

NEEDHAM PLANNING BOARD MINUTES

June 1, 2010

The regular meeting of the Planning Board held in the Charles River Room, first floor of the Public Services Administration Building, was called to order by Bruce Eisenhut, Acting Chairman, on Tuesday, June 1, 2010 at 7:30 p.m. with Messrs. Warner and Jacobs and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Public Hearings

7:30 p.m. – Nehoiden Street Definitive Subdivision: Frederick L Sewell, 1554 Central Avenue, Needham, Massachusetts, Petitioner (Property located at 198-200 Nehoiden Street). (Please Note: This hearing was continued from the April 6, 2010 meeting of the Planning Board and will be further continued to the July 20, 2010 meeting of the Planning Board.)

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the four members present unanimously:
VOTED: to continue this hearing to July 20, 2010.

Minor Modification: Amendment to Major Project Site Plan Review Special Permit No. 2005-06: Pine Village Pre School, P.O. Box 35347, Brighton, MA, Petitioner (Property located at 53-83 Fourth Avenue, Needham, MA).

Dennis Rieske, architect, noted they want a minor modification to the original application. There are 3 minor changes. The maximum number of children is 58 which has created problems. The Office for Children defines a split among the ages of children. They consider children under 2 years, 9 months as toddlers. They need to say 18 toddlers and 40 preschool children. This was agreed. The number of caregivers changes and they need 2 additional staff due to the Office of Children requirements. They have enough parking on site. This was agreed also. Mr. Jacobs asked if the director was staff. Emma Laugheed, of Pine Village Pre School, noted yes, the director was teacher/director. There will be 8 staff plus the regional director one time per week. Ms. Newman noted 8 staff and one director will need 3 additional parking spaces.

Upon a motion made by Ms. McKnight, and seconded by Mr. Warner, it was by the four members present unanimously:

VOTED: to change the description of the number of children to 18 toddlers and 40 preschool children as requested, to increase the total number of staff to 8 staff, add 2 additional parking spaces and change the description of the age of toddlers to be between the age of 15 months and 2 years 9 months. Make a reference that toddler and preschool children are as defined by the Massachusetts Office of Children Department of Early Education and Care Board.

Minutes

Ms. McKnight noted on page 1, 1st hearing, in the title it should be "Board" not "Director." On page 2, 1st paragraph, add "Town Meeting" after "spring."

Upon a motion made by Mr. Warner, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to approve the minutes of 4/6/2010 with changes.

8:00 p.m. – Scenic Road Act: Richard J. Gaffey, Trustee of the 634 Charles River Street Realty Trust, Petitioner (Property located on the southerly side of Charles River Street between 534 Charles River Street and 590 Charles River Street, and is shown on Assessor's Map 305 as Parcel 23).

8:00 p.m. – Charles River Street Definitive Subdivision: Richard J. Gaffney, Trustee, 634 Charles River Street Realty Trust, 420 Lakeside Ave. Marlborough, MA, Petitioner (Property located at Map 305, Lot 23, off of

Charles River Street, Needham, MA). Note: This Public Hearing has been continued from the January 25, 2010, February 9, 2010, March 2, 2010 and April 20, 2010 meetings of the Planning Board.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the four members present unanimously:
VOTED: to hear the 2 items scheduled for 8:00 p.m. simultaneously.

Mr. Eisenhut noted the following correspondence for the record: Roy Cramer's application for a permit under the Scenic Road Act; an e-mail to Lee Newman from Tony DelGaizo, dated 5/24/2010, with comments; a letter from the Charles Engineering Group, dated 4/29/2010, with a response to the DPW letter; a letter from Tony DelGaizo, dated 6/1/2010, regarding removal of trees with no comments or objections; an e-mail from Thomas Ryder to Lee Newman, dated 6/1/2010, with comments and a 3 page fax from Dr. Paul Aswald.

