

NEEDHAM PLANNING BOARD MINUTES

June 26, 2012

The regular meeting of the Planning Board held in the Charles River Room at the Public Services Administration Building was called to order by Bruce Eisenhut, Chairman, on Tuesday, June 26, 2012 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.

Correspondence

Mr. Eisenhut noted the following correspondence for the record: a Needham Times article regarding the Mackin Theater Block proposal and a Needham Times article regarding Trader Joe's.

Public Hearings

7:30 p.m. – Amendment to Major Project Site Plan Special Permit No. 1085B: 254 Second Avenue, LLC, c/o Maric, Inc., 197 First Avenue, Suite 300, Needham, MA 02494, Petitioner (Property located at 254 Second 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.

Roy Cramer, representative for the applicant, noted this is an 88,000 square foot office/R&D Building on 233,000 square feet of land. They are proposing to remove the existing vestibule and replace it with a new modern vestibule with landscaping in front. There is currently grass and a sidewalk. There will be 234 square feet more landscape surface. They will get rid of the sidewalk and the vestibule will be smaller. They are removing the existing and putting 2 stories with high glass.

Mr. Cramer noted in 1985 the site plan review was for a 125,000 square foot warehouse building. Now it is an 88,000 square foot R&D building. He noted the corner of the building is 10.2 feet from the street setback. It should be 15 feet.

Dennis McCarthy described the new vestibule. It is double the height but the space does not actually go to the top of the building. It has a canopy element that protects the front door. They feel this is a better proportion for the front door. There will be a positive metal element on one side that directs people and a shade element at the top. Mr. Cramer noted they are removing the sidewalk leading up to the vestibule. They have a planting plan.

Mr. Jacobs asked Mr. McCarthy to estimate how long construction would take. He noted they received a letter from abutters that construction should not start until 9:00 a.m. on Saturdays. Mr. McCarthy stated construction would take 6 to 8 weeks. Mr. Jacobs asked if a 9:00 a.m. start on Saturdays would be an issue. Mr. Cramer stated they would go along with it.

Ms. McKnight stated she wanted to clarify the landscaping and what shrubs along the front that would remain. David Gillies noted they replanted the front last year but that only addressed the temporary nature. Ms. McKnight stated the new entrance has a nice prominent number. She noted the old building had none and this seems to be an improvement. Mr. Cramer noted the Design Review Board has approved and he has filed a copy of that.

Mr. Eisenhut noted the following correspondence for the record: an email from Rich and Janice Epstein, dated 6/26, regarding a 9:00 a.m. construction start time on Saturday's; a memo from Janice Berns, of the Health Department, with no comments; an email from Fire Chief Paul Buckley with no concerns; a memo from Lt. John Kraemer, of the Police Department, with no concerns; and a memo from Town Engineer Anthony DelGaizo with no comments or objections.

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.

Ms. Newman noted on page 6 of the decision there is clarification of the nature of the As-Built plans and that the landscape plan should be prepared by an architect, not a landscape architect. She suggested they limit the hours for exterior work to 9:00 a.m. to 5:00 p.m. Monday through Saturday. All agreed.

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

7:45 p.m. – Major Project Site Plan Special Permit No. 2012-06: MMM Property, LLC, 7 Harvard Street, Brookline, MA 02445, Petitioner (Property located at 36-58 Dedham Avenue, Needham, MA).

7:45 p.m. – Major Project Site Plan Special Permit No. 2012-05: MMM Property, LLC, 7 Harvard Street, Brookline, MA 02445, Petitioner (Property located at 916-932 Great Plain Avenue, Needham, MA).

Mr. Eisenhut noted they are combining the hearings but he had a procedural question. They have closed the hearing. Ms. Newman noted it was held open for the easement only.

Robert Smart stated he is concerned if money is put in escrow to fund improvements on Great Plain Avenue they do not know when the work will be done. They would like to be able to do the work themselves under the guidance of the DPW.

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

Mr. Ruth noted he received a letter of correspondence with regard to the landscape issues. He stated it seems harsh to reopen and not include that correspondence.

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

Mr. Smart asked if they had read the letter from Kerry Ryan. Mr. Jacobs stated he would like to take a moment to read it as he only just received it. Mr. Eisenhut noted the letter says an easement agreement is necessary. Mr. Smart stated that is part of it. The letter does not break any new ground. The easement agreement is a private land matter. His client spent over a year trying to come to an agreement and there is no agreement. His client has moved the building and the reality is his clients do not need an easement agreement in order to proceed. A very small proposed easement area is shown on the plan. That is a turnaround easement. They are prepared to remove it from the plan and modify the plan.

