

NEEDHAM PLANNING BOARD MINUTES

January 7, 2014

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, January 7, 2014 at 7:30p.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 noted she included a copy of the Board of Appeals decision for the Board's information and the new schedule. She noted they have re-advertised the medical marijuana. There was an error in the ad so they had to re-advertise the hearing for a new date of February 4, 2014.

Rockwood Lane Definitive Subdivision: Wayside Realty Trust, Chris Kotsiopoulos, Owner and Trustee, 36 Rockwood Lane, Needham, MA, Petitioner (Property located at 36 Rockwood Lane and 5 adjacent parcels, Needham, MA, Assessors Plan No. 7 as Parcels 22, 23 and 24 and Plan No. 20. as Parcels 57, 60 and 61). Note: This hearing is continued from the July 23, 2013, September 17, 2013 and October 22, 2013 Planning Board meetings. The applicant has requested that the application be withdrawn without prejudice.

Ms. Newman noted they never opened the subdivision hearing. The applicant has hired another engineer and will re-file.

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

VOTED: to withdraw the application without prejudice.

Release of Off-Street Drainage Bond: 708 South Street (Riverbend Lane) Subdivision – Lot 3 (#75 Riverbend Lane).

Ms. Newman noted they made a request in October. There is \$14,000 held in an Off-Street Drainage bond. There are 4 lots covered at \$3,500 each. The abutters had not received notification from the developer at that time. This has now happened. The Board of Health is recommending release of Lot 1 for \$3,500.

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

VOTED: to recommend release of \$3,500 for Lot 1.

Request to approve revised plans and subdivision documents: Charles River Street Definitive Subdivision: Richard J. Gaffey, Trustee, 634 Charles River Street Realty Trust, 420 Lakeside Ave., Marlborough, MA, Petitioner, (Property located at Map 305, Lot 23 off of Charles River Street, Needham, MA).

Ms. Newman noted this was a subdivision in litigation and the issue has been resolved. They presented the town with the subdivision plans modified for the Board's decision. The gas company had asked for some other notes to be added on the plan, such as construction detail, to give them access through the subdivision to their facility other than the easement. The documents have been reviewed by the Assistant Town Engineer. The Town Engineer has not reviewed the final mylars yet. The documents have been reviewed by Town Counsel and they are in a form he is now happy with. Engineering has not reviewed those yet. She would like the Board to vote to endorse the plan when the drawings have been signed off by DPW, Engineering and the Town Clerk and the documents have been formally signed off on by Town Counsel and Engineering. She does not want them to have to wait another 3 weeks to get them signed.

Roy Cramer, representative for the applicant, stated they were anxious to get this resolved. They had hoped they would get it all resolved tonight. Everything has been approved and they want to move forward. Ms. Newman noted it has to be signed by the Planning Board, Town Engineer, DPW Director and Town Clerk. Some of the documents need to go to the Board of Selectmen for acceptance by the town. Mr. Eisenhut noted the motion would be to endorse plans subject to all applicable documents. Ms. Newman stated she hoped to get this closed out this week or early next week.

Mr. Cramer noted the change made was re-dating from 2011 to 2014 and a grant of an access easement and utility easement. He noted in paragraph 5, they need to change the town indemnity. It is set at \$100,000 per claim. Mr. Jacobs stated they still have that language in the water easement document. Mr. Cramer noted he had a concern with lots off Whitman Road only. Mr. Jacobs stated the utility easement should say "or assigned" not "of". The language should be changed in both.

Ms. McKnight stated an indemnification is not appropriate since there is no appropriation to back up the \$100,000. She does not know where it comes from. Ms. Newman will ask Town Counsel where it comes from. Ms. McKnight stated she would not have it herself. She is surprised to see a grant of indemnification at all. She noted it is sometimes covered by the towns' insurance coverage.

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

VOTED: to endorse the plan subject to the appropriate authorizations and signatures.

Establishment of Bond and Request to Release Lots and Review of 30-Foot Access and Utility Easement Across Lot 5: Webster Street Definitive Subdivision Associates c/o Petrini Corporation: 187 Rosemary Street, Needham, MA 02494, Petitioner (Property located at 1135 Webster Street, Needham, MA).

Ms. Newman noted there was no Engineering Department estimate for a bond. They are waiting for the developer to get an estimate for the landscaping costs. She noted Engineering did a site inspection and identified work to be done. There is a lot of landscaping so they are waiting for the developer to give them an estimate for the landscaping. They will use that as a base for the final bond.

