NEEDHAM PLANNING BOARD MINUTES

September 11, 2012

The regular meeting of the Planning Board held in the Charles River Room at the Public Services Administration Building was called to order by Bruce Eisenhut, Chairman, on Tuesday, September 11, 2012 at 7:30 a.m. with Messrs. Warner and Jacobs and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski. Mr. Ruth arrived at 8:45 p.m.

Correspondence

Mr. Eisenhut noted the Town of Needham By-Laws in the packet. Ms. Clee stated the Annual Town Meeting and Special Town Meeting articles have been approved by the Attorney General and are in effect as well as the new zoning. She also noted the new schedule for the Planning Board.

7:30 p.m. – Determination of Proposed Use – Edward Jones (Property located at 1110 Great Plain Avenue, Suite B, Needham, MA).

Ms. Newman noted this is the former Center Automotive spot. It is office/condominium now. They are required under the new By-Law to determine a proposed use not specifically called out. It is similar in use and in kind. She feels this use is similar to a bank. She noted office use is not allowed on the first floor in downtown. A bank is a use by right.

Mr. Eisenhut asked if it was called out for financial services. Ms. Newman noted it is called out for professional office space. It does not fall in that and is not called out for financial services. Chris Lynch, owner of the building, noted the Planning Board was a huge help back when the building was permitted. He has lived in Needham for 21 years and worked 18 years here. There are 4 condo's upstairs and 3 storefronts. He has had the first turnover of a lease so 2 spaces would be vacant. Edward Jones wants to go in. He introduced Craig Geddes who will manage the Needham branch.

Mr. Jacobs asked Mr. Geddes to describe his education and experience. Mr. Geddes stated he runs the largest Edward Jones office now in the UK. He received his degree in Bordeaux France. He has all the UK certifications and a federal license. Mr. Jacobs asked if Mr. Geddes was a professional under the By-Law. Ms. Newman stated he was but not under that By-Law. He is not a doctor or lawyer. She stated it would be cleaner to put it in the banking category.

Mr. Eisenhut asked what percentage are investments services. Mr. Geddes stated a small percentage but there is no charge to people for advice. Ms. McKnight stated if it is regulated by the Division of Banks she feels it is a bank and not a problem. Mr. Eisenhut noted they need similar in kind and that is not necessarily a bank. Mr. Jacobs does not see a problem at all.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to make a determination the proposed use is similar in kind and similar in use as a bank.

ANR Plan – Needham Bank (1055 & 1063 Great Plain Avenue, 10 Eaton Square, 232 and 244 Garden Street, 0 Garden Street, 0 Eaton Square, Needham, MA).

Ms. Newman noted some issues they had are now reflected in the final drawing. Changes were made on notes, they clarified ownership, the status of the way was clarified and Lot 17, the towns parcel, is not a building lot. They added the standard provision regarding compliance with zoning.

The Chairman noted the following correspondence for the record: a memo from the Town Engineer, dated 9/11/12, with no comments or objections.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to endorse the bank and town lot plan subdivision ANR.

ANR Plan – 9 & 25 Thurston Lane, Needham, MA.

Mikhail Deychman stated both lots will have minimum frontage. It could have been subdivided but they did not go that route. Mr. Eisenhut noted the following correspondence for the record: an email from David Roche, dated 9/7/12. Land is to be transferred to 9 Thurston Lane. It satisfies zoning and is ok based on the parallel to road frontage line interpretation.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to endorse plan ANR.

Request to Release Bond – Nehoiden Street Subdivision (Armen Way).

Ms. Newman noted she received letters from 2 departments. There are 2 bonds requested for release – off street and performance. She noted there are 2 issues -- one with the pedestrian path with 2 parking signs and the other issue is the gas line to be located within the 3 foot easement. It does not show where it was installed. The easement is crossing the town utilities.

Mr. Eisenhut noted the following correspondence for the record: a memo from Town Engineer Anthony DelGaizo, of the DPW, dated 9/10/12, recommending no release and a memo from Tara Gurge, of the Board of Health, dated 9/5/12, recomending no release of the bond.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the four members present unanimously:
VOTED: to recommend denial of both requests.

Request to Release Off Street Drainage Bond – Sachem Road Subdivision (Pandolf Lane)

Ms. Newman stated there is an issue with the Board of Health. There is a water issue that has not been addressed. Mr. Eisenhut noted a memo from the Board of Health, dated 9/5/12.

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

Request to Release Lots (342 Cartwright Road Subdivision).

Ms. Newman noted this subdivision was approved in 2005. It is 2 lots and a private way was created. The road was installed but not inspected. Deficiencies have been found. There are no copies of recorded documents in the files and there are several issues. Some can be bonded, others cannot be.

Mr. Eisenhut noted the following correspondence for the record: a memo from the Town Engineer, dated 9/11/12, with issues; an email from Roy Cramer, dated 9/10/12; and an email from George Giunta Jr., dated 9/11/12.

