

NEEDHAM PLANNING BOARD MINUTES

December 3, 2013

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 3, 2013 at 7:30 p.m. with Messrs. Warner and Jacobs and Mss. McKnight and Grimes as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski

Request for extension of deadline to submit final plans for endorsement: Richard J. Gaffey, Trustee of Belle Lane Realty Trust, formerly known as the 634 Charles River Street Realty Trust, Petitioner (Property located 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 the Planning Board issued a subdivision decision, the abutter appealed, there was a trial and they won the case. He stated they need to file plans for endorsement by January 21. They are waiting for final approval from Algonquin Gas. It is not in their control. He thinks they will have a final answer within a week but he is not sure. He stated they do not want to run into deadlines and would like an extension to file the plans for endorsement to April 21, 2014.

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

VOTED: to grant the requested extension to April 21, 2014.

Correspondence

Ms. Newman noted an email was sent to the representative of the First Parish Church. They have done work. The plan presented did not show landscaping removed down to the Simon Building. She noted the whole wall is exposed. She has contacted the church to develop a landscape plan to develop that area.

Ms. Newman noted on an ANR plan they signed, someone claimed there was a deed restriction on it. She wanted the Board to be aware.

Decision: Major Project Site Plan Review No. 2013-05: Matsumiya Math & Reading Center Inc., d/b/a Kumon Math and Reading Center of Needham, 144 Valley Road, Needham, MA, Petitioner (Property located at 119 Chapel Street, Needham, MA).

Derrick Choi, representative for the applicant, stated he has no concerns with the decision. Ms. McKnight noted in Section 4.6, it shall lapse in 2015 not 2013. Mr. Eisenhut stated the buzzer system needs clarification. They should add the purpose in Section 3.5 noting they are trying to permit access to the rear so as to prevent a backup on Chapel Street.

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

VOTED: to vote the relief requested and accept the decision as written with the minor revisions discussed.

Minutes

Ms. McKnight noted the report from the Planning Director is not clear.

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

VOTED: to approve the minutes of 8/13/12 subject to clarifying the subject matter in the Planning Director's report.

Report from Planning Director

Ms. Newman noted there was an agreement she has prepared for South Street. It approves the plan the applicant gave along with a memo that describes the species they are selecting from and planting and requires they complete the work in accordance with the plan in both the right of way of South Street and the 35 foot buffer zone. It requires, prior to work, a \$5,000 street opening bond and requires work is to be done before 7/1/24 and must be completed prior to occupancy. There is an escape clause that allows the Board to allow a temporary occupancy permit provided a bond is provided that represents 135% of the value. It spells out the Board could take the money in the event the applicant defaults. This is what they agreed to.

Ms. McKnight stated this arrangement seemed unusual with an agreement signed by the applicant and the Board. She asked if they usually issue a permit. Ms. Newman stated this is the historical practice and how it has been done since before she has been here. She feels they should rethink the process. Ms. Grimes stated the document is not enforceable.

Ms. McKnight noted there is a reference to a permit in Section 7. Mr. Jacobs noted they should talk about this in terms of surety and not an agreement or contract. He stated this is conditional approval. This is simply acknowledging terms of approval. He feels they should say approval with conditions and they should change the text throughout to make it consistent. Ms. Grimes noted they should state they acknowledge and agree upon on signature page. Ms. McKnight noted the third and fourth "whereas" clauses should go after "now therefore" that is the action that was taken. Mr. Jacobs agreed.

Request to authorize Planning Director to authorize building permit and Occupancy Permit: Amendment to Major Project Site Plan Review No. 2012-05: VO2 Max Elite LLC, 23 Francine Road, Framingham, MA 01701 & MMM Property LLC, 7 Harvard Street, Brookline, MA 02445, Petitioners (Property located at 916-918 Great Plain Avenue, Needham, MA).

Ms. Newman noted this is off the agenda.

Report from Planning Director.

Ms. Newman noted the meeting with the Board of Selectmen on 12/10/13. She wanted the Board to look at the agenda. Mr. Eisenhut stated it was good to talk with the Selectmen but they need to be careful what they discuss. He does not want to get into policy. He feels they should let the Selectmen take the lead and see what their policies, goals and priorities are. He does not want to get into a situation where they are all making different comments.

Ms. Newman noted medical marijuana is not on the agenda and asked if it should be. Mr. Eisenhut stated it should not. They do not have a consensus among themselves. He does not want to debate it with the Selectmen. Mr. Jacobs stated he agrees that unless they have an agreement among themselves they should not discuss it.

Ms. Newman gave an update on St. Mary Street. The DPW is working with the neighbors. They have met with the abutters and are having a meeting tonight. They will make improvements in the window system and will work on the doors. They are upgrading the landscaping. They feel they can address most of the issues. He noted lighting could be an issue. He added Homeland Security has some requirements to keep this safe and secure.

