

NEEDHAM PLANNING BOARD MINUTES

April 25, 2017

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building, was called to order by Elizabeth Grimes, Chairman, on Tuesday, April 25, 2017, at 7:00 p.m. with Messrs. Jacobs, Owens and Alpert and Ms. McKnight, as well as Planner, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski.

Decision: Amendment to Major Project Site Plan Special Permit No. 2009-06: Needham Farmer's Market, Inc., 28 Perrault Road, Apt. #1, Needham, MA 02494 and Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioners (Property located at 1471 Highland Avenue, Needham, MA).

Ms. Grimes noted there is an updated decision draft and asked the applicant if he has looked at it. Jeff Friedman stated he has looked at it. Ms. McKnight noted she had reviewed the decision and the applicant has addressed the issues. She has no comments.

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

VOTED: to grant the requested Major Project Site Plan Special Permit under Section 7.4 of the By-Law and Section 4.2 of the Major Project Site Plan Special Permit No. 2009-06; the requested Special Permit under Section 3.2.2 of the By-Law for a farmers market in the Center Business District; the requested Special Permit under Section 3.2.2 of the By-Law for more than one use on a lot and the requested Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the off-street parking requirements of Sections 5.1.2 (Required Parking) and 5.1.3 of the By-Law (Off-Street Parking Requirements).

Public Hearing:

7:00 p.m. – Article 1: PB Amend Zoning By-Law – Uses in the Mixed Use – 128 District

Ms. Grimes noted this is a Citizen's Petition. Annemarie Doyle, owner of Pet Care Center, stated she is looking to get a special permit in the Mixed Use 128 District. She seeks a zoning change to take out "convalescent care" and allow "boarding and animal care." Ms. Newman stated this would allow a doggie day care. Ms. Doyle noted it would be boarding, training and wellness care. Ms. Newman stated the Planning Board would need to make a recommendation for Town Meeting. Mr. Jacobs asked if it was an as of right use and was informed it was.

Ms. Grimes noted the following correspondence for the record: a letter from Director of Economic Development Devra Bailin in support. Ms. McKnight stated she is concerned with noise but it can be dealt with at the time of the special permit. Ms. Doyle handed out a pamphlet with her background. Mr. Alpert stated the original By-Law specifically excludes boarding of animals. He asked if the Planning Director knew why. Ms. Newman does not recall.

Mr. Alpert asked if the applicant had looked at locations the By-Law allows and why she chose this location. Ms. Doyle stated she wants to provide animal care. She feels this is an untapped area. It is close to 95 and Newton and an ideal spot. It is out of the way of residential, which is the most important piece for her. She feels untapped clientele will be coming. Mr. Alpert asked why she is going the Citizen's Petition route rather than ask the Planning Board to amend the By-Law. Ms. Doyle noted this is the route the town told her would be best.

Ms. McKnight stated the Board would be amending Section 3.2.6.2(h). Mr. Alpert commented he feels the Town does need to add boarding. Ms. McKnight noted the proposed language of "animal care facility, including but not limited to..." and confirmed that it does not mean the vet office *has* to include the other components. Ms.

Newman stated no, it does not. Mr. Jacobs asked if it was just cats and dogs. Ms. Doyle stated down the road she may look at birds and reptiles but it is only dogs and cats now.

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

VOTED: to close the public hearing.

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

VOTED: to recommend to Town Meeting the adoption of the amendment to the Zoning By-Law as outlined in Article 11 in the Warrant for the Special Town Meeting with the changes noted.

7:15 p.m. – Cartwright Road Definitive Subdivision: Mary Stare Wilkinson and Bradley Wilkinson, 260 & 267 Cartwright Road, Needham, MA, Petitioner (Property located at 260 and 267 Cartwright Road, Needham, Norfolk County, MA, Assessors Plan No. 2018 as Parcel 1).

Roy Cramer, representative for the applicant, introduced Joyce Hastings. Ms. Hastings, of GLM Engineering Consultants, Inc., stated she has filed a definitive subdivision plan for a 2 lot single family subdivision for a property that is at the end of Cartwright Road, which is a private way, accessed through Wellesley. There are currently 2 single family dwellings on one 10.46 acre parcel. She has filed a definitive subdivision plan to address the zoning differences, specifically 2 dwellings on one parcel. The project is creating a 2 lot subdivision by extending the private way. There are woodlands around it, open fields, lawn and wetlands to the east. The applicant is proposing to extend the private way by about 117 feet with a 40 foot wide roadway with a cul-de-sac with a 60 foot radius. There will be a Y configuration. She has met with the Fire Department and revised the plan due to comments. There is a minimum 16 foot width. The project will demolish the current house and construct a new house on the south side of the parcel. There are 2 existing houses and there will be 2 houses at the end.