The DPW is recommending no release at this point. Mr. Cramer stated he was the representative for the perspective buyer of Lot 2 – the rear lot. The front house is owned by Paul Ferreira. He noted in the subdivision covenant the septic must be installed or bonded. He would like to amend this. It does not make sense to construct the septic before the Board permits, then have construction equipment going in. Ms. Newman stated the bond could be provided or they could amend the language. Testing and septic design could be deminimus. Ms. McKnight stated they do not need a hearing to amend the covenant. Ms. Newman clarified it needs to be designed and approved by the Board of Health prior to occupancy.

Mr. Cramer stated the second issue is the barn on Lot 2. The barn as an accessory structure is fine if the house is there but with no principle structure is it accessory? The Building Inspector is ok with it as long as the buyer applies for a building permit within 6 months. He noted they anticipate purchase October/November but they need to go to the Conservation Commission. They will not apply for a building permit for about 18 months.

Ms. Newman stated it was legal as Mr. Ferreira owns both parcels but when he sells it will be illegal. Mr. Eisenhut asked if they could pull a permit and get extensions. Mr. Cramer stated he would like all to think of the options. He wants to meet with the Building Inspector himself to see what makes it 6 months. Ms. Newman noted it could be a 2 step conveyance. Leave the barn with the old lot and convey it later.

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

VOTED: to deny the request to release the lots.

Mr. Ruth arrived at 8:45 p.m.

<u>Request to Authorize Planning Director to Authorize Occupancy Permit – Amendment to Major Project Site Plan Review No. 2008-08: V.S.A., LLC, 1105 Massachusetts Ave., Suite 11G, Cambridge, MA 02138 and Next Summit Education, Inc., d/b/a Huntington Learning Center, 319 Littleton Road, Suite 300, Westford, MA 01886, Petitioners (Property located at 225 Highland Avenue, Needham, MA).</u>

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

VOTED: to authorize the Planning Director to authorize an Occupancy Permit for Huntington Learning Center when she is satisfied all is complete.

<u>Discussion of possible Zoning Amendments for the Special Town Meeting.</u>

Mr. Eisenhut noted the following correspondence for the record: a memo from Henry Haff, dated 9/11/12, with information on the proposed Zoning By-Law related to the Town's proposed Salt Shed site. Mr. Haff reviewed the parcels that had 20+ acres of open space that are town owned. Most have open space restrictions. He noted only the northern most lots may work with this proposal. This might have some impact on the Rosemary site and the golf course would be impacted if the use changed. He reviewed the options. The 3 school sites have existing school buildings and other constraints. The other 2 spaces are at the Recycling and Transfer Station on Central Avenue. The landfill site is unbuildable due to the landfill mound restrictions and surrounding wetlands.

Mr. Haff noted the transfer site is the proposed site for the salt shed. It is about 250 feet back from Central Avenue in the middle of the site. They would be utilizing the second loop for transportation. For an efficient building they need dump trucks to go in under a cover to deliver. It will be south facing with a gambrel roof. The back will be concrete. Mr. Ruth asked what happens to the park management operations. Mr. Haff stated that remains. This is next to that site. Mr. Jacobs noted this will be a seasonal use. Mr. Haff confirmed yes. He noted the current location has come to the end of its life.

Ms. McKnight asked if they limit it to locations where there are only 20 acres of upland with no wetlands would that exclude this site. Mr. Haff noted it would. Mr. Ruth stated he has zero interest in doing this analysis except on an extremely limited basis – so many feet and limited to certain items primarily for storage of goods or not used for human occupancy or one story only. Mr. Eisenhut stated unless you narrow it down to one specific purpose and application you are really getting into dangerous territory. Mr. Ruth stated he was happy to say primarily for storage of goods provided it is one story only. Not used for human occupancy.

Mr. Haff stated this will give them what they need for this building. Mr. Eisenhut clarified one story for storage and no occupancy. Mr. Jacobs stated they should keep the 20 acres. Ms. McKnight noted a one-story municipal building or structure located in a lot in excess of 20 acres that may be as high as 48 feet. Mr. Ruth added primarily for storage. Ms. McKnight noted storage is a type of use. Mr. Haff stated people would occasionally be going in to work so he would be cautious about saying not for human occupancy.

Mr. Jacobs stated he agrees with Mr. Ruth but wants to leave the 20 acres. He does not feel saying it may contain 3 stories adds anything. He is not sure why it is 100 feet when they have a setback requirement. It should be from the lot line or lot boundary and it should be more than 100 feet. Mr. Haff stated it may be 350 feet from the nearest lot line. Mr. Eisenhut stated 200 feet may be justified but not 300 feet.

Ms. Newman will draft language and ask the Selectmen to put it on the warrant. She will include a one story municipal building primarily used for storage with a 200 foot setback with 20 acres in existence as of a certain date. Mr. Jacobs stated he would like to go to 300 feet and a 20 acre lot. Ms. McKnight clarified in existence as a separate lot. That was agreed.

