NEEDHAM PLANNING BOARD MINUTES

May 21, 2013

The regular meeting of the Planning Board held in the Charles River Room of the Public Services Administration Building was called to order by Bruce Eisenhut, Chairman, on Tuesday, May 21, 2013 at 7:30 p.m. with Messrs. Warner and Jacobs and Mss. McKnight and Grimes as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Correspondence

Ms. Newman stated she has put a copy in the packet of an invitation to a meeting of the Green Needham Collaborative that was held yesterday. She has also included a copy of the Board of Appeals decision on Volante Farms which included their decision on the sale of beer.

Request to Review and Approve plans for issuance of building permit: Major Project Site Plan Special Permit No. 2013-02: Town of Needham by its agent the Needham Permanent Public Building Committee, 500 Dedham Avenue, Needham, MA, Petitioner (Property located at 1407 Central Avenue, Needham, MA).

Ms. Newman stated there were a couple of minor modifications on the drawing. She would like authority to act on behalf of the Board when she receives the revised plans. She noted they are discussing a strip to catch salt when the trucks leave the recycling center. She added an additional parking space has been added.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the five members present unanimously:
VOTED: to authorize the Planning Director to approve the permit outside of the meeting.

DeMinimus Change: Major Project Site Plan Special Permit No. 2012-06: Brookline Development, LLC, 3 Craftsland Road, Chestnut Hill, MA, Petitioner (Property located at 36-58 Dedham Avenue, Needham, MA).

Ms. Newman stated the Board approved the theater block and construction on Great Plain Avenue. The applicant required a plan modification with cross easements and this took time. They have had meetings and are close to finalizing. She noted there will be more upgrades on Dedham Avenue.

Christopher Mulhern, of Harrison Mulhern Architects, stated he was engaged by Mr. Mackin first and now by Jeff Feuerman, of Brookline Development LLC, to make modifications. He believes the changes are minor in scope. The building is the same size and shape. They have changed the materials on the upper portion to a more traditional horizontal siding. The window system previously was 2 window groups. Now there are 4 groups of windows. He noted it is an easier layout. They have added light fixtures on the balconies between the windows. The roof screen has been consolidated and moved back. There is one rectangular roof screen now and the overall height is the same. They have changed the bracket supports in the corner of the driveways. They had the planters at grade. Now they have raised them similar to the side elevations. They are proposing a rougher finish down low.

Ms. Newman stated the Design Review Board has looked at the changes and approved. Mr. Mulhern stated the windows on the top floor have shifted a little. A door has been replaced with windows and a single window became a double on the top level. They have moved the door around to have a more consistent look. There are minor window changes in the retail space. He noted they took out one window. Ms. McKnight asked if there were balconies on the second and third floors. Mr. Mulhern confirmed there were.

Mr. Mulhern noted they made a triple window into a double and evened out the elevations to make them blend around the building better. Mr. Warner asked if it was all brick. Mr. Mulhern stated it was brick on 3 sides. The only variation in material is the upper levels. The back portion was siding but now has brick on it. The second and third floors have been changed to masonry and wraps around. They notched out the roof on the balcony. He stated the big thing is they have gone from siding to brick and changed the pattern of the screening. They are hoping ivy grows up it.

Mr. Eisenhut stated they should discuss what the standard for a deminimus change is. He asked if there is any likelihood there would be comments by the town or abutters. He commented they should set a standard. Mr. Jacobs stated in the past they had Devra Bailin's warning. Mr. Eisenhut asked what standard do they apply. They give notice of a change. If the Board went through the process of a formal notice for this change they would be wasting their time. Ms. McKnight stated there are 2 processes – a notice to the abutters and sending plans to other town department so they receive comments.

Mr. Eisenhut noted the following correspondence for the record: an email from the Board of Health with no comment; an email from the Town Engineer with no objections to the revision and the Design Review approval. Mr. Eisenhut asked if it was necessary to notify other town board if there are no issues. Ms. Newman stated they always notice the Town Engineer if there are exterior changes and the Design Review Board. If there are any fire safety issues they notice the Fire Department.

