

NEEDHAM PLANNING BOARD MINUTES

December 1, 2015

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building, was called to order by Jeanne McKnight, Chairman, on Tuesday, December 1, 2015 at 7:00 p.m. with Messrs. Eisenhut and Alpert and Ms. Grimes, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Correspondence

Ms. McKnight noted the following correspondence for the record: a filing of complaint by the abutter regarding the Special Permit relief granted to Normandy Real Estate Partners, a guest column, dated 11/12/15, by Sam Bass Warner regarding the residential teardowns (Invasion of the Cowbirds) in Needham and a notice from the Dedham Planning Board regarding a public hearing on a zoning article.

Public Hearing:

7:00 p.m. – Amendment to Wellesley Avenue (August Way) Definitive Subdivision: Viola E. Miller, 21 Wellesley Avenue, Needham, MA, Petitioner (Property located at 9 August Way, 13 August Way, 16 August Way and 21 Wellesley Avenue, Needham, MA). Please note: This hearing has been continued from the August 11, 2015, October 6, 2015 and November 10, 2015 meetings of the Planning Board.

George Giunta Jr., representative for the applicant, noted there was a lengthy discussion at the initial hearing and gave a history. The property has been commercial since 1938 and is currently being used for commercial purposes. A complaint was filed that started a process. The Town issued a building permit for a building that was more a garage than a residence. The applicant wants to amend the document to recognize the historical and continued use. He showed the business use throughout the years back from 1969 through the present. The space has been leased to contractors through the years.

Mr. Giunta Jr. noted the infrastructure of the road is a question. This is a private way and he does not feel it is an issue. He met with the Town Engineer and he agreed the applicant owns it and takes care of it and that there are no infrastructure issues. Then a question was raised about stormwater drainage runoff. The applicants were told they need to fix that. He stated he does not have a drainage plan due to vacations.

Ms. McKnight noted there is a pending application in front of the Zoning Board of Appeals (ZBA) and asked him to explain it. Mr. Giunta Jr. stated it is a non-conforming, continuing use. The applicant is seeking a permit to alter a non-conforming use by shifting the use from one piece of the property to another. They are seeking to move trucks and equipment to the other lot. The application takes away from the residential side and puts it near the non-conforming commercial animal hospital.

Ms. McKnight stated in 1999 a permit was granted for residential and a restricted covenant was to be recorded. The applicant wants to change the use of Lot 6 and amend the covenant. Mr. Eisenhut stated he thought there should be some discussion of what the intent was in 1999. Mr. Giunta Jr. stated the Planning Board record does not reference commercial use though there is ample record of commercial use being there. He stated nothing curtails commercial use but nothing acknowledges it either. There is a non-conforming animal hospital and landscape/nursery next door.

Ms. McKnight noted the following correspondence for the record: a letter from Mr. and Mrs. Jude Castro, dated 10/7/15, with concerns; a letter from Steve Pitschke and Pamela Reid, dated 10/26/15, in opposition; and a letter from Andy and Trish Mirsky, dated 10/26/15, in opposition.

Steve Pitschke stated he was at the ZBA meeting. He thought the applicant had a grandfathered use for their use but it is clear in the covenant the applicant agreed to only use the property for residential. This was put forth as

their own business but the applicant is renting to others. They are using the land inappropriately. Pamela Reid stated Viola Miller and her husband signed the covenant and it is clearly being violated. Mr. Giunta Jr. stated there are currently 2 clusters. At 9 August Way, Kurt Miller operates Miller Contracting. On the other corner there are landscaping vehicles and equipment rented to a third party. There is a long chronology of the Millers renting to third parties back to 1969 and before. The Millers are not doing anything different than what was done historically. They are just moving all commercial uses to one location. He noted there was no legal representation at any Planning Board meetings for the Millers.

Mr. Eisenhut asked if there were waivers granted from subdivision rules and regulations. Mr. Giunta, Jr. stated there were waivers but the only people who use the road are the Millers. He noted the Board could stipulate it non-residential use is only as long as the Millers own the property. Andy Mirsky stated the document signed was only for residential. He is opposed to anything that would consolidate more commercial use. Ms. Reid stated the Oakland end of the street is only 19 feet wide and not even regulation. Mr. Pitschke stated there may not have been a lawyer but the Miller's signed the agreement. This is a standard subdivision and the Miller's should live up to what they signed.