Ms. Newman noted Ms. Bailin amended the mixed use dimensional regulations. There is one provision that relates to the overlay district which has to be deleted. Generally they are changing the maximum height from 54 feet to 72 feet, lot coverage goes from 60 to 65 percent, FAR as of right goes from .3 to 1.0 and they are creating as relates to pervious surface that the open space shall have pervious surfaces for ways, streets, driveways, etc., which is the same language they applied in the NE Business Center. They will change the Special Permit FAR from 1.5 to 1.75 and allow up to 2.0 by Special Permit.

Mr. Ruth asked if she has any analysis. Ms. Newman stated she does not have a build out or traffic generation analysis. Mr. Warner suggested they may not be ready. Mr. Ruth asked if they have the ability to extrapolate from the information they developed in the spring. Ms. Newman stated they do not as that information was not for this particular district. Mr. Ruth noted they need the analysis. Mr. Warner commented he feels a sense the Board wants to study this further. Mr. Ruth stated he feels they should meet with Ms. Bailin to see what she thinks. Mr. Jacobs agreed they should do a study but that costs money. Ms. Newman clarified they do not have the money. Mr. Ruth stated the Fin Com could do a transfer of funds. He feels they would be happy to get this done.

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

VOTED: to encourage the Planning Director to communicate with the Economic Development people and the Town Manager to pursue a reserve fund transfer through the Fin Com to obtain adequate funds to conduct an appropriate study for rezoning that area both in terms of dimensions and use and a build out of traffic.

Mr. Eisenhut asked how the issue of Mr. Jensen's pool house will be addressed. Ms. Newman wrote a narrow zoning amendment that created an exception for the placement of a pool house from the edge of a pool. She will run it by the Building Inspector to see if it works. They will do it at Town Meeting. Mr. Jacobs stated he is ok with it if it is fine with the Building Inspector.

Ms. McKnight noted on the zoning articles she understands the Selectmen do not want to deal with the article regarding liquor stores at the fall Town Meeting. They want to see if people will support the liquor store special act. She heard the Selectmen were open to a set of guidelines such as the ones they were proposing. She will continue to work on them with Ms. Newman for presentation to the Selectmen.

Board of Appeals – September 20, 2012.

Bob Stearns, 38 Palmerswoods Drive, The Woodlands, Spring, TX 77381 – 95 Riverbend Lane, Needham, MA.

Upon a motion made by Ms. McKnight, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: "No comment."

Committee Appointment (Design Review Board, Transportation Committee, Future School Needs Committee).

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to reappoint Steven Tanner to a subsequent term on the Design Review Board and Roger Toran to the Future Schools Committee.

Ms. McKnight recused herself for the Stephen McKnight reappointment.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to reappoint Stephen McKnight to the Transportation Committee.

Mr. Eisenhut noted Stephen McKnight disclosed he lives close to the train tracks and is disturbed by the train noise. It is a conflict of interest but he feels he can deal with it.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to make such determination it does not adversely affect Mr. McKnight's ability.

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 5/22/12 and 6/12/12 as written.

Ms. McKnight noted on the May 2 minutes, page 2, it should not be more than 3 feet. Mr. Jacobs asked if it was 30 inches. Ms. Clee will check.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to approve the minutes of 5/2/12 with the change discussed.

Report from Planning Director.

Ms. Newman noted the Charles River ARC is building a group home. They are funding $280,000 with HOME Funds. There has been an environmental review. There will be a public hearing on 10/16 and they will coordinate with the ZBA. They are using all the money that is sitting there as in the future they do not know how much they will get. Part of the money is from CPA funds.

Regarding a memorandum prepared by Ms. Bailin summarizing her discussions with applicants, Mr. Jacobs noted one thing in particular bothers him. He is in favor of making improvements in Board procedures wherever necessary. Where he had a problem was that the memo had an undercurrent that made him uncomfortable that the Board was unpredictable to some extent with its decision making process and the substance of its decision making. To the extent it seemed like, with the people she interviewed and the way she put the memo together, that what they would advocate for the application process and meeting with the Town Engineer and the Planning Office would lead inevitably to an entirely predictable decision from the Board whenever it gets to them. The problem is the perception with the public, at some times, is that it is a done deal. He wants to be open-minded and not entirely predictable. He does not want to pre-judge anything. Mr. Warner stated he supports Mr. Jacobs.

Ms. McKnight stated what bothered her most was the criticism of the collegiality of this Board. They try hard to come up with consensus. She feels the criticism is untrue, however, the consensus is in the direction of greater restrictions or strictness. Mr. Jacobs stated the only concern he does have is he does not feel they have a handle on how to best enforce conditions in decisions. There is no budget for it and how do we know if the conditions are even being complied with. It is a weakness. Mr. Warner commented he has worked with many boards over the years and this was the best one.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to adjourn the meeting at 10:00 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Sam Bass Warner

Sam Bass Warner, Vice-Chairman and Clerk