



TOWN of NEEDHAM
MASSACHUSETTS

PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
Economic Development
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MEETING OF THE COUNCIL OF ECONOMIC ADVISORS
WEDNESDAY, March 1, 2017 7:30 AM
Charles River Room PSAB

Present: Matt Talcoff, Chair; Moe Handel; Rick Putprush; Bob Hentschel; Marty Jacobs; Jack Cogswell; Virginia Fleisher; Stuart Agler; Adam Block; Russ MacTough; and Devra Bailin.
Not Present: Glen Cammarano; Peter Atallah; Ted Owens; Michael Wilcox; and Bill Day.
Also Present: Anne Weinstein; Lee Newman; and Jeanne McKnight

I. Approval of Minutes

The members approved the Minutes for the meeting of February 1, 2017.

II. Reminder of Next Meeting Dates

Our next meeting is scheduled for April 5th. Future meetings will be scheduled for the first Wednesday of the month (unless a holiday) in the Charles River Room at PSAB.

III. Update from the Downtown Subcommittee: Member discussion of Streamlining Initiatives

Devra noted that she was not successful in getting Jon Schneider, Chair of the ZBA, or any other member of the ZBA to attend. Although the entire Planning Board was invited, only Marty Jacobs and Jeanne McKnight were able to attend.

Devra explained that she went through the materials, including the CEA's prior discussions regarding the initiatives, and can summarize our status on the issues. If there were no objections, it might expedite the discussion today to use that as a starting point of our discussions.

1. Parking Study Moratorium: the Planning Board had indicated a willingness to declare a moratorium on requiring parking study requirements for new restaurants in the downtown, **after** the Planning Board completes its own parking study. If that remained a prerequisite, the members asked when that might be accomplished. It was pointed out that if the counts were not done by the end of May, it would be necessary to postpone until September so that the counts reflected usual conditions. It was felt that the study could be done by the fall. There was also discussion of the need for rules and regulations which reflected the actual practices and policies

of the Planning Board. These would reflect that such studies would not be required, for example, for restaurants under ____ seats, projects introducing new uses which don't increase the parking demand, projects which don't increase the parking demand such as to trigger site plan review (SPR), restaurants under ____ seats which seek to add luncheon service, etc. Finally, the CEA requested the Planning Board's support for creating public parking spaces in the Garden Street lot (thereby removing some of the permitted parking created there). Planning Board members expressed the view that these other issues should be completed in conjunction with finalization of the parking study.

2. Standards for Parking and Traffic Studies: The CEA believes that the waiver of the requirements for these studies should be captured in rules and regulations so that the process is predictable. Applicants should not be required to go before the Planning Board to seek what turn out to be standard waiver of these requirements. There seems to be some consensus with the Planning Board and Planning Department that standards for when these studies will or will not be required is desirable. Lee mentioned, for example, that, as to traffic studies, Cambridge has regulations which we could use as a model. In addition, as a matter of past practice, she noted that traffic studies have been required for: all land uses for new building construction of 50,000 sq. ft. or more; religious purposes 40,000 sq. ft. or more; primary/secondary and vocational schools 40,000 sq. ft. or more; college or university 50,000 sq. ft. or more or 150 parking spaces; hospitals 35,000 sq. ft. or more; community centers 40,000 sq. ft. or more; and nursing homes in excess of 150 beds. Parking studies have been limited by practice to large developments and use conversions where parking is limited. The members are looking for a time frame within which the Planning Board will undertake to draft and adopt these practices into rules and regulations. It was felt that this could be done in the fall. Members noted that the creation of standards creates transparency and predictability on which there is apparent agreement but no action yet been taken.

Moe noted that the Metropolitan Planning Council has DLTA funds available for these issues and it may be desirable for the Planning Department to apply for such funds to engage consultants to assist with these tasks.

On the issue of the need to submit parking and/or traffic studies or fully detailed landscaping plans upon filing, members noted that, until the site plan is finalized, these studies or plans may require considerable revisions at considerable expense. For example, if the Planning Board or departments make changes in access or egress, then the landscaping plan will need to be changed. Lee and Planning Board members noted that, for example, providing a plan which simply shows the area of landscaping, will delay the process unless the finalized plan is provided prior to the notice of public hearing. The right of the abutters to comment on the specifics of the proposal would be jeopardized unless such documentation is available at the time of notice. There was considerable discussion of what issues properly belong to the public hearing process and which should be able to be resolved administratively. Bob noted the micromanaging of such details create unforeseen complications in both the construction process and post-certificate of occupancy phase. If things can be changed administratively via current Insignificant Modification (or, if adopted, Post Construction Insignificant Modification), then why is it necessary for these issues to be reviewed in minute detail and dictated in the resulting decisions? If the SPR plan calls for 10 arborvitae but 9 survive and create requisite screening, why should

that constitute a violation? Jeanne noted that decision-making is with the Planning Board not the staff. Members are concerned about the balance between detail and the need to make changes as may be necessary without reopening the whole site plan decision. Jeanne thought that this might be best dealt with in the language of the decisions themselves, which would allow for changes/substitutions administratively. Devra noted that such changes to decisions have been on the table for years and not yet implemented; the existence of old decisions which remain unchanged argue for a broader solution via regulation changes.

