

NEEDHAM PLANNING BOARD MINUTES

November 4, 2020

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Jeanne McKnight, Chairman, on Tuesday, November 4, 2020, at 7:15 p.m. with Messrs. Jacobs, Alpert, Owens and Block, as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Community Housing Coordinator Ms. Sunnarborg.

Ms. McKnight took a roll call attendance of people expected to be on the agenda. She noted this is an open meeting that is being held remotely because of Governor Baker's executive order on March 12, 2020 due to the COVID Virus. All attendees are present by video conference. She reviewed the rules of conduct for zoom meetings. She noted this meeting includes public hearings and will allow for public comment. If any votes are taken at the meeting the vote will be conducted by roll call.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Block, it was by a roll call vote of the five members present unanimously:

VOTED: to automatically continue the meeting to 11/17/20 at 7:15 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting tonight.

Upon a motion made by Mr. Block, and seconded by Mr. Alpert, it was by a roll call vote of the five members present unanimously:

VOTED: to allow the Vice-Chairman to continue the meeting if the Chairman has technical difficulties.

ANR Plan – Boston Ventures International LLC, Petitioner (Property located at 23 Dwight Road, Needham, MA).

Pasquale Bruno, Builder, noted Lot A is 44,000 square feet with 170 feet of frontage. The property is being subdivided evenly with 85 feet of frontage on both lots. Lot A-1 will have 22,006 square feet and Lot A-2 will have 21,978 square feet. Both lots meet all requirements. The existing house will be taken down and 2 new houses built. Ms. McKnight asked if there was a reference on the plan with regard to the taking down of the house. Mr. Bruno stated there is a note on the plan regarding if the house is not razed. Ms. Newman stated the plan was reviewed, a couple of changes were requested and made, and she is satisfied with the plan.

Mr. Block asked if there is a substantial slope down to Central Avenue. Robert Bibbo, Surveyor, stated the property slopes by a few feet in grade but no work is being done there. He noted there is a beautiful mature crab apple tree they are saving on the property between the lot and Central Avenue. Ms. McKnight asked if it was true this Board previously approved a plan to divide this property into 2 lots. Mr. Bibbo stated yes, but it was never put on record.

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

VOTED: to endorse the plan ANR.

Public Hearing:

7:20 p.m. – Amendment to Major Project Site Plan Special Permit No. 2012-07: TripAdvisor LLC, 400 First Avenue, Needham, MA, Petitioner (Property located at 400 First Avenue, Needham, Massachusetts). Regarding TripAdvisor Fuel Cell power.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Block, it was by a roll call vote of the five members present unanimously:

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

Walter Bonola, Installation Project Manager for Doosan Fuel Cell America, Inc., gave an overview of the proposal. This is to purchase and install a 460 kW hydrogen fuel cell power plant. TripAdvisor will use the fuel at its site and utilize the thermal energy. He stated this has great advantages and will save money on power and heating and cooling costs. It also lowers the CO2 and HGH output, and there are environmental advantages as well. There is no impact on the acoustics on surrounding properties. They can comply, once the fuel cell is installed and operational, with all State and local statutes regarding noise levels. He showed a 3D view of the fuel cell installation on a structural steel platform spanning the loading dock area. There is a louver design to screen the equipment. There will be a cooling module and horizontal radiator to eject heat. This is shielded with cedar fencing. The cedar fence is already shielding the emergency generator. The fence will be extended and return to the building.

Mr. Bonola stated there will be a doorway at the top of the stairs to the fuel cell equipment with restrictions at the bottom of the stairs. Mr. Jacobs asked what the restrictions looked like. Mr. Bonola stated he was not sure yet about the configuration, but it will probably be a gate to a ladder. Mr. Jacobs commented it was important the Planning Board knows the nature of what the restriction will be. He would like to know what it will be and if it will be effective. Mr. Bonola stated there will be a gate at the top of the stairs also and entry will be restricted at the bottom of the stairs. Typically, they use a Knox box that gives restricted access to emergency responders.

Ms. McKnight asked the Planning Director to comment. Ms. Newman said there is a draft decision with recent changes made due to Design Review Board (DRB) comments. The DRB issued conditional approval and asked that a gate be installed and that a cedar fence be installed rather than the metal fence that was shown. Mr. Bonola stated he agreed with all comments and the final plan will show a cedar fence that matches the existing. He will ensure the existing cedar panels be used so it looks like the fence has been there all along. Ms. McKnight stated the language does not include a gate at the bottom of the stairs and asked if it would be added. Ms. Newman stated it would be. The decision would be issued, plans revised and then the plans need to go to the Planning Board prior to going to the Building Inspector for permits.

