

## NEEDHAM PLANNING BOARD MINUTES

July 21, 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 21, 2015 at 7:00 p.m. with Messrs. Eisenhut and Jacobs and Ms. Grimes as well as Planning Director, Ms. Newman, Assistant Planning Director, Ms. Clee and Recording Secretary, Ms. Kalinowski.

### Correspondence

Ms. McKnight noted there was no correspondence.

### Request for Extension: Webster Street Definitive Subdivision: Southfield Associates c/o Petrini Corporation, 187 Rosemary Street, Needham, MA 02494, Petitioner (Property located at 1135 Rosemary Street, Needham, MA).

Roy Cramer, representative for the applicant, noted in September 2013 the plans were endorsed with a 2 year time frame. One lot is done, 2 are under construction and there are 4 to go. The applicant would like a 2 year extension through 9/5/17. Mr. Eisenhut stated he would like a cause or reason for the extension stated. Mr. Cramer stated the custom houses are on the market. The applicant had to do construction on the roadway. The main house is very large and very old. The applicant is trying to find someone to renovate it. He noted one road is in but there will be no final coat until construction is done.

Mr. Eisenhut asked the Planning Director if there were any issues. Ms. Newman noted the bond needs to be updated. She will check with Engineering. The Board can make the vote contingent upon any upgrade required. Ms. McKnight asked if there were any concerns or complaints from the neighbors. Ms. Newman noted there were none.

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

VOTED: to approve the requested extension for the 2 year time period sought subject to possible adjustment to the bond amount as the Planning Director mentioned.

### Decision: Oak Street Definitive Subdivision: Oak Street LLC, 235 Billerica Road, Chelmsford, MA 01824, Petitioner (Property located at 66 Oak Street, Needham, MA).

Ms. McKnight asked the Planning Director to review the last meeting. Ms. Newman noted the hearing was closed. There was no vote but some guidance was given for a tentative decision to be drafted. Ms. McKnight stated the Planning Board received a memo from the Board of Selectmen, dated 7/2/15, regarding the proposed subdivision and asking the Planning Board to revisit the issues before the final vote due to comments by townspeople.

Mr. Eisenhut commented on a point of order. The hearing was closed. He does not feel the memo should be read into the record unless the hearing is reopened. Ms. McKnight stated it could be recorded in the decision as something that came in after the fact. She is just acknowledging the Planning Board received the letter. She noted reopening the hearing would require advertising. Ms. Grimes made a motion to reopen the hearing for the purpose of allowing this piece of correspondence to be included for the record and for a discussion of the merits of the memo. There was no second to the motion.

Jorge Oslan, Manager of Oak Street LLC, stated he originally provided a plan for the new house to be constructed at the rear of Oak Street but there was an issue with the garages. He changed it to allow for a turnaround and has provided new plans. The footprint is approximately 60 feet by 40 feet or 2,618 square feet. Ms. Grimes noted the

Board could as a condition say the house may be no greater than 2,600 square feet. Mr. Oslan noted 2,650 would be fair. Ms. Newman stated that is close to what the town would allow without a condition.

Ms. McKnight asked George Giunta Jr. for his comments. Mr. Giunta Jr. stated paragraphs 4 and 5 are obligations that the owner of Lot 2 maintain, repair and construct the private way (Cypress Street). That is no issue as long as Lot 2 is the only house that is using the way. If there is another house using the way the 2 houses should share the costs. He has reworded paragraph 6 a little. Robert Smart stated he would like to speak on some points regarding Mr. Giunta Jr.'s comments about Lot 2. He asked what constitutes use and what would trigger the obligation to help pay?

Ms. McKnight stated the words "served by" need to be clarified. The Board needs to describe it. Ms. McKnight stated if the property owners abutting the way, who presently orient their driveways to other streets, choose to orient their drives to this street, they will be required to assist. Mr. Eisenhut asked if Ms. McKnight would articulate it as the use of the private way for access to a driveway. Ms. McKnight noted until any time as any other house is "served by" the private way, that means if the driveway and garage of any of the other houses is oriented toward the private way. Mr. Eisenhut noted the driveway may provide access to the private way. Ms. Grimes suggested the Board keep out any reference to garages and say just the primary driveway. Ms. McKnight added "so as to provide the primary access to the house."

Mr. Jacobs stated he has misgivings going down this route. He suggested saying "nothing herein shall allow the owner of Lot 2 and some abutter who uses the way to work out whatever they work out." He does not feel the Board should be dictating too much about that. Mr. Eisenhut suggested the Board just say "the private way provides access to the primary driveway and the costs are shared." Mr. Smart noted tying it to the primary vehicular access off Cypress works.

Mr. Oslan stated he does not know what Needham allows for sump pump connections to sewers. Ms. Grimes stated Needham allows it. Ms. McKnight stated the Board would discuss the drainage later. Mr. Eisenhut stated he has no issues with Mr. Giunta Jr.'s edits. Mr. Jacobs and Ms. Grimes agreed.

