

NEEDHAM PLANNING BOARD MINUTES

January 25, 2010

The regular meeting of the Planning Board held in the Performance Center at the Eliot School, was called to order by Ron Ruth, Vice-Chairman, on Tuesday, January 25, 2010 at 7:30 p.m. with Messrs. Warner, Eisenhut and Jacobs as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Public Hearings

Request for Permanent Occupancy: Major Project Site Plan Review No. 2004-01: Needham High School, Town of Needham, 470 Dedham Avenue, Needham, MA, Petitioner (Property located at 609 Webster Street, Needham, MA).

Steven Popper, representative for the applicant, noted they were requesting a permanent Certificate of Occupancy. They have a letter from the Town Engineer noting he is satisfied. They are waiting to get a recording document.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the four members present unanimously:
VOTED: to recommend authorization of a permanent Certificate of Occupancy upon receipt of the recording amendment.

Mr. Popper noted the temporary runs out on January 31 and he wants to extend assuming the Building Department does not complete its work by January 31.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the four members present unanimously:
VOTED: to extend the deadline to April 30, 2010.

Transfer of Permit: Major Project Site Plan Review No. 2008-04: Spasso Foods, LLC d/b/a Caffee Spasso, 155 Middle Road, Brentwood, New Hampshire 03833, Petitioner to Nicholas G. Pappas, President, Lizzy's Ice Cream LLC, Petitioner (Property located at 1498 Highland Avenue, Needham, MA).

Nicholas Pappas noted he is requesting a transfer. He will be the operator in the same Spasso. Mr. Eisenhut asked if the handicap bath has been constructed and was informed it has been. Mr. Jacobs noted in the draft Nicholas Pappas is noted as president. He asked if he is the manager. Mr. Pappas noted he is the operating partner.

Ms. McKnight arrived at 7:45 p.m.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Warner, it was by four of the five members present (Ms. McKnight did not vote):
VOTED: to grant the transfer subject to the terms and conditions of the draft and adopt the draft with proviso verbage with respect to president will be changed.

Request for Permanent Occupancy Permit: Major Project Site Plan Review Special Permit No. 1992-02: Walgreen's Corporation, Petitioner (Property located at 1478 Highland Avenue, Needham, MA).

Keith Garofano, representative for the applicant, noted the site engineer was asked to correct a few things. All have been corrected.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to authorize the issuance of a permanent Certificate of Occupancy.

Public Hearing

7:30 p.m. – 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).

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, 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 30 acre parcel off of Charles River Street that used to be owned by the Greenway family. They have appeared informally for an 8 lot subdivision. They have met with the Fire Department and David Kelley, project engineer, is in talks with the DPW. The proposal begins on Charles River Street and ends in a cul-de-sac. Part is conservation restricted. They have been to the Conservation Commission and got an order of conditions. There is a vernal pool at the corner of the property and they have agreed to a conservation restriction around the pool. He reviewed the waivers. They did a sight line study, for traffic and people exiting the subdivision road. He has also gone over the technical issues with Tony DelGaizo. The Fire, Police and Board of Health have all commented. There is an easement for utilities and the private way is already paved and on the map. David Kelley noted this is a total of approximately 29 acres. There will be an 8 lot subdivision of one acre each on approximately 10 ½ acres. It is long and narrow and widens at the end. Eighteen acres will be conservation restricted. It is level for 1,200 feet, then slopes moderately, then flattens again and slopes toward the Charles River. There is a 50 foot gas easement owned by Algonquin Gas that runs along the westerly property line. This provides most of the gas to Needham. The roadway is on the westerly side of the site due to the vernal pool. They have an order of conditions. They have provided an expanded buffer area and will use construction techniques to protect. They have sent Algonquin copies of the plan but have not received any sign off back yet. They have tried to stay outside of the gas line. The utilities and road cross the gas easement at about a 90 degree angle. They can provide the roadway and utilities. The goal is to minimize the impact to the land as much as possible. They have tried to match the grade as much as possible.

Mr. Kelley noted they are requesting 5 waivers. They would like the right-of-way width to be 40 feet rather than 50 feet and the roadway width from 24 feet to 20 feet. They would like the cul-de-sac radius from 60 feet down to 50 feet. The Fire Department would like a 25 foot paved circle at the end of the cul-de-sac. They have agreed to that. They would like the maximum road to be 1,200 feet up to 1,995 feet. They could continue to Whitman but do not think it is a benefit to anyone. They would also like waivers for unusual aspects of the roadway. The gas company will not allow utilities within their 50 foot right-of-way easement. They propose the road be a private way and will be the responsibility of the home owners association to maintain. All utilities are available. The water department has asked they loop the water line down to connect at Whitman. The sewer line would also connect at Whitman. The property is in the Rural Residential District and there is a zoning legend on the plans. The lot area is one acre with frontage of 150 feet. They meet all requirements. For landscaping they propose an entry landscape feature. They want residential looking landscape. The plans are relative to the Algonquin portion but have not been approved by them. Ms. Newman noted they will need a scenic roads permit. Mr. Cramer noted yes but they need to wait until they resolve that with Tony DelGaizo. Mr. Kelley stated they are agreeable to everything on Mr. DelGaizo's list he sent today. Mr. Eisenhut noted the cape cod berm and elevation are less than 9 inches above the gutter requested before. Mr. Kelley stated they have asked the Board to waive the granite curb request and they have asked for a waiver of the elevation of the street line. They want to match the existing grade so it varies. It is almost flat so there will be very limited run off. He commented the soils are very good here. Mr. Ruth asked if they will be dropping to less than 40 feet. Ms. McKnight asked the width of the utility easement. Mr. Kelley noted it varies as it moves back and forth. Mr. Ruth noted for Lot 8, a portion is within the aquifer protection district. Mr. Kelley stated they do not feel they need to be within the aquifer protection district to site the house. It will not prohibit putting a house there.

