

NEEDHAM PLANNING BOARD MINUTES

January 12, 2016

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, January 12, 2016 at 7:06 p.m. with Messrs. Eisenhut, Jacobs and Alpert, and Ms. Grimes as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski.

Correspondence

Ms. McKnight noted the following correspondence for the record: a letter from Town Manager Kate Fitzpatrick to George Durante, Project Manager for the Highland Avenue Corridor Public Infrastructure Project, regarding the Highland Avenue corridor. Ms. Newman stated this provides funding for a light at Highland Avenue. Ms. McKnight also noted a letter from Phaldie Taliep, Project Manager, to Planning Director Lee Newman regarding the generator at St. Mary Street and noting the screening has gone in around the generator.

Ms. McKnight also noted an FYI letter from Town Manager Kate Fitzpatrick on the Future School Needs Committee. The town is changing the function, composition and appointing authority of the committee to oversee a professional. Mr. Alpert stated the composition of the committee is being changed as the committee is shrinking. Mr. Jacobs noted the Planning Board should comment the Board would hope the town has investigated if a professional's estimates are better than the committee's; otherwise it is a waste of money.

Public Hearing:

7:00 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 continue from the June 23, 2015, August 11, 2015, September 29, 2015, October 27, 2015 and December 1, 2015 meetings of the Planning Board. The hearing will be further continued to the January 26, 2016 meeting of the Planning Board.

Ms. Newman noted there were some plan modifications required at the 12/1/15 meeting. The applicant thought the changes could be done quickly. They met with Engineering this past week and there are no plan modifications yet. She noted this request requires an extension of the action deadline.

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

VOTED: to further continue the hearing to 1/26/16 at a time to be determined and to extend the action deadline appropriately.

Request from Needham Real Estate Partners on Behalf of Needham Nine Owner, LLC (Center 128 East) for Plan Modifications and Associated Permit Findings: Amendment to Major Project Site Plan Special Permit No. 1993-2: General Dynamics C4 Systems, Inc., 8201 E. McDowell Road, Scottsdale, AZ 85251 and General Dynamics Information Technology, Inc., 3211 Jermantown Road, Fairfax, VA 22030, Original Petitioners (Property located at 77 A Street, 156 B Street, 189 B Street & 0 A Street, Needham, MA 02492). Special Permit was last amended on November 18, 2014.

Request from Normandy Real Estate Partners on Behalf of Gap-V Development Needham, LLC (Center 128 West) to authorize design changes to Garage B pursuant to the review process established in Section 3.38: First Amended and Restated Major Project Site Plan Special Permit No. 2012-07: Normandy Real Estate Partners, 99 Summer Street, Boston, MA, Petitioner (Property located at 360 First Avenue, 410 First Avenue, 66 B Street and 37 A Street, Needham, MA 02494). Special Permit was last amended on April 28, 2015.

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

VOTED: to discuss the 2 matters together.

Roy Cramer, representative for the applicant, stated the decisions the Board issued have been appealed. The proponent needs to continue to do certain work while the appeal is ongoing. He is proposing the applicant be allowed to renovate 77 A Street so the tenant could move in. The other work will be deferred. The parking lot is the same and 56 B Street will stay as it is now. The proponent wants to be able to ready 77 A Street for the tenant. He noted the decision dated November 18, 2014 says what is on the ground is fine. The applicant can renovate within the context of the November 18, 2014 decision. He met with Town Manager Kate Fitzpatrick and the Selectmen and felt it is a good idea to go forward. Town Counsel David Tobin stated it was ok in his opinion. His letter is in the packet.

Mr. Cramer stated 77 A Street is slightly reduced in size. There are 2 inner courtyards and a notch in front of the building for the main entrance. There is no change in use from the use formerly conducted by General Dynamics. The applicant wants to use up to 50,000 square feet of the other building for swing space. The work is insignificant and de minimus. He did a draft memorandum for the other departments' comments. He has taken the findings and listed them. It has been reviewed by Town Counsel. He noted 77 A Street is not a nonconforming structure. There is no public entrance on the street. The new tenant will open on the street so that goes away. The other issue was one uninterrupted façade of more than 300 feet. There is a jog so it is not uninterrupted. It is a conforming structure. The applicants would like to proceed on a limited portion of the project.