Ms. Hastings noted the new house will be constructed on Lot 2, which is 4.6 acres with 255 feet of frontage. Lot 1 has 5.47 acres with 220 feet of frontage. Each lot will be compliant. The subdivision is serviced by Wellesley MLP (Municipal Light Plant). Wellesley also supplies water to this property. A fire hydrant is 500 feet down the road. She noted, originally, the applicant had requested a waiver. Wellesley does not require any changes to the water. The owners and Needham want changes to the water. The owners have agreed to extend the water line. There is no public sewer service. The applicant will have septic for both lots.

Ms. Hastings noted she has submitted a septic design and has addressed storm water. There will be infiltration throughout with cul tec chambers adjacent to structures. She has addressed driveway run off with grass swales. She reviewed the 8 waivers requested and noted they have eliminated two. The applicant wants a 40 foot layout rather than a 50 foot roadway; rather than a street width of 24 feet paved there will be 16 foot gravel; a 60 foot radius has been provided so this is eliminated; Town of Needham sewer is not available; the electricity needs to meet Wellesley requirements: there are no sidewalks on Cartwright and the street cross section shows curbing and pavement.

Mr. Jacobs complimented the applicant on a nice presentation. Ms. Grimes noted a letter from the Fire Department, dated 4/21/17, noting no issues; a letter from the Police with no safety concerns; a letter from the DPW with 4 comments that the applicant will address and a letter from the Board of Health with no concerns but comments regarding drainage. Ms. Hastings noted the Board of Health requires surety of \$3,500 for each lot. In this case Lot 1 is not changing and Lot 2 requires an As-Built before the owners can move in. The applicant is requesting the surety be waived. Mr. Cramer stated he spoke with Tim McDonald of the Board of Health and he is ok with that.

Ms. Hastings stated she has submitted the septic design to the Board of Health and it has been tentatively accepted. Mr. Cramer stated he talked with Building Inspector David Roche. The owners live in one house.

They want to demolish the house and move across the driveway to the new house. They want to get a building permit before the demolition. The Building Inspector said he would issue the building permit and demolition permit at the same time. He has drafted a note that can go in the decision.

Ms. Grimes noted an email from Building Inspector David Roche, dated 4/5/17, with comments. Mr. Cramer stated he will ask for a lot release of Lot 2 where the house is, then get the permits. Then he will ask for a lot release of Lot 1. Ms. McKnight stated she drove up the cul-de-sac at Whitney Way and observed Cartwright is paved to that point. Mr. Cramer noted Whitney has one new house. Ms. McKnight asked where Cartwright becomes private. Phillip Thiessen, an abutter, stated Cartwright was Russell Road. It has always been maintained as an easement private way. He noted it is public to the bridge then is private. Ms. McKnight stated from Whitney to this property the private way appears to be only 12 feet wide. Ms. Hastings stated it is and will remain like that. This applicant cannot change that. Mr. Thiessen stated, historically, it has been an easement. It is his property on both sides of the road. Ms. Hastings noted the Fire Chief is satisfied with the width. Fire equipment can turn around. Ms. McKnight noted the DPW letter and asked if the DPW is satisfied with the drainage. Ms. Newman stated the DPW was satisfied with all except 4 items that the applicant went through.

Mr. Cramer noted there will be a decrease in pervious surface. Ms. McKnight noted there will be surety to protect the town. She asked if there were abutters on both ends of Cartwright Road. Ms. Hastings noted the Wilkinson's own on the left and Mr. Thiessen owns the other side. Ms. McKnight stated she noticed cart paths. She asked if they are paths the people can take to get from one property to another. Is there an easement the town can get? Mr. Cramer stated no. In the 1980s the Town bought 38 acres from Dr. Stare for conservation land and the town bought the MacIntosh land. There are 73 acres in total and the town bought up to the Wellesley line. The trail systems are public land. Mr. Jacobs stated on the 3rd page, the new boundary is a jagged edge. On the 4th page it is different. Ms. Hastings stated it is not inconsistent. It is just her coloring. The rock wall is the property line.

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

VOTED: to close the hearing.

Ms. Newman will prepare the decision for a couple of weeks.

7:45 p.m. – Major Project Site Plan Special Permit No. 2017-01: Sage Biotech Inc., formerly known as Sage Cannabis, Inc., 13 Commercial Way, Milford, MA 01757, Petitioner (Property located at 29 and 37 Franklin Street, together with a parking and access easement over a portion of 55 Franklin Street, Needham, MA).

