

NEEDHAM PLANNING BOARD MINUTES

July 7, 2015

The regular meeting of the Planning Board held in the Selectmen's Chambers, Needham Town Hall, was called to order by Jeanne McKnight, Chairman, on Tuesday, July 7, 2015 at 7:00 p.m. with Messrs. Eisenhut, Jacobs and Alpert and Ms. Grimes as well as Planning Director, Ms. Newman, Assistant Planning Director, Ms. Clee and Recording Secretary, Ms. Kalinowski.

Public Hearing:

7:00 p.m. – Special Permit No. 2015-03: SSDS MA STUDIO 2 LLC, 143 Woodside Drive, Greenwich, CT, 06830, Petitioner (Property located at 905-915 Great Plain Avenue, Needham, MA).

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

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

Robert Smart, representative for the applicant, stated this is the location that used to have Needham Sporting Goods. There are 4 spaces and 2 are occupied. The 2 unoccupied spaces are 1,752 square feet and 2,000 square feet. This is a personal fitness martial arts establishment with an ancillary retail component and there would be more than one use at this location. The applicant is requesting a waiver for parking and design requirements.

Mr. Smart noted this will be martial arts instruction. There will be 2 maximum employees and the maximum number of clients most of the week is six. Classes are on Tuesday and Thursday afternoons and Saturday morning. Classes will have up to 12 students. The hours will be 9:00 a.m. to 8:00 p.m. Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday and Sunday. He stated, initially, the applicant probably will not be open on Sunday or all the requested hours. The applicant will see how the demand is.

Mr. Smart noted the parking waiver requested is for 23 spaces. There are no spaces on site. He noted if all were retail 6.85 spaces would be needed. This does not trigger a Major Project Site Plan review. They are requesting special permits and are in front of the Planning Board (instead of the Zoning Board of Appeals) because the Zoning By-Law states that parking waivers in the Center Business District are granted by the Planning Board. He noted he has drafted a proposed decision for the Board. He used the VO2 Max Elite decision as a template. Steve DeMasco, founder of the company, stated he has been in the business for 35 years. He opened in Wellesley last year. He noted all employees who work there are students, have been with him for years and worked their way up. He noted 80% of his business is children. He noted all of his staff has several years experience as a "black belt" and then 2 years of academy training. He noted he has a degree in psychology. This is a semi-private program he designed years ago. He used to have only group sessions but added the 4 to 6 semi-private classes and this schedule works well for parents.

Ms. Grimes asked what the retail component is. Mr. DeMasco noted karate uniforms and tee shirts for people within the studio. Mr. Eisenhut stated classes of 12 on Tuesday and Thursdays is a concern. Mr. DeMasco noted these are usually at 5:30 or 6:00. He stated the studio does not open until noon. Mr. Eisenhut suggested it be clarified in the decision that 12-person classes are allowed Tuesday and Thursday 4:00 p.m. to 6:00 p.m. and Saturday 9:00 a.m. to 12:00 p.m. Mr. Alpert asked if the parents stay for group classes. Mr. DeMasco stated the parents do not stay. The parents only drop off as there is not enough room for parents to stay.

Ken Mackin, owner of the property, stated the applicant will have one parking space in the rear for staff. Mr. Smart clarified the applicant is proposing permits for 2 employees in town lots. The applicant is not proposing any spaces on the lot.

Ms. McKnight noted the following correspondence for the record: a letter from Attorney Robert Smart, with the application, dated 6/12/15; a letter from Police Lt. John Kraemer noting no safety concerns; a letter from Tara Gurge, of the Board of Health, with no comments; a letter from Assistant Town Engineer Thomas Ryder with no comments or objections and an email from Fire Chief Dennis Condon noting no issues. She noted the Board has been provided with a 2010 parking study by the Planning Director.

Mr. Jacobs noted the new ADA bathrooms and asked what aspects are completely accessible. Mr. Mackin stated the ADA mirror, sink and grab bar. Mr. Jacobs stated SSDS MA Studio 2 LLC is the tenant. He asked if the applicant has a Massachusetts license. Mr. DeMasco stated he does. Mr. Jacobs noted a member cannot sign for an LLC, only a manager can sign. Mr. DeMasco noted Wellesley is Studio 1 LLC. Mr. Smart stated he will provide a manager letter. Ms. Grimes clarified both are listed as managers.

