

NEEDHAM PLANNING BOARD MINUTES

March 18, 2014

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building was called to order by Bruce Eisenhut, Chairman, on Tuesday, March 18, 2014 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.

Correspondence

Ms. Newman noted in the packet there were public hearing notices from Westwood, Dedham and Dover regarding zoning changes. There is also a press release regarding the Large House Study Review. Ms. McKnight stated Westwood seems to be an amendment to the By-Law to allow more intensive uses. She is interested and curious with what they are doing.

Public Hearing

7:30 p.m. – Article 1:PB – Amend Zoning By-Law – Site Plan Review
Article 2:PB – Amend Zoning By-Law – Off-Street Parking Requirements
Article 3:PB – Amend Zoning By-Law – Indoor Athletic or Exercise Facilities in an
Industrial and Industrial 1 District

Mr. Eisenhut asked Ms. Grimes or Ms. Newman to summarize the thoughts from the Council of Economic Advisors. Ms. Newman stated the goal was to take the site plan approval process in downtown for façade changes from the Planning Board to the Design Review Board. This provides for an appeals process. If the applicant is dissatisfied with the decision of the Design Review Board they can request a de novo review and the Planning Board would hear the appeal. She noted the façade change triggers a Special Permit review. Mr. Jacobs noted, to be clear, this is not just an exterior façade change anymore. There are some outdoor furnishings also.

Mr. Jacobs stated the info is not the same in the 2 packets. Ms. Newman noted she made some language changes that Ms. McKnight, Ms. Grimes and herself talked about. They changes are in the packet tonight and there are some punctuations changes. Ms. Grimes stated it spells out exactly what they mean. Mr. Jacobs asked if 20 days were enough to deal with the review. Ms. Grimes stated that is the process now. Ms. McKnight stated there was a substantive change. By cross referencing the other sections, that brought in a requirement for a notice posting of the Planning Board's meeting for a de novo review. They did not feel this was necessary to have a second notice posted. Mr. Jacobs stated he thinks no second notice is a problem.

Mr. Eisenhut stated, if appealed, an aggrieved party should be told there is an appeal process. Ms. Grimes asked if it could be expanded to be a requirement that the Design Review Board notifies any participant in the public hearing. Mr. Jacobs stated the Design Review Board is done once they make a decision. Ms. Newman noted she would not know who was at the Design Review Board public hearings. Mr. Eisenhut stated they should have a policy to notify anyone that they can identify as aggrieved.

Ms. Newman stated she thinks it will be easier to post a notice than ask the Design Review Board to keep all these records of names. Mr. Jacobs reiterated he would prefer a second notice and require they do the same notice that is in Section 7.7. Ms. Newman noted that was cross referenced with Section 7.7.3 and 7.7.4.

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

VOTED: to incorporate in a de novo review by the Planning Board the same notice requirement that appears in Section 7.7.3 for the original proceeding before the Design Review Board.

Ms. McKnight stated they should use the same language and just change the Design Review Board for Planning Board. The applicant needs to do it and show proof they have done it. Ms. McKnight noted they could copy the language that at least 7 days prior to the Planning Board meeting scheduled to review the application, if the aggrieved party is the applicant, the applicant shall post the notice.

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

VOTED: to close the hearing.

Ms. Newman reviewed the other changes. In paragraph e, the last sentence, they got rid of the wording "Notwithstanding the foregoing" and the reference at the end of the sentence back to Section 7.4.2. There was also a punctuation correction on the first page. Mr. Jacobs noted they gave the Design Review Board the authority to review and approve outside furnishing displays in addition to exterior façade changes. If they only want these, must they go to the Design Review Board. Also, it says "may." He asked if it should say "shall." Ms. Newman noted currently there is no process. Ms. Grimes stated the CEA never discussed regulating outdoor furnishings. Ms. Newman noted it should say "shall be subject to review by the Design Review Board" and eliminate the rest with furnishings. All agreed. Ms. Newman stated they eliminated that section and added de novo review.

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

VOTED: to place Article 1 on the warrant in this form.

