

NEEDHAM PLANNING BOARD MINUTES

March 4, 2014

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, March 4, 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 2 pieces of correspondence: a memo from Tara Gurge of the Health Department, dated 2/7/14 regarding the Off-Street drainage bond for the Belle Lane Subdivision, which they had already received earlier, and a copy of a letter to Town Manager Kate Fitzpatrick along with the zoning article.

Vote and Decision: Major Project Site Plan Special Permit No. 2014-01: NA-BOS 2001 LLC, 125 Summer Street, Suite 1800, Boston, MA 02110, Petitioner (Property located at 200 First Avenue, Needham, MA 02492).

Ms. Newman stated she has a draft decision. Mr. Jacobs had suggested some language clarifications that are not reflected yet. In Section 1.6, she needs to clarify the petitioner has filed with the Board and submitted to the Registry District Land Court. In Section 3.27, paragraph C, they will handle this as a refer back. The consolidation plan is referenced in Section 1.65 and they shall record with the Registry of Deeds as a consolidation plan.

Mr. Jacobs stated there was no reason to file with the unregistered side as it is all registered land. They are asking to record it on the Registry side. He noted in Section 1.6, they are finding the petitioner has already filed with the Board and has submitted with the land court. In Section 3.27, he noted no building permit is issued until the petitioner filed with the Board and with the Registry a duplicate copy of the plan. Michael Boujoulian, representative for the applicant, stated they have filed the plan and have a number.

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 Special Permit for Major Project Site Plan Review under Section 7.4, to grant a Special Permit under Section 3.2.4.2(e), and to grant a Special Permit under Section 5.1.1.5 to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements) as set forth in the decision before us tonight.

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

VOTED: to issue the decision as written with the exception of what Mr. Jacobs offered.

Minutes

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

VOTED: to accept the minutes of 12/3/13.

Ms. McKnight noted on the minutes of 2/4/13, page 6, the paragraph that begins "Selectman Matthews..." it says "the applicant will not know where the location will be until late in the game. It would make sense to know in the beginning." She feels it is hard to understand what he is trying to say. She thinks it should say "to have locations where a special permit is unlikely to be granted an applicant will not know where the approved location is until late in the game. It would make sense in the beginning to narrow the possible locations." She feels some words need to be added but she does not want to put words in his mouth. Mr. Eisenhut suggested they review the tape of the meeting and add what was said on the tape.

Ms. Newman noted she has accepted 2 bonds. They have released the Hunter Ridge Subdivision. They have a bond for \$160,000 and the agreement needs to be signed. They authorized a temporary occupancy permit for Needham Cooperative Bank. The plaza is not done and they are holding \$475,000. She needs for the Board to sign the paperwork.

Ms. McKnight stated at a meeting an abutter, Mr. Claflin, said the bank had not put in landscaping he thought was approved. He stated he thought there would be plantings along the stone wall on Garden Street on the parking lot side. Ms. Newman stated they are holding money to complete the work. She will pull the plan and see what was voted. She added all the landscaping is not in yet.

Ms. Newman stated she will go to the Board of Selectmen meeting for the zoning and explain the articles. All meetings are on Wednesdays, either 4/9 or 4/2 with the Finance Committee. She will need someone from the Board to go. Mr. Eisenhut stated he would go to the 4/2 meeting and Mr. Jacobs will go to the 4/9 meeting.

Ms. Newman stated the Housing Planner is going through all the 40B projects and deed restrictions. She asked if Mr. Jacobs could come and work with her. They need deed restrictions and original owners. Mr. Jacobs noted they may not need copies – just write out the book and page. Ms. McKnight stated there should be a regulatory agreement and individual restrictions for each unit. Mr. Jacobs noted the deed itself should have the information.

Public Hearing

8:00 p.m. – 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). Please note: This hearing is continued from the February 19, 2014 Planning Board meeting.

Mr. Eisenhut stated this is a continuation of a public hearing. Peter Zahka, attorney for the applicant, noted he answered the questions in their response. The Board recommended adding a rain garden to the site plan. Michael Dowhan, of Veri Waterman Associates, stated they have added this. Mr. Warner noted the corner of the property and asked if it was re-graded and if more landscaping was added. Mr. Zahka noted they had requested adding additional trees. They added 2 and ended with 5 trees. Mr. Dowhan stated they added another honey locus in front of the property. He noted with the DPW approval they diverted the sewer connection which allowed them to save the poplar there. Mr. Zahka stated the pervious surface has not been increased.