Mr. Alpert noted he wanted to clarify the parking waivers for his own information. Ms. McKnight stated she wants to be clear on the times of operation. Mr. DeMasco stated all his schools open at noon. He may have a private lesson before. Monday, Wednesday and Friday there are semi-private lessons 12:00 p.m. to 8:00 p.m. There are 2 instructors and up to 6 clients -- most of the time it is 4 clients. He is aware there is a concern with mid-day and the parking demand along Great Plain Avenue. Mr. DeMasco stated 80% of the children who attend will come after school. Mr. Eisenhut commented he feels it will be an extremely low impact compared to any other use. Ms. Grimes agreed.

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

VOTED: to close the hearing.

Mr. Smart noted there were a couple of changes to make to the decision such as the Chairman and Vice-Chairman. Ms. Newman will review the draft decision in the morning and will send it around.

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

VOTED: to grant a Special Permit under Section 3.2.2 of the Zoning By-Law for a personal fitness service establishment.

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

VOTED: to grant a Special Permit under Section 5.1.1.6 to waive strict adherence with the requirements of Section 5.1.2 and 5.1.3 of the Zoning By-Law (Off-Street Parking Requirements).

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

VOTED: to grant a Special Permit under Section 3.2.2 of the Zoning By-Law for more than one non-residential building or use on a lot.

Mr. Smart stated the applicant hopes to open in August. He will send a draft of the decision to Ms. Newman in the morning.

Decision: Oak Street Definitive Subdivision: Oak Street LLC, 235 Billerica Road, Chelmsford, MA, 01824, Petitioner (Property located at 66 Oak Street, Needham, MA). Please note: Although scheduled for July 7, 2015, this agenda item will be continued to a future agenda, date is yet to be determined.

Ms. Newman noted she would like to schedule another meeting in July. She suggested Tuesday, July 21. All agreed. Ms. McKnight noted the following correspondence for the record: a letter from Town Manager Kate Fitzpatrick on behalf of the Board of Selectmen to the Planning Board requesting the Planning Board revisit the

issues prior to their vote. Mr. Jacobs asked if the applicants' attorney is aware of this memo. Ms. Newman noted she did not give it to them but will make it available to the applicants' attorney.

De Minimus Change: Major Project Site Plan Special Permit No. 91-3: North Hill Needham, Inc., Petitioner (Property located at 865 Central Avenue, Needham, MA).

Ms. McKnight noted the following correspondence for the record: a letter from Attorney Roy Cramer, dated 6/29/15 and a letter from Kevin Burke, President and CEO of North Hill.

Mr. Cramer stated there is a section in the decision that talks about 10 studio apartments. The decision says the applicant cannot reduce the number below 10 unless they can show a contract cannot be closed despite a year of marketing efforts. He stated the market for small apartments has disappeared. People want more space and do not want studio apartments. He noted 7 out of 10 studio apartments are for sale. Some have been for sale for over 10 years. 2001 was the last sale of a studio, then there was one in 2011. He stated the average number of days on the market is well over a year. The applicant would like to reduce the number of studio apartments from 10 down to zero.

Mr. Eisenhut asked if this was an amendment, a de minimus change or a finding pursuant to Section 3.29 of the Special Permit. He feels a finding is the most logical. Mr. Jacobs stated he has no problem with that. He asked what happens physically. Mr. Cramer stated, if 2 units adjoin, the units could be combined together. Paul Duffy, of North Hill, stated it is unlikely one studio abuts another studio. He stated most people want one or 2 bed units. He ran through a list of what abuts and noted most abut one bed units and one abuts a 2 bed unit. Mr. Alpert clarified the applicant wants to go from 10 to zero and not 10 to 3. Mr. Cramer stated this is correct. Ms. Grimes commented it makes sense to her.