Ms. Newman noted Article 2 was to create some flexibility if there are changes in uses in existing buildings where public parking is available. There would be provisions to allow for changes in use to trigger parking demand up to 9 additional spaces without coming back to the Planning Board for waivers of the additional spaces. This would allow 3 or fewer spaces in other districts. Mr. Jacobs noted the ZBA has said they always grant the waivers so this is just a recognition of reality. Ms. Newman noted she made one change for consistency in wording.

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

VOTED: to close the hearing.

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

VOTED: to adopt Article 2 with the one change.

Ms. McKnight stated she wanted to review the Article 1 wording regarding notice. They need to make a clear distinction drawn between the applicant and the original applicant. The burden is on the original applicant not the applicant for the de novo review. It should say "at least 7 days prior to the Planning Board's meeting scheduled to review the application (acceptance) if the aggrieved party is the original applicant, said original applicant shall post a Planning Board notice...." Then it should say "Within 20 days of receipt of the application, the Planning Board shall hold a meeting to which the original applicant shall be invited. All agreed.

Ms. Newman noted Article 3 pertains to land within the Industrial District but only within 150 feet of the 128 boundary. Scott Ravelson commented it was discovered 4 years ago that human error left it out. He stated it is not great that it has taken 4 years to fix this. Ms. Newman stated personal fitness was added when it was brought up. This allows another level with athletic facilities that is not limited in terms of square footage or occupancy load. Ms. Newman stated Personal Fitness Establishment is allowed now as of right if you meet parking requirements but if not, it would need a waiver and a Special Permit for the use. That use has certain limitations in terms of square footage, number of employees. This proposal would allow the gym use (Indoor Athletic or Exercise Facility) by Special Permit and does not place restrictions on the size, but the parking demand is slightly

different and has a higher standard. Mr. Ravelson clarified a Personal Fitness Establishment is allowed now; he had an older Zoning By-Law and did not realize that part had been updated. He likes the proposal to add the Indoor Athletic or Exercise Facility.

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

VOTED: to close the hearing.

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

VOTED: to recommend Article 3 for the warrant.

Vote and Decision: Major Project Site Plan Special Permit No. 2014-02: Needham Bank, 1063 Great Plain Avenue, Needham, MA 02492, Petitioner (Property located at 214 Garden Street, Needham, MA 02492).

Mr. Eisenhut noted the following correspondence for the record: a letter from the DPW, dated 3/6/14, with no comments or objections. Ms. Newman stated she received a sketch plan which shows some proposed locations although it has not been reviewed by engineering. It is a concept on how the lights may be redone using the town's design for municipal lights in the Downtown. This change will be handled as a plan modification. They do not appear in that partial drawing. Mr. Jacobs stated in Section 1.20 on page 6, it may be helpful if they spell out what "special and unique circumstances" are, if only referring back to Section 1.7. That may be enough but he feels a brief explanation may be helpful. Mr. Eisenhut stated he agrees with spelling it out and they could refer it back to Section 1.7. Mr. Jacobs noted they could see the 4th sentence of Section 1.7. There was unanimous consent.

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

VOTED: to adopt the draft decision with the one change.

Review of Proposed Amendment to Sign By-Law: electronic billboards.

Mr. Eisenhut noted the following correspondence for the record: a memo from Mark Gluesing, dated 3/13/14, with comments and a letter from Planning Director Lee Newman to Town Manager Kate Fitzpatrick, dated 3/18/14, both requesting they wait until the Design Review Board has a chance to look at it. Ms. Newman suggested they defer this discussion.

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

VOTED: to defer this agenda item.

Discussion and Recommendation: Medical Marijuana Proposed Zoning Amendment for 2014 Annual Town Meeting.