Ms. McKnight stated the Board would review Mr. Smart's letter. She noted Mr. Smart's comment on 1d. Ms. Newman stated that is already addressed in the layout. Ms. McKnight noted if others also access and use the private way they would also want to use the turnaround and the Board has not provided in this decision the abutters with an easement. Should the applicant provide an easement to the abutters? She would propose easements be recorded and the abutting owner can accept them if he wishes. Mr. Giunta Jr. stated he has no issue with that as long as the Board does not require the easements be accepted. Mr. Smart stated there should be a reference to the properties and not the individual owners. Ms. McKnight stated a paragraph would need to be added. Ms. Newman will add easements for the hammerhead in paragraph 36.

Mr. Smart stated he would request that the deeds have explicit restrictive language as opposed to by reference. Ms. McKnight noted there should be a separate paragraph describing the easement. She noted Section 2b in Mr. Smart's letter. She does not know what this is about. Mr. Smart noted the proposed houses themselves are 2,500 square foot footprints and over 5,000 square feet. That is double the average size in the neighborhood. He does not believe a 2,500 square foot footprint restriction would unduly limit in gross floor area the size.

Ms. Grimes commented on a grade issue. Her recollection was the grade was needed due to drainage. Mr. Oslan noted the footprint includes the garage also. The house would be 31 to 32 feet in height. Mr. Eisenhut asked if he would be willing to limit height to 32 feet. Mr. Oslan stated he would agree to that. Ms. McKnight stated she wanted to see a limitation on the area of the house compared to the area of the lot. Mr. Eisenhut suggested a 32 foot height with a 2,600 square foot footprint.

Mr. Smart stated people are building large accessory garages 5 feet off the property line that are large enough to live in. He would like a prohibition on the size of accessory buildings. Mr. Giunta Jr. stated he would have an issue with that. Ms. McKnight suggested the Board could say 2,600 square feet with a garage and an accessory

building limitation. Ms. Grimes noted she would not agree as the applicant could want a shed. Mr. Eisenhut noted as long as the applicant does not exceed the lot coverage requirement.

Mr. Smart noted he wants accessory uses added to number 3 on page 7. Ms. McKnight noted it should say "lot owner accessory home occupations." Mr. Smart stated it was ok to leave it as is. Ms. McKnight noted pavers. Mr. Giunta Jr. stated he has an issue with use of the word "attractive." He feels that is subjective. Ms. Newman suggested substituting "Turfstone" for "paver" in paragraph 1b.

Ms. McKnight noted section 4 on page 8 regarding maintenance. Is it the concern that the Turfstone be maintained so as to provide accessibility for emergency vehicles? Mr. Eisenhut stated it is aesthetic also. It should be aesthetically pleasing. Mr. Jacobs noted it is already there in paragraph 4. He is not sure what is not there that Mr. Smart is worried about. Mr. Smart stated the way should be maintained so the water can travel and infiltrate. Mr. Jacobs stated he feels the wording is good enough as it is. Mr. Eisenhut noted it should be free of debris so as not to disturb the flow of the drainage or any water. It should also be maintained in a way that is not aesthetically detrimental to the neighboring properties.

Ms. McKnight noted there should be a separate sentence that says the Turfstone shall be maintained by the owner of the lot and free of debris so as not to disturb the flow and drainage of rainwater, so as to provide continual access to emergency vehicles and so as to not be an aesthetic detriment to neighboring properties. She questioned the limitation of construction vehicles on Cypress Street. Mr. Smart stated there are 2 components – where the vehicles can park and how the vehicles get there. Mr. Jacobs asked if Mr. Smart is saying construction vehicles cannot use Cypress Street to get to Lot 2. Mr. Smart stated that is correct. He feels the construction vehicles need to come off Oak Street. This private way is in the middle of a residential neighborhood. Mr. Jacobs noted Mr. Smart stated the vehicles cannot park there. He asked why they cannot park there so long as the rights of others to pass and repass are respected. Mr. Smart stated it is unsightly for his clients. He feels the vehicles can park on the Oak Street lot.

Mr. Jacobs asked if the owner would consider building Lot 2 first and using Lot 1 as a staging area. Mr. Oslan stated there are 2 different kinds of construction going on. He would have to think about this. The infrastructure on Cypress is much greater than on Oak. The cost of the drainage is quite a bit and the time to do that is when he is doing the road. Mr. Jacobs stated the construction is going to be subject to the rights of others to use Cypress. Construction vehicles may not unreasonably impede the rights to access what others have a right to use.

Ms. McKnight noted Mr. Smart's letter requesting a copy of the Restrictive Covenant shall be affixed to each deed. Mr. Eisenhut stated it does not need to be affixed. Mr. Giunta Jr. stated he would object to this. He does not want restrictions attached to the deeds. He has no issue with the deed specifically referencing the restrictions. Mr. Jacobs stated he agrees totally. Ms. Newman stated she will put a reference back into number 12.