Ms. McKnight stated she is concerned with marketing. The applicant intended originally to market to some moderate income persons. She saw this as something North Hill should be doing. She asked if the marketing is at a price a moderate income could not afford, what kind of marketing is that? She feels the units should be priced so that a moderate income person could afford the unit. She would like to know the price of a 2001 unit compared to today's price. Mr. Burke stated the health care component is what is driving the price. The life care premium is \$45,000 for everyone, there is then a buy in for a unit. There are several options at various prices that are calculated by a third party actuary.

Ms. McKnight asked what is wrong with this. Mr. Burke commented he thinks most people are coming from a 3 or 4 bedroom house and want more space than a 425 square foot studio. The clients want more living space. Ms. McKnight stated she would like to suggest a compromise of reducing from 10 down to 5 studios. Mr. Burke stated that is burdening other residents with fixed costs. Mr. Alpert asked what the vacancy rate on one bed units was. Mr. Burke stated they sold 117 apartments in the last 4 fiscal years – 6% were 600 square feet or less. The average square footage is 900 to 950 square feet. North Hill is currently occupied at 89 percent.

Mr. Cramer stated the applicant has made a good faith effort and met the burden. Ms. Grimes noted people could still get a studio if they want it. She feels comfortable reducing from 10 down to zero and making the requested finding. Mr. Alpert agreed with Ms. Grimes.

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

VOTED: to make a finding in Section 3.29 of the previous decision that the petitioner has made a good faith diligent effort that has been unsuccessful and reduce the number of studios from 10 to zero.

Determination of Proposed Use – Financial Planner (Property located at 50 Dedham Avenue, Needham, MA).

Ms. McKnight noted a 4 page application for the record. Mr. Eisenhut requested the Board be given a little background. Jeff Feuerman, owner of the property, introduced Bill Hayes and George Andrew Conway, principals with Charles Carroll Financial Partners (CCFP). Mr. Conway stated he grew up in Needham and both Mr. Hayes and Mr. Conway have lived here. When they were looking for an office Needham was their first thought. The applicants feel they can get a higher net worth clientele as well in Needham. He noted CCFP has offices open in Virginia and Plymouth and are looking for another office here. Mr. Hayes was at Fidelity for 20 years and left to deal with clients in Needham, Wellesley and Newton. He added the space is clean, bright, new, attractive and visible.

Mr. Conway stated they are not a broker. They are a member of NAPFA, which is a fee only organization which means they are fee only planners. He commented he did not like the process Fidelity used. He thought they could do it without charging commissions. CCFP does clients' tax work. His brother is the other principal in the firm and he does the trust and estate work. Mr. Conway noted he does investment management and financial planning along with his son, Andrew. The applicant will meet with clients on site and off and have seminars. He would like to relocate back to Needham.

Mr. Jacobs asked if the use fits into a category allowed by right and similar to retail use. Mr. Feuerman stated it is. Ms. Newman noted the Board needs to make a finding it is not an office use. Mr. Feuerman stated the townspeople can walk into banks and the banks can sell financial products. This is the same. Mr. Jacobs noted the Board could find the use proposed is similar to a banking use. Ms. Newman stated the decision issued on the property allows retail on the first floor. Mr. Eisenhut stated this needs a Special Permit to do it right. The Board can determine professional use or banking. Ms. McKnight noted it is similar to Edward Jones. Ms. Grimes commented it makes sense to amend the application and determine a de minimus change.

Update on Plan Approval and Document Review and Enforcement Issues: 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. 17 as Parcels 22, 23 and 24 and Plan No. 20 as Parcels 57, 60 and 61).

Ms. Newman stated all documents and plans go on the record initially and then work begins. The Selectmen needed to accept some documents and there were some issues so it was broken up to a 2 step process. She noted the applicant was all set to start construction. She received the documents and noticed on the subdivision covenant there is a mortgage on the property. She was to hold the Selectman documents in escrow for 2 weeks but she does not have a subordination on the mortgage. She does not have what is required to begin construction tomorrow. The documents she is holding for the Selectmen are not currently in good legal form. Ms. Newman stated she has a grant of easement but does not have the subordination. Once she receives the documents the applicant can move forward.