Ms. Newman explained the process of how she handles the notices. Mr. Jacobs stated Design Review Board approval is a misnomer. They give a recommendation not approval. Ms. Newman stated the recommendation is made enforceable through Planning Board action. Ms. McKnight noted the major projects reference to Design Review Board in Section 7.2.5 of the Zoning By-Law. It seems the DRB has no further role to play but it makes no sense. They are treated as a helpful board. Mr. Eisenhut stated they are acting as the Planning Board's agent. Mr. Eisenhut stated the By-Law requires the Planning Board get the DRB's opinion and they have a timeline to respond.

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

VOTED: to approve the required deminimus changes presented with the caveat that processing it as a minor modification is at their risk.

<u>DeMinimus Change: Major Project Site Plan Review No. 2011-01: Wingate Senior Living, 63 Kendrick Street, Needham, MA, Petitioner (Property located at 235 Gould Street, on the westerly side of Gould Street between the Wingate at Needham Nursing Home at 589 Highland Avenue and the MBTA Right of Way).</u>

Roy Cramer, representative for the applicant, stated they have 2 requests. The first is approval for a temporary sales office on Lot C. He noted a condition of the Certificate of Occupancy is to do the landscaping. They need to remove the sales office to do it. They want a temporary Certificate of Occupancy for the sales office to move inside. For the second request he noted the construction of the project has gone quicker than the affordable housing process. He noted a condition of the Certificate of Occupancy is they have the affordable units approved and recorded. They are asking to delete that requirement.

Mr. Cramer stated they will continue to work on the affordability stage. They have filed appeals with the town and the town is continuing to review them. He noted they will not have 2 units occupied until the process is done. Mr. Eisenhut asked if it says they will remain vacant until approved. Ms. Newman stated they will keep them vacant in #2 of the conditions and limitations. Mr. Eisenhut stated he would like "shall keep vacant." He suggested they take out "has agreed to" and put "shall."

Ms. McKnight asked if the applicant's submission is likely to be approved because it follows the form. Jeff Engler, a marketing consultant, stated he has looked at a lot of regulatory agreements through DHCD. He stated some developers would make a lot of changes but recently the DHCD has not allowed many changes. Ms. McKnight stated one big issue with the DHCD is if you start marketing prior to approval it upsets them. She would like to add "applicant shall defer marketing of affordable units until a marketing plan is approved by DHCD and keep the affordable units vacant pending completion."

Ms. Grimes asked how long it takes for applications to be approved. Mr. Engler stated it could take 3 to 4 weeks through 6 months. They do not have any real leverage. Ms. Grimes clarified there was no requirement to get back to the applicant in a certain time frame. Mr. Engler noted this was correct. Mr. Cramer stated he would rather not put that language in. He noted he was relying on Mr. Engler. Mr. Eisenhut stated it protects the interests of the town. Mr. Engler stated he would be comfortable advising his client the language is ok. Mr. Jacobs suggested they make an (a) and (b) with (a) being the deferred marketing and (b) being they shall keep the affordable units vacant.

Upon a motion made by Ms. Grimes, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to approve the deminimus change in the form presented with the change to add (a) and (b).

Discussion of proposed project: Major Project Site Plan Special Permit No. 1999-5: McDonald's Corporation, 690 Canton Street, Westwood, MA, Petitioner (Property located at 340 Chestnut Street, Needham, MA).

Ms. Newman noted she invited Mr. Cramer to come before the Board to discuss façade changes to McDonald's. They decided to process this as a deminimus change. Mr. Cramer stated this is a modernization project. It is limited to the façade change. The number of seats stays the same and the parking stays the same. They would like to upgrade the landscaping in front and repair the dumpster enclosure. They also want a more modern menu board and machine to speak into. There is no increase in seats and no change to drainage. It is a change in aesthetics.

Mr. Cramer stated the Design Review Board liked the changes and approved them. He added the Building Inspector is comfortable accepting the building permit approval and felt there was no need to go back for site plan review. There are no Board of Health or conservation issues. Mr. Cramer stated they feel no need to have further site plan review. The site is fully developed and they feel it is the perfect case of not having to come back. It is time consuming and expensive.

