

NEEDHAM PLANNING BOARD MINUTES

July 7, 2016

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building, was called to order by Elizabeth Grimes, Chairman, on Tuesday, July 7, 2016 at 7:00 p.m. with Messrs. Alpert and Owens and Ms. McKnight as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski.

Public Hearing:

7:00 p.m. – Amendment to Major Project Site Plan Special Permit No. 2012-05: Paul Boucher d/b/a A New Leaf, 1038 Great Plain Avenue, Needham, MA, Petitioner (Property located at 916-920 Great Plain Avenue, Needham MA 02492), Please note: This hearing was continued from the June 28, 2016 Planning Board meeting.

George Giunta Jr., representative for the applicant, noted Mr. Boucher has been the owner of A New Leaf since 2004. In 2007 a juice bar was added as well as natural food. It is a little cramped with the current location. The Board approved an alternate location across the street but it did not work out. The applicant has found a new location at 916-920 Great Plain Avenue which is in the cinema block. The storefront is on Great Plain Avenue. This is the VO2 Max space. There is under 1,950 square feet on the first floor and 1,250 square feet in the basement. The grocery operation, as an as-of-right use in the Center Business District, will be 1,000 square feet per limits on the area of such a use in the zoning by-law and the rest will be the juice bar area and the bathrooms. There will be an 11 seat juice bar under a special permit. The hours will be 7:00 a.m. to 8:00 p.m. Monday through Saturday and 9:00 a.m. to 6:00 p.m. on Sunday. The rest of the building has retail space of about 4,000 square feet. There will be 3 employees.

Mr. Alpert asked what the current location size was. Mr. Giunta Jr. noted it is 1,000 square feet. Mr. Alpert commented on the disposal of refuse. He noted Mr. Giunta's letter and commented, with the expanded eat in service, there will be food waste and associated waste. He asked if the plans for a dumpster are sufficient. Mr. Giunta Jr. noted the dumpster is shared with Sweet Basil. It is emptied frequently. There will be a slight expansion of food waste but not much. There is more expansion of space. Ms. Grimes asked if that dumpster is shared by the new restaurant. She wants to make sure it is not being double counted.

Ms. McKnight stated she is concerned with the dumpster and trash disposal. Sandwiches are also being offered. She asked if there is a written agreement with Dave Becker to share the dumpster. Paul Boucher, owner, stated there was no written agreement. Ms. McKnight commented she would like a written agreement. She stated she feels A New Leaf is a terrific business. Her impression is people come from out of town to shop there.

Ms. McKnight asked if Mr. Boucher would be agreeable with no sales of tobacco or tobacco products, no lottery and no carbonated beverages with a .05 deposit. Mr. Boucher commented he had no issue with the conditions. Ms. Grimes stated she feels it is limited enough with no tobacco and lottery. Mr. Alpert stated he does not see carbonated beverages as adding more traffic than what the store currently has. He agrees to a ban on tobacco and lottery. Mr. Owens stated if it is tied to traffic people would go further down the block to the pizza place to get soda.

Ms. Newman informed the Board the dumpster is shared by Sweet Basil, UPS and Abbot's Custard. It is a lot of use for one dumpster. Mr. Giunta Jr. stated there is not a lot of room there to add another dumpster. The Board could put a condition it needs to be emptied so often. Ms. Grimes stated the Board needs to make sure the dumpster is emptied frequently.

Ms. Grimes noted the following correspondence for the record: an email from Tara Gurge, of the Board of Health, dated 6/27/16, with comments; an email from Police Lt. John Kraemer, dated 6/8/16, noting no safety concerns

with a comment regarding deliveries on Great Plain Avenue; a letter from Fire Chief Dennis Condon with no comments and a letter from Assistant Town Engineer Thomas Ryder with no comments.

Mr. Boucher noted a large delivery truck one time a week would not fit in the back. Mr. Alpert noted, to the extent possible, deliveries should be made to the rear of the building and if not, deliveries should be made in the off hours. Ms. McKnight asked if there were hour limits on emptying the dumpsters. Ms. Newman noted 8:00 a.m. to 6:00 p.m.

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

VOTED: to close the hearing.

Mr. Alpert suggested deliveries should be in front from 7:00 a.m. to 10:00 a.m. and in the rear from 8:00 a.m. to 6:00 p.m. only as necessary for trucks that cannot use the back. Ms. McKnight noted these are brand new premises. She asked if this is an amendment to a prior decision. Ms. Newman noted it was an amendment to the prior decision for the building.

