

NEEDHAM PLANNING BOARD MINUTES

April 9, 2012

The regular meeting of the Planning Board held in the Selectmen's Chambers at the Needham Town Hall was called to order by Bruce Eisenhut, Chairman, on Monday, April 9, 2012 at 7:30 p.m. with Messrs. Warner, Jacobs and Ruth as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski. Ms. McKnight arrived at 8:30 p.m.

Correspondence

Mr. Eisenhut noted the following correspondence for the record: a letter from the Planning Board, dated 4/3/12, regarding the Proposed MBTA fare increases.

Request for extension of 708 South Street Subdivision and updated bond amount.

Ms. Newman noted she had not received a letter with a bond amount.

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

VOTED: to continue this item to the next meeting.

7:30 p.m. – FY 2013 (Program Year 2012) HOME Funds Allocation.

Ms. Newman noted how much accumulated and how it is allocated going forward will probably be cut in half. It would be about \$36,000. It has paid for 2 units in the High Rock Estates. She recommends they continue to accumulate funds until a project comes along. Mr. Jacobs asked how much they actually have. Ms. Newman noted around \$250,000.

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

VOTED: to close the hearing.

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

VOTED: to allocate \$2602 to administration and the \$33,449 balance into foreclosure and redevelopment projects.

7:35 p.m. – Major Project Site Plan Special Permit No. 2012-02: Swizzles of Needham, LLC d/b/a Swizzles Yogurt, 1029 Post Road, Darien CT 06820, Petitioner (Property located at 1450 Highland Avenue, Needham, MA 02492).

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

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

Roy Cramer, representative for the applicant, noted this is a self-serve yogurt shop where the lighting store used to be. There will be machines along the wall with a series of flavors and toppings. People will pay by weight. They have opened a number of facilities in Connecticut and New York. It will be 1,528 square feet with 24 seats – 21 inside and 3 outside on a bench. The hours of operation will be 11:00 a.m. to 11:00 p.m. every day and Friday and Saturday until 12:00 a.m., which is consistent with others in the area. The peak hours will be 2:30 p.m. to 4:30 p.m. and 6:30 p.m. to 9:00 p.m.

Mr. Cramer stated usually it will be kids in the afternoon with more families at night. No exterior changes are proposed except the bench. They will keep the same size awning but a different color and different signage. The Design Review Board has approved. The maximum number of employees will be four and they will get employee parking stickers. Usually there will be 2 or 3 employees. They will serve a variety of drinks.

Mr. Cramer reviewed the relief requested. There are 5 spaces on the lot. It is the same situation as Treat Cupcake. They feel many customers will walk there. The parking analysis is one space for 3 seats and 10 spaces for take-out.

Mr. Eisenhut noted the following correspondence for the record: 2 emails from Lt. John Kraemer noting no safety concerns; an email from Fire Chief Paul Buckley, dated 3/26/12, with no concerns; a memo from the Board of Health, dated 4/5/12, with no comments at this time and a letter from Roy Cramer, dated 4/5/12, regarding the trash program. Ms. Newman noting she has nothing in writing from the DPW but has a verbal ok from Tom Ryder.

Mr. Jacobs asked if there would be cooking facilities and was informed there would not be. Mr. Jacobs stated the draft refers to cooking areas. They should delete in 3.6 the first sentence. Mr. Eisenhut asked Mr. Cramer if he had seen the draft decision. Mr. Cramer stated he is fine with it.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to clarify no cooking facilities by removing the first sentence in 3.6.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to put a paragraph break after "18" and a paragraph break after "up to 7" in Section 1.12.

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

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to grant the relief as set forth in the draft decision and adopt the draft decision with the minor changes discussed.

ANR Plan – 110 Evelyn Road.

Ms. Newman noted the owners are creating a lot that will be combined. An addition is being put on the house. It is compliant with setbacks. She does not know the reason why Parcel 42B gets conveyed as a non buildable lot.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to adopt the proposed ANR as presented.

7:55 p.m. – Amendment to Major Project Site Plan Review No. 2008-09: Town of Needham Permanent Public Buildings Committee, Petitioner (Property located at 484-500 Dedham Avenue, Needham, MA).

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

Chip Laffey, Director of Facility Operations for the PPBC, noted this is for the installation of an emergency back-up generator and transformer at the old water building. It is 30 decibels at the quietest time at the reservoir. They cannot produce more than 40 decibels. It would not exceed 31 decibels. There are enhanced silencers. Mr. Ruth asked what it is for. Mr. Laffey stated being a geo thermal building if it goes off line for an extended period of time it would go bad. He did research for natural gas generators but the cost was 3 times as much. It is going to the Conservation Commission.