Discussion: Medical Marijuana

Mr. Eisenhut noted they have the Selectmen's recommendation. Ms. Newman stated she has provided copies of By-Laws from other towns. Mr. Eisenhut stated Framingham voted to not have any additional zoning over and above what they already have. Ms. Newman noted Cambridge has, by Special Permit, an overlay district located close to regional highways and public transportation. It is close to Alewife Station and the Lechmere area and not along Massachusetts Avenue, Harvard Square, and Kendall Square. She noted, basically, it is the industrial area

within access to transportation. The Special Permit process, with strict requirements imposed a 500 foot buffer from schools, daycares, afterschool programs or any areas where children congregate. Mr. Jacobs clarified they added an important qualifier “or less if sufficiently buffered”.

Ms. Newman noted Newton has a lot of the same language – close to public transportation and close to regional transportation. They did not create an overlay. It is allowed by Special Permit. One area they are designating is the Mixed Use District off Needham Street and the train line north of the town. It is not in Newton Center at all. Basically, they have the same 500 foot standard Cambridge has.

Ms. Newman noted in Westborough the policy was to minimize the impacts on life and towns. They put an overlay in place over the adult entertainment overlay. It is allowed by Special Permit and they broadened the uses to include libraries, ball fields, other marijuana dispensaries, alcohol rehab houses, correctional facilities and halfway houses.

Ms. Newman noted Amherst has adopted a policy that created buffers around uses to ensure they do not interfere with minors and are not congregated in any one area. There is no overlay but is allowed by Special Permit throughout office parks and businesses throughout town. They have utilized a 300 foot buffer for schools, daycares and libraries.

Ms. Newman noted Concord is adopting in the medical/professional district off Route 2 and allows it by Special Permit with a 3,000 foot distance from schools and libraries. Millis has limited it to the Industrial District area with an overlay through a Special Permit. They have established a standard of 1,000 feet from schools, etc., but can reduce that standard by 25% if they can show the use is permitted. Ms. Newman noted the latest from the state is round 2 is down to 100. There is only one from Needham and they are looking at the Mixed Use 128 District.

Mr. Eisenhut stated there is a lot of misinformation out there. He would urge all of the Board members to read the 51 pages of the DPH regulations. They are very comprehensive. He feels they all need to get the facts. The 500 feet comes from the federal government – Department of Justice. The state has put out a lot of FAQ’s, working group policies and information. He feels they need to question if they even need anything more than a Special Permit process. He feels there should be a Special Permit process but it is already heavily regulated. He feels it is a very benign use and an innocuous use. They could build it into the permit to keep it innocuous. He does not feel they should be scared.

Mr. Jacobs asked if Mr. Eisenhut would define this as within retail. Mr. Eisenhut stated no. He would add a medical clinic including medical marijuana dispensaries as defined under state law. All medical clinics need and require a Special Permit. He noted he has no quarrel putting in the 500 feet other towns have. Mr. Jacobs clarified medical clinics are not permitted in residential districts.

Ms. McKnight stated it is allowed by Special Permit in Industrial and Industrial 1 Districts and by Special Permit in other districts. Mr. Eisenhut stated he does not think it should be treated differently from any other use. It is a lawful business and he does not think it should be treated differently. Ms. Newman noted the Selectmen feel it is more appropriate in the Mixed Use 128 or Industrial 1 District or on the other side of 128. They feel it is only appropriate looking at Mixed Use 128.

Mr. Eisenhut stated it should not be deemed an undesirable use. Mr. Jacobs noted the philosophies of other towns are these are readily monitored by law enforcement. Space is available by the hospital and across from the new cancer center. Ms. Newman stated there are daycare uses there.

Ms. Grimes commented every kid in town will be standing outside and looking at the clinic. Mr. Jacobs stated maybe once they would because they will be curious. He asked if the police have submitted anything. Ms. Newman stated she thinks they agree with the Selectmen. Mr. Jacobs noted putting it where the Selectmen want is as far away from the Police as you can get. He thinks the Selectmen’s recommendation is fine. He asked if it

also makes sense across from the Police Station and Cancer Center. Mr. Eisenhut stated there are internal debates. They should just say Special Permit use.

Ms. McKnight stated she agrees with Ms. Newman. The Selectmen are overbroad in some ways. The Industrial Zone is spotty. She does think the Business Zone along Chestnut Street could be ok. She noted not all of Chestnut Street but most of it. She feels also along the west side of Chestnut Street across from the hospital. She would do Chestnut Street and over by Muzi Ford. Mr. Eisenhut noted by Special Permit excludes small business districts. They should be encouraging this use. Mr. Warner noted he agrees with Mr. Eisenhut.

Ms. McKnight noted near the hospital and nearer the Police Station would be ok. She recommends they go along with the Selectmen regarding the Industrial Zones on the Newton side of 128, but add and the overlay upper Chestnut Street District south of downtown to the Junction but only on the west side of Chestnut Street. Ms. Newman noted they could define areas and have a hearing on that. They could create something more like Cambridge then pare it back.