Mr. Dowhan commented on the cost benefit analysis and noted maintenance is an issue. Nathan Ketchel, of Garcia, Galuska & Sousa, Inc., stated they talked about installing pervious pavement within the stalls themselves. They will have to cut half way through the parking spaces on the north on the building side and they will have to cut a zig zag to meet the requirements. There is a major factor in removing it.

Daniel Bradford, of KBA Architects, stated they took to heart the suggestion of the committee and did what they could with the changes. Mr. Eisenhut asked if there were any interior sidewalks. Mr. Ketchel stated they have concrete sidewalks. They have a swale to capture runoff. They have upgraded to a bio retention water quality swale. Mr. Eisenhut stated he would like them to make pervious any portion of the sidewalk they can. Mr. Zahka stated they will incorporate as many of the design features of the project in the new plan in the next couple of weeks as possible.

Mr. Bradford stated the owner has a desire toward sustainability. Ms. Newman stated they should indicate they made a good faith effort. Ms. McKnight asked if their goal was to achieve the silver standard. Christine Monaghan, of KBA Architects, noted their goal is to be certified. Mr. Eisenhut asked if they could commit to that. Ms. Monaghan stated they need to see, due to the cost. Mr. Zahka noted they will make a good faith effort. Mr. Eisenhut stated they will have no problem meeting the standard of 49 points.

Mr. Zahka noted they show the fence being removed on the plan. Mr. Ketchel noted there will be an ornamental fence along the pedestrian way. Ms. McKnight stated they wanted to see a walk from Garden Street up to the building doorway. She noted it is a little circuitous. She feels maybe a little sign directing to the entrance would be good. She asked if they have met the concerns of the Design Review Board and was informed they have.

Ms. Monaghan noted they broke up the façade along Garden Street. The bank wants the back to be the main entrance and the front to be welcoming. There will be a stone wall with the Needham Bank sign on it. The wall creates a visual connection to the street. Ms. Newman noted they talked about trying to utilize the municipal lot style of lighting and asked if they have talked with engineering about this. Mr. Bradford stated they are amenable to trying but it is a cost concern. The light standard is a pricey one. They will incorporate some of the light fixtures in the body of the parking lot. They want to get more a sense of control that that light does not have. They will use that fixture and come up with a scenario. The plans do not show that yet.

Mr. Bradford stated that Credit #8 says you must have no light trespass off your property. They feel with the municipal fixture there really is no control over that and they would have light trespass. Ms. Newman stated they were talking about putting the lights along the back of the property along the MBTA right of way and on the side abutting the property on the other side and taking the lighting off the back of the building. They could eliminate 3 lights along the back of the building and would not have that cost. She added there is no engineering review.

Upon a motion made by Mr. Jacobs, and seconded by Ms. McKnight, it was by the five members present unanimously:
VOTED: to close the hearing subject to hearing from the Engineering Department.

Mr. Eisenhut stated he would request they bring the building into a 49 point certification standard. Ms. McKnight thinks that is achievable. She asked how and when they would show it? Mr. Eisenhut stated before the occupancy permit. Ms. Newman stated they did best effort with Mr. Mackin and they did not require it. Mr. Eisenhut stated he just wants them to meet the standard prior to the occupancy permit. Ms. Grimes noted they will not require as a condition but could put "good faith effort as in the past."

A motion was made to have as a condition of the permit the applicant show it has met the standard for certification prior to occupancy. Mr. Jacobs stated this is the first time they will be incorporating this. Mr. Newman agreed it is. Mr. Jacobs asked the applicant how they feel about that and whether they think it is fair. He also asked when would they know if they will meet it. Mr. Bradford stated the owner representative is not here. The checklist is a series of measures they propose. After they sit with the owner they will know better but it will be before they apply for the permit. Ms. Monaghan stated they need to talk to engineering to get a better feel before committing to it. They also need to go through a bit of design development with the bank. She feels certified is ok and they can probably get the information in about 2 weeks.

Mr. Zahka stated he was not sure about 2 weeks. The building needs to be pretty much designed in order to indicate this. Mr. Eisenhut stated this is a minimal standard. Mr. Bradford stated they will report where they are in 2 weeks. Mr. Jacobs stated they should instruct the Planning Director to include in the draft and they will revisit in 2 weeks. Ms. Newman will have a draft decision ready to go.

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

VOTED: to reconsider the prior vote to close the hearing.

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

VOTED: to close the hearing but leaving it open for the sole purpose of receiving a report from the Town Engineer and to receive a report from the applicant as to the feasibility of reaching the certified standard for the project.