Ms. McKnight noted the applicant did not do a landscape plan. Mr. Eisenhut stated it would be good for neighborly relations to require the applicant to put plantings around the perimeter. Ms. McKnight stated she is uncomfortable with this. This has not been discussed at all during the hearings. Kathy D'Addesio, of 110 Linden Street, stated the Board should require the developer to put in some type of evergreens that would grow tall, such as arborvitae, which would allow the abutters some kind of privacy. Mr. Eisenhut suggested the developer talk with the abutters. Ms. D'Addesio stated she would like to have a discussion. She would like to see an evergreen shield on Cypress on her side of the property. Mr. Oslan stated he would have a discussion with Ms. D'Addesio. He feels they can come up with something.

Ms. McKnight suggested a plan modification to show a row of arborvitae or a similar species as agreed between the developer and the abutter for the purpose of providing privacy to this particular property. Ms. McKnight noted Mr. Smart's comment regarding utilities. The utilities have to be installed as per the plan. Ms. Newman stated drainage will be referenced in the waiver section under d.

Mr. Giunta Jr. stated the sump pump connection for the abutter needs to be approved by the Town Engineering Department. He noted the applicant should cooperate, coordinate and allow for the connection if the abutter

wants to do it while construction is going on. Mr. Smart stated he wants his client to get some notification when the developer gets into this. Mr. Oslan stated he is for this but does not know what the process is.

Ms. McKnight reviewed the changes. On page 1 of the decision, 3<sup>rd</sup> paragraph, add "portion of" after "one with frontage on" and add "hereinafter referred to as private way" at the end of the paragraph. Mr. Jacobs feels the last sentence in 1c should be changed to "additionally a sidewalk will not be necessary to service one new residential lot." Mr. Eisenhut suggested at paragraph d, immediately prior to the last sentence, after the word "site" add something like "the Board finds the applicants' agreement to improve drainage system within Linden Street in the vicinity of the proposed property and to limit the footprint of the proposed houses on Lots 1 and 2 is in a public benefit and therefore the Board finds the granting of waivers is justified to address the unusual circumstance." Mr. Eisenhut stated he would also add the height limitation.

Mr. Jacobs noted the Board should add a finding that the Board believes this is a rare situation in town and will not be repeated more than a small amount of times. He stated he truly believes this is an unusual circumstance and will not be happening all over town. Ms. McKnight stated she agrees with the concept but the Board would need to work on the wording. She noted in 10 it should say "right to enter, and use, upon the Private Way."

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

VOTED: to approve the definitive subdivision plan per the decision with the changes discussed tonight.

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

Ms. Newman noted a letter from Attorney Robert Smart requesting a postponement until the next meeting on 8/11/15.

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

VOTED: to postpone the hearing to 8/11/15.

**DeMinimus Change: Major Project Site Plan Review No. 2012-06: Brookline Development Corp. LLC, 93 Fisher Avenue, Brookline, MA, Petitioner (Property located at 50 Dedham Avenue, Needham, MA).**

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

VOTED: to postpone the hearing to 8/11/15 due to the owner's absence.

**Request to Release Lots and Establish Performance and Off-Street Drainage Bond: Charles River Street Definitive Subdivision: Richard J. Gaffey, Trustee, 634 Charles River Street Realty Trust, 420 Lakeside Avenue, Marlborough, MA, Petitioner (Property located at Map 305, Lot 23, off of Charles River Street, Needham, MA).**

**Request to Establish Bond: Scenic Road Act: Richard Gaffey, Trustee of the 634 Charles River Street Realty Trust, Petitioner, (Property located on the southerly side of Charles River Street between 534 Charles River Street and 590 Charles River Street, and is shown on Assessor's Map 302 as Parcel 23).**

Ms. Newman noted both of these hearings are off the agenda as it is not ready.

**Minutes**

Mr. Jacobs noted on the minutes of 4/7/15, 3<sup>rd</sup> paragraph from the end, he is not sure what "infrastructure is down" means? It should say "there" instead of "down." "Affadavits" should be "letters." On page 3, 2<sup>nd</sup> paragraph, remove the word "the."

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

VOTED: to approve the minutes of 4/7/15 with changes discussed.

The Board passed in their revisions for the 4/28/15 minutes.

**Report from Planning Director and Board members.**

Ms. Newman noted on Rockwood Lane 2 large boulders rolled onto the abutters' property and took out the fence. She noted there was no mortgage on the property, then there was a mortgage with a subordination on the property. There is no certification on assent of mortgagee. Attorney Peter Barbieri was unable to give Town Counsel David Tobin the documents he needs. She noted this subdivision has been a challenge.

Ms. Newman noted Normandy is filing plans for a modification. Normandy will be coming in with 2 filings. Normandy wants to get rid of the parking structure and wants to update the General Dynamics building.

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

VOTED: to adjourn the meeting at 9:15 p.m.

Respectfully submitted,  
Donna J. Kalinowski, Notetaker

  
Elizabeth Grimes, Vice-Chairman and Clerk