Ms. McKnight noted the changes were listed on the second page and asked if the changes were shown on the plan. Mr. Cramer stated they were and described the changes. Mr. Eisenhut stated he has no problem but wanted to make it clear that Town Counsel Tobin may or may not be right. There should be a caveat that the applicants are proceeding at their own risk. Mr. Cramer stated he is aware it is at their risk.

Mr. Eisenhut noted he wants some language in the decision regarding the risk. Ms. Grimes stated she does not agree. If Town Counsel feels that way, and the applicant wants to continue, let them. Mr. Cramer noted it would be within the scope of the 2014 decision. Mr. Alpert stated the Board should not state that changes are "insignificant" and simply note it does not need a public hearing.

Mr. Cramer noted the garage at 128 West. In 2013 the Board issued a decision that allowed Garage A & B with 2040 spaces. He is asking they be allowed to build the original 2040 spaces without increasing the number. The original garage does not have architectural elements. The applicant would put such elements in the parking garage and would like to do it within the context of the 2013 decision. They want the design elements and an entrance/exit to the east.

Ms. Grimes asked if this would go to the Design Review Board then back to this Board. Roy Cramer stated it would. The applicant wanted the ok tonight.

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

VOTED: to approve the 128 East design changes as presented and deem the changes are de minimus and do not require a public hearing, being consistent with the overall intent of and purpose of the original decision.

Public Hearing:

7:30 p.m. – Major Project Site Plan Special Permit No. 2016-01: 57 Dedham Ave LLC, 471 Hunnewell Street, Needham, MA, Petitioner (Property located at 15 & 17 Oak Street, Needham, MA).

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

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

George Giunta Jr., representative for the applicant, noted this is just past the 7-11 Convenience Store on Oak Street. There is one building up front and the other is behind. There are 2 separate parcels owned separately with existing buildings. Michael Tedoldi, principal, is buying both parcels and will knock down both buildings. The current buildings appear to have been built in 1904 (4,148 square feet of occupied space) and 1906 (4,138 square feet of occupied space). Mr. Tedoldi will build one new building on a lot with 18,571 square feet. There will be medical office on the first floor and 5 residential units above. There will be a second story and a half story above the second floor. There will be 12,915 square feet of above-ground area and also a crawl space or basement.

Mr. Giunta Jr. stated there will be 4,827 square feet of medical office with an entrance in front and on the side or rear. There will be 5 residential 2-bedroom units. Two will have 2 baths and three will have 2½ baths. Entrances will be off Oak Street. The maximum FAR is .7 and the project meets that with an FAR of .69. The project meets the front setback, is 35 feet in height and they are proposing one 24-foot wide driveway. There will not be a 50 foot landscape buffer between the residential and commercial; nor will there be 10 feet of landscaping buffer between the MBTA right-of-way and the parking area. Both properties are currently paved to the property line and the developer would like to continue that non conformity.

Mr. Giunta Jr. noted for the medical use 24.1 parking spaces are needed and for the 5 residential units 7.5 spaces are needed for a total of 31.6 spaces required. The developer is proposing 32 spaces. Medical use is as of right and residential is allowed by special permit. He reviewed the waivers they are requesting. For lighting, they are proposing modest lighting fixtures on the building with less than one candle average. For the parking setbacks, the first space (space 1 on the site plan) mostly complies with the required 10 feet set back from the street line, but the end of the space is barely less than 10 feet from the property line. Spaces 1-16, there is a required setback of 4 feet from the property line, but the spaces are on the property line. Spaces 26 and 27 have the same 4 foot requirement, but are 1 foot off the property line.

Mr. Giunta Jr. noted landscaping requirement is 10 percent of the parking area with landscaped strips no less than 4 feet. The applicant requests a waiver of this requirement. The property has landscaping in the front currently; the developer is increasing landscaping in front and down the right side. The minimum requirement of 4 trees planted with 40 square feet of unpaved soil in beds 4 feet wide does not work on the site. Although the applicant does propose trees (Bradford pears), the applicant is requesting a waiver because the full requirement will not be met.

For the basement/crawl space, the applicant would like to put mechanicals to serve the building. The developer would like a crawl space less than the full floor height. The Building Inspector suggested to do a full height basement with a restriction as to permitted use. Mr. Giunta Jr. wants to bring that to the Planning Board's attention. Ms. Newman asked if a restriction is allowable. She thinks it is reasonable but can the developer resolve the height issue in this manner. It is still counted as floor area. Mr. Giunta Jr. stated it needs to be dealt with in a larger context. Ms. McKnight commented it is possible to put a smaller full height basement and readjust the size of the building to meet the FAR requirement. Mr. Tedoldi stated he would not like to scrap this plan and start over. He can do a space with a 7 foot high crawl space that is not occupied, because it doesn't meet the building code for occupied ceiling height.

