NEEDHAM PLANNING BOARD MINUTES

December 20, 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 20, 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.

Public Hearing

7:30 p.m. – Major Project Site Plan Review No. 2011-06: Monselios, LLC, 235 Billerica Road, Chelmsford, MA 01824, Petitioner (Property located at 61 Central Avenue, Needham, MA).

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

George Giunta Jr., representative for the applicant, noted this is currently occupied by an existing 2 story office building originally built in 1948 as a residential building. In 1982, it was converted to office, as general office use was allowed as of right. However in 1993, the area was rezoned as Neighborhood Business District, and under that district, office was not allowed, rendering this use pre-existing non-conforming. Recently, the By-Law was amended to allow office use as of right or by Special Permit. There is a real estate business there now. The applicant received waivers for parking to cover the use of the basement space.

Mr. Giunta stated they would like to provide a better and safer access and would like to provide a bathroom on the first floor. The new regulations require handicap accessibility to the first floor and bathroom. They will put a 570 square foot addition to accommodate the handicap issues. There would be an increased parking requirement. He noted they would like a waiver for the additional parking.

Mr. Giunta stated there are 6 asphalt spaces on site and they have added 2 more permeable paver spaces. They are not compliant with design requirements. The parking requirement has been increased to 10 and they would like a waiver. Mr. Jacobs asked if the 2 paver spaces were right in front and was informed they were. Mr. Eisenhut commented there was minimal landscaping. Mr. Giunta stated it was a very tight lot. He added the permeable pavers worked out well.

Mr. Jacobs asked if the driveway access was marked entrance/exit. Mr. Giunta Jr. stated they were at one time. He noted they can have a sign at each corner.

Ms. McKnight stated she did not see a date for the creation of the lot at 6,000 square feet to make the lot size nonconforming as to the 10,000 square feet requirement. She questioned whether the area, lot frontage and parking are non-conforming. She asked when the taking of the land was. Mr. Giunta Jr. stated the taking of the land was recorded in January 1932. The 10,000 square foot zone was in effect in 1939. He added the lot and description has never been changed since 1921 other than a portion taken.

Ms. McKnight asked about a recorded survey plan. Mr. Giunta noted 1948 is the first plan that shows this land. The frontage has not changed at all.

Mr. Warner stated he would like to see pictures. He commented there is never any context to Mr. Giunta's presentations. He would like to see that change going forward. He reiterated there is no context to help them understand.

Ms. McKnight noted the comments by the DPW Director. The handicap access entrance is in the rear but the handicap space is in the front. She asked if it is possible to create a handicap space in the back. Mr. Giunta stated they would lose a space to do that. He added the first floor will now be handicap accessible.

Ms. McKnight asked if all the abutters' properties were businesses. Mr. Giunta stated the highway was on one side and businesses on the other. Ms. McKnight asked where the closest residents were. She was informed they are on the other side of 128. Mr. Eisenhut asked if this was lawful pre-existing and was informed it was.

Ms. McKnight stated she would like to ask Mr. Giunta for a supplemental memorandum showing how the lot was created. Ms. Newman stated they could put a reference in the decision.

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

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

Mr. Eisenhut noted the following correspondence for the record: a memo from Janice Berns of the Board of Health, dated 12/1/11, with no comments; a memo from Lt. John Kraemer, of the Police Department, dated 12/5/11, with no concerns; a letter from the Town Engineer, dated 12/20/11, regarding the handicap spot; a memo from the Fire Department noting they are all set; a memo from the Design Review Board noting approval dated 12/5/11; the applicant and cover letter.

Ms. McKnight asked if the draft decision would show signage. Ms. Newman stated it would. She will do it as a plan modification. Mr. Jacobs noted in 3.15 she should add "shall". Mr. Giunta stated the general hours are 8:00 a.m. to 6:00 p.m. They would like 8:00 a.m. to 9:00 p.m. and include Saturday. Mr. Ruth asked if they would like Sunday and was informed they would. Mr. Warner clarified 8:00 a.m. to 9:00 p.m. 7 days per week. All agreed.

A motion was made to grant the requested Major Project Site Plan Review Special Permit under Section 7.4, the requested Special Permit under Section 3.2.3.2(n), a Special Permit under Section 1.4.6 and a Special Permit under Section 5.1.1.5, with the change in the plan of handicap designation, to show signage for in and out, to put the reason in 1.8 for the non-conformity with a reference to a memo to be provided by the applicants' attorney, the time of operation should be changed and the typing errors corrected. Mr. Ruth requested the motion be amended to note he would like smaller signage specified to be not greater than 2 feet by 2 feet. Ms. McKnight noted no more than 4 square feet. All agreed.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to grant the requested Major Project Site Plan Review Special Permit under Section 7.4, the requested Special Permit under Section 3.2.3.2(n), a Special Permit under Section 1.4.6 and a Special Permit under Section 5.1.1.5, with the change in the plan of handicap designation, to show signage for in and out, to put the reason in 1.8 for the non-conformity with a reference to a memo to be provided by the applicants' attorney, the time of operation should be changed, the typing errors corrected and the signage should be no greater than 4 square feet.

Request for Permanent Occupancy Permit or Extension of Temporary Occupancy Permit: Major Project Site Plan Special Permit No. 2009-06: Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, Petitioner (Property located at 1471 Highland Avenue, Needham, MA).

Ms. Newman noted the DPW gave a commitment to do crosswalk work in the spring of 2012 and the ramp on the Town Hall site. Money has been budgeted and will be spent on this. Mr. Jacobs asked what happens if it does not get done. He feels they should not treat the town differently from others.