Mr. Eisenhut stated he would go along with stating a medical clinic with Special Permit and exclude small business districts. Mr. Jacobs asked if they could consider planning one of 2 possibilities. Can they advertise 2 articles? Ms. Newman stated they could write 2 zoning articles, hold a hearing and choose one to put on the warrant. Ms. Grimes asked if it would make sense as a group to agree to one. Ms. McKnight noted she agrees; they should not have 2 proposals.

Bob Timmerman, of 360 Hunnewell Street and a lifelong Needham resident, stated he works for the Needham Business Leadership Team of Youth Substance Abuse. He would like them to follow the steps of the Selectmen to create a zoning area. He stated the hospital is not interested and the police do not want it. The center should be destination. He does not want a dispensary in Needham Center. The police feel it would be best by Wexford Street/Charles Street. Mr. Jacobs asked what the objections or concerns are. Mr. Timmerman stated, personally, his concern is crime. He commented there will be a bouncer at the door probably carrying a gun. Mr. Jacobs asked if it wouldn't make more sense to have it near the police station than at the other end of town. Mr. Timmerman stated he is trying to keep kids safe. He stated there will be abuse to a medical marijuana dispensary.

Allie Rubin, a HS Senior, stated the biggest thing is adults saying it is ok so it must be ok. Mr. Jacobs asked her what she thought of prescription drugs at CVS or Walgreen's. Ms. Rubin stated that was different. She stated kids do not take prescription drugs but do smoke pot. She feels if you put it in the center kids will think it is not so bad and that it is ok. It should not be in a central area. Mr. Timmerman stated cancer patients represent only about 3% of the clients. Mr. Jacobs stated Massachusetts regulations appear to go well beyond other states so making comparisons with other states is hard to do.

Richard Mullen, of 410 Webster Street, stated the location is not relevant. It is his understanding they will deliver if required. Mr. Jacobs stated they could require deliveries by Special Permit. Florence Graves stated this is different than anything else. It has been illegal and she cannot separate that. Students have a certain view of marijuana and you cannot change that overnight. She added studies show it damages a child's brain. Mr. Warner noted they need a new drug policy on the federal level.

Ms. McKnight stated one concern she has about isolating the use on the other side of the highway is the thought if it is not available to you you can grow your own in your house. She feels near the hospital would expel the idea that it is not accessible so they can grow their own. She feels it should be allowed at the highway exchange or lower Chestnut.

A motion was made to draft a medical marijuana By-Law and overlay district that, by Special Permit, covers only the Industrial area by the highway and Mixed Use 128/Industrial 1, including the Muzi area, the industrial area between the highway and Charles River and lower Chestnut Street to the tracks and that would be what the Board sends to the Selectmen for a hearing. Ms. Grimes asked if that would include the buffer zones.

Ms. Newman stated she will prepare a draft and give it to the Board members for review at the next meeting. She will model it after Cambridge and they can chip away at it. Mr. Jacobs stated he thought some would like one firm proposal to send to the Selectmen. He is not sure he is ready to end the discussion. Ms. McKnight stated she would not like to present 2 proposals to the Selectmen but would not mind asking the Planning Director to prepare 2 proposals for the next meeting. Mr. Jacobs stated he hopes to open it up and have a more substantial discussion than the Selectmen had. They should have the public hearing showing people they are thinking of other alternatives and then they can come to whatever they come to and present it with a united front.

Ms. Newman stated they could be allowed in all Business Districts by Special Permit or there could be other alternatives. Mr. Jacobs stated another alternative would be to cut back to what the Selectmen want. He feels they should have a hearing and get other opinions. He would like to hear from people. Ms. Newman clarified if they hear from other people they could always re-advertise.

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

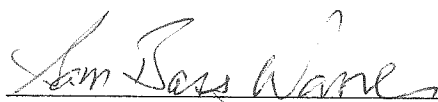
VOTED: to draft a medical marijuana By-Law and overlay district that, by Special Permit, covers only the Industrial area by the highway and Mixed Use 128/Industrial 1, including the Muzi area, the industrial area between the highway and Charles River and lower Chestnut Street to the tracks including buffers and that would be what the Board sends to the Selectmen for a hearing.

Ms. Newman stated they have a housing planner starting in January. Her name is Karen Sunnarborg. She did the Needham housing plan and will work 2 days a week. Mr. Eisenhut stated he received a report the Blu on Highland is parking vans in the MBTA commuter rail lots. They are taking away spaces from the commuters. Ms. Newman noted before the Senior Center was built a part of some permits was to get parking spaces. This was required for Kinder Care and Blu on Highland. Mr. Eisenhut stated they are running out of spaces. The spaces were supposed to be for employees not vans. Ms. Newman will check the decision.

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 9:50 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker


Sam Bass Warner, Vice-Chairman and Clerk