Judy Castro stated this was always zoned residential but has been used as commercial since 1938. This is a violation of zoning. Ms. McKnight clarified the applicant is asserting it has been used as commercial prior to 1925 when there was no zoning. Martha Castro stated this is not 1938 any longer. It is much more residential. The graveyard has sold some property and there is more residential now. She does not believe anyone living there is using the equipment there. She objects to them renting out to large vehicles. There are too many and they are too big. She stated some of the trucks are 16 feet wide.

Kurt Miller stated he lives there and runs his business there. He is a third generation contractor. Viola Miller stated she has lived there for 51 years. She only recognizes one neighbor who is at the meeting. Mr. Kurt Miller stated he only has regular dump trucks, not 16 foot wide ones. He commented Ms. Castro is talking about Slim Landscaping who had a large amount of trucks with 35 to 40 vehicles. He noted the abutter is in the process of buying Slim Landscaping.

Mr. Giunta Jr. stated there was not a single complaint until 2 years ago. Ms. Grimes noted the applicant came before the Planning Board in 1999 and gave a presentation about a family homestead and not about running a business. Someone on their end made a mistake. Mr. Giunta Jr., in response to the 1938 comment, described the lengthy list of equipment that was there in 1985. There is no indication commercial use came up at that point.

Ms. Castro stated it is the renting of space to outside people that is the issue. It is fine if it is the Miller's own equipment. Mr. Alpert stated he wants to be clear on the use of the property currently. Is it more or less than previously? Mr. Giunta Jr. stated it has fluctuated over the years. Now there are 2 clusters. The landscaper has 3 trucks and a trailer, the rest are Kurt Miller's.

Mr. Alpert stated he wants a sense of the process. If the Board grants the relief do the applicants go back to the ZBA. Mr. Giunta Jr. stated yes, the ZBA hearing is open and pending the Planning Board's decision following this hearing. Mr. Alpert stated in 1.4.5, the issue is the intent may have been to discontinue the use in 1999 and turn to residential. Mr. Giunta Jr. stated the intent is one of interpretation. It could be inferred but it does not mean that was the intent as the applicant kept the use going through the entire time. With the history, the applicant would not be giving it up and had no intention to abandon. Mr. Alpert asked the abutters where their houses were. He noted moving the equipment will be further from their houses.

Mr. Castro stated the road in front of his house at Oakland has not enough room for a truck and a car. Mr. Reid stated cars go on their front yard. Wayne Williams clarified their trucks do not go that way. Their trucks go to Central Avenue. Ms. Grimes asked why there are no drainage plans. Mr. Giunta Jr. stated there was an issue with engineering. They did not have the plans done in time and are still working on them.

Ms. McKnight noted the Board of Health had an issue with the septic system. This will be addressed by Mr. Giunta Jr. She noted engineering had an issue with drainage. Mr. Giunta Jr. stated engineering wanted the flow

to stop on August Way. There needs to be a change in grade in the drive so it does not go to August Way or some sort of catch basin. It is a relatively simple fix.

Ms. McKnight stated in 1999 the Planning Board granted waivers on the basis that this was going to be a single family subdivision. The plans do not include sheet 3 of the Road Plan and Profile. It has a width of right of way being 24 feet and paving 18 feet. The area of the roadway and circle should have been planted and landscaped. She has been out twice and sees no landscaping. She would have to see if the paving is adequate. There are vehicles parked everywhere. She asked whether, in the future, they will only be parked on Lot 6 and not parked in the road. Mr. Giunta Jr. stated this is correct. Ms. McKnight noted there is a lack of compliance with roadway conditions. It is paved where landscaping should be. If the Board is going to grant, do they need different standards or are they satisfied to continue the waivers with the same conditions?

Mr. Alpert noted as part of what is proposed the Board can limit the grant as proposed as long as the lots are all owned by the Miller family. Mr. Giunta Jr. agreed. Mr. Alpert noted all issues about a road may be moot because it is one family. Ms. Grimes asked how the Board could change the covenants. Mr. Giunta Jr. stated the covenants can change as long as all are owned by the Miller's. The Planning Board could enforce them. Ms. McKnight stated she is comfortable closing the hearing without reviewing the drainage plan if there is a condition in the decision that the drainage is addressed satisfactorily by Engineering. Mr. Giunta Jr. stated the regrading is only on Lot 6.

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

VOTED: to close the hearing.

Mr. Eisenhut stated the Board is being asked to change the 1999 decision of the Planning Board and restrictive covenant that has been recorded. He is not willing to do that. There is a lot of ambiguity. A lot of waivers were given. He has to respect the decision of the 1999 Planning Board.