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

VOTED: with regard to the application for an amended decision on the petition of Paul Boucher, 916-932 Great Plain Avenue, to grant the requested Major Project Site Plan Amendment under Section 7.4; a Special Permit pursuant to Major Project Site Plan Special Permit No. 2012-05, Section 4.2; the requested relief under Section 3.2.2 for retail sales as accessory to food retail; a Special Permit under Section 5.1.1.6 to waive strict adherence with the off-street parking requirements of Sections 5.12 and 5.13 with regard to parking setbacks subject to requirements that are to be set forth in the decision to be reviewed by this Board.

Public Hearing:

7:15 p.m. – 1242 South Street Definitive Subdivision: Richard S. Raisman & Lynn H. Raisman, 1242 South Street, Needham, MA, Petitioner (Property located at 1242 South Street, Needham, MA). Please note: This hearing was continued from the May 24, 2016 and June 28, 2016 Planning Board meetings.

George Giunta Jr., representative for the applicant, noted this is a 2.9 acre parcel. There is a large existing house, a 2-car garage, swimming pool and tennis courts. The front of the property slopes up to the 1919 house. The owner would like to subdivide to get 2 lots, put a roadway in and get subdivision approval. This was done as an as of right subdivision. It is not practical for one lot so the idea is to divide. One new lot will be created at the front. Both lots will have frontage on a new private way to the right of the lots. The applicant would like a hammerhead turnaround. The front part of the road will serve the front house and the hammerhead will serve the back house.

Mr. Alpert stated the circle is important for emergency vehicles. Mr. Giunta Jr. noted it is the same as a 300 foot driveway. It is only serving one house, has adequate access and a turnaround for emergency vehicles. The property slopes up from South Street and continues to the back.

Steve Poole noted with one lot subdivisions this is a common drive. There are swales on both sides of the drive to catch basins to an infiltration subsurface type system. There is another system for roof run off. The soils are decent soils. The drainage calculations are done and the volume for all storms will be reduced. Engineering's comments were good. The existing power line is to be abandoned and a new one brought up the drive.

Ms. Grimes noted the following correspondence for the record: an email from Town Engineer Anthony DelGaizo, dated 5/25/16, with comments. Ms. Grimes asked how wide is the road? Mr. Giunta Jr. noted the layout of the road is 40 feet with 18 feet paved. Ms. Newman noted the Fire Chief is ok with the plans. She is comfortable

with the proposal. Mr. Poole clarified there are 14 feet of pavement and 2 foot shoulders of crushed stone on each side.

Mr. Giunta Jr. noted this is the Rural Residence Conservation District. The first 35 feet need to be kept untouched. He would like the Board to say the drainage structures are part of the roadway and can go in the strip. The project will add in vegetation after the infiltration structure is in place underground. Mr. Alpert suggested putting in a condition that once the infiltration system is in the area will be restored to a natural vegetative state. Ms. Newman stated the whole area is being re-graded. She noted it may be possible to have a retaining wall and get rid of the grading. Clearing is going on up to the house. Ms. Grimes stated it makes no difference to her.

Mr. Owens asked what the slope would look like when done. Mr. Poole noted there will be scrub brush in front with trees and grass. The project proposes a more gradual slope due to the infiltration system. It will be a continuous slope. The first half will be re-vegetated then it will go to lawn. Mr. Owens asked if the new house would be parallel to the private way and was informed it would be. He asked if all existing structures were being kept. He was informed the pool is to be demolished.

Ms. McKnight noted the distance between the lot line with the Bruno's property and the paved portion of the private way. She asked if there is a required setback of the drive from the lot line. Ms. Newman noted there was no required setback in the residential district. Ms. McKnight asked how much of the footage is swale on the side. Mr. Poole noted 11 feet from the edge of the drive to the property line. He noted the retaining wall is 2 feet high.

Ms. McKnight stated the first 35 feet cannot be cut or cleared. She does not see how the applicant can do this. She asked if the drainage could be put somewhere else. Mr. Giunta Jr. stated there is no other place to put the drainage. Mr. Poole noted it is mostly scrub brush. He noted it will be an improvement. Ms. McKnight stated the Board may need a legal opinion from Town Counsel. Mr. Giunta Jr. stated he reached out to the Building Inspector. He agreed with Mr. Giunta's interpretation. The area will need to be restored and will be shown on a plan. Mr. Poole noted trees will be in front and behind. The applicant will hydroseed the area.

