

NEEDHAM PLANNING BOARD MINUTES

December 6, 2011

The regular meeting of the Planning Board held in the Charles River Room of the Public Services Administration Building was called to order by Bruce Eisenhut, Chairman, on Tuesday, December 6, 2011 at 7:30 p.m. with Messrs. Warner, Jacobs and Ruth and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Diminimus Change: Major Site Plan Review No. 2004-01: Permanent Public Building Committee for the Needham High School, 609 Webster Street, Needham, MA 02492, Petitioner (Property located at 609 Webster Street, Needham, MA).

Hank Haff, representative for the Town of Needham, submitted a memo from the Superintendent of Schools regarding why the temporary parking of the buses is necessary for the rest of the year. They have 15 buses, 6 vans and associate parking. The lower lot is away from the school and is empty most days. It has been accessed on numerous occasions. He noted the turning radius is fine. He stated it is only temporary so there will be cones and temporary signage. There is overflow parking available at Memorial Field. It has been restriped and has 153 spaces now. They do not envision any parking problems.

Mr. Ruth asked why there was all this excess parking at the High School. Mr. Haff stated if they followed the zoning there would be more. The fluctuation of car ownership is down, ride sharing is down and siblings share rides. It is economically based. Mr. Ruth asked, if once the buses are gone, should they not use Memorial Field to help augment town issues with parking. Mr. Haff stated parking is a privilege and upper classmen have the priority for spaces closest to the school.

Mr. Jacobs noted the information was helpful and thanked them. He commented he has a concern with the buses making more trips in and out of the neighborhoods daily. Mr. Haff noted the scheduling of the bussing does not conflict with the peak times. Sheila Hamwey, Director of Transportation for the schools, stated at 6:45 a.m. 15 buses and 6 vans would leave to go all over and would be back at 9:00 a.m. At 10:45 a.m. 3 buses would do the mid-day kindergarten and would be back at 12:30 p.m. and all buses would leave at 1:45 p.m. and be back by 4:00 p.m. Mr. Jacobs noted Kingsbury Street would get the brunt of it. Mr. Haff stated some would go out to Webster Street instead.

Ms. McKnight noted next to the parking area appears to be a house on Rosemary Street. Mr. Haff stated there was a house with a full garage under. Ms. McKnight clarified there was a house in front and one in back next to the lot. Mr. Haff stated yes -- there is a 25 foot transition zone and small trees. Ms. McKnight asked what time the drivers would start up the vehicles and park their cars. Ms. Hamwey stated 6:30 a.m. to 6:45 a.m.

Mr. Eisenhut stated he had had a question about whether the lighting would change but the decision says it will stay the same. Mr. Jacobs noted they are dealing with this as a diminimus change. The abutters have not been notified and there could be issues. He reiterated they were doing this at their own risk.

Mr. Ruth clarified if someone complains the Planning Board would retain jurisdiction to have the applicants come back. He stated he would like that in the decision.

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

VOTED: to approve the diminimus change with one addition to the favorable decision presented which is to retain jurisdiction.

Minor Project Review for Outdoor Seating: Petit Needham, LLC d/b/a Petit Robert Bistro, 298 Harvard Road, Bolton, MA 01740, Petitioner (Property located at 45 Chapel Street, Needham, MA).

Ms. Newman noted this will be continued to the next meeting.

Diminimus Change: Major Site Plan Review No. 2004-01: Permanent Public Building Committee for the Needham High School, 609 Webster Street, Needham, MA 02492, Petitioner (Property located at 609 Webster 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 reopen the hearing for the purposes of correspondence.

Mr. Eisenhut noted the following correspondence for the record: a letter from Police Lt. John Kramer, dated 12/2/11, with no safety concerns; a letter from the town engineer, dated 12/5/11, with no comments and a memo from the fire department, dated 11/29/11.

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.

Board of Appeals – December 19, 2011

180 Hillside Avenue, LLC, 264 Edgewater Drive, Needham MA – 180-182-184 Hillside Avenue.

Ms. Newman stated this does not comply. She noted to demolish a non-conforming structure they need to replace it with a conforming structure. A voluntary demolition is abandonment. Mr. Eisenhut stated she should call out the case to the ZBA.

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

VOTED: to comment this applies to one or 2 family only and to reaffirm their 20 year old position that they lose their protection.

Public Hearing

8:00 p.m. – Oak Street Definitive Subdivision: Richard Nigro, 9 Cabernet Drive, Unit 2, Concord, NH 03303-1035, Petitioner (Property located at 66 Oak Street). Note: This hearing is continued from the June 21, 2011, July 12, 2011, September 8, 2011, October 18, 2011 and November 1, 2011 Planning Board meetings.