Mr. Alpert stated he has a problem with the abandonment issue. What the applicant signed in the 1999 document says the Miller's planned to abandon. The applicants came to the Board stating they wanted to build residential but it was not brought up. He agrees with Mr. Eisenhut. He feels the applicants ended the use in 1999. Ms. Grimes stated in 1999 someone brought a subdivision for a purpose. She is not inclined to move forward with the requested relief. Ms. McKnight stated she feels the subdivision was residential. The garage with residential over showed trucks were to be accessory. She sees no reason to make a change.

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

VOTED: to deny the amendment to the Wellesley Avenue/August Way subdivision as requested by the Petitioner.

7:30 p.m. – 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). Please note: This hearing has been continued from the June 23, 2015, August 11, 2015, September 29, 2015 and October 27, 2015 meetings of the Planning Board.

Ms. McKnight noted this is a continuation of an open hearing.

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

VOTED: to waive the reading of the public hearing notice.

George Giunta Jr., representative for the applicant, stated this is an application for a subdivision for 2 properties nearby Babson College, Olin College and the old Charles River ARC. The houses are to be taken down. The

property is vacant. There will be 6 new residential lots. It is a conforming subdivision, although there are a few waivers that will be requested, and the applicant is proposing to do it as a private way.

Paul Beaulieu stated he has worked with Engineering and has several renditions of the roadway. They came to an agreement on the submission. The developers are requesting a waiver of the turnaround radius. The requirement for a center line radius on an arc in a roadway is 80 feet and the applicant is requesting a waiver down to 75 feet on the centerline arc. The proposed grade is a 6.67% slope which is under the town guidelines of 8.0%. The project increases the length to get a flatter road. Engineering is comfortable with a waiver down to 75 feet. He noted the developer has met all Engineering's initial requirements. He received a call at 5:00 p.m. today from the Assistant Town Engineer with some suggestions. The project was going to put in 2 to 3 light poles but Engineering feels one is sufficient.

Ms. Grimes asked whether anything of substance is changing on the revised plan to be submitted. Mr. Beaulieu stated no. They are requesting a waiver of the sidewalk on the northerly side. The developer wants a 50 foot radius circle and a 40 foot width of the right of way. Mr. Giunta Jr. stated these are the standard waiver requests. Mr. Beaulieu noted the full width pavement with curbing the sides. They may need a slope waiver at the intersection. Ms. Newman asked if the applicant will prepare updated plans and provide changes. Mr. Giunta Jr. stated this is a basic Needham subdivision.

Ms. McKnight noted the following correspondence for the record: an email from the Fire Department noting no issues; a memo from the Health Department noting the off-street drainage requirements; emails from Police Lt. John Kraemer dated 6/18/15 and another one dated 8/25/15, noting no safety concerns; an email from the Fire Department, dated 6/18/15, with no issues; an email dated 11/6/15, from Matthew Varrell, of the Conservation Commission, with no issues or concerns and an email from DPW Assistant Town Engineer Thomas Ryder, dated 12/1/15, with recommendation.

Ms. Newman noted there is decorative lighting in other subdivisions and asked if the applicant would consider that. She also wants them to consider a landscape plan. Mr. Giunta Jr. stated he did not look at all the enhancements. It is a basic residential subdivision and location. He will consider the lights. He feels it is pretty straightforward. Ms. Newman asked about street lights and shade trees. Mr. Giunta Jr. stated there are none proposed but he can look at it.

Ms. McKnight stated she does not see clearly marked landscaping. She would like to see subsequent plans with what is proposed for the area and the Central Avenue sidewalk. She asked if the applicant would be upgrading the sidewalk. Mr. Giunta Jr. stated the project would probably have to redo the sidewalk along their frontage. Cliff London stated the sidewalk would be restored which is par for the course. Jeff Heller, of Central Avenue, stated he often walks to Volante Farms. The sidewalk is in terrible condition. There is no notation on the plan about the wall that abuts the school. That is a historic wall. What assurances are there it will not be made worse? Mr. Beaulieu stated the wall is on Charles River Arc's property. He stated this project will not be touching it.

Ms. Grimes commented she would like to thank Mr. Giunta Jr. for not putting a T road in. She thanked them for putting in a circular turnaround.

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

VOTED: to continue the hearing to 1/12/16 at 7:00 p.m.