Mr. Alpert asked how much soil would there be. Mr. Poole noted there will be one to 3 feet of soil. Mr. Alpert stated the Board could require the applicant to restore or make nicer. He commented it will look better than it does now. Ms. McKnight asked if there will be an easement and was informed there will be. Ms. Grimes commented that she does not like hammerheads and does not think they are safe.

Ms. Grimes noted the following correspondence for the record: a memo from Fire Chief Dennis Condon, dated 6/24/16, noting no comments or concerns; an email from Town Engineer Anthony DelGaizo, dated 5/25/16, regarding soil testing; an email from Police Lt. John Kraemer, dated 6/21/16, noting no safety concerns; an email from Joe Bruno, an abutter, dated 5/24/16, with concerns; an email from Tara Gurge of the Health Department, dated 6/27/16, with comments regarding the septic system and another email from Tara Gurge of the Health Department, dated 6/30/16, with comments.

Ms. Newman stated, to be prudent, she would recommend continuing the hearing to the next meeting. She commented she was surprised no one was at tonight's hearing session. She knows some of the abutters have concerns. Mr. Giunta Jr. stated he has no objection to continuing the hearing. He would like a draft decision prepared.

Upon a motion made by Mr. Alpert, and seconded by Mr. Owens, it was by the four members present unanimously:

VOTED: to continue the hearing to 7/19/16.

Vote to Re-advertise and Reopen: Major Project Site Plan Special Permit No. 2016—02: Claremont Needham Suites LLC, One Lakeshore Center, Bridgewater, MA 02324, Petitioner (Property located at 200 First Avenue, Needham, MA).

Ms. Newman noted she received a letter from the abutter of the property, SXC Needham Inn LLC, that it was not noticed of the June hearing on the property. She stated SXC was not noticed and explained how it happened. She stated the SXC hotel should have been included. She would like to readvertise and reopen the hearing on 8/9/16. Robert Smart, representative for the applicant, stated his clients' view is the abutter is not entitled to notice. They were not on the Assessor's Certified List of abutters and not entitled to notice. Ms. Newman noted SXC was inadvertently left off.

Mr. Smart stated SCX was never listed. SXC is a condo owner with merely a beneficial interest in the common area. There is no claim in their letter they have an exclusive use area. The condo owners have no right to engage in litigation. The legal owner is the condominium trust. Notice was given to Normandy who are the trustees and legal owner. He stated he would like the decision to be voted on as soon as possible.

Ellen Shapiro, Attorney for SXC Needham Inn LLC, stated she did not have a great deal of time to respond. She stated her clients are an aggrieved party. Condo owners have rights and SXC as a unit owner has that right. She had very little time to draft the letter. She would like the hearing readvertised and reopened.

Mr. Alpert noted the language of the G.L. c. 40A. The Assessor's Certification List is to be conclusive and the abutter feels a mistake was made as their name was not on the list. He feels a good faith was made as to notice. The hearing could be reopened on a discretionary basis. He noted an email from Town Counsel David Tobin. Condo owners are tenants in common as to condominium common areas. He understands Mr. Smart's position. He feels it is a debatable position. He feels he does not want to make a decision to say notice was incorrect or insufficient. The Board needs to rely on the Assessor's List. He feels the hearing should be reopened under the circumstances. He is in favor, under the Board's discretion, to reopen the hearing.

Mr. Owens stated he is inclined to rely on the Town Attorney. What is the hardship of reopening as opposed to not reopening? He has heard nothing of a hardship. He is inclined to reopen. Ms. McKnight stated she is inclined to rely on the Town Counsel opinion.

Ms. Grimes stated she tends to agree with Mr. Smart. The abutters are notified through the Assessors list. She agrees with Mr. Alpert the Board could be looking at a potential issue if not reopened. She is not sure what hardship there is but will listen. She agrees it should be reopened. Mr. Alpert stated he would like Mr. Smart to speak on the hardship.

Mr. Smart stated a delay will be a financial impact, potentially allowing a competitor in the door to possibly tie it up for months when it is not necessary. The common area is a mere thread. He noted Residence Inn is 900 feet away from their property. Ms. Shapiro stated she can dispute one inch of that right. It is a legal right.

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

VOTED: to readvertise and reopen the public hearing for Major Project Site Plan Special Permit No. 2016-02: Claremont Needham Suites LLC, One Lakeshore Center, Bridgewater, MA 02324 for property located at 200 First Avenue, Needham, MA with the reopened hearing to be held on 8/9/16 at 7:30 p.m.

Decision: Major Project Site Plan Special Permit No. 2016-02: Claremont Needham Suites LLC, One Lakeshore Center, Bridgewater, MA 02324, Petitioner (Property located at 200 First Avenue, Needham, MA).