Ken Mackin stated he expects an agreement in the next week or two. He stated they got through all the major issues. Mr. Smart stated his clients can load and unload on their own property. Mr. Eisenhut clarified if there is no easement agreement they are prepared to modify.

Kerry Ryan, representative for 934-948 Great Plain Avenue Nominee Trust, stated he agrees with the comment that it is in the best interests of both sides to get it done. Without getting it done they run the risk of problems with parking and others using their property. He noted the easements are not reciprocal. They are not as agreeable to modify a plan that is not in front of them. They feel there is no good solution. He is trying to protect his client and feel they should be able to finalize this.

Ms. McKnight noted the plan shows the Dedham Avenue parcel being subject to a 6-foot wide easement. She does not see an appurtenant 6-foot easement on the abutter's property. That tells her the applicant does not need an easement on the abutters property. Mr. Ruth stated that is not relevant to their decision. It is not on the

applicant's plan. Mr. Ryan stated the lack of a turn-around easement on the applicant's property would adversely affect his clients' property.

Ken Mackin stated he has 2 issues with the streetscape improvements. He would like to do some work on the sidewalk. There is a section of the sidewalk on Great Plain Avenue that is 25 feet long and 18 inches wide that has been broken up in front of the theater. They have tried to get the DPW to fix it. They would like to fix 40 to 50 feet subject to DPW conditions. He stated Ms. Newman would like a deposit put with the town, but he is concerned that if the town will not let them fix it the town can take the money. Mr. Eisenhut asked what they would like to do. Mr. Mackin stated he would like to go to the town with plans and get approval to do the work. He would post a performance bond, hire contractors and, with DPW approval, he would do the work. Ms. Newman noted that is fine as long as the work gets done. Mr. Eisenhut asked if they would put a time period on it. Mr. Ruth stated he would like it done before the Certificate of Occupancy.

Ms. McKnight stated a practical concern is if the conditioned work must be done. They may not be able to accomplish it. Tony Caruso stated it should be subject to being able to get a permit. Ms. McKnight asked if the decision still had the provision regarding the median strip and was informed it does.

Gilbert Cox, an abutter, had comments on the draft decision. He noted there is a 5-foot setback from his lot in the plan but not in the decision. He added on the fourth floor the 12 foot setback is important and he would like to see it in the decision.

Mr. Smart noted on page 1 there is a typo in the 3rd paragraph. They should make it clear what lot. The same on page 4 – they should make clear what lot. He noted he challenged the Board's authority to require a payment to the fund but they are not going to pursue that. In 1.10, he wants to include unit owners and guests and on page 11 the minimum sidewalk width should be clarified. Ms. Newman stated they could put 5 feet plus a 2 foot planter. Mr. Eisenhut stated they should make it 7 feet and make an exception where the planters are. Mr. Smart feels they should delete the subsection altogether. Ms. Newman would like to keep it in.

Ms. McKnight noted they should state "the plan shall be modified to 5 feet, except that area where planters are." She noted five feet from the curb line and 7 feet from the street. She stated in 2.1d, the plans should be revised but they already supplied the planting plan. In 2.1f, the lighting plan has already been provided. In 2.1g, they should show the parking between Lot A and Lot B. Ms. Newman stated she wants to know how the spaces will be allocated on the plan. They need to clarify the parking lot functions as a whole. Mr. Ruth stated they need to say Lot A has fulfilled the obligations. They need to pull apart and segregate.

Mr. Smart noted in 3.7 the language should come out. They want the ability to assign to tenants. They do not want to be restricted to the use of the parking spaces. They feel it is more restrictive than it needs to be. In 3.9 it should say "unit owners and guests" and in 3.1.7, there is the same issue they talked about. On the Great Plain Avenue decision on page 1 they should clarify the lot. In 1.9 on page 5, the language can stay in as written; 1.11 repairing the sidewalk they already talked about; 1.12, they would like to be notified; and in 1.21 the language is fine. On page 10 b, he thinks this is a carryover from the Dedham Avenue draft. There are no planters. Ms. Newman stated it should be a plan modification. Mr. Smart noted 2.1 had been revised. On page 11 in 3.6, which building and land? Lot A remains under a single ownership. In 3.8, they will work their way through; 3.10 should be unit owners and guests; 3.12 the language is fine; and 3.13 they will work through.