Mr. Eisenhut noted the following for the record: a memo from Janice Berns of the Health Department, dated 4/3/12, with no comments; a memo from Lt. John Kraemer of the Police Department, dated 4/5/12, with no safety concerns and an email from Fire Chief Paul Buckley, dated 3/26/12, with no issues or concerns. Ms. Newman stated she had a conversation with Tom Ryder and he has no issues. He will get her a letter.

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

Ms. Newman noted she has not prepared a draft decision. They could vote the relief and she will prepare the decision.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to grant the requested relief subject to a decision being prepared subsequently.

Review and Approval of Easement and Affidavit: Major Project Site Plan Review No. 2011-01: Wingate Senior Living, 63 Kendrick Street, Needham, Massachusetts, Petitioner (Property located on the westerly side of Gould Street between Gould Street between the Wingate at Needham Nursing Home at 589 Highland Avenue and the MBTA Right-of-Way.

Roy Cramer, representative for the applicant, noted he got this recorded on the unregistered side and has sent copies to the Planning Director. He would like the Board to accept and vote to approve the easement.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the four members present unanimously:
VOTED: to accept and vote the easement.

Endorsement of Plans: Deminimus Change: Major Projects No. 1996-05: Highland Montrose, LLC, 159 Cambridge Street, Allston, MA, Petitioner (Property located at 922-958 Highland Avenue, Needham, MA).

The Board signed the plans.

8:10 p.m. – Article 4:PB Amend Zoning By-Law – Definition of Structure.

Mr. Eisenhut noted the following correspondence for the record: 2 letters from John Jensen dated 2/1/12 and 2/7/12 and a follow up email from John Jensen to Lee Newman, dated 4/5/12, that refers back to the Planning Board the original language in 2009.

Mr. Jensen noted this has been going on a long time. The shed was built 18 inches too close to the edge of the pool by accident. It was declared in violation by the Building Department. It could be deminimus but the Building Inspector said no. He suggested the statute of limitations was about to be reached and the building department sued. He has attempted to amend the By-Law and was turned down. He is making another attempt to amend it. He noted he would not have made these attempts if the Building Department had accepted the deminimus change or the statute of limitations. He feels the interpretation of 1.3 is wrong. The wording is clear. The construction of a pool deck and shed are a single structure to him and should be granted a building permit.

Mr. Ruth stated the Building Inspector is gone and a new inspector will be coming on board. He asked if Mr. Jensen would like to meet with the new inspector. He also asked if Mr. Jensen had latitude with the agreement with Town Counsel. Mr. Jensen feels he does but has not talked with Town Counsel. Mr. Eisenhut stated they could make a recommendation to the Building Inspector that 1.7 feet is deminimus but he does not want to do that as a Board.

Mr. Ruth noted they never had a determination from the ZBA. The new Building Inspector may have a different interpretation. He would not like to take this to Town Meeting. Mr. Jacobs stated they could recommend to withdraw the lawsuit with prejudice and the statute of limitations has run. Mr. Eisenhut noted they could do that

if they feel it is deminimus or not. Mr. Jacobs noted Mr. Jensen's interpretation could be read that way. He suggests if they are going to pursue a change in the definition they could change the exclusion at the end from a height of less than 8 feet to less than 10 feet. Roy Cramer stated he thinks the 10 foot idea is the best idea.

Mr. Ruth stated he liked Mr. Jacobs' idea to recommend withdrawal and let the statute run. Ms. Newman noted she would prefer not to go to Town Meeting. Mr. Ruth suggested they continue the hearing to allow Mr. Jensen time to talk to Town Counsel to see how he would feel if it did not go forward in May but in November to give them time to talk to the Building Inspector. Mr. Eisenhut stated he would like Board consensus they would like this to go away. Mr. Ruth and Mr. Jacobs agreed. Ms. Newman noted the hearing will be continued to the 4/23/12 meeting.

Ms. McKnight arrived at 8:30 p.m.

8:30 p.m. – Major Project Site Plan Special Permit No. 2012-03: Normandy Real Estate Partners, 99 Summer Street, Boston, MA, Petitioner (Property located at 66B Street, 360 First Avenue and 410 First Avenue, Needham, MA 02494).

Mr. Eisenhut stated this will go forward but they will keep it open.