Peter Barbieri, attorney for the applicant, noted there are 2 mortgages. One mortgage is on Chris Kosiopoulos' house lot, which is an equity line of credit for \$700,000, to Citizens Bank and they did assent to the recording of the covenant. The other mortgage is a private mortgage granted to Hillcrest and Elite Builders for \$600,000. He stated he will give copies of them to the Board but does not have them in his possession now. There will not be a problem getting Citizens to sign. He stated he will have the documents within 3 days. Ms. Grimes noted the Board could say the applicant cannot touch the house lot until the Board has the documents in hand.

Chris Kotsiopoulos, owner, stated he needs to take down 4 trees, grind down the stumps and take them off site. Then he will get a driller in to do the ledge. He cannot sell the property without signed documents. Mr. Jacobs stated he thinks it is doable. He does not think the applicant will do anything in the next week that will damage the town's rights. He stated Mr. Kotsiopoulos should get the documents to Ms. Newman in the next week.

Mr. Kotsiopoulos stated he could take down the trees, clear the stumps, expose some ledge, identify where the house will go and do some removal offsite with no blasting. He could also start trucking the existing stockpiled

materials. Ms. McKnight noted it sounds acceptable to her and Ms. Grimes agreed. Mr. Eisenhut stated he would like it in writing. Mr. Alpert feels it is acceptable. Mr. Jacobs noted he would like the documents within a week.

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

VOTED: to authorize a delay in deliver of documents with a deadline of Monday and authorize Ms. Newman to accept a letter describing the activity prior to the documents.

Ms. McKnight noted the following correspondence for the record: an email from Assistant Planner Alexandra Clee, dated 7/1/15, to Chris Kotsiopoulos, Attorney Peter Barbieri and Attorney George Giunta Jr., noting that work needs to stop on site and an email from Attorney Peter Barbieri to Assistant Planner Alexandra Clee and Planning Director Lee Newman with an explanation.

Minutes

Ms. McKnight noted in the minutes of 4/7/15 regarding Cypress Street “others with rights in Cypress will be part of the layout of the road” should be struck. What she thought was meant is “others with rights in Cypress Street will have rights in the turnaround since it will be part of the layout in the road.”

Board of Appeals – July 16, 2015.

Paul Skelly and Elizabeth Reza Skelly – 74 Eaton Road.

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

VOTED: “No comment.”

Thomas Lambert – 68 Pleasant Street.

Mr. Eisenhut stated the voluntary demolition eliminates the grandfather protection. Ms. Newman stated this is allowed as of right under the new By-Law. It goes above the percentage coverage. Mr. Eisenhut stated the Board should call out the By-Law section as the Board’s comment and note the Board has an issue with the 18% lot coverage. Mr. Jacobs stated the Board needs to focus on whether B, C or D applies, and if any do, a Special Permit shall not be allowed. Mr. Alpert stated C applies as the applicant does not have the frontage.

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

VOTED: to call out the 18% lot coverage in the By-Law.

146 Warren Street LLC – 146 Warren Street.

Ms. McKnight asked how the applicant can go to 33% lot coverage. It is not the same footprint. Ms. Newman stated the applicant is altering a pre-existing, non-conforming structure and reconstructing. Ms. McKnight stated they are making it non-conforming regarding lot coverage. She suggested the Board comment the proposed 2 family will violate the lot coverage requirement of 25%. Mr. Eisenhut stated it is not new construction. Lot coverage increasing substantially is more detrimental. New construction is limited to 30%. He feels the Board should raise this as an issue if it is more detrimental. Mr. Jacobs noted there is a dramatic increase in impervious surface.

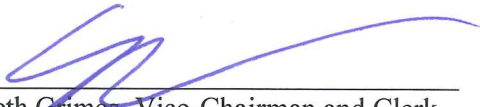
Report from Planning Director and Board Members.

Ms. Newman noted 117 Kendrick Street has a revised landscape plan. The applicant cannot get 3.5 inch caliper red oaks so they want to install 2 inch caliper. This has been run by the Tree Warden and he are fine with the substitution.

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

VOTED: to adjourn the meeting at 9:40 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Elizabeth Grimes, Vice-Chairman and Clerk