Robert Michaud noted he has inventoried the travel speeds along Charles River Street. The speed limit is 30 but the speed is generally 40. To the east there is over 500 feet of sight line distance. To the west the sight line is 200 feet with brush and some trees. They will need to clear some trees to get the 300 foot sight line. They hope to have definitive plans of which trees will be impacted for the next meeting. Robert Smart, representative for the abutters, asked about sheet 3 and noted he questions if the applicant has the right to use the stub between the private way between 161 and 155. The access and frontage for 161 was on the private way. Under the derelict fee statute 161 and 155 own halfway. He feels they need a grant from either 161 or 155. Mr. Ruth clarified he thinks if it abuts you have rights. Ms. McKnight noted the proponent needs to show rights. Mr. Cramer stated they are proposing a utility easement and emergency access on 20 feet on the side of 155. Mr. Smart stated the Board has not allowed anything

like 1,900 feet before. The road curves to the left and there is not a whole lot of time to pull out. He feels there is not sufficient sight distance as of now. With Plan 6A, his client has drainage concerns. He already has a sump pump in the basement. Mr. DelGaizo told him the drainage structures here are designed for 25 year storms. They are concerned with overflow and the increase in ground water. Mr. Kelley stated Mr. DelGaizo asked them to provide additional topography for this area and they will do that. Mr. Smart stated he would like to know what the visual screening would be. Mr. Ruth noted Mr. Smart's comment regarding the design for 25 year storms and asked if that was accurate. Mr. Kelley stated they are not designed for 100 year storms. The pipes are designed for 25 year storms.

Jeff Steiger, of 119 Whitman Road, noted he appreciates Mr. Kelley's concern with the gas line. It is their concern also. His real safety concern is the building around and on the gas lines. He is concerned with the density of the development. It is very narrow and will end up having a lot of houses close together due to restrictions. Ramin Abrishamian, of 534 Charles River Street, noted they had a gas leak before and had to evacuate. There have been over 50 accidents on gas lines due to increased activities going on and giving safety waivers. There needs to be a study of the impact on the gas line. He commented this is a major trunk line for Boston, etc. Paul Aswall, of 161 Whitman Road, reiterated the gas line burst and people were evacuated. Lee Alford, of 70 Whitman Road, noted a letter from Todd and Susan Hallard regarding concerns with the safety of families with a pressurized 24 inch gas line. They are very vulnerable to construction equipment. Bennett Lavine, of 84 Whitman Road, noted his concern with the connection to the private way between 161 and 155. The connection will create additional traffic and disturb the peacefulness of Whitman Road. Chip Strapp thanks the Board for all their hard work.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to continue the hearing to February 9 at 8:00 p.m. at Eliot School.

Appointments

Bill McQuillan: Discussion of Decision: Major Project Site Plan Review No. 2009-07: Treat LLC, d/b/a Treat Cupcake Bar, 45 Stonecrest Drive, Needham, MA, 02492, Petitioner (Property located at 1450 Highland Avenue, Needham, MA).

Bill McQuillan noted he owns 1450 Highland Avenue. After the toy store went out in 2008 it was vacant until now. They will start construction in March for an 1,800 square foot cupcake store. He feels they should not have to spend money and time on a parking study. It is an overly cumbersome process in Needham. He has been in retail business for 32 years and understands the benefits on zoning. He asked why there are parking requirements at all in downtown and why is this 1,800 square foot store a major project. He strongly urges a more flexible approach to solving these problems in the future. Mr. Warner noted they worked very hard to work around the language in the zoning book regarding take-out. They are concerned it could be regarded as a take-out operation. Mr. McQuillan stated they discourage people. This is only 1,800 square feet and there is no need for all this trouble. Mr. Warner noted they struggle with traffic issues day after day. People have unrealistic parking demands. Mr. McQuillan noted the requirements need changing. It is too hard. He did not get language clarified that this is not take-out and he does not get that. He commented they make it harder in some instances. Mr. Jacobs stated people on the Board are well aware there are some problems with the zoning in town. They are constantly looking at changes and improvements. He should send a letter and they will see if it is appropriate to take it up. Mr. McQuillan stated he would be more than happy to send a letter with suggestions and facts in the next few days.