This has been postponed to 8/9/16.

DeMinimus Change and Plan Endorsement: 1001 and 1015 Central Avenue Definitive Subdivision: RRNIR LLC, 20 Beaufort Avenue, Needham, MA, Petitioner (Property located at 1001 and 1015 Central Avenue, Needham, MA).

George Giunta Jr., representative for the applicant, noted the 2/9/16 decision allowed for a division into 6 lots. The applicant has revised the plans. The plans have been drafted and reviewed. Two documents are to be accepted by the Board of Selectmen. The documents went to the Selectmen for review. There was an issue with the name of the street. The Board approved London Lane but the Board of Selectmen did not like that. All parties have settled on Sunrise Terrace. The Selectmen have accepted it with the revised name. The applicant needs a modification and amendment to change the name from London Lane to Sunrise Terrace and waive the filing fee.

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

VOTED: to determine the requested relief is a deminimus change, amend the decision by replacing London Lane with Sunrise Terrace and waive the filing fee.

Request to Authorize Permanent Occupancy: Major Project Site Plan Review No. 2013-03: Town of Needham Permanent Public Buildings Committee, Petitioner (Property located at 20 Saint Mary Street, Needham, MA).

Ms. Newman noted the Board was holding up on the Certificate of Occupancy pending the noise study. It now complies and she is recommending a permanent Certificate of Occupancy.

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

VOTED: to authorize the issuance of a permanent Certificate of Occupancy for Site Plan Review No. 2013-03, 20 Saint Mary Street.

Open Space and Recreation Plan Advisory Group Appointment.

Mr. Alpert stated he would do it but Ms. McKnight is interested.

Upon a motion made by Mr. Alpert, and seconded by Mr. Owens, it was by the four members present unanimously:

VOTED: to recommend Jeanne McKnight for the Open Space and Recreation Plan Advisory Group.

Correspondence

Ms. Grimes noted an email from Jeanie Martin, dated 6/9/16, with concerns about the number of large replacement homes in Needham and a Needham Times article regarding towns with soaring rents. Mr. Alpert noted there was an article in the Boston Globe. Acton voted CPC funds for restoration of a historic church in the Center that is still being used for the church. A group of citizens have filed suit. He stated that will be interesting.

Ms. Grimes gave a report on the Selectmen. The Selectmen focused heavily on the Large House Committee. There was a brief discussion on new zoning initiatives. There were questions around the Large House Study, scheduling the article in the Fall about double basements and roof top heights and if zoning belongs on Fall Town Meeting. Ms. Grimes stated she felt the Selectmen changed their tune with regards to zoning in the Fall. The Selectmen would consider it if the Board felt it was important and brought it to them.

Ms. McKnight noted Restore Needham petitioned to have a Citizen's Petition at Town Meeting. Ms. Grimes noted she would need to look into it. Mr. Owens stated to have the right answer and not be able to convince Town Meeting is worse than the wrong answer. If a proposal is brought prematurely, and is defeated, the Board would have lost 5 or 6 years. He would caution the Planning Board, Restore Needham and the Large House Study Committee to think about what Town Meeting would approve. A proposal that is digestible to Town

Meeting and would get two thirds vote is what should be brought forward. The Board needs to think about what they want to get through and how to get it through. He feels small chunks are better than a massive proposal.

Ms. Grimes stated she agrees. She noted the Board was defeated on medical marijuana and brought it back the next year. She hears what he is saying and agrees. Mr. Alpert stated he agrees also. Mr. Owens stated the Board should start with the easiest and work toward the most controversial at the end.

Minutes

Ms. McKnight noted on the minutes of 3/15/16, page 2, 2½ feet should be percent of affordable units.

Upon a motion made by Mr. Alpert, and seconded by Mr. Owens, it was by the four members present unanimously:

VOTED: to accept the minutes of 3/15/16 with the one change.

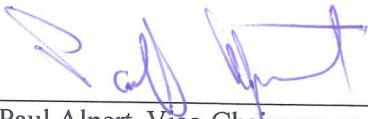
Upon a motion made by Mr. Alpert, and seconded by Mr. Owens, it was by the four members present unanimously:

VOTED: to accept the minutes of 4/11/16 and 4/25/16.

Upon a motion made by Mr. Alpert, and seconded by Mr. Owens, it was by the four members present unanimously:

VOTED: to adjourn the meeting at 9:25 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Paul Alpert, Vice-Chairman and Clerk