Mr. Ruth noted 3.15. He asked how they will deal with a split issue in the event of median improvements. The focus is Lot B and traffic. Mr. Jacobs stated 3.33 and 3.32 need to be renumbered and noted no construction is contemplated. Ms. Newman noted the parking lot in back and drainage. Mr. Smart stated 3.36c is fine; 3.36d they need to address; 3.37e is fine and 3.37f they need to work through. It is the same with 3.37g.

Mr. Ruth asked if there are 3 retail spaces on Lot A. Mr. Mackin noted there were 5 retail spaces. Mr. Ruth stated they cannot change the entrances without approval. He asked the other members if they cared if they changed 5 doors to 4 doors. Mr. Jacobs stated he does not care if there are more doors. Mr. Eisenhut stated

historically they have required them to come back. Ms. Newman stated they would have to go to the Design Review Board and all agreed.

Ms. McKnight noted the fence around the third story and asked if that is shown on the detail plan. Mr. Mackin noted it is obviously not higher than the building. He requested they continue this for Ms. Newman and the applicant to work out the details.

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

VOTED: to close the hearing.

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

VOTED: to continue to the next meeting.

ANR Plan – 36-58 Dedham Avenue and 916-932 Great Plain Avenue, Needham, MA

Mr. Smart stated Town Engineer Tony DelGaizo sent a letter to the Planning Director with some issues. They are requesting an extension for 30 days.

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

VOTED: to extend the action deadline.

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

VOTED: to continue the vote.

ANR Plan – 61 Kingsbury Street, Needham, MA

Ms. Newman noted the owners want to subdivide the lot. They decided to split the lot into 2 lots – one buildable lot and one unbuildable parcel and that parcel will go with 55. They will tear down the existing building, remove the foundation and will put a note on regarding a Special Permit for a 3 car garage. Ms. McKnight asked how many acres are required. Ms. Newman noted 10,000 square feet and 80 feet of frontage. Mr. Jacobs stated the Planning Director should let the Building Inspector know a zoning violation has been created.

A motion was made to endorse ANR. Mr. Jacobs suggested they amend the motion to authorize and direct the Planning Director to notify the Building Inspector of a violation that is created upon recording. All agreed.

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

VOTED: to authorize and direct the Planning Director to notify the Building Inspector of a violation that is created upon recording.

Decision: Amendment to Major Project Site Plan Special Permit No. 1997-7: Trader Joe's East, Inc. d/b/a Trader Joe's, 711 Atlantic Avenue, Floor 3, Boston, MA 02111, Petitioner (Property located at 922-958 Highland Avenue, Needham, MA).

Mr. Eisenhut noted a letter from Roy Cramer, dated 6/21/12, for the record. Mr. Cramer noted 3.14 should be deleted. It is vague and open ended. He stated if there is a concern about a violation of deliveries a condition should be put in 3.25 if it is needed. Mr. Jacobs stated he agrees with the comment and feels they should amend 3.25. Mr. Eisenhut stated Mr. Cramer's comments could be added to 3.25. It should be "additional or different conditions."

Mr. Cramer noted 1.16 was deleted and is now 1.17 due to renumbering. There are many previous decisions. Some conditions/obligations are for the landlords. They want to make it simple. There are some inconsistencies that do not make sense. Mr. Eisenhut stated this supplements other decisions.

Mr. Jacobs noted no new obligations are being created. He just does not want to lose anything there. Mr. Eisenhut stated “conditions that directly apply only to the petitioner.” Ms. McKnight clarified “other than those that apply to other tenants.” Ms. Newman stated they have historically tried to make the applications joint applications.

Mr. Eisenhut stated they should add “as directly applies to operations of petitioner.” Mr. Cramer noted that was fine. Mr. Cramer stated 3.1 can be resolved like 1.16. They can track the language in 3.1. That is ok.

Mr. Cramer, in 3.8, would like all deleted after the first sentence. He feels it should not matter what time the bread truck comes. Ms. McKnight agrees with that unless they want to be very specific. Mr. Ruth agrees but Mr. Jacobs stated he disagreed. He noted the only firm language is in the first sentence. He does not feel there is any harm in having it and wants to retain it. Mr. Eisenhut noted they could move it to Section 1.4. Mr. Jacobs has no problem with that.