George Giunta Jr., representative for the applicant, stated this has been dragging on. The original developer backed out. He would like to withdraw it.

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

VOTED: to approval the withdrawal of the application without prejudice.

Minutes

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

VOTED: to approve the minutes of 9/8/11 with the changes discussed.

Diminimus Change: Major Project Site Plan Special Permit No. 2010-04: The Mackin Group, LLC, 7 Harvard Street, Brookline, MA 02445, Petitioner (Property located at 916-932 Great Plain Avenue and 36-58 Dedham Avenue, Needham, MA).

Ms. Newman noted she had prepared a draft decision. Robert Smart, representative for the applicant, noted in paragraph 1.6, the date of completion in the first paragraph is different from the second paragraph. The first date should be changed from 12/6/2021 to 1/1/2017. He noted he had received Town Engineer Anthony DelGaizo's comments today. He stated Town Engineer DelGaizo's suggestions regarding paragraph 3.16 and the median are fine if the Board would go along with that.

Mr. Jacobs asked what happened when Town Engineer DelGaizo's estimate was 10 years and now it is 5 years. Ms. Newman noted it was a conservative estimate based on issues. She spoke with Town Manager Kate Fitzpatrick and told her she needed a date. Town Manager Fitzpatrick informed her it would be done by 2016 so Ms. Newman set 1/1/2017 as the date.

Ms. McKnight noted there was a median issue. She feels they should leave the possibility of a median in despite the DPW Directors view. They do not know what would happen. Also, if there is to be a median strip it should extend from the current island up to the driveway entrance and worded as the developer would only pay directly in front of his property. It should be from the intersection of Dedham Avenue/Great Plain Avenue to the driveway. The problem is created by the driveway. Ken Mackin noted the initial language talked about bump outs and such costing hundreds of thousands of dollars.

Mr. Smart stated Ms. McKnight initially talked about extending the median to the driveway then from the intersection to the drive. It should be from the existing island to the drive. They do not want to pay for rebuilding the island. Mr. Jacobs and Mr. Warner both agreed. Ms. McKnight noted in 1.7 it should be from the Dedham Avenue existing traffic divider to the driveway entrance serving the premises. All agreed.

Mr. Ruth noted in 1.11 on page 5, it should be (i) not (h). Mr. Eisenhut noted the following correspondence for the record: an e-mail from the town engineer dated 12/6/11; an e-mail from the town engineer dated 12/1/11; an e-mail from Lt. John Kraemer, dated 12/5/11, noting no safety concerns; and a memo from Janice Berns of the Board of Health, dated 12/1/11, with no comments at this time.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to grant the amendment as requested as set forth and presented at the meeting with the diminimus changes made.

Informal Discussion: Proposed Needham Farmer's Market.

Mr. Eisenhut noted the following correspondence for the record: an e-mail from Jeff Friedman dated 12/2/11; a copy of the By-Law; the license agreement; the decision for the daycare at the First Parish Church and the decision for the Charles River Ballet Academy.

Ms. Newman asked how the use fits in the zoning By-Law and if a parking study would be required for the use. Is musical entertainment permissible? Is a non-profit table for Needham artists permissible? Mr. Eisenhut stated it was a matter of construction not interpretation. Ms. McKnight noted a farmers market may be on a parking lot. Mr. Eisenhut stated there must be an objective reason for calling it "on". Mr. Jacobs commented he believes it can only take place on parking areas. Ms. McKnight noted in #3 a special permit is inserted in all districts for all uses. Ms. Newman noted #2 is a new category in the use table. Mr. Eisenhut noted "may" is the rationale for calling it out. Mr. Warner stated a consequence of the decision is to spill out on Dedham Avenue.

Mr. Ruth noted the proposed church lawn is not a parking lot. He asked Mr. Friedman how we got to here. Mr. Friedman stated they tried to get the High School lot but the regulations to use the school facility must be a non-profit and qualify for a 501C3. They are not eligible for the 501C3. He has been advised by town officials it would be better to wait a year or two.

Mr. Ruth asked how the craft fair at the High School does it. He suggested they look into that. Mr. Friedman stated there are no regulations for rental of parking lots, only the buildings. They are still trying for the High School. The First Parish front lawn is for one year only. Another location they looked at is the hospital's Chestnut Street lot. The hospital will now be using that and withdrew the offer. Mr. Warner asked about the Chapel Street lot. Mr. Friedman stated he has not investigated that. Mr. Ruth noted there is no train service on Sundays and it is town owned. Ms. Newman added the Dedham Avenue lot or the CVS lot. Ms. McKnight asked why explore other sites when they already have one.

