty Trust, noted he has been there since 1932. A lot of detail has been put into the design but specifically parking is a concern. He feels there will be serious issues. There is flawed logic. He feels there will be more cars than they plan. Walgreen's is defacto public land. He feels asking for a waiver of 35 spaces is over the top. These are permanent people who will need permanent parking spaces. It is not unreasonable to request a multi-level parking structure be built. He is not opposed as it is designed but is concerned with the parking. He feels property values will go down with the height and it will block out the light. He wants to make sure there is adequate parking available. Gil Cox noted he owns the building next door and has concerns. He stated traffic backs up and this is too intense. He echoes Mr. Hartman's sentiments. He is also worried about shadows. With a 20,000 square foot lot this is too intense.

Mr. Eisenhut asked if they have done a study of shadows. Mr. Mackin stated they have not. They are essentially replicating what was there before. They are only adding 1,300 feet of additional retail. They are limiting the parking to one space to lower the parking demand. He feels it will be unlikely there will be a shadow. Mr. Jacobs noted in addition to parking, he is curious how people will get into the 5 parking spaces closest to Dedham Avenue. It seems tight to him. Mr. Mackin feels people will pull in and back right into the space. Mr. Jacobs asked how many cars in the queue would it take to block the drive and was informed 7 or 8 cars. Mr. Eisenhut asked if they could limit the 5 spaces to compact cars. Mr. Mackin stated they plan that. Ms. McKnight noted in the Section 3.8.5C waiver requirements she sees no mention of the parking fund. Mr. Smart stated they are assured payments. Ms. McKnight asked if all units have balconies. Mr. Mackin stated no, only the rear units on 2 and 3 and all units on 4. She asked if there will be planters. Mr. Mackin stated he would like to plant a tree in the area where the transformer is but it is up to NStar. Ms. McKnight asked if there will be street trees and if there is any idea where they will be desired. Mr. Mackin noted they are replacing the sidewalk all along Great Plain Avenue. He stated Tony DelGaizo is skeptical with the width of the sidewalk. Ms. Newman stated she had hoped the town streetscape plan would be further along. She hopes to create a vehicle to get it done at the developer's expense to widen the sidewalks, benches, landscaping, etc. Ms. McKnight asked if there is drainage on site. Mr. Mackin stated there is a separate storage system to recharge the water into a collection tank that recharges it and there will be a roof drain by-pass. Ms. McKnight noted the dumpster has mixed uses and is in back. Mr. Mackin stated the dumpster will be screened. There will be a fence along the perimeter of the property. There will be a 10 foot by 10 foot concrete pad with 2 3-yard dumpsters or one 8-yard dumpster. The fence will be 6 feet. Mr. Jacobs asked if it could be a higher fence with vegetation hanging down from it. It may beautify the area. Ms. McKnight asked if the area was exceptionally noisy. Mr. Mackin stated it was similar to Bob Rinaldi's project. He does not feel the noise factor will be an issue.

Mike Zafiropoulos, representative for the abutter, stated there has been a lot of discussion between his client and Mr. Mackin. He has heard for the first time tonight about restricting traffic to a right turn coming from the property to Dedham Avenue. This may cause undue hardship for some of his tenants. He wants to remind them it is a common driveway and they need to work out an easement with regard to that. He would like the condition the windows would be closed if his client's property is developed.

Tom Conroy noted he works at Vita Needle across the street. He cannot fathom 28 units. Parking is unsafe. He noted people have trouble getting across the street and traffic is horrible. He has not heard anything about traffic studies. He would like to see the results, if this is built here. He is not sure how it would enhance the look of the center. Warren Chamberlain, a Vita Needle employee, stated he wants to commend the town for changing the laws to allow people to build up. The reality is we all have to depend on automobiles and they need to plan for this. He thinks the issue is not just parking but transportation.

Bob Larson asked if it is the Board's intention to make a decision tonight. He was informed it was not. He would like to suggest the decision be contingent on the final decision of the location of the senior center.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. McKnight, it was by the five members present unanimously:
VOTED: to continue the hearing to 10/19/10 at 8:30 p.m.

Mr. Jacobs stated he would like to know the extent of the parking problem. Mr. Eisenhut would like them to expand on the green issues and energy efficiency. Mr. Ruth would like the parking impact numbers. Ms. McKnight stated she is looking at contributions to the parking fund but this is new retail – an additional 1,300 square feet. They do not know what the use will be. She would want a parking study of the new uses. She commented they need to understand the study versus the fee. Mr. Mackin stated they should not have to include vacant space in the study. This has not been done before. Mr. Smart asked what period of time they want the study to cover. Ms. Newman noted 2 days during the week has been used in the past -- in the morning rush, 6:30 a.m. to 9:30 a.m. for traffic. Mr. Mackin asked about parking from 11:00 a.m. to 1:00 p.m. Ms. Newman will get a recommendation from BETA.

<u>Decision: Nehoiden Street Definitive Subdivision: Fredrick L. Sewell, 1554 Central Avenue, Needham, Massachusetts, Petitioner (Property located at 198-200 Nehoiden Street).</u>

George Giunta Jr., representative for the applicant, noted Mr. Sewell's name was spelled wrong in the first paragraph but otherwise the decision was fine. Mr. Warner asked if Park and Recreation was happy with the walking path and was informed they were. Ms. McKnight commented she did not notice special waivers for utilities and asked if that is covered by a waiver. Mr. Giunta Jr. noted the gas line comes up in an easement. Ms. McKnight noted condition 14, the footpath easement. She asked if it was labeled as a footpath easement on the plan and was informed it was. Ms. McKnight noted paragraph 14 has a reference to such person. She is unclear who is being referred to. Is it the grantor? Paragraph 17 is redundant and Ms. Newman will delete it. Ms. McKnight stated they should add a little language to narrow the circumstances that explains why all the exceptions are being made. They want to clarify the unique circumstance and they are getting public access to the land.