Mr. Bonola asked how that would affect the applicant. Ms. Newman stated it is an administrative process. This will be approved with plan modifications. The drawings will need to be revised, a date added and then submitted to the Planning Department. Those will be the approved plans. Mr. Jacobs stated it does not look like access is restricted to the cooling equipment. He asked if there is a reason to restrict access. Mr. Bonola stated there is not usually concern with access to cooling equipment. It is not high tech and is no risk to the public. Matt Mayorhoffer, with TripAdvisor, stated there are a couple of pieces of equipment already out there that are relatively benign and safe that are exposed. This equipment is harmless.

Mr. Alpert noted the gate at ground level and asked if that would be subject to DRB approval. Mr. Bonola is not sure if the gate is subject to DRB approval. The gate will be code compliant and would be reviewed by the Building Department. He is glad to share the final details of the stairway with the DRB and Planning Board in the form of the final drawing set that incorporates all the changes discussed tonight. Ms. Newman stated that would be part of the process.

Ms. McKnight noted the following correspondence for the record: an email from Fire Chief Dennis Condon with comments; an email from Building Inspector David Roche with the same comments as the Fire Chief; an email from Tara Gurge, of the Board of Health, with comments regarding noise; an email from Assistant Town Engineer Thomas Ryder with no comments and DRB approval with conditions. Ms. McKnight asked if there is a fuel tank on the grounds. Mr. Mayorhoffer stated there is an existing generator and cylindrical 4,000 gallon fuel tank currently there. These were permitted and installed as part of the building. Ms. McKnight asked if the fuel tank holds the fuel that will fuel the tank on the platform. Mr. Mayorhoffer noted the fuel tank that exists provides fuel to the second generator that is there that was installed 5 or 6 years ago when the building was built. Fuel cell is natural gas. There will be a new gas meter. That does not involve fuel cell installation.

Mr. Bonola stated it would be next to impossible to come into contact with the emergency diesel generator. There is no hazard or risk of it being damaged by a vehicle. He has addressed the Fire Chief's comments directly and will be working with him to address anything else. The project is compliant with all codes. Ms. McKnight asked that he describe the nature of the noise testing. Mr. Bonola said the company they used was Acoustical Technologies Inc. (ATI). They took digital, audio recordings at 30 meters and he described the process. Mr. Jacobs noted ATI has no concerns with the fuel cell but what about the cooling equipment. Mr. Bonola noted when ATI refers to fuel cell that includes all equipment. The cooling module is actually tested separately. James Kinney, of Doosan Fuel Cell America Inc., noted page 12 calls out the noise results.

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

VOTED: to close the hearing.

Upon a motion made by Mr. Block, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: to approve the amendment to the Major Project Site Plan Special Permit under Section 7.4 of the Zoning By-Law, Section 3.38, with changes to the fencing consistent with Design Review Board comments and providing a secure gate at the foot of the staircase.

Mr. Jacobs asked if the applicant has had a chance to review the decision. Mr. Bonola stated he had reviewed it and had no exception to it.

Upon a motion made by Mr. Alpert, and seconded by Mr. Block, it was by a roll call vote of the five members present unanimously:

VOTED: to approve the decision as drafted with changes that were shown in the red-lined version provided to the Board before the meeting and with the additional changes as described by the Chair.

7:40 p.m. – 390 Grove Street Definitive Subdivision: Elisabeth Schmidt-Scheuber, 390 Grove Street, Needham, MA, Petitioner (Property located at 390 Grove Street, Needham, MA). Please note this is a re-noticed hearing that began on February 4, 2020 and is continued from the July 21, 2020, August 11, 2020 and September 8, 2020 Planning Board meetings and will be further continued to the December 15, 2020 Planning Board meeting.

Ms. McKnight noted there was a request from Attorney George Giunta Jr. to the Planning Director to further continue the hearing to the 12/15/20 meeting. Ms. Newman noted Mr. Giunta Jr. was speaking with abutters looking for a settlement or buyout of this property. If not successful there will be revisions to the drawing and this will move forward. She stressed the importance that this be done. If not done in December the application should be withdrawn. Mr. Giunta Jr. was agreeable. She would like to continue the action deadline to January 31, 2021 so there will not be a default.

Upon a motion made by Mr. Alpert, and seconded by Mr. Block, it was by a roll call vote of the five members present unanimously:

VOTED: to continue the hearing to 12/15/20 and extend the applicable deadline to 1/31/21 and inform the applicant if they are not ready to proceed on 12/15/20 the Board would request the application be withdrawn.

Mr. Jacobs asked if all who should get notice have been noticed. Ms. Newman stated the abutters are represented by Counsel and have been made aware.

Review of Draft 40B Guidelines.

Ms. Newman stated there were draft 40B guidelines prepared by Selectman Dan Matthews dated 12/15/20. The guidelines refer to a PLAN, which was not circulated. It is the same PLAN as before. Ms. McKnight noted she

and Karen Sunnarborg have both prepared some recommended changes. Ms. Sunnarborg noted she has sent out her comments that are part of the packet. She has some questions regarding Ms. McKnight's comments. The town has surpassed the 10% threshold required under G.L. c.40B. It is preferred any 40B applicants go through the State's local initiative program. The guidelines should state a preference but not preclude other subsidy agencies. Section III.B. says the town should not approve if more than half are affordable. She feels that is a mistake. There are projects throughout the state where all the units are affordable. That language should not be included.