Ms. Newman noted the final language is in the Article. Parking has been changed in 3.14.4.6. She suggests they change the word "recommendation" to "determinations to be." The only outstanding item is what they are going to do about 3.14.5.6b – which relates to the setback distance from schools, preschools, daycares. She had GIS do a map to show the Board what happens when they apply those standards. The map shows the 500 foot buffer, a 200 foot buffer and a 100 foot buffer. Within those districts there is a Huntington Learning Center and a Gymboree at 225 Highland Avenue and they have discovered there is a music school at 69 Wexford Street. The music school is not legal and has no permits but is running. If you consider where children congregate, that 500 foot buffer wipes out almost all that area.

Mr. Jacobs stated since there are no public or private elementary schools, middle schools, secondary schools or municipal parks or playgrounds in any of these districts they are talking about, the 500 foot buffer is irrelevant. Ms. Newman stated it would not be a problem here but if you ever chose to zone other land into this district then you would have that protection in place. Ms. Grimes stated she likes the addition of that language. She feels they should keep the language in paragraph b.

Ms. McKnight stated the question is whether paragraph c is needed. What if a dispensary is in and then someone wants to put one of these uses in? Mr. Jacobs stated he would not worry about that. A motion was made to recommend placement on the warrant of the Medical Marijuana Overlay Districts 3 articles as presented at tonight's meeting including the article that would extend the moratorium. Mr. Eisenhut noted an email from Theodore Cormier, dated 3/14/14, regarding the YMCA. Ms. Newman noted the hearing has been closed and they cannot accept anything else as part of the record.

Mr. Eisenhut stated he was going to vote no. He does not believe this particular overlay district is either welcoming, economically viable or safe. He feels other areas of town are much more suited to this type of medical clinic.

Mr. Warner stated he also thinks the siting in the medical district is a good idea. He also will vote no.

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 recommend placement on the warrant of a Medical Marijuana Overlay Districts 3 articles as presented at tonight's meeting including the article that would extend the moratorium.

Mr. Eisenhut stated he believes a 3 to 2 vote allows for a minority vote. Ms. Newman stated it has happened but never happened in her tenure here. Usually the minority goes along with the majority for unanimity. Mr. Eisenhut stated he would like to give a minority report at Town Meeting and they could call it a Minority Report of the Planning Board. He and Mr. Warner would write one unified report. Ms. McKnight stated she has no problem with that. Mr. Jacobs stated he also has no problem with it.

Ms. Grimes stated she would like the report limited to Mr. Eisenhut's views of the regulations itself and the laws but without personal opinions. Mr. Eisenhut stated he wants to disclose that he has a bias. Ms. Grimes stated she does not want personal opinions expressed. She does not want to muddy the waters. Mr. Eisenhut stated that has been his whole point all along during this debate. He wants to stick to zoning as it is a zoning article. Ms. McKnight stated they should make sure the Moderator is aware of the intention.

Review of resumes for large house committee.

Mr. Warner noted Alex Shneider's application is not clear. Ms. McKnight agreed. She noted there were 3 architects who expressed interest. Ms. Grimes asked how many they need. Ms. Newman noted 5. Mr. Warner commented that he believes that Louis Wolfson is not fond of control over the size of houses. Ms. McKnight stated he has called her on the phone and she does not feel it is appropriate. She noted the resumes were from 3 architects, 2 brokers, 2 builders and 3 citizens at large. Imogene Hatch is an urban architect. She added she would like 2 citizens, one broker, one developer and one architect.

Mr. Jacobs asked if it would be out of order to welcome all to the committee. Ms. Newman noted it would be too unruly. It is harder to work with a large group. Ms. McKnight stated she is leaning toward Gary Kaufman as the realtor and Jeffrey Kristeller as the architect and Town Meeting member. Ms. Grimes stated she disagreed. She stated it might be nice to get someone outside the realm of Town Meeting member. Mr. Jacobs noted Gary Lesanto is a builder. Mr. Warner noted Ms. Hatch should be the architect. Ms. Newman commented she felt Ms. Hatch would be a nice addition.

Mr. Jacobs noted Elissa Burton is young. Ms. Newman stated she would like the design skill. Mr. Jacobs noted they should have Krista McFadden and Ms. Burton as the alternate if Ms. McFadden or Ms. Hatch decline to serve.