Ms. Newman stated they try to process deminimus changes quickly. The last one was received 1½ weeks ago. She stated they need to be careful if they change the process. She does not know how to get outside of deminimus changes. The decision says if changed the applicant needs to come back. Mr. Eisenhut stated they can do a deminimus change.

Mr. Jacobs asked the Planning Director what other departments she would have to look at this. Ms. Newman stated Engineering and the Board of Health for the dumpster. Mr. Jacobs asked if they could hear the proponent tonight, then give Engineering 1½ weeks to comment and then they can finalize it. He asked if that was viable. He stated it is hard to envision this Board will have issues with this.

Ms. Grimes asked why this is not an insignificant change. Ms. Newman explained the insignificant policy was drafted to address changes during the process, not on a project approved 13 years ago. Mr. Jacobs commented the Planning Director has to be comfortable with the discretion she is given. Ms. Newman stated she does not agree a complete relook in the downtown area is insignificant -- not how it looks and presents itself from the street.

Ms. McKnight commented she feels it is Mr. Cramer's judgment, as attorney for the applicant, that Section of 3.6 of this provision that states "any change or modification of the plan shall require approval by the Board" can be ignored. Mr. Cramer clarified it should not be ignored but it needs to be read in context with Section 4.2, which says no further development without Board approval. There is no further development. They are not expanding. He feels Sections 3.6 and 4.2 should be read together. Ms. McKnight stated it is not the Board's decision to make. She noted it was Mr. Cramer's decision as he is the attorney for the applicant.

Mr. Eisenhut stated he wants to deal with this expeditiously. They should let Mr. Cramer present and they can make a determination if it is deminimus. Ms. McKnight stated they should have an application. Mr. Eisenhut stated they can authorize an application be submitted after the meeting that would include what Mr. Cramer stated he would write for the application. There was a consensus to hear the proposal.

Mr. Cramer appeared with John Kucich, Bohler Engineering, and Adam Guilmette, McDonald's Corporation. Mr. Cramer explained the existing conditions. The parking spaces will remain in the same locations, the curb cuts are the same and the dumpster is in the same location. They want to repair the deteriorating enclosure. There will be a new menu board in the back of the building within a few feet of the original. They would like to formalize what they have been doing for years. They would like to put a sign at the 2 spaces next to the exit designating the spaces as waiting spaces. He noted the significant change is to the landscaping.

Mr. Kucich statedthe only physical changes are to rebuild the dumpster enclosure, new signs, new menu boards, landscaping and new plantings. The Design Review Board made some suggestions and they have made those changes. There will be 46 shrubs and 50 plants in 100 square feet of space. They are extending the concrete pad by a few feet to accommodate the new menu board.

Mr. Warner asked if the bike rack is still there and was informed it is. Ms. McKnight stated the landscaping as it exists is better than others and she commends them. She noted the enclosure around the dumpster is brick with solid wood gates. She feels it is one of the best in Needham. She hopes they are just repairing the brick. Mr. Kucich stated water penetration is a problem with block. Water penetration into the block freezes and pops the block. They are replacing with a 7 foot treks enclosure with steel gates with trex boards on them. He noted it was easy to replace if it is hit. It gives the solid nature they are looking for and is easily repaired.

Mr. Jacobs asked if the roof line is changing at all. Mr. Kucich noted they have a double mansard roof, which are on all the old McDonald's. They are getting rid of the double mansard roof and raising the parapet. It goes up a couple of feet higher and covers the mechanical units. The actual roof line does not change, just the parapets. Mr. Cramer stated the McDonald's letters are going away and it will just be the symbol M. They are updating for a more minimalist look. The drainage from the roof is unchanged.

A motion was made to approve those changes and modifications as shown on the plans presented with the following provisos: the plans be provided to our Engineering Department, and any other departments the Planning Director feels are appropriate, for review within the next 10 days. Absent any comments from Engineering a deminimus change decision will be prepared by the Planning Director to be signed by the Board at the next meeting.