Roy Cramer, representative for the applicant, gave a summary since the last meeting. They have submitted plans to the DPW. David Kelly and his associates met with them and got 6 or 7 comments. They made revisions and resubmitted the plans. The DPW is satisfied. He has spoken with Mr. Kerrigan at Algonquin Gas. He could not attend tonight but will be available on June 15. Orally, Mr. Kerrigan is satisfied but there is no letter yet and he hopes to get it soon. David Kelly, of Kelly Engineering Group, noted the storm water management system on the property is the best. It will fully comply with the DEP standards and the town standards. One item in the 2/26/2010 letter from the DPW is important and addresses the low point. They suggested they put in a new storm drain. The town standards are 3 sub surface recharge systems. They cannot agree as the current system will comply. He noted the low area on 155 Whitman Road area may exacerbate water 161 has in the basement with a new storm drain. They cannot agree to do work in the conservation restriction area. They are agreeable to Jerry Carr's suggestion regarding utilities. He asked they consider putting in check dams for a backfill system. They are agreeable to that. He reiterated Algonquin will be here on the 15th for questions. He has reviewed the landscaping plans with Algonquin. They were agreeable, made plan revisions and submitted them to them on April 8. Minor changes were made and they have submitted new plans. He expects to have a clean letter from Algonquin on June 15. Mr. Jacobs asked if the Fire Chief was invited and was informed he was. Mr. Cramer noted the Jerome Carr letter showed up at the DPW today. Thomas Ryder has recommended they respond to Engineering in writing. Mr. Eisenhut noted he understands the trees are marked. Ben LaFrance stated they are not marked. Mr. Cramer noted they are marked with paper. Kevin Naughton, the Tree Warden, clarified the larger trees have been marked. The smaller ones have not been. Mr. Kelly noted the stakes are in to mark the line of sight. The green line represents the line of sight of the drive. It is a 305 foot length. The slope extends upward and there is an area of a number of trees at top. There are a lot clumped together in a mass. Mr. Warner asked whose trees they were and was informed they are on town property. Mr. Cramer noted the DPW asked when they are regrading they put a lower slope to hold the snow. Mitigation is designed to be survivable in this area and low shrubbery that may be maintained by homeowners.

Ben LaFrance, of Hawk Design, noted they want to create an environment for trees to thrive and survive. There are 3 red maples along the road and some shrubs along the existing split rail fence. There will be juniper, rhododendrons, etc. to better screen the NStar facility. Mr. Warner asked on Sheet 1, what percentage of plants are native and what are not. Mr. LaFrance noted he was not sure right now. Mr. Warner commented he would like it naturalized. Ms. McKnight clarified on Sheet 6C, only the trees to be removed are cloudy outline and was informed that was correct. She asked what type of trees the clusters consist of. Mr. LaFrance noted white pines, Norway Maples and Red Maples. Ms. McKnight stated the low area referred to 155 Whitman Road. She drove out there. The area is quite low. She was told it was not a wetland but she thought it was. Mr. Kelly clarified it was not a wetland. Ms. McKnight asked him to explain the drainage system. Mr. Kelly noted there is drainage on the whole property. It is moderately sloped with a small ridge 2 to 3 feet high located on the property. All water runs to this ridge and they are not changing this. It is reasonably well drained. They are agreeable to putting some sort of drain at the swale. Ms. McKnight asked if there will be any changes in the various utilities. Mr. Kelly noted there are slight changes due to the DPW letter of 2/26/2010. They requested they be located closer to the sewer. A lot of utilities will exist in the easement outside of the right of way. Everything remains the same and has been approved by Algonquin Gas. Mr. Cramer noted it was all on the 155 side. Ms. McKnight asked if it would all be outside the layout and was informed yes. They have requested a waiver. Mr. Eisenhut asked if there was anyone in the room in favor or against the Scenic Road Act Petition.

F. Jerome Grimm, of 569 Charles River Street, stated he watched them remove a lot of trees with Algonquin. They said they were going to plant 23 pine trees on the hillside. There are none as of now. He told them if there were none

on the hillside, they need to put some along the road. They are there now because they spoke up. Now they want to remove 51 trees to be replaced by 3. Who will be responsible for the site? He is worried sick about safety of the site. Something will happen at that intersection. He wants the Board to go to the site and see. He is against the project. He noted he has an economic interest. He feels there are major safety issues. Mr. Eisenhut noted the Board will have continuing jurisdiction. If there are any issues, he should notify them and they will deal with it. He noted their focus is the drainage. The town engineering department will be reviewing it and make comments and recommendations. Robert Smart, representative for Paul Aswald of 161 Whitman Road, noted Dr. Carr's letter did not suggest moving the drain south as represented by the applicant but westward to Lot 8. Not into the conservation area. He will be requesting there be a meeting with Dr. Carr, Tony DelGaizo, David Kelly and Ken Naughton before the next meeting to discuss the drainage issues. He feels they can be resolved easily. Copies of the 2/26 DPW and 5/26 DPW documents have been requested and the applicants responses. He has not seen any of these and needs them to prepare for the next meeting. He has also not seen a prior letter from Algonquin Gas. Mr. Cramer noted that was an internal correspondence and was not submitted. Mr. Smart reiterated he would like to see copies. Mr. Eisenhut stated they would only give what is submitted for the record. Mr. Smart stated he is only hearing summaries of the correspondence and is afraid they will get it the day before. Mr. Cramer stated when they get the final letter they will get a copy. Mr. Smart reiterated he would like previous correspondence also. Mr. Smart noted Mr. Aswald would be submitting a petition. They would not like a waiver of the road length and would like to see some screening along the easterly border. They have not seen any plans. Mr. Kelly stated he spoke with Dr. Carr today and noted what the letter said does not make any sense. What he meant was to extend southerly into the conservation restriction area. They cannot build in the conservation area.