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

VOTED: to appoint to the Large House Study Committee the following five individuals: Gary Kaufman, Jeffrey Kristeller, Gary Lesanto, Krista McFadden and Imogene Hatch. If either Ms. McFadden or Ms. Hatch decline to serve, in their stead, we appoint Elissa Burton to serve.

Ms. Newman noted they need to approve the appointments of members from participating boards. That would include: John Schneider of the ZBA, Marianne Cooley of the Selectmen, Jeff Heller of the Historical Commission, Liz Grimes and Jeanne McKnight of the Planning Board, Dave Roche of the Building Department, Mark Gluesing of the Design Review Board and Lindsay Acomb of the League of Women Voters.

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

VOTED: to approve the persons recited by the Planning Director be appointed to the Large House Review Study Committee.

Report from Planning Director.

Roy Cramer stated they have a situation with the Congregational Church. He has been trying to negotiate an easement with the 2 abutters on Walnut Place. One has one mortgage and the other has 2 mortgages. He has not been able to get anyone from one of the mortgage company on the phone. Both properties have equity in them. This is only an easement for the private way not the land itself.

Mr. Eisenhut stated he would not like to encourage them to do something that is in technical violation of their mortgage. Mr. Cramer stated the decision is going to approve a storm water management system. There will be an engineering plan going out to Walnut Street. That is what the Planning Board will be approving. They have a legal argument already that they have rights. They do not want to use this. Currently there is no storm water management. They have put in storm scepter systems in the parking lot which made it better but not 100 percent. He met with Town Engineer Anthony DelGaizo who said it is not enough. He wants a drain pipe out somewhere and the only way is out Walnut Place. He feels the conservative way is to get easements.

Mr. Eisenhut stated they need to make sure it is disclosed to the abutters about the effect of an easement on the mortgage. Mr. Cramer stated he will represent to the Board that he will be speaking to someone at some point. Ms. Grimes suggested he speak with Needham Bank to see if they would be willing to refinance and be a good neighbor. Mr. Cramer stated he will be meeting with the church tomorrow and will discuss this with them. Mr. Eisenhut commented he does not want to be accused of hoodwinking these people into doing something they shouldn't do. Mr. Cramer said he will make sure they are aware of the statute. Mr. Jacobs stated they could say the Planning Board does not require your banks to consent, however, they should check with the lawyers.

Board of Appeals – March 20, 2014.

David Nectow – 190 Edgewater Drive

Ms. Newman stated there are issues with the 2 flood plain lines in Needham. The town line is more restrictive than the FEMA lines. She asked if they can get a special permit for something that is not allowed. They are proposing a swimming pool which is a prohibited use. There is no work around. That is what the zoning position is.

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

VOTED: to comment that this is not a use for which a special permit may be given.

Mr. Jacobs stated they need to draw a distinction between below the flood line and the FEMA line. He asked which is the FEMA line. Ms Newman noted the FEMA line is the least restrictive line. She explained the history of the FEMA line and the town flood plain line. She stated the Zoning By-Law should have been changed to change the town line to the FEMA line. That would get rid of paragraph H. Mr. Eisenhut stated they need a firm flood plain line and a determination on swimming pools.

Report from Planning Director

Ms. McKnight stated she met with 2 members of the Board of Selectmen, Karen Sunnarborg, the new housing specialist and Town Manager Kate Fitzpatrick. Mr. Warner was also there. The Selectmen are interested in developing a housing production plan. It needs to be passed by both boards. She noted if they can show they have 55 affordable units each year, a 40b would not be mandated. The Board of Selectmen said the 40b guidelines would be a place to start. She has asked Ms. Sunnarborg to prepare a draft.

Ms. Newman noted the Christian Science Group Home for Seniors is on the market next to the Congregational Church. Two developers have already been in to talk to her. Ms. Grimes stated it would be a great place for apartments with the walk to town.

Minutes

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

VOTED: to accept the minutes of 2/4/14.

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

VOTED: to adjourn the meeting at 9:45 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Sam Bass Warner, Vice-Chairman and Clerk