Roy Cramer, representative for the applicant, noted this is a Special Permit application for a medical marijuana treatment center. There is a parking and access easement across 55 Franklin Street. He noted 29 Franklin Street is a 2,925 square foot building with a 1,613 square foot garage. 37 Franklin Street is a one story building the applicant will be using for storage and parking. The facility will be by appointment only. There will be a maximum of 8 employees, 5 sales stations, 5 customers at a time, 2 security guards and a manager. It will be open 8:00 a.m. to 8:00 p.m. 7 days a week.

Mr. Cramer noted it is a Special Permit use. There is no change in the footprint of any of the buildings. The applicant is requesting a waiver for parking design criteria. There are 18 spaces and no landscaping in front but the applicant has added some. There are 3 parking spaces parallel to 37 Franklin Street. The spaces are perpendicular now and partially on the way. A street parking permit is needed from the DPW. He noted Section 6.10 of the By-Law and stated there are 2 areas in Newton that could be interpreted as a park within 1,000 feet. The Planning Board could make a finding. He does not think the Charles River pathway is a park as it is just a walking path. He thought the former rail bridge is a rail trail on the Newton side and it is. It is within 1,000 feet. He would like to Planning Board to make a finding it is not a park or there would be no adverse effects. Mr. Alpert noted it was buffered by the river.

Mr. Cramer stated Town Engineer Anthony DelGaizo had no issues. The applicant has gone to the Design Review Board (DRB) and they have approved. The traffic study shows the 18 spaces and is fine. Mr. Jacobs stated he would like to know about the exterior lighting. Peter Quinn, of Peter Quinn Architects, LLC, stated he is working with the existing building as is. It is a concrete block structure. The project is adding a cornice and another entry point will be opened. The façade will be painted. There will be sconces on the side wall of the building. The plan is to leave 3 parallel parking spots in front, one handicap space, one van space and a ramp. There will be a walkway along the full length and a planter.

Mr. Jacobs asked about lighting for the parking area. Ms. Grimes asked if there were street lights there. Mr. Quinn noted the area is lit with area packs that people have on their own buildings so there is probably an excess of lighting. He stated he has not taken an inventory of the lights. Mr. Cramer noted they are meeting the average one foot candle in the parking area. He did not feel it warranted a photometric plan. There will be lighting on the building on the front and side. Ms. Grimes stated she would need to see more detail. She wants to make sure there is adequate light at night. Mr. Cramer stated Sage Cannabis will also do home deliveries free to Needham residents. There will be no one parking there overnight. He noted people will pull into a bay of the garage.

Mr. Cramer stated no one is allowed to enter without a Massachusetts Certification and a public health card registration. There will be an entrance with security. The second door will not open unless the first door is closed. The door is locked at all times. Customers are buzzed through the first door, security enters the certification number into the data base to verify accuracy and that there is still an amount left on the prescription. Mr. Jacobs asked if the verification could be verified. Michael Dundas, President and CEO of Sage Cannabis, stated there are video cameras with a video that is kept for 90 days. Mr. Jacobs suggested maybe having a log system.

Mr. Cramer stated customers will be buzzed through the second door to the reception desk, then buzzed through to the selling floor. All products are available at each selling station. There is a separate exit. The first door closes before the second door will open to the outside. All items are prepackaged and tamper proofed in Milford. There is long-term storage up to a week or a week and a half. There is a patient education room in the front for discussions with patient advocates.

Mr. Cramer stated all locked doors are controlled by key scan access panels. Some doors have additional deadbolts. Patient advocates do not have access to the packaged room. There is a second check of ID's at the point of sale (POS). To access the facility customers will need 2 forms of picture ID – a Department of Public Health (DPH) issued ID and another government issued ID card. The system they use reflects that a patient has been checked into the system. Every step of the process gets audit logged. He stated the system they use for POS is called a seed to sale inventory tracking program. They use it at the cultivation facility, at the transportation process and to track inventory here. Part of the DPH protocol is the applicants have to bar code every single seed they plant, follow it through its production cycle and information at various points along the way is documented in the system. He stated he would check to see if, when someone is logged in, there is a record if the customer chooses not to buy.

Ms. McKnight asked what the lower left room is. Mr. Dundas stated it is a staff lunch room. There is also a separate telecommunication room. Ms. McKnight asked if anyone with a DPH card could come here. Mr. Dundas stated anyone in the state can go to any dispensary. Mr. Jacobs asked about anyone from out of state. Mr. Dundas noted no, only Massachusetts residents. Ms. McKnight asked how far along is the licensing and noted she would like the Planning Board to have a copy of the letter of non-opposition. She understands the Selectmen have put some conditions. Mr. Cramer stated there is a signed agreement with the Selectmen. Ms. McKnight would like a copy.