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

VOTED: to recommend the Planning Board authorize the Planning Director to move forward with a release of lots with a bond amount established by the Engineering Department when she is in receipt of the bond for all the lots with the exception of the two where there is an easement which she needs to have Town Counsel review.

Roy Cramer, representative for the applicant, noted they want a release of Lots 4 and 5 also. Lot 4 fronts on South Street. The access and utility easement is over Lot 5 to get to the subdivision roadway. They need to have the easement before the lots can be released. Town Counsel has it but has not looked at it yet. When approved by Town Counsel they would like those lots released as well.

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

VOTED: to authorize the Planning Director to release the lots as long as Town Counsel approves it.

Council of Economic Advisors Downtown Subcommittee: Recommendations Regarding Zoning and Regulatory Modification to Improve the Permitting Process.

Mr. Eisenhut noted they had a document titled Insignificant Modification Not Requiring Planning Board Action. He asked if there was anything else. Ms. Newman noted they had, in the packets, the zoning changes they had been talking about which include: Off-Street Parking Requirements, Site Plan triggers, comments received from Jon Schneider on the parking discussion the Zoning Board of Appeals (ZBA) was having and Swizzles.

Ms. Grimes noted Section 5 – Off-Street Parking Regulations. She stated they looked at Off-Street Parking to potentially create some flexibility so they are not triggering parking waiver requirements in certain areas. She noted some of this came up as a request from the ZBA. There are a lot of things they thought they could alleviate. They looked at the number of parking spaces that might be appropriate. The goal in the areas where there is a lot of train access and foot pedestrian traffic in downtown areas they could easily create some flexibility and eliminate some of these requirements to a certain degree so as not to impose on businesses.

Ms. Grimes asked what the Board in general thinks is appropriate in terms of the number of spaces to add. Mr. Eisenhut stated they look historically at the number of waivers granted. Usually if the request is less than 5 they grant waivers. Ms. McKnight stated she feels it is hard to generalize. She asked the Planning Director and Assistant Planner to look at the history of issuing waivers over the past 5 years. She was given 6 examples that involved parking. With Needham Music Inc. the request went from 16 spaces to 15 spaces. The request was for one space less than the prior use required. Ms. Newman noted they are creating a change in the threshold and apply parking waivers in certain districts. Mr. Eisenhut asked about the ZBA. Ms. Newman noted outside of the Center Business District her understanding is they are not bothered by the number issue. Their issue is around waivers of design standards.

Ms. Newman stated if they choose a lower number in the center she does not know how many fewer cases would not come before them. They would come for other issues. Mr. Warner noted the Downtown Economic Development people would like some sort of automatic parking threshold regardless of all the consequences of all the other dimensions that we deal with. If this makes them happy, and the Planning Board still gets to control all the other things that they want, then what is the problem?

Ms. Grimes stated the changes in 5.1.1.4 would be real positive changes which refer to handicap spaces. Mr. Eisenhut stated that is a different issue and he is totally in favor of that. Mr. Jacobs asked what the practical impact would be. Ms. Newman stated doing something on the design piece as it relates to the projects the ZBA is hearing would take a load off of them. Ms. McKnight noted the ZBA is concerned with all having to come before them for waivers of design requirements. Mr. Jacobs stated the last sentence of 5.1.1.1, he feels, eliminates 5.1.3 a-g. He asked why they should go along with that. He stated, to him, the design requirements should apply. He feels they need to tailor much more clearly to actual objectives. Ms. Newman stated allowing conversions to occur from one use to another, and as long as the number is satisfied, the design standards are not implicated.

Mr. Eisenhut stated he often feels some standards could be met and others cannot. They should go through the subsections to see which apply. Mr. Jacobs stated he does not like to give carte blanche. Ms. McKnight reviewed recent waivers for parking – Needham Music actually reduced their parking requirements but came in for a waiver because they were changing the use, Swizzles Frozen Yogurt needed 13 more spaces than previous, their demand went from 76 to 89 for the entire site. She noted 45 spaces were provided. The cupcake bar went from 63 to 77 spaces. Ms. Newman noted both required special permits just for the use.