Ms. Newman stated she will prepare a draft with the usual conditions with hours of operation and other conditions. Mr. Jacobs stated construction trucks need to stay on the main roads. Ms. Newman agreed.

Informal Discussion: Roy Cramer – proposed changes to sign by-law to allow electronic billboards.

Mr. Eisenhut noted the following correspondence for the record: a letter from Attorney Roy Cramer, dated 2/25/14.

Mr. Cramer noted the law changed last year to allow electronic billboards. The permit is from the State Department of Transportation but they need a local permit first. They are not allowed in Needham presently. He noted Andrew Goldberg, of Logan Communications, has a 50 year lease on Reservoir Street to put a billboard up. They have filed a proposed amendment with the Board of Selectmen to put on the warrant. The Council of Economic Advisors has approved. He noted they will meet with the Design Review Board next week. He noted they will give the special permit granting authority wide discretion. It is restricted to along Route 128 only and limited to non-residential districts. He noted a lot of states have imposed regulations they have put in the By-Law. He added the number of signs is limited.

Mr. Cramer stated there is no movement on the boards' messages. The messages change no less than every 10 seconds. This is pre Add-A-Lane. If this is put together after Add-A-Lane it is possible the whole area could be wiped out. They can have multiple advertisers. He noted this is more revenue generated and stated some towns have developed fees. They are proposed to be on the high end with payment of \$50,000 per year or \$25,000 per side. He feels it is an economic benefit to the town. They anticipate they will bump up every 5 years. He noted some towns have required public service time. They will offer a set amount of hours per month for this.

Mr. Jacobs noted on page 6, the next to the last bullet refers to a study. He asked if he could get a copy. Mr. Goldberg stated the federal study was a scientific study and he will get copies. He noted this state studied if there were greater incidents of accidents around these billboards. The other study was a study where they put cameras on the dashboards and they were looking at eye movement and retention as they passed billboards. Mr. Jacobs stated he would like whatever study is available. He asked if there were any materials regarding day time and night time so they could see what it looks like or if he could refer them to somewhere close by they could go and look at them. Mr. Goldberg stated Route 9 in Westborough is the closest to Needham. It is on the westbound side but he noted Needham's would be more streamlined. Mr. Cramer stated he would email pictures and the address. Mr. Goldberg noted the state controls the level of brightness and noted it is brighter during the day than at night. They are LED lights with louvers.

Mr. Jacobs asked if Logan Communications has any up yet. Mr. Goldberg stated not yet but talks are starting up in Boston. Mr. Cramer stated the MBTA has a billboard on 128 currently. The MBTA is exempted from this and does not need local input. They could put another one if they want. Mr. Eisenhut asked about the process. The Design Review Board should take a look at this and make a recommendation to the Board. He noted they are the experts. Mr. Cramer stated the DRB was supposed to review this at last night's meeting but it was canceled.

Mr. Cramer stated they went to the Selectmen first. Due to the money aspect they felt the Selectmen would be the special permit granting authority with input from the Design Review Board. The Selectmen told them to get input from the other Boards and get back to them. Mr. Eisenhut stated he would like to get input from the Design Review Board. Mr. Cramer noted they are meeting with the Design Review Board next Thursday. Then the Selectmen will hold the public hearing.

Ms. Grimes clarified the state regulates the size and lighting. Mr. Cramer stated yes, there are many state regulations. Ms. Grimes noted it would be helpful to see what the Design Review Board feels but the state regulates it. Mr. Goldberg stated they cannot go to the state until they get the ok from the town. Mr. Warner commented this is a highly controversial proposal. He is concerned the Selectmen put it on the warrant where the normal process would be public hearings and recommendations would be made to the Selectmen. He feels it is backwards somehow.

Mr. Cramer stated the Selectmen want to hold a public hearing and asked they be put as the permitting authority. Ms. Newman stated she felt the Planning Board should report and the Design Review Board should report. Mr. Eisenhut noted they should say they will defer to the expertise and judgment of the Design Review Board. Ms. Newman stated she wants to clarify the Selectmen have voted to put it on the warrant for the Annual Town Meeting. Mr. Cramer stated they have not voted to support it or not. They are waiting to hear from the town boards and citizens.

Mr. Jacobs asked if the Design Review Board has dealt with this issue before. Mr. Cramer stated they have not but he has spoken with Marc Gluesing one on one. Mr. Jacobs stated the Scenic America organization is very opposed. He asked if they have issued anything since 12/30/13 when the government guidelines came out.