9:00 p.m. – Informal Discussion: Continental Wingate Development Company.

Roy Cramer, representative for the applicant, noted they have signed the purchase and sale agreement. He thinks they have a good handle on what the project will entail. It is not a large project. They need an elder services overlay district and need to move forward. This is a 142 bed nursing home. They will keep the same number of beds and expand the facility. They will create a 52 bed assisted living, and 12 beds for an alzheimers memory loss unit. There will be a 44 unit independent and family living unit. They will need a zoning change. He gave the parking analysis and setbacks. Mr. Ruth noted he would like on the record if the personal clock has begun if people come for an informal hearing. What their intent is and has the clock started. Mr. Cramer noted they can not do a permit without a zoning change. Mr. Ruth asked if the clock has started on this. They have nothing to act on. Mr. Cramer stated he would like the Board to think this is a good area for elder overlay services. Mr. Eisenhut asked if they want to require in an overlay district to have 25% affordable. Mr. Ruth noted they should have it done for the May Town Meeting.

Mr. Cramer stated he could do a draft of the overlay for their review. Mr. Ruth noted they should process this like a project, just a little over 100,000 square feet. Ms. Newman noted it may be a petition article the Board sponsors. Mr. Ruth suggested one public hearing for the project, get the neighbors input, then a second public hearing for zoning only. Mr. Eisenhut feels they should focus on the zoning map change only. Ms. Newman stated they should set it up as an overlay district and rezone this particular piece of land. Ms. McKnight noted they should set up a district for continuing care, have 2 family as of right, and continuing care as a Special Permit. Mr. Eisenhut stated he is concerned with the abutters. He is not comfortable creating one district for one lot. Mr. Cramer noted they will go either way. Mr. Eisenhut stated there are natural boundaries – Highland, Gould, railroad and Cross Street -- for an overlay with a Special Permit. Ms. Newman will craft zoning to the specific site or project. Ms. McKnight stated she is not concerned with spot zoning. Mr. Jacobs stated it is difficult to get zoning through at the special Town Meeting. Mr. Ruth commented they should go the Special Permit route. Mr. Cramer noted the special in the spring is what they would like to try for. Mr. Ruth suggested they make a separate district with separate things they are looking for. Mr. Eisenhut stated he would be willing to make the recommendation but thinks it should go in the fall. Ms. McKnight noted they should file the request with the Board of Selectmen. They will refer it to the Planning Board. They will have a public hearing, then determine if they will sponsor it or not. Mr. Cramer will draft something and submit it to the Selectmen. Ms. Newman noted she has never done this before. She would like to check into it. Mr. Eisenhut noted they should include an affordable housing component.

Review of Draft Zoning Article for Annual Town Meeting

- **Article 1: Temporary Meteorological Towers Overlay District**
- **Article 2: Map Change for Meteorological Towers Overlay District**
- **Article 3: Driveway Opening**
- **Article 4: Minimum Side and Rear Line Setback: Accessory Structures**
- **Article 5: Accessory Uses**
- **Article 6: Wireless Communication Facilities**

Ms. Newman noted she wants a motion to refer to the Selectmen. She reviewed the changes in the articles.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to refer the articles to the Selectmen.

Request to authorize Planning Director to authorize issuance of a Building Permit: Major Project Site Plan Review No. 2009-07: Treat LLC, d/b/a Treat Cupcake Bar, 45 Stonecrest Drive, Needham, MA, 02492, Petitioner (Property located at 1450 Highland Avenue, Needham, MA).

Ms. Newman noted there are no plan modifications.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Eisenhut, it was by the five members present unanimously:
VOTED: to authorize the Planning Director to authorize the issuance of a Building Permit.

Report from Planning Director on Council of Economic Advisors' zoning recommendations.

Mr. Jacobs noted they had a meeting last week before the entire Council of Economic Advisors. They are recommending a new definition of ambulatory health care. The committee is concerned as a whole they do not want to move against a mandate to get tax revenue in business districts and subject to questions if they should insist upon a traffic study. They feel they probably will need a study. It was voted to refer it to the Selectman and will be taken up tomorrow night. He knows Ms. Neman does not want to sponsor or co-sponsor this without answers to the questions regarding taxes. They have no answers yet.

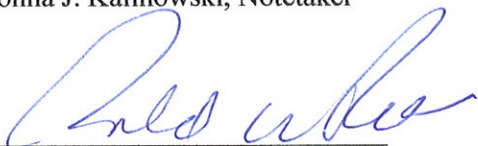
Board of Appeals – January 28, 2010.

Lofts at Charles River Landing, LLC, 5847 San Felipe, Suite 3600, Houston, TX 77057 – 300 Second Avenue.

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

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to adjourn the meeting at 11:05 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

A handwritten signature in blue ink, appearing to read "Ron Ruth", is written over a horizontal line.

Ron Ruth, Vice-Chairman and Clerk