Ms. Sunnarborg noted Section III.E has a suggestion of a continuum of affordability but projects with multi-tiers should be encouraged. It would be useful to have a policy statement in these guidelines regarding resale of properties that clearly states that the Fair Housing Act applies to resales of affordable condominium units. There should be a stronger rationale for promoting rental housing that recognizes such housing would be useful to add to the diversity of the housing. Mr. Block noted she is talking about selling off housing units. These should be marketed specifically to financially vulnerable people. Is there a requirement that those units subsidized by the government be sold differently? Ms. Sunnarborg stated the units are sold differently. The price is capped and it is in the recorded documents. It is part of the deed rider and it is limited by the affordable formula.

Ms. McKnight suggested she and Ms. Sunnarborg work together to come up with a new version. Mr. Block asked how these guidelines compare with the 2012 guidelines. In terms of process, he noted 40Bs are under the Zoning Board of Appeals (ZBA) and Select Board purview. He asked what role the Planning Board should have in the process and what are the Planning Board goals. Ms. Newman stated the Planning Board is looking at density and setting a site where it makes the most sense. Ms. McKnight stated preferred sites are the same areas of town as were identified in 2012. Higher density is determined on a case by case basis. Mr. Jacobs stated he has a lot of issues with the guidelines as written. Some issues Ms. Sunnarborg mentions and some are substantive. He asked how to get his comments to the appropriate place. Ms. Sunnarborg noted all comments from everyone could be incorporated. Ultimately it will be up to the Select Board so they should be given all the comments.

Mr. Jacobs asked if the Planning Board should discuss what the goals ought to be. No one has asked. A policy statement needs to go a lot further. Mr. Block stated the comments could be provided to the Town Manager now with an offer of an opportunity for further participation. Ms. McKnight stated she could work with Mr. Jacobs and Ms. Sunnarborg and forward the comments. Mr. Owens stated the Select Board gave a specific assignment. The comments should be compiled and forwarded to Town Manager Kate Fitzpatrick. He feels there should be a cover memo that expresses interest in a different process. He is not sure what the Select Board's goal is and why the deadline. He is concerned the Select Board is not looking at the big picture or consulting with the Planning Board. The Select Board should have engaged the Planning Board in a dialogue. He feels the guidelines were drafted in a bubble. He suggests doing it in 2 pieces. All members agreed.

Ms. McKnight would like to consider more condominiums. Mr. Owens stated he personally feels more condos and rental units are needed and more density in the center of town. He commented the issues need to be examined. Ms. McKnight noted that a housing campaign group has formed in town. She stated it is a positive thing but she needs to be cautious. She is respecting her 2 roles. Mr. Owens suggested she continue her involvement in such advocacy groups as a single person and not a member or liaison of the Planning Board.

Report from Planning Director and Board members.

Ms. Newman noted the Outdoor Seating Policy. She has been part of a working group to identify strategies in the Town Center during this COVID environment. The policy expires at the end of November but there is interest in allowing outdoor seating all year round. Newton adopted a policy that expires 60 days after the expiration of the Governor's order. The idea is to let restaurants have outdoor seating in winter. The Select Board will be taking this up and has asked the Planning Board for its thoughts. She suggests the date be changed from 12/1/20 to 60 days after the Governor's declaration is lifted. Mr. Jacobs added the town is trying to give restaurants every chance they can. Ms. McKnight stated there is concern with keeping the sidewalks and streets free of snow. This

is under the Select Board. If they have no issue then she is fine with that. Mr. Alpert stated he is fully in favor of this.

Upon a motion made by Mr. Alpert, and seconded by Mr. Block, it was by a roll call vote of the five members present unanimously:

VOTED: to make the change in the Outdoor Seating guidelines from 12/1/20 to 60 days after the lifting of the Governor's order.

Ms. Newman noted tomorrow morning the working group on Highway Commercial is meeting to go through Greenman-Pedersen Inc.'s report. There will be a presentation on 11/18/20 at 8:00 a.m. She requests all who can participate to do so. She will set it up as a Planning Board meeting and invite GPI to do the presentation.

Ms. Newman noted she was approached by a Babson College professor who has a class looking for a project. They are interested in the Chestnut Street corridor. As Mr. Owens is interested in this corridor she wondered if he would be interested in working with herself and these students. Mr. Owens is interested.

Ms. McKnight commented there have been complaints lately that the Accessory Dwelling Unit By-Law is too strict. She asked if an overview could be done that shows how many have been applied for? Ms. Newman will work with the staff to get that done.

Minutes

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

VOTED: to accept the minutes of 9/8/20 as amended.

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

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

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul Alpert, Vice-Chairman and Clerk