Upon a motion made by Mr. Ruth, 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, noted they are proposing a hotel. This is an 8 acre parcel at 360 First Street, 410 First Street and 66 B Street. Each lot had a building and parking. It is 152,906 square feet and has 408 parking spaces. Cabot, Cabot & Forbes has phased project approval but it was never constructed. In 2011 the ZBA amended it. Normandy purchased the properties. They will build a 128 room hotel with 140 parking spaces on the B Street portion of the site. It will be folded into the master permit. Three buildings will be demolished. They will have a 1,306 square foot function conference room, a dining area, lounge, exercise room and pool. It will be a Marriot Residence Inn. There will be a mix of rooms – studios, 1-bedroom and 2-bedroom. They would like to modify the floor plan and unit mix without having to come back if there is no increase in the square footage.

Mr. Cramer reviewed the relief they are requesting. They would like a waiver of the parking By-Law, would like an average of one foot candles for illumination, and would like a finding this be considered a hotel. Each room has a refrigerator with a freezer, a 2-burner cook top, dishwasher, microwave and sink for guest amenities.

Mr. Jacobs asked Mr. Cramer to clarify the flexibility they are looking for. Mr. Cramer noted they are planning 116 urban studios, 8 1-bed units and 4 2-bed units. They have gone to the Design Review Board and they have approved the project. It will be 87,000 square feet. He noted the vehicle trips will be substantially less than the 3 old office buildings.

Keith Curran, from Tetrattech Rizzo, described the area. There will be a total of 5 stories with parking under the building. There will be a one-way entrance and 140 spaces. They have a landscape plan. There will be pavers at the entrance, a bike rack and an elevator. The roof drain is piped to a cistern overflow to a subsurface infiltration system. All other water is treated. The water quality units meet all storm water requirements. The sewer connection discharges to B Street with a separate line for domestic. A hydrant is proposed on site. Gas service is 6 inch lines and there will be electrical with a transformer

James Loft, of Pro Con, Inc., noted there will be a mix of modern and traditional. There will be cast stone base brick and a Cambridge mix breaks down the mass with a cornice element. It will be a LEED certifiable project and they will be applying. There will be covered parking, a front desk, a health room and small lounge room. There will be reception seating, meeting rooms, amenity space, a fitness center and pool. The stay is usually about 3 nights per visit. There will be a complimentary breakfast, manager receptions and a light dinner 3 to 4

nights per week. It will be low key and have no 3-bedroom units. There is a little under 400 square feet in a studio. Mr. Cramer reiterated they need flexibility to modify in the future.

Jade Cummings, of Terraink, Inc., reviewed the landscaping. There will be evergreens, flowering shrubs and ground cover with perennials and trees. There will be dense evergreens along the edge and some flowering trees. There are no trees in the back. There will be a multi level parking garage there later.

Ms. Newman stated there are currently 140 parking spaces and asked if there will always be 140 spaces. Eben Tormey stated it has a very upscale feel to it. They have built this in Portsmouth, New Hampshire and it is running at 91% occupancy. They use brand standard equipment. He noted they design, build and manage the properties. They are very active in the process. He added they use local pictures in the hotel. Mr. Cramer stated a few issues have arisen.

Mr. Eisenhut noted the following correspondence for the record: an email from Janice Berns of the Board of Health, dated 4/5/12; a letter from Police Lt. John Kraemer with no safety concerns; 2 photos; a traffic study and correspondence from the applicants' attorney. Ms. Newman noted she is waiting for the Fire and DPW letters.

Ms. McKnight asked the number of units, which is 128 and the number of rooms, which is 132. She noted parking should be required on 132 rooms. Mr. Cramer noted the interpretation is sleeping units at one unit not room. The draft decision says guest units not rooms.

Ms. McKnight asked if this needed a water connection permit and sewer permit or do they need to get them. Mr. Curran stated they need to get them as it is a change in use. Ms. McKnight noted there will be money to be paid for connection fees. Mr. Cramer stated there is a sewer impact fee and a fee schedule.

Ms. McKnight asked about the visibility from 128. What will be seen? Mr. Loft explained and noted there will be a tower element on the corner. Ms. McKnight noted the landscaping at the rear and asked if it complies with the landscaping requirement. Mr. Cramer stated they do meet the criteria.

Ms. McKnight asked the basis for finding this is not multi-family. Mr. Cramer stated it is the hotel amenities. It cannot be used as a legal residence. Ms. McKnight asked why a unit is not a dwelling unit under the state building code. She would like a memo defining the basis. She asked what are the rights of the occupants and the classification of the hotel use as opposed to a multi-family use.