Upon a motion made by Ms. McKnight, and seconded by Mr. Warner, it was by four of the five members present (Mr. Eisenhut did not vote):
VOTED: to approve the definitive subdivision in accordance with this decision with amendments to be made to the text as discussed tonight.

<u>Decision: Charles River Street Definitive Subdivision: Richard J. Gaffey, Trustee, 634 Charles River Street Realty Trust, 420 Lakeside Avenue, Marlborough, MA, Petitioner (Property located at Map 305, Lot 23, off of Charles River Street, Needham, MA).</u>

Mr. Ruth noted Mr. Warner is raising the issue of the safety of the gas line along with some of the abutters. He feels the concerns are in essence a motion to reopen the public hearing to get information on the record. Mr. Warner spoke of his concern regarding the old pipes and the San Bruno pipe issue. He noted common causes of explosions are leaks, digging and operating errors. He noted they do not know where their shut off is. They could ignore this, they could draft a disclosure statement or they could gather more information. A motion was made and seconded to reopen the hearing. Mr. Eisenhut noted he is opposed to reopening the hearing. The issue is whether construction activity would create a problem. The pipe is there and has nothing to do with the construction. He did not hear any contrary information and did not hear how the construction would create a problem. Mr. Jacobs noted he wanted to acknowledge what Mr. Eisenhut had said but they did just have an episode in San Bruno. He asked if they did enough. They had a representative from Spectra Energy and they had the Fire Chief but should they go further and what would they do. He is not sure they heard expert testimony. They heard from a representative but was that an expert. He is not sure. Roy Cramer, representative for the applicant, stated he was surprised and disappointed the issue is being raised now. They have had extensive public hearings, had Mr. Kerrigan here and gone back and forth with several drafts. He does not feel it is appropriate to reopen the hearing. Ms. McKnight stated she is not inclined to want to reopen the hearing. The only issue they could focus on would be if they could do the project without crossing the gas pipe line. She does not know where they could get better or more information than they got from the representative. Mr. Warner stated he feels they should draft a disclosure statement giving everyone notice there is a 30 inch pipe line running here. Mr. Jacobs noted it would not do anything for people on Whitman Road. He does not know if there is something they could do to make him comfortable. Mr. Ruth stated they treated this as a serious situation, asked the right questions and feel they dealt with it as a safety concern. He does not think it makes sense to reopen it.

Upon a motion made by Mr. Warner, and seconded by Mr. Jacobs, it was by two of the five members present:
VOTED: to reopen the hearing.

The motion did not pass with Mr. Warner and Mr. Jacobs voting in the affirmative and Ms. McKnight, Mr. Ruth and Mr. Eisenhut voting in the negative.

Mr. Ruth stated they would like a trail. Mr. Cramer noted his letter to the Board dated 9/24/10. He noted on page 12, a sentence in prior drafts was dropped that stated "The Grantor, his successors and assigns, shall have no responsibility to maintain said first easement area." Mr. Eisenhut commented they could not print a sign so it is useless. Mr. Cramer stated they want to add that music shall also be prohibited. Ms. McKnight stated she in uncomfortable. It is completely unenforceable. She would go along with no amplified music. Mr. Cramer agreed this was fine. Ms. McKnight stated they should add it into the string after parties. Mr. Cramer noted the 2nd easement and stated leashed dogs are in. Ms. McKnight noted they should add "now" on page 3 after "restrictions and covenants…" Mr. Cramer noted paragraph 26. He has dropped his objection and this is ok to keep in. Paragraph 31 they should add "during initial construction" at the beginning. He noted Robert Smart's letters should not be included as they were submitted after the hearings were closed. Mr. Jacobs noted items 1 and 3 of Mr. Smart's letter need to be dealt with. Ms. Newman will check Private Way to make a distinction.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by four of the five members present (Mr. Warner voted in the negative):
VOTED: to approve the subdivision and adopt the decision as written with the changes discussed including the grant of waivers as specified.

<u>Scenic Road Act Agreement: Richard J. Gaffey, Trustee of the 634 Charles River Street Realty Trust, Petitioner (Property located on the southerly side of Charles River Street between 534 Charles River Street and 590 Charles River Street, and is shown on Assessor's Map 305 as Parcel 23.</u>

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to approve the Scenic Road agreement before us tonight as drafted and extend the deadline through 10/8/10.

<u>Decision: Major Project Site Plan Review No. 2010-03: F & A Farms, Inc. d/b/a Volante Farms, 226 Brookside Road, Needham, MA 02492, Petitioner (Property located at 292 Forest Street, Needham, MA).</u>

Mr. Eisenhut did not participate and will not be voting. Ms. McKnight noted paragraph 1.8 and asked what was represented following the hearing and consistent with the progress under 3.6. In paragraph 1.8, change "As a result of…" to "Based on…" and delete "is expected" to "was predicted." Mr. Jacobs noted 1.6 and 3.7 are different. In 1.6 it should be until 10:00 p.m. Ms. McKnight asked if there is a limit on dumpsters. Mr. Newman noted in 3.13. Mr. Ruth asked about the conditions on use and was informed it refers back to 3.5.

Upon a motion made by Mr. Warner, and seconded by Mr. Jacobs, it was by the four members present :
VOTED: to approve the draft decision with corrections agreed upon.

Ms. Newman noted there would be no meeting on 10/5/10.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to adjourn the meeting at 10:50 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Ronald W. Ruth, Chairman