Paul Aswald, of 161 Whitman Road, submitted a petition. He is opposed to the length of the cul-de-sac. He feels there are so many waivers nothing complies or conforms to the By-Laws. He noted he moved to Whitman Road for its peacefulness. There are too many non-conformities to the By-Laws and they are cramming too many lots in there. He invited them all to come see the swamp in his yard as of now. He noted all the water comes toward him. The recharge areas are only dry wells of crushed stone. The back of his yard is all squishy and every year the low area floods out. The below grade, sub surface flows are a concern they are not hearing about. They cannot have more sub surface water. He added they should tie into the MWRA sewer line. Mr. Eisenhut noted for the record a petition submitted to the Needham Planning Board dated 6/1/2010. Ms. McKnight asked about the maintenance of the plantings and drainage system. What utility systems will be public and maintained by the town and which will be private and who will maintain. Mr. Cramer stated the water is public and will be maintained by the DPW. The organizations setup is similar to Petrini's River Bend. There will be a grant of a water easement to the Town of Needham. There will be a lot owners association with language negotiated between the Association and the Planning Board. The street will be the neighborhoods responsibility. The vegetation will be the same thing, similar to a condo. Dues will be assessed. Some responsibility will be the owners and some the association. He noted at River Bend the lights are the responsibility of the homeowner. Mr. Jacobs asked if Mr. Grimm finds the trees are not being up kept who would he call. Mr. Cramer noted the homeowner association, then the Planning Board. He is not sure about the utilities. Some are exempt. Mr. Warner noted Mr. Aswald is referring to storms recently. Because of grading on the end lots, water sheets and goes down the street and floods. Why does it not flood other yards. Mr. Aswald stated the storm water capacity is exceeded. The storm water system and sewer system south of the private way is maxed out. Jeff Steiger, of 119 Whitman Road, stated he is higher up and the land slopes slightly down.

Mr. Cramer stated he was hoping they would be able to close the hearing on 6/15. He has not been able to reach his client but he feels his suggestions are reasonable. Mr. Eisenhut stated that was not fair to the Planning Director and not reasonable. They need time to absorb all the information. It is very complicated. Mr. Cramer stated the DPW has agreed. He will need to talk with his clients. This has been going on a long time. Mr. Smart requested the hearing be continued to 6/15 but be kept open until 7/20. Mr. Aswald cannot be here on the 15th but can be here on 7/20.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the four members present unanimously:

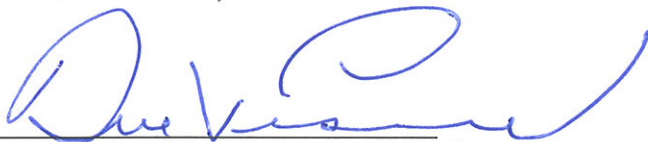
VOTED: to continue hearings on both to 7:00 p.m. on June 15, 2010 and extend the action deadline to June 30.

Report of the Planning Director and Board Members.

Mr. Warner asked in the War Powers Act what is the language for the predominance of the federal law. Ms. McKnight noted the federal law preempts both state and local laws regarding cell towers. Interstate commerce federal law supercedes. Mr. Eisenhut noted federal preemption is a better option. Mr. Warner noted they need to look at Needham 5 years from now and what they want.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the four members present unanimously:
VOTED: to adjourn the meeting at 10:05 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

A handwritten signature in blue ink, appearing to read "Bruce Eisenhut", written over a horizontal line.

Bruce Eisenhut, Vice-Chairman and Clerk