Ms. McKnight stated, as presented, she would not vote on this tonight. She would prefer to vote to approve at the next meeting and at this meeting vote to treat this as a deminimus change. She stated the Planning Director should be encouraged to refer to the Engineering Department and they should be prepared to come back with their recommendation in 10 days. She would vote for that. Mr. Jacobs stated the intent of his motion was a provisional acceptance. If Engineering has no objection or does not comment the applicant does not have to come back. The only reason they would need to come back is if one of the departments has some comments or concerns. Mr. Jacobs revised the motion to state there will be provisional acceptance of the proposed changes and modifications subject to Engineering Department comment, approval or disapproval. If Engineering does not make any comment on June 4th they will sign the deminimus change decision the Planning Director prepares. If there are comments that need to be dealt with they will deal with them on June 4 and make any changes necessary.

Ms. McKnight stated she would like to say she heard the presentation and is satisfied with the changes. She would like to have the application referred to the Board. She noted the basic idea is to approve any changes at the next meeting rather than now. Mr. Eisenhut asked Ms. McKnight if she would object if they made a finding that the changes as presented to the Board are deminimus. Ms. McKnight stated she would not object to that but that was not part of the motion. She feels they should determine the changes presented tonight are deminimus and ask the Planning Director to circulate the changes to the appropriate Boards to act on at the next meeting. Ms. Newman clarified the motion was the Board made a decision the changes are deminimus as presented, they have asked for comments from other Boards and they intend to vote the approval at the next meeting, without any conditions, if they do not hear back from any other Boards. Ms. Grimes requested they specify which Boards. Ms. Newman noted she will send it to the Engineering Department and the Health Department. Ms. Grimes stated that would satisfy her.

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

VOTED: to move the Board made a decision the changes are deminimus as presented, they have asked for comments from other Boards and they intend to vote the approval at the next meeting, without any conditions, if they do not hear back from any other Boards, specifically the Engineering Department and the Health Department.

Review and Discussion of Deminimus Change: Major Project Site Plan Review Special Permit No. 1995-09, Vinodivino (Raphael Keller-Go), 899 Walnut Street, Newton, MA, 02461, Petitioner (Property located at 922-958 Highland Avenue, Needham, MA).

Ms. Newman stated the applicant has asked for a demiminus change. Hollywood Video had 2 parking spaces. Carewell has taken half of the Hollywood Video space and Vinodivino took the other half. She showed the Board the door changes that have been requested. She noted the Board of Selectmen has issued a liquor license. There was an interim plan that went to the Building Department. They took the space and divided it in half and ran a wall parallel to Highland Avenue. They created one space fronting on the parking lot and one space fronting on the Highland Avenue side.

Ms. Newman stated the Building Inspector had issues with that from a code perspective and there were issues on the planning side because there was supposed to be one plan with one tenant. The revised plan indicated a wall with a small entry coming in off of Highland Avenue. They have further revised the plans creating a corridor off Highland Avenue with common bathroom space. She stated Vinodivino is taking the whole space and retail is allowed. The only issue is they could have 2 tenants in that space. Originally they thought there would be only 2 in there.

Roy Cramer, representative for the applicant, stated they are not asking for anything. They are not planning on subdividing. He noted the Building Inspector understands this. There is no change from the approval of a couple of months ago. Mr. Jacobs asked what the changes were from the A1 plan to the A10 plan. Mr. Cramer stated there were no changes. They were just putting in detail.

Ms. Newman stated she thought there would be one tenant. There is the potential for more than that now. Ms. McKnight clarified there is no door directly from the selling space to the storage space. Raphael Keller-Go, the applicant, stated the main storage is in the basement where there is natural cooling air. Mr. Jacobs stated he feels it has been set up for a second tenant. Ms. McKnight stated the plan presented to the Board does not have a staircase. Mr. Cramer clarified there is just no detail on that plan.

Ms. Grimes asked how many feet the corridor is. Mr. Keller-Go informed her it was about 60 feet. He noted they are limited to 1,000 square feet by the Board of Selectmen. He stated they needed to find some way for people to come in Highland Avenue.