Mr. Cramer noted in 3.19, as they are busy they would like to be able to do some interior work. The language should be “all work other than interior.” Ms. McKnight commented it could be 7:00 a.m. to 7:00 p.m. with exterior construction 7:00 a.m. to 5:00 p.m. They could note “delivery of construction materials, both in and out, shall comply with delivery hours.” Mr. Ruth noted with doors and windows closed for applicable noise. Mr. Jacobs stated they should exclude Sunday with no construction on Sunday. Mr. Ruth stated he was willing to let them work on Sundays to get the work done. Ms. McKnight agreed.

Mr. Cramer noted in 3.21 and 3.23, they would like to do the Bagel space, then take down the wall and utilize the space with a temporary Certificate of Occupancy. Ms. Newman noted CVS and Walgreen’s were done the same way so it is not a problem. Mr. Eisenhut clarified it is subject to the Planning Director’s review.

Ms. Newman noted 3.12 was revised and 3.14 is gone.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to approve the draft decision as modified and grant the relief as set forth in the meeting subject to the comments made.

Request to authorize Planning Director to review plans and authorize Building Permit: Amendment to Major Project Site Plan Special Permit No. 1997-7: Trader Joe’s East, Inc. d/b/a Trader Joe’s, 711 Atlantic Avenue, Floor 3, Boston, MA 02111, Petitioner (Property located at 922-958 Highland Avenue, Needham, MA).

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to authorize the Planning Director to issue a Building Permit when she is satisfied.

Request to authorize Planning Director to review plans and authorize Building Permit: Amendment to Major Project Site Plan Special Permit No. 1985B: 254 Second Avenue, LLC, c/o Maric, Inc., 197 First Avenue, Suite 300, Needham, MA 02494, Petitioner (Property located at 254 Second Avenue, Needham, MA).

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to authorize the Planning Director to issue a Building Permit when she is satisfied.

Request to authorize Planning Director to review plans and authorize Building Permit: Amendment to Major Project Site Plan Special Permit No. 986E: 300 First Avenue Realty LLC, c/o Intrum Corp., 60 Wells Avenue, Suite 100, Newton, MA 02459, Petitioner (Property located at 300 First 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 authorize the Planning Director to issue a Building Permit when she is satisfied.

Minutes

Ms. McKnight noted in the minutes of 2/21/12, on page 5 under Zoning, it should say they should be able to allow liquor stores there.

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

VOTED: to adopt the minutes of 2/21/12 with the change.

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

VOTED: to adopt the minutes of 4/9/12.

Appointment

8:15 p.m. – Informal Discussion: Large House Review.

Ms. Newman noted Wellesley has a review process for over a certain size through the Planning Board. Ms. Clee spoke with Wellesley and they had 11 the first year, which is not overwhelming. Mr. Eisenhut asked if they got a sense if Wellesley feels this is successful. Ms. Newman stated it brings people to the table and creates a dialogue. Mr. Eisenhut stated they are developing open conversations with neighbors to see what is tolerable. There are fewer and fewer applicants. He is not sure if that is a function of the economy or the process. Ms. McKnight stated she feels it may be the process.

Mr. Warner noted Brookline and Lincoln go through an areal committee and Wellesley goes through zoning. Lincoln and Brookline enacted this as general By-Laws. If challenged they may not hold up. Mr. Eisenhut asked how the review under the By-Law works. Ms. Newman noted a committee sets out standards. Ms. McKnight stated it is similar to the Historic District Commission.

Ms. Clee stated she has reached out to Lincoln but has not heard back yet. Mr. Eisenhut stated Wellesley voted for this by a 2/3 vote. Ms. McKnight stated they should find out about Weston. They need to make sure reconstructions are not more detrimental to the neighborhood. She noted Fair Oaks and Warren Street have a 1920s old grand look about them. She suggested maybe that is what they are trying to accomplish. Mr. Jacobs asked why Wellesley is doing it if Town Counsel says they cannot deny it. That seems squishy to him. He asked if it really has an effect. Mr. Eisenhut stated it gets people talking. He asked what Wellesley thought of the numbers. Ms. Newman noted the applications were going down.

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

VOTED: to adjourn the meeting at 10:55 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker


Sam Bass Warner, Vice-Chairman and Clerk