Ms. Grimes stated this is not the same as what they typically seek for the Design Review Board guidelines. She feels it would be a personal preference. Mr. Goldberg stated they have tried to pick the best location and limit the number and

size of them. There is a place for billboards and there is a place not for billboards and that is why the rules and regulations are written the way they are. There are a lot of controls in place. He stated it is like going from a book to a kindle and he feels there is a great public good that comes out of them.

Ms. McKnight stated she does not see a benefit and does not like the idea of selling this for money. She is hesitant to do anything that takes away from the highway business district right now. She asked if Needham was involved in a consortium with other towns and noted she would like to know the regional views of Newton, Weston and other towns. She noted it is less than a year since they have been allowed to do this and they have 30 communities that have set regulations already. Ms. Newman will check with the Planning Department in Newton and see if they have been approached about this topic. She will also get the safety study.

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

Mr. Eisenhut noted the following correspondence for the record: a letter from Needham Public Schools, dated 2/4/14; an email from Stephanie Novak, dated 2/28/14; a letter from Beth Israel Deaconess, dated 3/4/14; an email from Jane Fogg, dated 2/4/14; a letter from Bullfinch Companies Inc., dated 2/6/14; a letter from Alan Stern, dated 2/9/14; an email from Eliot Jekowsky, dated 2/13/14; an email from Janice Berns of the Board of Health, dated 2/13/14; a letter from Mark Rubin, of MARIC Inc., dated 2/14/14; an email from the Needham Board of Health, dated 2/16/14; an article from Children's Hospital of Pittsburgh and Sam Bass Warner's draft of a letter to Board members regarding locations for RMDs.

Mr. Eisenhut stated Mr. Warner referred to him in his draft letter but he did not have a chance to review it and wanted to make some clarifications. They understand they cannot propose to have medical RMDs located in business districts where medical offices and clinics are not allowed. They cannot be in medical districts outside of what they proposed. Mr. Eisenhut stated he is not opposed to the location of RMDs but is opposed to limiting it. Mr. Warner stated he does oppose it. Mr. Eisenhut stated Mr. Warner's view is different from his where he would not limit the locations to any particular Industrial or Highland Commercial 128 Districts. He wanted to clarify that.

Mr. Eisenhut expressed his disappointment that no one from the public was here to listen. He stated his view is that they should be compassionate toward patients and do what they can to be welcoming. They should allow an applicant to demonstrate through the special permit process a location that would work and they should not prejudge that. He feels they should welcome and encourage RMDs. They need to teach the difference between medical marijuana and recreational drugs. The Police Chief said there is an issue of diversion in the Chestnut Street District, but Mr. Eisenhut's view is that there is no evidence there is more opportunity for diversion. It is not like alcohol where there is a problem with diversion. The location is not going to encourage or discourage a person who is intent on breaking the law to divert product. He noted Chestnut Street is more accessible and more visible. In his opinion it will be a safer area unlike the other area that is unwelcoming and uncompassionate.

Mr. Eisenhut stated his sister's out-of-state clinic was in a mixed use residential commercial district and was a benign use. The state has said there will be 50 customers per day after a couple of years. Issues could be dealt with through a special permit process. He noted any unforeseen safety issues could be dealt with by the police. He noted Maine had 2 issues. One issue was one RMD was located in a strip mall next to another commercial establishment and the odor permeated. The town just required air infiltration systems. The other issue was one of the large growers was using pesticides. The state stepped in and passed a regulation that said no pesticides. There were no reported disruptions in Maine and no diversions. These are not slimy operators and they have been objectively vetted. Diversion was not an issue.

Mr. Eisenhut stated the AMA is now supporting the use of medical marijuana and he feels they should allow it wherever a medical clinic is allowed subject to the special permit. He feels very strongly they should strive for unanimity among the Board when they go to Town Meeting. He feels that is very important. He does not think the Chestnut Street District right now is viable for the applicants. He feels if they can define "sensitive use" in an objective way that gives predictability as to what parts of Chestnut Street are off limits and left it at that it would be fine. They can say 500 feet from a daycare center instead of making it vague. They should have a clear objective definition. The Chestnut Street District as designed is disingenuous. He cannot support it as currently designed.