Mr. Dundas stated the DPH process is 3 parts. There is an application of the Intent, where the applicant needs to demonstrate to the DPH they are interested in pursuing this type of product. If they meet the criteria, the applicant then has to submit a Management and Operations Profile letter where they submit their personnel, background checks for their personnel and talk about their plans. If that is approved, the DPH invites them into

the Siting Profile. The applicant has to submit a lease or title and a letter of non-opposition from the local community. The applicants have done that. Once that is done the DPH issues a Provisional Certificate of Registration from DPH.

Mr. Dundas noted once all is completed, and the building is built, the DPH will inspect the building and issue a full certificate. Ms. McKnight stated she would like the Planning Board to have a copy of the provisional certificate. Mr. Alpert asked how many facilities is Sage licensed for. Mr. Dundas stated two – cultivation in Milford and a dispensary in Cambridge. Sage is looking for 2 more in Needham and Somerville. Ms. McKnight asked if there was an agreement with the Selectmen regarding no sales of recreational marijuana. Mr. Dundas stated Sage would have to go back to the Selectmen if they wanted to sell recreational marijuana. Mr. Cramer stated this permit is for medical marijuana.

Ms. McKnight asked if the Planning Board has a copy of the lease and was informed there is a copy. She asked if there is a copy of the Access and Parking Easement and was informed there was. Ms. McKnight stated her primary concern is with the adequacy of parking. She went there today and did not see 18 spaces. There is a big trailer between the buildings. It is very narrow. Mr. Cramer stated those are employee parking spaces. He noted the Board has had the parking plan since the plan was filed. Ms. McKnight stated there is no real access to the employee spaces. She asked if there was ever a site plan for the water company next door. Ms. Newman stated there is no site plan. Ms. McKnight asked where those employees park. She would like to know what the parking requirement is for the water company. Ms. Grimes commented the Board has already looked at the parking for this site and made a determination as to required number of parking spaces. Mr. Cramer stated this has been reviewed by the Planning Board and the DPW.

Mr. Jacobs stated the Board needs to understand where the abutter parks cars for employees and what the parking requirements for that site are. Giles Ham, of Vanasse Associates, stated he looked at the parking demand. On street parking is available in the area. Mr. Alpert noted 5 customers will be served and 5 customers will be waiting. He asked where the customers would be waiting. Mr. Dundas stated there is a patient lobby before the selling area. Ms. McKnight asked if any Planning Board members could visit the Cambridge facility. Mr. Dundas noted Planning Board members could visit. Ms. McKnight noted use of cash versus credit for purchases. She has learned there is more cash than she realized. Mr. Dundas stated sale of marijuana is still illegal under federal law. Some banks are hesitant to bank with them. In Massachusetts, Century Bank has banked with the cannabis industry. Mastercard, Visa and American Express still would not allow cannabis sales on their cards. A number of smaller debit cards accept and they are able to take debit cards at the facility. He noted 60% of sales in Cambridge are debit sales.

Mr. Jacobs noted Mr. Ham has recommended a stop sign. Mr. Ham noted he would recommend a stop sign at Franklin and Wexford with this project or not. There is adequate parking on site. U Do It put signs on the street limiting parking for their customers only. He is not sure if that is legal. Mr. Cramer reiterated there is available parking on the street.

Marianne Connaughton stated she owns property at 14-16 Franklin Street and 19 Brook Road. She knows about the parking and traffic problems. She has been in the area for 40 years. Franklin always has traffic problems. It is very narrow. 85 Franklin Street has no parking. She does not object to the use but to the chaos it will cause. Mr. Ham stated he has done a full study for the project. During the peak there is about a car a minute on Franklin Street. He has recommended appointment only. It gets tight beyond this site.

Brian Mushnick noted there is Brian's Garage on Fremont Street and Socci Auto and Needham Body Shop. He has been there 25 years. People miss the turn to U Do It all the time. All the vegetation is gone. There are parking issues all the time. He has no problem with the proposal, only the traffic and parking. He stated there are a lot of 18 wheelers that come through there. It is a lot tighter than it looks. It goes uphill and takes a hard right. A stop sign is a good idea. He stated snow removal is a big problem. The water company frequently parks a trailer there to unload with a fork lift. Mr. Dundas stated the water company will not be leaving the trailer there. Mr. Mushnick suggested the applicant take down the print center building and use that for parking.