Mr. Giunta Jr. noted correspondence from Engineering. There is additional information that Engineering wants added to the plan. The applicant has looked at it and feels it is not problematic. He would add contour lines to show the grading.

Mr. Giunta Jr. stated both buildings are occupied currently with leases. He would like to relocate the front building tenants to the rear building while building the new building, then move them to the front building when it is done. Ms. Newman stated he would need to submit a phasing plan. All Board members agreed.

Ms. McKnight noted the following correspondence for the record: an email from Tara Gurge, of the Health Department, dated 1/7/16, with comments; a memo from Police Lt. John Kraemer, dated 1/8/16, with comments and concerns; an email from Fire Chief Dennis Condon, dated 1/9/16, with comments, and a letter from Assistant Town Engineer Thomas Ryder, dated 1/12/16, with comments and recommendations.

Mr. Eisenhut stated that although he appreciated the efforts of the developer to not require a waiver as to the number of parking spaces, he would prefer a parking lot design that meets dimensional and landscaping requirements, is more aesthetically pleasing and safer. He has no quarrel with parking space waivers if it makes it aesthetically pleasing and environmentally friendly. He asked if they would design it with fewer spaces. Mr. Giunta Jr. stated they could get rid of the first couple of spaces and replace them with landscaping. It is not very easy. This was the most feasible plan.

Mr. Eisenhut stated he would like the developer to look at reducing perhaps 6 spaces. Mr. Tedoldi stated people who use the building will need the spaces. Ms. Grimes noted the street has extreme compact parking. She feels the tenants would want adequate parking on site but the developer needs to deal with space number 1. Mr. Alpert feels they need the parking spaces. He thinks it is a great proposal and it is a nice use for the location. His concern is with space number 1 and maybe space number 2 for some plantings. Mr. Jacobs stated he could see waiving up to 4 spaces to get more attractive parking.

Ms. McKnight stated she is concerned with not complying with the 10 foot buffer strip requirement. It is unusual to single out a nonconformity in that regard. There is no provision in the Zoning By-Law for waiver of the 10 foot strip. Parking is supposedly the nonconforming use and this is presented as a change to a nonconforming use. Ms. Newman noted there are exceptions. It is not commonly done but it has been. Mr. Giunta Jr. stated 73 Chestnut Street is 3 feet off the property line. Ms. McKnight asked if the developer would consider moving the building closer to the tracks, fit in a 10 foot buffer and put the driveway on the other side. Mr. Tedoldi stated having the building merely 10 feet away from the train Right of Way would be very problematic.

Mr. Jacobs asked what kind of fence is there now separating the site from the RR Right of Way. Mr. Tedoldi stated there is a chain link fence. He stated he could put something else in front of it. He would suggest growing ivy on it. It would look nice and give some greenery. Ms. McKnight stated if the 10 foot buffer is eliminated it would be difficult for other projects coming up later. She wants to see this project work but it is troubling to her. Mr. Alpert stated he wants to make sure there is adequate lighting in the lot and he would like to get rid of spaces 1 and 2.

Ms. McKnight noted a drainage report for the record. Mr. Alpert asked if there were any issues for waste or trash. Mr. Tedoldi stated medical waste is taken care of inside the building. There are a couple of barrels in back that will be emptied every day.

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

VOTED: to continue the hearing to 1/26/16 at 8:00 p.m.

George Giunta Jr. – Discussion of Rockwood Lane Definitive Subdivision Lot Release.

Mr. Giunta Jr. stated construction is proceeding. The project is owned by Chris Kotsiopoulos and the builders will be under Mr. Kotsiopoulos. Conveyance will be done to the 2 builders. Both banks want to be able to finance individual lots rather than the whole thing. He stated the proponent would like to do the infrastructure in front simultaneously with the foundations. He asked what form of lot release would the Board feel comfortable

with. The project is ready for asphalt on the road. The water line had an issue. They have found the problem but the asphalt plants closed.