Tiffany Shaw, representative for the applicant, stated this is outside the scope of the work. Mr. Eisenhut asked if they could condition the permanent occupancy permit. Ms. McKnight stated she feels they should just extend the temporary. Mr. Ruth stated he does not like to treat public entities differently but feels they should in this case and issue a permanent. He noted that with town projects, they have internal government channels if it does not get done that they do not have with the general public. Mr. Eisenhut noted granting an extension of the temporary to a date in the spring is an option. Mr. Jacobs suggested they extend the temporary to a January meeting and ask the DPW for a letter of what the towns' intentions are in terms of time and the 2 ramps. A motion was made to extend the temporary to January and ask the DPW for a letter.

Steven Popper, representative for the applicant, noted the crosswalk is in place and remains in place. They have the mechanism to cross Highland Avenue. Mr. Jacobs stated they need justification from the town. Mr. Eisenhut agreed he would like something concrete. Ms. McKnight stated she prefers to see it extended to the spring. She suggested they amend the motion to extend the temporary to June 30.

Mr. Ruth stated if the Planning Director gets a letter from the Town Manager they should extend for 6 months leaving open the option for the applicant to come in with a letter setting forth the towns written commitment to do the work and get a permanent Certificate of Occupancy. He suggested if the letter is satisfactory to the Planning Director she is authorized to grant the permanent.

Mr. Jacobs noted the letter should state unequivocally the town is committed and has the funds available to do the 2 ramps and crosswalk within a timeframe that is within 2012. If Ms. Newman is not happy she can put it on the next agenda. They can extend for 6 months but Ms. Newman can issue a permanent prior to that if the letter comes in.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to extend the temporary for 6 months leaving open the option for the applicant to come in with a letter setting forth the towns written commitment to do the work and that the funds are available to do the 2 ramps and a crosswalk. If the letter is satisfactory to the Planning Director she is authorized to grant the permanent Certificate of Occupancy.

Request for Extension: Scenic Road Act Agreement: 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).

Roy Cramer, representative for the applicant, noted this is the Belle Lane subdivision. They received approval on 9/28/10 that is good through 9/28/14. The same night the Board issued a permit under the Scenic Road Act. The Scenic Road Act is only good for 2 years to 12/11/12. They are still in litigation and would like to extend the Scenic Road Act permit to 9/28/14 to make it consistent with the subdivision or make it per the endorsement date which would be 4 years from tonight.

Ms. Newman stated it was designed so the work would not be left hanging for a long period of time. Mr. Cramer stated they cannot do anything until the issues are resolved. Ms. Newman asked if 2 years from the endorsement date would give enough time. She noted they can always ask for an extension. Mr. Cramer stated that it might work tied to the endorsement. Mr. Eisenhut suggested 2 years from the endorsement is the cleanest. Mr. Cramer agreed.

Mr. Ruth stated he wanted to make sure all parties are aware this is happening since it is in litigation. He stated notice should be given to the parties involved.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to grant the amendment for an extension of time for the work to be completed to 2 years after endorsement of the definitive subdivision.

Mr. Jacobs asked if the applicant is stating for the record they have no intention of going ahead until the litigation is settled. Mr. Cramer clarified that is the intent. Ms. McKnight suggested they state "completed no later than 2 years from commencement of work and in no event no later than 2 years from endorsement." Mr. Jacobs stated the applicant cannot start work until endorsement of subdivision.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by four of the five members present (Mr. Ruth abstained):
VOTED: to amend the previous motion to state no later than 2 years after commencement of the work and in any event no later than 2 years from endorsement unless otherwise extended by the Planning Board following such notice and hearing.

Discussion of proposed Comprehensive Land Use Reform and Partnership Act.

It was noted the Planning Board would not like to discuss this or take a position.

Minutes

Upon a motion made by Ms. McKnight, and seconded by Mr. Warner, it was by the five members present unanimously:
VOTED: to accept the minutes of 9/20/11 with the changes discussed.

Report from the Planning Director.

Ms. Newman noted the hospital wants to come in and she would like to schedule time on the agenda. She noted rather than 1/10/12 they would have the meeting on 1/17/12. Mr. Cramer is not available on 1/10/12. The dates for the January meetings will be 1/17/12 and 1/24/12.

Discussion of Planning and Economic Development budget and Community Development budget.

Mr. Jacobs asked Ms. Newman how the reorganization has worked for her. She stated it has pulled time away from planning but she has been able to have more staff. She is doing more administrative work and the role of doing hands on work is being delegated out more. She commented the Board has been able to accomplish a lot in the last year. She noted Ms. Clee is going a lot more work and is drafting decisions. She added Ms. Bailin is on board. She stated not being close to the Town Manager is a disadvantage.

Mr. Ruth stated last time they did not formerly combine budgets. He asked how things have been working budget wise. Ms. Newman stated she has been able to work around the fact of segregated budgets. She could not easily reallocate money but is able to get the job done. She commented the flexibility is not there. She has been able to get the jobs done but needs to be creative about it.

Mr. Ruth stated it does not make sense to combine the budgets. They are separately elected Boards. He does not want to lose control of the money. He commented he is not aware of any need to change it. Mr. Jacobs asked if the consensus was not to consolidate. Mr. Warner stated he would like the staff to be able to do planning. It should be considered. Ms. Newman stated it was not likely. The budget has consistently increased. She noted she may be able to get a housing planner with CPA funds.

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 10:20 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Sam Bass Warner

Sam Bass Warner, Vice-Chairman and Clerk