Request to Review and Approve plans for issuance of building permit: Major Project Site Plan Special Permit No. 2012-06: MMM Property, LLC, 7 Harvard Street, Brookline, MA 02445, Petitioner (Property located at 36-58 Dedham Avenue, Needham, MA).

Request to Review and Approve plans for issuance of building permit: Major Project Site Plan Special Permit No. 2012-06: MMM Property, LLC, 7 Harvard Street, Brookline, MA 02445, Petitioner (Property located at 916-932 Great Plain Avenue, Needham, MA).

Ms. Newman stated she would like the Board to give her the authority to authorize the Building Inspector to issue a building permit when the plans are approved by Engineering and the easement documents are reviewed and refined. This will allow the project to go forward.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the five members present unanimously:
VOTED: to authorize the Planning Director to allow the issuance of the building permit when she is satisfied.

Board of Appeals – May 23, 2013 and June 4, 2013 (including 40B comments).

Greendale Avenue Venture, LLC , c/o Mill Creek Residential Trust LLC, 15 New England Executive Park, Burlington, MA 01803

Ms. Newman noted they are making arrangements for the applicant to make a presentation to the Board at the 6/4 hearing and they will be having a meeting with the Board of Appeals on Thursday. She stated she has applied for a Massachusetts Housing Partnership grant and they have hired a consultant to assist the Board of Appeals in reviewing the process. She will review the plan and she noted it is a long process. She has received comments from the police, Board of Selectmen and Park and Recreation already. Ms. Newman clarified it is a ZBA permit. The Planning Board is only making a recommendation.

Thomas Day, 11 Aldridge Road, Needham, MA 02492 – 11 Aldridge Road.

Mr. Warner noted it seems the driveway is 5 feet from the edge. Ms. McKnight noted the garage has to be set back a minimum of 5 feet from the lot line. They are just reflecting what the zoning requirement is.

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

Greendale Avenue Venture, LLC c/o Mill Creek Residential Trust LLC, 15 New England Executive Park, Burlington, MA 01803.

Ms. Newman noted she felt they should wait on this.

Ms. Newman noted the Engler project needs comments from the Board.

Greendale Village LLC, 165 Chestnut Hill Avenue, Unit #2, Brighton, MA 02135.

Ms. Newman reviewed the comments she has received. She noted the Board of Selectmen are concerned with only 20% of affordable units rather than 25%. The Fire Department had issues with the turnaround at the end of the drive. She noted this has been addressed with revised drawings. She stated the Police are concerned with a new crossing. They will extend the walk down Greendale Avenue to Grosvenor Street and put in a handicap ramp. The Conservation Commission has an existing trail system. They have agreed to put a trail in the easement as it crosses their property. Ms. Newman noted they have not put a connector to their property. She stated Engineering had issues. There was no traffic study but they have that now. There is also a concern with tree removal along Greendale Avenue. The DPW is satisfied with drainage and sewer and the retaining wall on the property line is ok. She stated Park and Recreation wanted the trail upgraded on the town property, which is on the adjacent parcel, at the developer's expense. This has not been done.

Ms. McKnight stated she is not inclined to comment on the trails. She stated people can use the trail that is right there. She feels it could be tied in that way. This directly abuts town land but they have not provided access. Mr. Eisenhut stated they could upgrade the existing trail or put in their own. Ms. Newman will recommend they do one or the other with the trail. She will call out the other issues and tell how they were resolved. Ms. McKnight noted it should say something positive about meeting the standards the Board just adopted. Ms. Newman noted they have been very responsive to the town. She will prepare a draft letter.

Minutes

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to approve the minutes of 2/5/13.

Discussion of Summer and Fall Schedule.

Ms. Newman noted 7/9 was ok. Ms. Grimes stated she would not be here 8/13.

Report of Planning Director.

Ms. Newman noted they are moving forward with the Lincoln Street parking area. There is a hearing with the Board of Selectmen next week.

Upon a motion made by Mr. Warner, 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