Ms. Grimes asked if he would remove Chestnut Street. Mr. Eisenhut stated he would include it but would want the sensitive area restrictions clearly defined. They could say 500 feet from daycares and such in Chestnut Street only. He is willing to support the Planning Board for a unanimous vote if they can clarify the language. He commented they should allow the overlay as they proposed. He feels they should do what they feel is right from a zoning perspective. Ms. Newman stated Newton dealt with it as regional facilities. Ms. McKnight stated they should change the text. She suggested they could go area by area and see where people are comfortable.

Ms. Grimes suggested they tackle districts first then the language. Ms. McKnight noted Article 2, page 5 – Mixed Use 128. All agree (a) should be included. Ms. McKnight noted the only problem with (b) is that area is park and daycare. Mr. Eisenhut asked why a park is a concern. Ms. Grimes stated it is a concern to her also. There are young families. She does not want any medical marijuana facility near her family. Ms. McKnight stated she is not concerned with daycare centers. The parents take their kids there but she does think parks are different. She noted the Police Chief is very against parks. She feels they should redraw the lines so it gets away from the park.

Mr. Jacobs stated he feels a lot of fears are exaggerated, overblown or myths but he heard a lot of fear from people. It is a real fear and he feels there better be a good reason to choose an area to include or it may hurt someone unnecessarily. He feels because of that they should not include Industrial 1, or Lower Chestnut, or anyplace but Wexford. He stated he agrees with most everything Mr. Eisenhut says but it is a real fear. He does not feel it will pass if Chestnut Street is included. Mr. Warner stated if they do nothing the states' areas will apply. People have fears but it is unclear what the reality is from the testimony they had.

Mr. Jacobs stated he does not feel Wexford Street is as unacceptable and unsafe as it was portrayed. Ms. McKnight stated she thinks they need to listen to people and take Chestnut Street off. It will not get passed at Town Meeting with Chestnut Street on. Ms. Newman clarified not (b). Mr. Jacobs noted (c) and (d) are easy to eliminate. Ms. McKnight noted the police stated they are not accessible. Mr. Jacobs agreed they are not accessible and are not easily serving a regional clientele. Ms. McKnight noted some of the businesses straddle districts. Ms. Newman noted the Selectmen were ok with it on the Wexford Street side. Mr. Warner stated (f) is ok but (g) is in controversy.

Ms. McKnight stated MARIC is against both sides of Highland Avenue and Bullfinch is against the north side of Highland Avenue. Mr. Jacobs stated he has no problem excluding (g). Ms. Grimes stated she would like to exclude (g) and Ms. McKnight agreed. All agreed they will exclude (g) and keep (f) in.

Mr. Jacobs stated Huntington Learning Center there may be excluded due to the 500 foot area. The only district left is (e) – Chestnut Street. Mr. Warner stated it is a ticking time bomb with (e). He feels they will get push back with 500 foot rules and the absence of any applicant willing to let go of Chestnut Street. Ms. Grimes stated they have enough to go forward with (a) and (f).

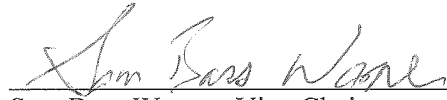
Ms. McKnight noted on page 3 – parking and loading – and asked if the number of spaces should be more of the objective or should it be determined by the Planning Board and not based on a parking analysis. Ms. McKnight stated it should say “it will be determined by the Planning Board and based on the expected parking and occupancy.” They should pick up the language and make it clear.

Ms. McKnight stated she has heard other towns are getting impact fees. Mr. Eisenhut stated there is no impact. Ms. Grimes agreed. There will be no impact fees. Mr. Jacobs stated on page 4, Section (b) they should delete the language “or any facility in which children or minors congregate” and leave the rest. Ms. McKnight stated they should say “daycare including preschool or after school facility.” Mr. Jacobs asked if everyone wants to keep the 500 feet. Ms. Grimes stated she wants to stick with what they have presented to people.

Mr. Jacobs noted the sensitive use area map does not show all the sensitive uses. He noted the areas may not be as big as they think is there. He wants to know they are leaving a fair amount of space open. Ms. McKnight noted before the word “school” they should put the words “public or nonprofit.” Mr. Jacobs stated they could leave the word “school” and reduce 500 feet to 100 feet. Ms. Newman will do a map that shows the areas. They do not need to decide tonight. She will do a 500 foot radius and a 200 foot radius. Mr. Jacobs stated he would like to start with reducing the 500 feet.

Upon a motion made by Mr. Jacobs, and seconded by Ms. McKnight, it was by the five members present unanimously:
VOTED: to adjourn the meeting at 11:00 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Sam Bass Warner, Vice-Chairman and Clerk