Request for Occupancy Permit: Major Project Site Plan Special Permit No. 2013-02: Needham Solar, I, LLC, 40 Walnut Street, Suite 301, Wellesley, MA 02481, Petitioner (Property located at 1407 Central Avenue, Needham, MA).

Ms. Newman noted this is off the agenda.

Ms. Grimes left the meeting at 9:00 p.m.

Request to reduce bond: Richard J. Gaffey, Trustee of the Belle Lane Realty Trust, formerly known as the 634 Charles River Street Realty Trust, Petitioner (Property located on the southerly side of Charles River Street between 534 Charles River Street and 590 Charles River Street, and is shown on Assessor's Map 305 as Parcel 23).

Ms. McKnight noted a letter from Kelly Engineering Group, Inc. to the DPW referencing a bond amount. Ms. Newman noted the town is holding \$353,000 -- \$325,000 performance bond and \$28,000 for off-street drainage bond. The performance bond should be reduced to \$95,500 and retain the off-street drainage bond.

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

VOTED: to reduce the performance bond to \$95,500 and retain the \$28,000 off-street drainage bond for a total bond of \$123,500.

Committee Appointments (Design Review Board, Transportation Committee, Future School Needs Committee, Large House Review Study Committee).

Ms. McKnight stated there was a vacancy on the Transportation Committee. Justin McClellan has applied. Ms. Newman talked with him on the phone. He is a commuter rail patron and interested in transportation type issues. He would be available to meet with the Board. Mr. Alpert requested the Planning Director ask him to come in to the next meeting.

Ms. Newman noted the Design Review Board is 3-year terms. She stated the Board should formally extend the current members for 3 years.

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

VOTED: to extend the appointments for Nelson Hammer, Steven Tanner and Deborah Robinson to the DRB to expire 3 years from their current expiration dates.

Ms. Newman stated the Future School Needs appointment is on hold for now.

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

VOTED: to extend the Large House Committee appointment through September 30, 2016.

Board of Appeals – December 17, 2015.

Michael and Susan Guzelian – 1079 South Street.

Ms. McKnight noted there is already a 3 car garage. The applicants want a detached barn with a fourth car bay.

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

VOTED: "No comment."

Minutes

Changes were passed to Assistant Planner Clee.

Report from Planning Director and Board members.

Ms. Newman stated she has revised drawings for the Oak Street subdivision. Engineering wants a couple of modifications. The applicant has provided legal documents. She would like the Board to approve the Planning

Director to sign documents outside of a meeting once revised plans, reviewed by Engineering, are received and signed by all parties and Town Counsel has reviewed the legal documents. Ms. McKnight stated she has not seen the documents. She is not comfortable voting on this. The Board members can sign at the next meeting.

Mr. Giunta Jr. stated the subdivision is 2 lots. One is accessory and has frontage on Cypress. He would like a release of lot for the other lot with frontage on Oak Street. Ms. Newman stated she would need a bond. The Board will do this on the 15th.

Ms. McKnight asked for an update on the Chinese restaurant. Ms. Newman stated she has no update. Ms. Clee was asked what the deadline was for the meeting. She told them it depended on what they wanted to do. The applicants were not sure and she has not heard back yet. She will check in with them.

Ms. McKnight asked about the Rockwood subdivision. Ms. Newman stated it is going better. Utilities are going in and the applicant is being more responsive to the neighborhood. They are sending out letters to the abutters to keep them posted.

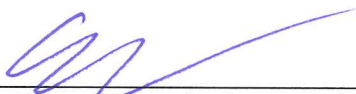
Ms. McKnight stated she went to a meeting Selectwoman Denise Garlick had last night that Keolis Commuter Services attended. She asked about the dead trees at the commuter rail platform in the center. She was told they were looking for a complete upgrade of the platform in the near future. She stated it was positive that Keolis came and listened and seemed to be receptive.

Ms. Newman stated there was a Large House Review Study Committee meeting this morning. The working group went back to a full committee with some concepts that the Committee is considering. They would adjust setbacks in and allow some orientations to the exterior of the house. They would bring the mass down but allow bay windows, bow windows, and such. The front yard setback would go from 20 feet to 25 feet and the rear would go from 15 feet to 10 feet. The committee is creating some rules that would limit the height of the story over the garage. The committee is creating an average setback. They talked about adjustments of how the Building Inspector measures height and discussed how other towns measure height. There are some conceptual ideas people will think about.

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

VOTED: to adjourn the meeting at 9:35 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Elizabeth Grimes, Vice-Chairman and Clerk