NEEDHAM PLANNING BOARD MINUTES

April 20, 2010

The regular meeting of the Planning Board held in the Performance Center of the Broadmeadow School, was called to order by Jeanne McKnight, Chairman, on Tuesday, April 20, 2010 at 7:30 p.m. with Messrs. Warner, Eisenhut, Ruth and Jacobs as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Public Hearings

7:30 p.m. – Major Project Site Plan Special Permit No. 1995-09: Paul Caminiti d/b/a Needham Driving School, 208 Weston Street, Waltham, Massachusetts 02455, Petitioner (Property located at 902-910 Highland Avenue, Needham, Massachusetts).

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

Ms. Newman clarified this was a request for a special permit for school use and parking requiring for more than one use. Paul Caminiti, applicant, noted they provide education for junior operators to obtain their license. There are 2 to 3 classes per week, 2 hours each week. He stated his father has owned an auto school in the past. Ms. Newman noted this was originally permitted as office and required 3 parking spaces. A school requires 8 spaces. Mr. Caminiti informed the Board it would be a drop off. Ms. McKnight asked what the parking arrangement would be. Charles Gould, attorney for the applicant, noted there was a parking lot in back that is reserved for tenants. Also, the Town of Needham municipal lot, abutting streets and Avery Square. Mr. Eisenhut asked if a parking count was done. Ms. Newman noted it is not part of the permit. Mr. Gould stated they are only open 3:30 p.m. to 5:30 p.m. during school hours and in the morning during the summer. He noted most of the instruction is done on the road. They will be open regular business hours of 9:00 a.m. to 5:00 p.m. and possible 7:00 p.m. There will be no hours between 12:00 p.m. and 2:00 p.m. and there will be restricted school parking Monday through Friday. Students will be picked up at their house and dropped off at their house for the driving lessons. The classes will be off cycle from Starbucks hours.

Ms. McKnight noted the following correspondence for the record: a memo from the Board of Health with no comments; a memo from the Fire Department with no comments; a memo from the Police Department with no safety concerns; and a memo from Tony DelGaizo, of the DPW, with no comments. Mr. Jacobs asked how many cars they have and was informed they will have 2 cars. He asked where the cars will be. Mr. Caminiti noted they will be at their home. He noted classes will be 10:00 a.m. to 12:00 p.m. or 9:00 a.m. to 11:00 a.m. and after school.

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

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to grant a Special Permit for a private school and waive 5 spaces of off-street parking and more than one non-residential use in building, available 5 days per week, not between the hours of 12:00 p.m. and 2:00 p.m. with limited enrollment.

Minutes

Ms. McKnight noted on the minutes of 1/5/10, the second heading on page 2 was incorrect. On page 3, at the bottom, change "real" to "rear." On the minutes of 1/25/10, change the word "site" to "sight" on page 2 and correct the typo of "tress" to "trees."

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to approve the minutes of 1/5/10, 1/25/10 and 2/9/10 with changes discussed.

Article Assignments for Presentation at Town Meeting.

Ms. McKnight noted this was all set.

Release of Off-Street Drainage Bond for the Jenna Circle Subdivision Lot 4 (#6 Jenna Circle).

Ms. Newman noted this is one lot in the subdivision. The town is holding $10,500 and there is a request to release this. The Board of Health feels it is appropriate to release only the off-street bond for Lot 4, which is $3,500.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to release $3,500 for Lot 4.

8:00 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 Charles River Street, Needham, MA). ***Note: This Public Hearing has been continued from the January 25, 2010, February 9, 2010 and March 2, 2010 meeting of the Planning Board.***

Ms. McKnight noted the hearing is limited to the legal access from Whitman Road. Roy Cramer, representative for the owner of 155 Whitman Road, noted the doctrine of overloading an easement is not applicable. The owner of 155 Whitman has a right to grant an easement for access. Town Counsel's legal position regarding overloading an easement is not applicable. They can get an easement. Ms. McKnight noted for the record: a letter dated 4/14/10 from Town Counsel with a determination; a letter from Robert Smart, representative for the owner of 161 Whitman Road; and a letter from Roy Cramer. Mr. Cramer noted he expects the Town Engineer would want a water easement assigned directly to the town. Ms. McKnight asked if they can put in the northerly half only so that the emergency drive would not interfere with the rights of 161. Mr. Cramer stated he hopes the Board adopts Mr. Tobin's position. Mr. Smart stated the real issue is does someone who owns 1/2 interest in the fee have the right to grant an easement. He has cited 2 cases. They can only grant access to get to their own property. Mr. Cramer noted Mr. Smart has misread the case. If Whitman were a private way the cases would be pertinent but it is not private. Mr. Jacobs noted they should accept Town Counsel's letter into evidence. Mr. Eisenhut commented he was a little frustrated as there is no legal distinction. Mr. Tobin is Town Counsel and he feels they should defer to his expertise. Ms. McKnight stated they have satisfied themselves by seeking Town Counsel's opinion. She feels there is nothing more to do at the moment. Ms. Newman noted Mr. Ruth would not be available for a public hearing on June 1. Mr. Cramer stated he would rather have a full complement so he would prefer to have it on May 18. Ms. Newman noted they have too many other public hearings so they cannot do it then. Mr. Eisenhut stated a new By-Law has been passed and a missing member can listen to a tape and read minutes. Mr. Cramer stated they should schedule it for June 1. He will speak to his client. Mr. Ruth noted he is very willing to listen to a tape.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to continue the hearing to June 1 at 8:00 p.m.