Ms. McKnight asked if the proponent is looking for a lot release or an amendment to the covenant. Mr. Giunta Jr. noted it could be an amendment. Mr. Jacobs commented he does not see a problem with this. Ms. Grimes agreed. Ms. McKnight would like to look at the covenant. Ms. Newman stated she would like to get an opinion from Town Counsel for potential ramifications. Mr. Giunta Jr. noted he can draft a proposed release so the Board members could see it.

Review and Endorsement of Decision: 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).

The Board members signed the decision.

Board of Appeals – January 21, 2016.

Paul Dawson, 46 Wachusett Road, Needham, MA – 49 Wachusett Road.

Ms. McKnight stated Mr. Dawson's appeal presents a question of interpretation of the Zoning By-Law. Paul Dawson stated this project goes to the heart of the problem in town. This house will set a precedent in town of using a stacked basement to get 4 stories. This has 3 stories above the grade plans. He stated the Building Inspector was dismissive when he spoke with him. This is not unique to Wachusett Road. There are at least 125 other lots that could have stacked basements. He has a strong objection to this house. He added the property has been in various stages of development since 2003. Mr. Jacobs stated there is nothing in the By-Law that says the basement has to be a single level. He commented he is very sympathetic. He asked what do below grade and below finish grade mean? Mr. Alpert stated he could not answer that. He asked who made the decision the horizontal plane should be counted and not the vertical plane at the street. Mr. Jacobs stated the developer is creating his own grade.

Mr. Eisenhut asked if the interpretation of the Building Inspector allows the developer to create his own grade. Attorney Tom Bean stated the State Building Code is clear but the local Zoning By-Law is not sufficiently clear. The By-law needs to be construed consistently with the State Building Code in his view. One concern is allowing the developer to create his own grade. The second concern is allowing multi-levels of basement which is inconsistent with the building code. He does not believe was the intention. His last concern is about the precedent for future developments.

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

VOTED: to comment to the Zoning Board of Appeals the Planning Board is concerned the developer is being allowed to create his own grade, multi-levels of basements are being allowed which is inconsistent with the building code and the Board is concerned about the precedent for future development.

St. Sebastian's School – 1191 Greendale Avenue, Needham, MA.

Roy Cramer, representative for the applicant, noted there is the east campus where the church and school are and the west campus. The applicant wants to expand the existing gym. The gym is 28,792 square feet and is inadequate. There is a full basketball court and a half court. The school wants 2 full courts. Currently wrestling is in the basketball court. The school wants a separate room for wrestling. They would also like 6 squash courts and toilets/showers for 8th and 9th graders. The school would like to add some gymnasium office space. He noted the expansion was long overdue.

Mr. Cramer stated there is no increase in enrollment. The maximum height is 40 feet and this is 45½ feet so they are requesting relief. All parking is on site or within 300 feet with parking on the east and west campuses. He has filed a traffic study. The proponent has filed under the so-called Dover Amendment and for a Special Permit.

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

VOTED: "No comment."

Dennis Colwell Architects, licensee – 154 Dedham Avenue.

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

VOTED: "No comment."

Harry and Michelle Schechter – 19 Gordon Road.

Ms. Newman noted this needs a variance and should be denied.

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

VOTED: to comment this needs a variance and the Board sees no grounds to support a variance.

Brian Millerick – 1361 South Street.

Ms. Newman noted this is a nonconforming use and is being replaced with a nonconforming use. It is above the maximum FAR for the district. She stated the project should be downsized.

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

VOTED: to question the FAR and comment it is too dense.

Mr. Alpert stated he is disturbed by the By-Law and would like the Board to look at it. A nonconforming use can be replaced by a nonconforming use. He noted a nonconforming use, when taken down, should not be allowed.

Review of Zoning Amendments for the May 2016 Annual Town Meeting.

It was decided this would be continued to the next meeting.

Ms. Grimes left the meeting at 10:08 p.m.

Ms. McKnight noted the Dedham Avenue mixed-use building clearly has a business office on the first floor, which is not allowed. Ms. Newman noted she could send a letter to the Building Inspector informing him of the violation of their Special Permit.

Minutes

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

VOTED: to approve the minutes of 9/8/15.

Ms. McKnight noted in the minutes of 9/29/15, Trip Advisor was spelled incorrectly.

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

VOTED: to accept the minutes of 9/29/15 with the correction.

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

VOTED: to adjourn the meeting at 10:26 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Elizabeth Grimes, Vice-Chairman and Clerk