Mr. Cramer stated the applicant already has most things in place. He would not like to wait until the 5/23/17 meeting. Ms. Grimes stated with Town Meeting the Board does not have time. Mr. Cramer stated the bulk of the presentation is done. Ms. Grimes reiterated the Board cannot add this to the agenda before Town Meeting. There are already other things scheduled. She stated the Board needs something in writing that the trailer will not be parked there so as to impede access. She needs to see where he will be parking the trailer. Mr. Cramer will ask the owner of the water company to write a letter as to where the trailer will go.

Ms. Grimes stated she wants to see lighting for the back area all the way to the front. Mr. Jacobs noted he would like to see what the water company plan is for water deliveries. Mr. Cramer will find out.

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

VOTED: to continue the hearing to 5/23/17 at 7:30 p.m.

Correspondence

Ms. Grimes noted a Needham Times article, dated 4/20/17, regarding the future at Needham Crossing.

Discuss Town Meeting Presentations and Articles.

Ms. Newman stated she talked to Attorney Robert Smart about his comments. She did not feel he seemed so concerned that he was going to propose amendments. Mr. Jacobs asked if there is anything in the Zoning By-Law to prevent an owner from paving over the entire yard. Ms. Newman is not sure but will look at it. She stated the drainage has to work. Mr. Jacobs noted he had a question asked about how outbuildings are considered in lot coverage. Ms. McKnight referred him to her notes on Article 27. Ms. Newman stated under 100 square feet and under 8 feet in height does not count and are not considered structures. Ms. McKnight stated there are certain exclusions such as pools, decks and fireplaces. Mr. Alpert commented a shed more than 100 square feet is counted in the FAR.

Mr. Jacobs noted FAR is first and second floors of buildings and structures. Ms. Grimes commented about Town Counsel's conversations wanting to amend all the By-Laws with effective dates. What the intent of the Board of Selectmen is will be discussed tonight. The zoning is a Planning Board issue not a Board of Selectmen issue. There are over 15 communities that use the language this Planning Board uses. She noted the Building Inspector is clear in his interpretations and there have been no lawsuits or issues. She would like to not amend the articles and stick with what the Board has all agreed to.

Mr. Owens stated the Board of Selectmen have voted to support all but Articles 27, 28 and 30, which they will seek to refer back for further study at their meeting. Ms. Grimes noted she had meetings with the Selectmen and discussed this. The Selectmen want the Planning Board to withdraw 27, 28 and 30 in exchange for supporting all other articles. She does not feel there has been a lot of give and take. The question is what does the Board do with the information and how to move forward. She commented she would like to take all to Town Meeting and, if referred back, fine.

Mr. Alpert asked how much push back if the articles are referred back. Ms. Grimes asked if the Planning Board gets into debate on Article 27, and it is getting messy, can the Planning Board move to refer it back for further study. Mr. Alpert stated it can be referred back. Ms. McKnight noted they can confer as a Board and take a vote to recommend referral back or make a motion individually as Town Meeting members. Ms. Newman clarified if voted down it cannot be brought back for 2 years but if the Planning Board votes, or positively recommends to, it can come back within the 2 years. The Board discussed meeting with the Selectmen and how to proceed.

Ms. Grimes asked what the Board members want to do. Ms. McKnight stated she is comfortable with the 20 feet the setback is now. Mr. Jacobs agrees with what is in the Warrant. Mr. Owens stated he thinks it is going to be

very situational. He personally takes the position if the Selectmen want it referred back they have the right to make that motion but he would like to hear the voice of Town Meeting first. He would like a debate of the substance of the articles and wants to hear what Town Meeting has to say.

Ms. McKnight stated if Article 24 passes there is a saving footnote in Article 27. The Board discussed who will present which articles. Mr. Alpert will comment the Planning Board voted unanimously to recommend adoption of the Citizen's Petition.

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

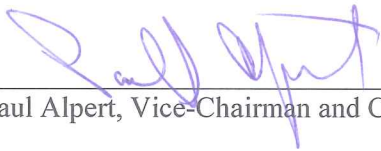
VOTED: to recommend adoption of Article 23, 24, 25, 26, 27, 28, 29 30 and 31 at the May Annual Town Meeting.

Mr. Owens asked if the Planning Board could ask permission from the Moderator to tell the whole story first. Ms. Grimes noted the Board will be granted 20 minutes.

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

VOTED: to adjourn the meeting at 10:45 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Paul Alpert, Vice-Chairman and Clerk