Request to extend action deadline on Charles River Definitive Subdivision to June 16, 2010.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to extend the action deadline to June 16, 2010.

Request to extend public hearing date to June 1, 2010 and action deadline to June 16, 2010 on Charles River Street Scenic Road application filed March 30, 2010.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to extend the scenic road application.

Mr. Jacobs stated there is an issue with work around the gas transmission line concerns. Ms. Newman noted she invited the Fire Chief and the Spector Energy engineer to the meeting. She hopes they will be there. Mr. Warner stated the Fire Chief gets an annual report from Spector on the pipe conditions.

Review of As-Built drawings and certifications and establishment of Performance Bond: Major Project Site Plan Special Permit No. 1099-07: Cabot, Cabot & Forbes of New England, Inc., 99 Summer Street, Boston, Massachusetts, Petitioner (Property located at 200 Second Avenue, Needham, MA).

Roy Cramer, representative for the applicant, noted this was the subject of a Special Permit in 1999 and amended in 2000. The property was occupied as an office building and is now vacant. The prospective tenant is a sport and physical therapy associates with 4,782 square feet to be leased. They found not all the work in 2000 was done. He is working with Ms. Newman and the DPW and they have identified the work not completed. They have a bond. The parking was supposed to have 129 spaces. It was restriped in 2004 and increased to 135. He would like to finish all work and ask permission to keep 135 spaces. There is 36,129 square feet in the whole building. With just office they need 121 spaces and with 4,782 square feet of medical related use they will need 129 spaces. They will need no waiver. They have a formal bond. They would like them to grant a minor modification of the 2000 decision to keep the 135 spaces and recognize 4,782 square feet will be medical related. Ms. McKnight clarified 135 spaces were striped but there is still additional work to be done. Mr. Cramer noted curbing, one-way signs and a catch basin. Everything will be done immediately. Ms. Newman has drafted the decision and his hope was it would be voted and approved tonight. The bond agreement has been approved by Town Counsel for $98,069.40 or 135% of the estimated cost of the work. Ms. Newman stated they will need a bank check. Mr. Cramer stated he has a check from the partnership account. Ms. McKnight noted they could amend the decision to convert the Special Permit to medical office and convert the parking spaces from 128 to 135.

Ms. McKnight noted the following correspondence for the record: a letter from the DPW; a letter from the Board of Health with no comments: a memo from the Police Department noting no safety concerns; and a letter from the Fire Department noting no concerns. Mr. Jacobs asked about the timing with the tenant. He feels 4 months to complete the work is too long. He asked if 3 months would be ok and change the bond agreement to July 20. Mike Boujoulian, of Cabot, Cabot & Forbes, stated July 20 was fine.

Upon a motion made by Mr. Ruth, and seconded by Mr. Eisenhut, it was by the five members present unanimously:
VOTED: to adopt the decision as drafted.

Diminimus Change: Major Project Site Plan Special Permit No. 1999-07: Cabot, Cabot & Forbes of New England, Inc., 99 Summer Street, Boston, MA, Petitioner (Property located at 200 Second Avenue, Needham, MA).

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to approve the bond agreement with the date change to July 20, 2010.

Mr. Jacobs stated for the record Mr. Cramer initialed the date change on the agreement on behalf of the manager.

Board vote recommendation on Zoning Article – Elder Services Zoning District.