3. Special Permit Transfers: The practice of both the Planning Board and ZBA to limiting special permits to a particular operator has proven problematic. Going forward, the CEA members have maintained, special permit decisions should allow changes to be made in the operator without the requirement of notice and hearing, if the operation permitted is substantially unchanged. There was discussion of the fact that the Planning Board allows such changes de minimusly but the ZBA requires full notice and hearing by amendment. Imbedding the power to make such changes administratively or at a public meeting, does not solve the multitude of special permits which don't have that language. Devra suggested that perhaps we should consider, for lack of a better term, a form of limited site plan review for making changes to special permits which are insignificant modifications?
4. Preexisting Nonconforming Parking Lots: The CEA asks that the Planning Board revisit allowing certain alterations of preexisting nonconforming parking lots without requiring ZBA (or Planning Board) special permit parking waivers or SPR waivers. Minor changes to a parking lot which do not impact the number of parking spaces (or impact the parking flow) should not require a waiver of the parking design elements under 5.1.1.7. In addition, changes in use which increase the parking demand by the number under the new threshold should also not require design waivers. If the waiver of the number of spaces doesn't trigger a special permit, why should the design elements? Lee noted that that would presumably be limited to those instances where additional nonconformities are not introduced. The idea of exempting small lots—size or number of spaces—might be a way to limit the impact. Members suggested the Planning Board consider, whether with the change in composition of its Board, there is support for the initial proposal, which had the support of the ZBA.

Devra also suggested that since parking requirements and layout are essentially elements of SPR, why not change the special permit provisions into something less than a real zoning special permit—limited site plan review? Can't we find a less onerous process for these parking lot issues, especially as they relate to preexisting nonconforming lots? Jeanne noted that SPR without special permit granting authority is a weak tool. It was suggested that we should invite the ZBA to discuss these issues, as most of these applications fall to them.

5. Post Construction Insignificant Modifications: Devra noted that we have the revised regulations, as well as the draft examples of allowed modifications which she drafted. Lee noted that the one allowing modifications where the change itself doesn't trigger SPR, is too broad. There seems to be consensus by all that such changes make sense so this should be acted upon by the Planning Board. Lee believes these things don't come before her now so that we may be creating a process where none existed before. Devra noted that, given the specificity of site plan decisions, many changes take place without seeking approval because people don't want their entire site

plan compliance reviewed. It was also noted that there should be allowance for changes necessitated by requests/orders by Town departments for safety reasons.

6. Modify Decision Language: Copies of a sample SPR decision, Liz Grimes' comments and Devra's comments have been provided. Although the Planning Board has incorporated into its decisions the provision requested that enforcement simply reference statutory terms, the other changes have not yet been incorporated. Devra noted that, although Lee indicates that under past and current practice the Planning Board permits applicants to change from one use as of right to another use as of right (provided that the parking demand remains the same) without requiring formal process, but that is not entirely true. In fact, the recent case of 50 Dedham Avenue demonstrates that problem created by imbedding in SPR permits particular uses "permitted" under the SPR decision. The applicant was required to seek permission to change from a photography studio into retail, even though the parking demand for both is the same and both are allowed by right. This is the crux of the problem when SPR is used to essentially make a use allowed by zoning as of right into a specially permitted use under SPR. This use of the SPR mechanism effectively undercuts zoning rights granted in the By-Law. There needs to be a clear separation between SPR issues and zoning ones. When the Planning Board marries the zoning uses allowed as of right with SPR decision which specifies the use allowed, you get a problematic result. Suddenly a use allowed as of right which does not alter the parking requirements is mandated to undergo notice and hearing as a modification of the SPR decision as IF it is a specially permitted use. These issues have not been addressed and should be prioritized. If the hook is that the parking is inadequate then we are capturing too much by using SPR.

Jeanne noted that 50 Dedham Avenue is not a good example because it is the only project, so far, permitted under the Needham Center Overlay District zoning. [She also commented to me after the meeting, but that By-Law limits first floor uses in a mixed use building having six or more units to retail (or dwelling units or restaurants) so in specifying retail the Planning Board was merely repeating the By-Law limitations, a restaurant use not having been proposed.] It was requested that the Planning Board members consider closely reviewing the suggested changes and let the CEA know their position after the May Town Meeting is over.

Having run out of time, the remainder of the issues will be discussed at future meetings.

IV. Downtown Banner By-Law

The members will review the draft By-Law and regulations at next month's meeting. Moe suggested that Devra meet with the DRB for their approval of the draft in order to keep the issue on the TM Warrant. [After the meeting Devra arranged to be on the DRB Agenda.]

V. Other Business

There was no time to discuss any other matters at this meeting.

VI. Adjourn

The meeting was adjourned at approximately 9:20 a.m.