Ms. McKnight stated Sweet Basil took over some additional space and needed 5 additional spaces. They limited the number of seats during the day because they were concerned about parking but ultimately got rid of that. It was a condition and one they thought was important at the time. She noted for Fusion Cuisine they did not say how much parking was required previously. Ms. Newman stated the number of seats did not change. Ms. McKnight stated they needed 44 spaces and only had 2 spaces.

Mr. Eisenhut stated they should say 10 spaces plus 5. If they need a waiver of that number, or less, they do not need any further waivers of design standards for additional parking. He stated they should write it very clear. He thinks it should be 10 and 5. He added he feels 15 and 10 are too high. Mr. Jacobs stated he has no real problem with it. Mr. Warner stated he was fine if it was changed from 10 to 5.

Mr. Jacobs stated he would like to see how Mr. Schneider would change the wording in the last sentence to see how he would deal with the design requirements. Ms. Grimes stated they should work on the wording and he will

have to deal with it. Mr. Jacobs reiterated Mr. Schneider should draft the language to what his problems are and how he would deal with them.

Mr. Eisenhut asked what the most commonly granted waivers were. Mr. Jacobs stated he would go back and ask for more input from Mr. Schneider. Ms. Grimes noted she wants them to come up with their own language. Ms. McKnight stated the trigger should be a large number of new spaces like 10. Ms. Grimes noted it shall only apply to spaces over 10. Mr. Eisenhut stated they should spell out which waivers would not apply.

Ms. Newman noted it is easy for the center to just make it 10. She is not sure about outside of the center. Mr. Warner stated 5 outside of the center. Ms. McKnight noted they should just have 10 all around and say in downtown they do not need a waiver if the increase is less than 5 in the center. It should be 10 and 10 for design. Mr. Eisenhut stated everything should be 10. Ms. Newman agreed.

Mr. Eisenhut stated he does not want to give up on parking space design, size or driveway openings. He noted they usually waive Section 5.1.3 (a) of the Zoning By-Law. Ms. McKnight stated they cannot waive Section 5.1.3 (c). Mr. Eisenhut stated they should call out the ones they are talking about. All members agreed Section 5.1.3 (a), (i), (k), (j), and (l) can be waived. Ms. Newman stated the plan is to make 10 parking spaces. Mr. Eisenhut stated waivers in the center up to 10 parking spaces and specific design waivers everywhere else. Ms. Newman noted Center, Chestnut and Avery should be 10 spaces.

Ms. McKnight stated, to be clear, 10 spaces or more. If it is 9 spaces they do not need to come in for a waiver. If it is ten or more spaces they need to come in and for the design review it is the same thing. Ms. Newman noted they are waiving up to ten spaces on Chestnut Street Business, Center Business and Avery and they are not requiring design compliance as to those specific subsections where up to 10 parking spaces are triggered in all districts.

Ms. McKnight stated she has an issue with the wording in 5.1 which she feels is much too broad. The state is talking about changes to existing parking lots to improve the storm water management and that then would trigger "shall not be applicable." Mr. Warner stated that would be very good because they want to do something about storm water in these big parking lots. He feels it is very important. Ms. Newman noted on page 2 it should be written to clarify the problem which is the handicap accessible parking. It is to be brought into compliance with. Ms. Grimes stated they should take out "but not limited to." That would solve the problem. Mr. Jacobs agreed.

Ms. Grimes noted Section 7 of the Zoning By-Law, on page 187. She stated the Design Review Board (DRB) has no authority to approve anything. Ms. McKnight asked if this would require a special act. She is not certain. Mr. Jacobs noted they could say the DRB recommends approval to the Planning Board. That is what they do -- recommend approval. This could be said or it could say "granted DRB authority."

Mr. Jacobs noted they really want to focus on Section 7.7.2.2 of the Zoning By-Law, page 198 – Specific Powers. He noted the last paragraph does findings and recommendations currently. On page 187 they should take this out and change to "recommends approval" to Planning Board. Mr. Eisenhut stated he would like the Planning Director to at least look at it and to verify. They need to verify a façade change only. Ms. Newman noted they can get rid of the last sentence that says "for purposes of..." Ms. McKnight noted they are clarifying minor projects only for exterior facades. Ms. Grimes stated this is correct.

Mr. Eisenhut stated the applicant may appeal an adverse decision to the Planning Board. He stated they should specify who has standing to appeal. Ms. Newman noted they do not need to specify who can appeal. Mr. Eisenhut stated they do need to specify who can appeal and a timeline. Ms. McKnight noted they can appeal a denial of a building permit. Ms. Newman noted it should be minor project site plan approval. Mr. Eisenhut stated they should say nothing about an appeal. It is covered by state law. Ms. Grimes stated they should take that out and the last sentence.