Ms. McKnight noted they agreed to sponsor the article at the last meeting, but did not yet vote to recommend the Article. Mr. Jacobs stated he thought the recommendation was included in the vote. There is a question on height. He is satisfied but open to listening. Mr. Ruth agreed with Mr. Jacobs. Mr. Eisenhut noted his concern is with density not height. He would prefer more control to density. He is generally satisfied if it is a lesser height they will lose architectural detail. Mr. Cramer noted he thought this was settled at the last meeting. He suggests they reduce the maximum height from 45 feet to 40 feet. They will still get what they want. Steve Levin noted they have changed the structural standard from wood to concrete block, have a slightly shallower roof and will drop to 30 feet at the end of the building.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to change the height from 45 feet to 40 feet in 3.12.7 and move a motion to recommend the article with that one change.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to recommend adoption of the map amendment.

Mr. Ruth stated they need to formally notify the Finance Committee about the change in recommendation.

Update dumpster pick up & delivery hours: Major Project Site Plan Special Permit 93-3: Continental Wingate Healthcare VII (Property located at 589 Highland Avenue, Needham, MA).

Mr. Cramer noted a question was raised at the last meeting regarding the hours of pick up of the dumpster. The next day a letter went out reminding of the restriction of hours for trash removal.

Parking Determination – George N. Giunta, Site Design Consultants for the Needham Golf Club, Petitioner (Property located at 49 Green Street).

Ms. McKnight recused herself from the hearing. George Giunta Jr. noted the club wants to build a new club house and demolish the existing. They need a parking determination. The DPW has recommended 132 spaces. Mr. Eisenhut asked how many members they have and was informed 567 members. Rich Zimbone, of the Needham Golf Club, noted they have 217 full members with a spousal limit of 60. There are 109 weekday only members, junior members, etc. He noted 64 members can play in the mornings. They also have functions. In 2009 they had 68 functions, in 2008, they had 46 and in 2007 they had 64. Quite a few lease it for after a funeral. He noted the room capacities: the grill room is 56, the function room is 100 and the deck off the back holds 56 for a total of 212. In the new facility the grill room will hold 58, the function room 136 and the deck will hold 32 for a total of 226. Mr. Jacobs asked if he agreed with the 132 number and was informed he did. Mr. Jacobs asked the number of employees. Mr. Zimbone noted 2 full time in the pro shop and 4 part time. In food service there are 5 full time and 5 part time during functions.

Upon a motion made by Mr. Warner, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to adopt the DPW recommendation of 132 parking spaces.

Ms. McKnight returned to the meeting.

Informal Discussion: Accessory Apartments.

Ms. McKnight noted a letter from Mr. Warner. He feels residents over 60 should be able to have accessory apartments in their homes to get rent to assist with finances and to stay in their homes. He feels the incentive could be no increase in assessment for a few years. Mr. Eisenhut commented he does not think they can constitutionally have an age limit on this. Ms. McKnight agrees no age limits are allowed. They could have communities designed for this age. Ms. Newman stated an intern did a study about 7 years ago. She will pull it out. Mr. Eisenhut stated they took this to community meetings and it was not well received. They should find some areas in town to rezone to multi-family. Mr. Warner stated seniors deserve something better. Mr. Eisenhut noted Ms. Newman should review the Barnstable study. Mr. Ruth stated he would rather take mansionization off the shelves. Ms. McKnight noted Weston has a better By-Law than Wellesley. She feels it is better written. Mr. Jacobs noted he would like to see the study that was done 7 years ago. Ms. McKnight noted community preservation dollars can be used for community housing. It may be possible some could be used to study this issue and possibly enforcement.

Board of Appeals: April 29, 2010.

Daniel J. DiSchino, 57 Wachusett Road, Needham, MA 02492 – 49 Wachusett Road.

This has already been dealt with.

Auberta Jacobs, 138 Central Avenue, Needham, MA 02494 – 138 Central Avenue.

This has already been dealt with.

Alex and Elena Shneider, 37 Linden Street, Needham, MA 02492 – 37 Linden Street/9 Walnut Street.

Ms. Newman noted a letter was sent April 17, 2008 stating they cannot tear it down without losing the grandfathering. If you voluntarily demolish you give up your protection. A motion was made to send the same letter again. Ms. McKnight stated she feels this is fussy since they already got their permit and she is not interested in sending the letter. Ms. Newman noted it is consistent with comments in a case like this.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by four of the five members present (Ms. McKnight voted in the negative):
VOTED: to send the same letter from April 17, 2008.

Article Assignments for Presentation at Town Meeting.

Mr. Warner will do Article 5, Mr. Eisenhut will do Article 6, Mr. Ruth will do Article 7 and Ms. McKnight will do Articles 3 and 4.

Set Summer Schedule.

This will be done at the May 18 meeting.

Report from the Planning Director.

Ms. Newman noted there is a rumor the MET Town is taller. She will have to look at it.

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 10:30 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Ron Ruth, Vice-Chairman and Clerk