

NEEDHAM PLANNING BOARD MINUTES

December 16, 2008

The regular meeting of the Planning Board, held in the Selectmen's Meeting Room at Town Hall, was called to order by Martin Jacobs, Chairman, on Tuesday, December 16, 2008 at 7:30 p.m. with Messrs. Handel, Eisenhut and Ruth and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Public Hearing

7:30 p.m. – Major Project Site Plan Special Permit Amendment No. 1998-05: IntexSolutions, Inc., 110 A Street, Needham, MA (Property located at 110 A Street, Needham, MA).

Upon a motion made by Mr. Ruth, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to waive the reading of the public hearing notice.

Roy Cramer, representative for the applicant, noted this is a financial software company in the Business Center. They are suggesting adding a second backup generator for emergencies next to the current one. They are tested periodically and only used for power outages. It has only been on twice in the last 6 years. They need more capacity. Business is good. The generator will be enclosed by a wooden stockade fence. The main electrical line is in front of the building and goes down the front. A good spot is next to the other one already there. They did a sound study in 2002. No more than 10 decibels above ambient is the regulations and cannot bother neighborhoods. They did the same study again. With both at the same time the noise level in the middle of the night right at the property line is 13. This is next to Gold's Gym about 80 feet away. The only place that would be affected would be Gold's parking lot. There is a technical difference of 3 decibels. He does not think it is a significant issue. He requests they allow the amendment to allow the change. Mr. Jacobs noted Tony DelGaizo sent an e-mail one hour ago. He reviewed the memo for the Board which requires they submit certification. Mr. Cramer noted he was going to file a certificate anyway. Mr. Handel clarified this was intended as a backup. Mr. Cramer stated they have to test it once a month. They will test at different times. Both will run in the event of an emergency as they will need the extra capacity. Ms. Newman suggests there be a condition if there was a complaint there be some kind of sound containment introduced at that point. Mr. Ruth agreed and added they should put in they be tested separately. Mr. Cramer agreed but noted they do not feel there will be a nuisance. Ms. McKnight stated it would be helpful to have the regulations provided. She asked if residential use was allowed at all in this area. Mr. Cramer informed her it was not. She commented then she was comfortable with this. Mr. Eisenhut suggested they put in they reserve the right to impose reasonable mitigation if there is a complaint. Mr. Jacobs noted the following correspondence for the record: a memo from Tara Gurge of the Board of Health dated 12/11/08 with comments; a memo from the Fire Department, dated 12/11/08, with no issues or objections; and a memo from the Police Department, dated 12/8/08, noting no safety concerns.

Upon a motion made by Mr. Handel, and seconded by Mr. Eisenhut, it was by the five members present unanimously:
VOTED: to close the hearing.

Upon a motion made by Mr. Ruth, and seconded by Mr. Eisenhut, it was by the five members present unanimously:
VOTED: to approve the amendment subject to a condition the generator be operated and tested separately and if in the event of substantial complaints the applicant will undertake appropriate mitigation measures subject to the conditions discussed.

Deminimus Change: Major Project Site Plan Review No. 2008-04: Spasso Foods, LLC d/b/z Caffè Spasso, 155 Middle Road, Brentwood, NH 03833, Petitioner (Property located at 1498 Highland Avenue, Needham, MA).

Mr. Cramer noted there is an issue with the bi-fold doors. The Board of Health wants screens across. They have talked to the Board of Health but it got very complicated. Curtis Grace, owner, has decided to leave it as is. He does not have the time or resources right now to take on the Board of Health. He is asking to keep it as is.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to accept the revision as a deminimus change.

Appointment

8:00 p.m. – Informal conversation with Robert Smart regarding a proposed zoning amendment.