Ms. Newman stated awning replacement, windows and doors go through the DRB. They should make them the agent that looks at facades. Ms. Grimes noted in 7.7.2.2 they should give the DRB the authority to approve for

minor façade changes only. Ms. Newman stated she wants to trigger, in the center, construction of any parking lot. She wants to see if a new parking lot is being constructed. Ms. Grimes noted “unless for construction of new parking lot” could be added. Ms. Newman added “or results in the creation of new off-street parking spaces.” Ms. Grimes noted it shall not apply to construction of new parking lots. Ms. Newman stated no. It should be triggered by construction of new parking spaces or any project that results in the creation of new off-street parking spaces, curb cuts or driveway cuts.

Robert Smart stated they have a model already. Ms. Grimes stated they should mimic what is above in other districts. Ms. Newman suggested any new parking and not a threshold number. She stated she and Ms. Grimes will attempt to update and distribute and she will prepare a draft in article form.

Report from Planning Director

Ms. Newman stated she met with Ken Mackin to make an adjustment to the Special Permit to accommodate the golf store. They wanted 3 spaces in back exclusively. The decision limited parking in back to the owners and tenants due to several issues. She discussed what the process should be to amend the Special Permit. She noted the requirements for Section 3.7– 9 spaces, Section 3.9-restricted spaces, Section 3.13-warning signal, Section 3.14-no left turn and Section 3.15-traffic island. Mr. Jacobs stated the guests should be covered under 3.9 as guests. Mr. Smart stated guests are customers.

Mr. Eisenhut noted the intent was to not let customers park in the back. Robert Smart, representative for the applicant, stated Mr. Mackin’s tenant does not want to sign a lease until this is resolved. Mr. Mackin stated this company customizes golf clubs for golfers. They make appointments with customers for training. They will have 3 employees and 6 spaces. He noted each appointment takes 3 hours. The business will be open 9:00 a.m. to 6:00 p.m. They want to try to be operational for April.

Mr. Smart stated they are requesting the following: the Board to authorize the Planning Director to write a letter for the golf store that states the Board will interpret this provision to allow for 3 spaces; to process this as a de minimus change; and there will be a full amendment with a hearing and filing. Ms. McKnight stated the intent in Section 3.7 is not to have the general public use the parking on site. Care was taken to differentiate guests from invitees. She noted they could say “this business unit customers who are provided with services by appointment only shall be considered guests under this provision 3.9.” She stated they need to clarify “guest.”

Mr. Jacobs stated they have 6 spaces and three are for employees. He asked what happens with the other 3 spaces. Mr. Mackin stated they are left empty. Mr. Eisenhut noted this needs to be a de minimus change. Mr. Jacobs thinks a letter is fine. He does not think a de minimus change is necessary. Mr. Eisenhut noted he was not comfortable with letters. He asked if Engineering should check it out. Ms. Newman will send it to Engineering for input.

Mr. Jacobs suggested they adopt the understanding of the word “guest” in Section 3.9 which incorporates Ms. McKnight’s language with respect to this tenant only. Mr. Eisenhut stated they did not intend for customers to park back there. He stated he is disinclined to redefine “guest.” Ms. McKnight noted Section 3.7 was drafted for this building.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by three of the five members present (Mr. Eisenhut and Ms. McKnight voted in the negative):

VOTED: to adopt Mr. McKnight’s language as relates to this business which would allow invited guests only by appointment between the hours of 9:00 a.m. and 6:00 p.m.

Ms. Newman will draft a letter and the Vice-Chairman can sign it. She will take care of it this week.

Large House Review

Ms. McKnight noted the League of Women Voters is having a program planning meeting. She was asked to speak at it with an update. Ms. Newman noted the new Housing Planner starts next week. Her hope is to get working on this within a month to get names for a committee. She will do a list of appointees for the next meeting. Mr. Warner stated Priscilla Murray of 58 Curve Street sent him a letter complaining about large houses.

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

VOTED: to adjourn the meeting at 10:20 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

A handwritten signature in cursive script, reading "Sam Bass Warner", written over a horizontal line.

Sam Bass Warner, Vice-Chairman and Clerk