Mr. Eisenhut stated the language is unclear with "may." It should be construed as "may" and cannot exclude other sites. Mr. Ruth stated they expressed at Town Meeting it would not be in residential areas. Ms. McKnight stated she feels all words after "may" are optional. Ms. Newman clarified the intent was to allow it at a church, etc. Mr. Eisenhut stated if they are going to have them in parking areas it has to be in certain parking areas. Ms. McKnight noted it is a special permit use and they can have it on existing parking areas. She feels the Board have authority to grant a special permit for it but they should get an interpretation from Town Counsel. Mr. Jacobs stated that he would agree to go along with Town Counsel's interpretation (about locating the market on the Church front lawn, which is not an existing parking area) even if Mr. Jacobs does not agree with it. Mr. Warner feels they should look into other parking areas. Mr. Jacobs agrees. He thinks this is a bad location.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by four of the five members present (Mr. Warner voted in the negative):

VOTED: to seek the opinion of Town Counsel as to the authority to grant a special permit for a farmer's market in a location other than existing parking.

Mr. Friedman stated it has been suggested by the Board of Selectmen to delay applications to town parking lots for a year or two. Robert Smart stated he has been working with Mr. Friedman on the license agreement with the church. He noted they need 4 out of 5 votes. If 2 feel this is a bad location they should tell them now. Mr. Jacobs reiterated he already stated it was a bad location. Mr. Warner agreed. Ms. McKnight stated she would like to hear it presented. She has made no pre-judgment. Mr. Ruth stated it is not an optimum location but he would like to hear it presented. Mr. Eisenhut feels it is overkill if a parking study is required. Ms. McKnight stated if it was limited to one year they could use that year to study it. She noted there can be no amplified music.

Mr. Jacobs stated they are so far from where they started – local produce by local farmers. Now the market may include anything and is no where near local produce anymore. Mr. Friedman stated they are proposing 8 tables. There may be a community farm table. One table of the 8 will be for local artists. It will be very limited in terms of artists. There will be one or 2 musicians. Mr. Jacobs asked why they are talking non-profit. What if they want to bring in the NRA. This is supposed to be a farmer's market. They could end up with something entirely different and with no food the way it is written. Mr. Warner commented he agrees with Mr. Jacobs. The focus should be food.

Mr. Eisenhut noted an e-mail from Mr. Friedman dated 12/2/11 for the record. Mr. Ruth stated no marching band or no amplification.

Report from the Planning Director.

Ms. Newman noted a letter from Roy Cramer regarding 77 Charles Street/19 Wexford Street. It is a 46,647 square foot lot with a 20,100 square foot building. There are 63 parking spaces, some on Charles Street. Currently there are 2 tenants – Pittsburg Paint with 8.78 spaces and G Medical with 10.54 spaces. The vacant space has 14.35 spaces. Mr. Cramer wants to put a training use in the building which goes above the 2,500 square foot limit. This would require 42 spaces or 76 for the building. There are only 63 but they are proposing personal training by appointment with classes limited to 5 and a maximum load of 24. This leads to only 58 spaces. She asked if a parking study is necessary. Mr. Ruth stated he does not think so. Mr. Eisenhut stated he would not require one. Mr. Jacobs agreed.

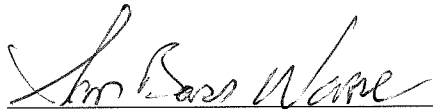
Mr. Eisenhut noted an e-mail from Richard Hardy dated 11/21/11 and a letter from James Hugh Powers dated 10/31/11 for the record. Mr. Warner commented the Planning Director is doing the work of 2 people and he feels she is overworked. Ms. Newman stated she has good staff working for her. Mr. Ruth noted it was an informal arrangement at the moment. They need to think about the status quo with the budget.

Ms. McKnight commented on the retail sale of alcohol. They cannot control the hours of retail liquor establishments. They are controlled by the state and are 7:00 a.m. to 11:00 p.m. They can not have control through zoning. She noted the Selectmen could license anywhere a retail store could be licensed. She feels there is a planning issue here that needs to be addressed. Mr. Eisenhut stated they need to think carefully how they are going to regulate it. Ms. Newman will see how other towns such as Concord and Lexington regulate it. Mr. Eisenhut requested she put a liquor store discussion on the agenda. He would like to know to what extent can zoning put controls on liquor stores.

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

VOTED: to adjourn the meeting at 10:10 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

A handwritten signature in cursive script, appearing to read "Sam Bass Warner", written over a horizontal line.

Sam Bass Warner, Vice-Chairman and Clerk