Mr. Cramer noted in 1.6 he would like the right to change the use profile. Mr. Jacobs noted in 1.7 they should clarify the language the building will be one condo. Mr. Cramer stated in 2.0, dimensional for all rooms is a big job. Ms. Newman stated a typical prototype size for a real unit type and dimensions on the first floor would be fine.

Mr. Cramer noted in 3.3 they do not want it limited to Marriot Residence Inn and extended stay hotel. They want it just a hotel and not labeled. In 3.4 he is not sure where the restrictions came from. They are saying it is a hotel. Ms. Newman stated she looked at the parameters of an extended stay hotel. Mr. Cramer commented the detail is way too much. He feels it is micromanaging. Ms. McKnight stated they should have "may have" rather than "shall have".

Mr. Tormey stated it cannot be used as a legal residence. Mr. Cramer noted in 3.7 it should be units rather than rooms. He stated 3.12 and 3.13 are in the master permit. It should not be required for only the hotel. He stated the hearing is a burden for the hotel. It is not big enough to warrant this. Ms. McKnight stated putting in findings and conclusions will be in the future. Mr. Cramer stated 3.31(c) is the same issue. He feels 3.36 is overkill. It should be grounds for revocation of any building permits. They should make 30 days 60 days. Ms. McKnight stated revocation of any building permits and Certificate of Occupancy. Ms. Newman will check with other towns to see what they have.

Mr. Cramer noted in 4.2 they do not want a new condition being added once they have the permits. Mr. Ruth stated they should tweak 4.2 and 3.66 together. Mr. Eisenhut stated he feels the LEED Certification is important. They should put in the permit they are going to apply and do it in good faith. Ms McKnight stated she would work with the Planning Director. This will be continued to 4/23/12 at 8:45 p.m.

Vote Recommendations on Zoning.

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

VOTED: to support the dimensional requirements and parking lot illumination to the Zoning By-Laws as drafted.

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

VOTED: to support the amendment to 5.1 and 5.13 as drafted.

Board of Appeals – April 19, 2012.

Race Point II Ventures, LLC, 71 Cottage Street, Natick, MA 01760 – 72 School Street, Needham MA

Mr. Ruth stated this was an afterschool daycare. One side of Lincoln Street is institutional (hospital) and the other side is residential. This is on the residential side and has morphed into an all day daycare. It is different from the original. He would like to remind the Board of Appeals it encroaches on the residential district.

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

VOTED: to call to the attention of the Board of Appeals it is an encroachment in a residential district.

10 Damon Road, LLC, 60 Gaffney Road, Dedham, MA 02062 – 10 Damon Road, Needham, MA

Ms. Newman noted if it is unlawful originally they cannot get 10% waivers.

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

VOTED: to call it out.

Endorsement of Volante Farms Surety Agreement.

Mr. Jacobs stated at the end of the first paragraph “owner” should be “developer.”

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

VOTED: to endorse the agreement as revised.

Minutes

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

VOTED: to approve the minutes of 12/20/11 and 1/17/12.

Report from the Planning Director.

Ms. Newman shared the plans Needham Bank has for Eaton Square. The bank has hired an urban designer to work on it. She described the plans and noted it is all public space. The bank will possibly be paying for the entire project. Ms. McKnight stated she liked it but did not like the phrase “First Responders Memorial.” She

feels it is a catch phrase from recent years and that it is a politicized phrase. Ms. Newman will share what she has said. Mr. Jacobs noted it looks nice but he is not sure it will ever be used.

Ms. Newman stated they continue to look at streetscape improvements in the downtown. It is important in downtown. She and Devra Bailin have been trying to nudge their way in without much success. It has been mostly the DPW and Town Manager Kate Fitzpatrick. There were problems the last time around on Chapel Street. Mr. Warner stated they should just say the Planning Board, its' director and the Economic Developer Advisor should be involved in these plans.

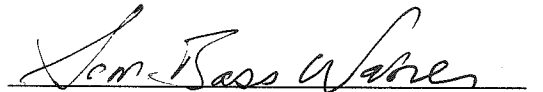
Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the five members present unanimously:

VOTED: to comment they feel it is important for streetscape improvements expertise to be brought to the table, the Planning Board should be engaged in the process and the Design Review Board should be engaged and it be done at an early stage.

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

VOTED: to adjourn the meeting at 10:55 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker


Sam Bass Warner, Vice-Chairman and Clerk