Robert Smart noted this is a violation of lot coverage. They showed lot coverage on the plan of 30%. The actual lot coverage is 25%. The Building Department approved but when it was discovered they stopped construction. They would like a section in the By-Law that if there is a violation of the setback requirements it extends the authority to the ZBA to deal with the lot coverage. He feels something like "cannot be increase by more than 10% or 200 square feet." He needs 7% or 144 square feet. Mr. Eisenhut noted it should be pursuant to the building permit issued by the Building Inspector in error. The ZBA could interpret more broadly than intended. Ms. McKnight added they could have a plan that is perfect but the surveyor was wrong. Mr. Handel suggested "issued in error" or "consequences of unintentional errors." Consequences are huge to the builder but minor to the town. Mr. Eisenhut would like to narrow excusable neglect or inadvertence. Mr. Smart noted part of the Building Department job is to check this stuff. It is not hard to look at a plan and see 25% or 30%. It is so basic. Mr. Eisenhut stated he understands the intent but wishes the language was tighter. Mr. Smart noted they would like to have them go to Town Meeting as a Planning Board article rather than a citizen's petition. The town should have this and should have considered it when they drafted the big house amendment. Mr. Eisenhut suggested he add "unintentionally" before "resulted in the construction." Mr. Jacobs asked if he would be comfortable dropping the 200 feet to 150 feet. Mr. Smart noted that was ok for them. Mr. Eisenhut commented it would answer some of his concerns. Mr. Handel stated he thinks this fixes the issue and he would not mind it coming from the Board. Mr. Eisenhut agreed only if it were tightened up. Mr. Ruth noted they should probably get something from the Building Inspector with their 2 cents. They should ask for a letter with their sense of this. Ms. Newman will formalize it. Mr. Smart asked if the Board would support this or a citizen petition. Mr. Eisenhut stated if it went to 150 feet and they added wording to the second paragraph to tighten it up he would agree to support it. Mr. Jacobs agreed with Mr. Eisenhut as did Mr. Handel. It should be 10% or no more than 150 feet.

Board of Appeals – December 18, 2008

Chunhong Goa, 70 Birds Hill Avenue, Needham, MA 02492 – 70 Birds Hill Avenue.

The Board already commented.

Chopin Real Estate Trust, 127 Lexington Avenue, Needham, MA 02492 – 127 Lexington Avenue, Lot 2.

Ms. Newman noted the Building Inspector has it right. She concurs with the position of the Building Inspector and suggests they look at these cases.

Ariel and Brian Shoemaker, 119 Riverview Avenue, Waltham, MA 02453 – 32 Mellen Street.

Ms. McKnight stated she is concerned with parking. They only have 3 spaces in the driveway and need one for the residence. She is surprised to see they could waive the parking.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: "No comment."

Lofts at Charles River Landing, LLC, c/o Kathy Binford, 5847 San Felipe Street, 3600, Houston, TX 77057 – 300 Second Avenue.

Upon a motion made by Ms. McKnight, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: "No comment."

Sprint Spectrum, L.P. and its affiliate Sprint Wireless Broadband Company, LLC, 9 Crosby Drive, Bedford, MA 01730 – 350 Cedar Street.

There is no comment.

MediaFLO USA, Inc. c/o/ Thomas A. Voltero, Esq., Duval & Klasnick, LLC, 10 Cedar Street, Suite 17, Woburn, MA 01801 – 140 Cabot Street.

There is no comment.

Needham Knights of Columbus Building Association, Inc., 1215 Highland Avenue, Needham, MA 02492 00 1215 Highland Avenue.

Ms. Newman noted they are putting in new windows, new brick piers, removing the existing walkway and putting a new canopy.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to make no comment subject to Design Review.

Craftsman Village Needham, LLC, 206 Ayer Road, Suite 5, Harvard, MA 01451 – 21 High Street.

Mr. Eisenhut noted this is a real fundamental change to what was proposed before. He asked if it should come back to the Board for a public hearing. They are really substituting a whole new project.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to recommend it be continued and the applicant be required to present to the Planning Board a site plan for comments.

Continue Downtown Study Committee -- it expired in 2007.

Ms. Newman noted this is merely housekeeping.

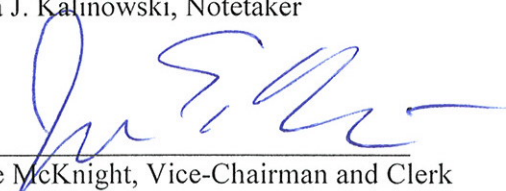
Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to extend the Downtown Study Committee to May, 2009.

Ms. McKnight noted the railing behind the strip mall. There is a loading dock in the rear. The Building Inspector has required it be surrounded by fencing but the fence does not allow people access to the train platform. She stated there will be a further meeting with Peter Henchel to discuss the options. The steps and landing are owned by the MBTA. Ms. Newman and Tony DelGaizo will be going out on Friday to look at it and discuss it.

Ms. Newman noted she has a bond for 868 Highland Avenue. There is a problem with the sidewalk in front. They have posted a bond of \$10,800. The entry into the building is too high and not safe. They have a handicap ramp in back and do not need it in front is their argument. There is no permanent Certificate of Occupancy until all the work is done and no temporary until the Building Inspector is satisfied. They would authorize a temporary on the cleaner only. Ms. McKnight suggested they apply the said sum for completing or enforcing said work. Ms. Newman noted she would send Ms. McKnight a template and they would discuss language changes and with Town Counsel David Tobin.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to adjourn the meeting at 9:15 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Jeanne McKnight, Vice-Chairman and Clerk