

NEEDHAM PLANNING BOARD MINUTES

September 13, 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, September 13, 2016 at 7:00 p.m. with Messrs. Alpert, Jacobs and Owens as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski. Ms. McKnight arrived at 7:20 p.m.

Transfer of Permit: Major Project Site Plan Review No. 1998-07: Konstantina Choros, 7 Edgewood Road, Westborough, MA 01581 to Michael Scoppettuolo d/b/a Boony Bunz, Petitioner (Property located at 1056 Great Plain Avenue, Needham, MA).

Michael Scoppettuolo, applicant, stated he wants to open a café bakery the same as is going on now. There are no changes to the seating or the menu. He stated he has read the permit and will abide by the terms and conditions. Mr. Jacobs asked who the owner was. Mr. Scoppettuolo stated it is Boony Bunz Inc. Mr. Jacobs asked if it was an LLC and was informed it was. Mr. Jacobs stated that the application should be by the LLC and he should sign it as the LLC with him as the Manager. Ms. Newman stated it was a straight transfer. She has prepared the transfer.

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

VOTED: to authorize the transfer of the permit.

ANR Plan – Dale Alan Hobbs and Sonja K. Hobbs, Trustees of Hobbs Trust, Petitioners (Property located at 479 Dedham Avenue, Needham, MA).

Steven Horsfall, of Kelly Engineering Group, stated Mr. Hobbs has 3.7 acres and wants to subdivide into 2 properties. The existing drive goes through the middle. There is an access easement over both lots on both sides. The drive is for the 2 lots. Both lots have all required frontage. Ms. Newman stated the plan has been reviewed by Engineering and herself. Engineering has signed off and the plan is fine. Access is off Dedham Avenue.

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

VOTED: to approve ANR.

ANR Plan – Wayne Balyosian and Maurice Eldridge (Property located at 1700 Great Plain Avenue and 8 Whiting Way, Needham, MA).

Paul Beaulieu, of Field Resources, noted the 2 owners want to create 3 parcels. The sewer easement is off Whiting Way and is being extended to reach the new subdivision line. Mr. Jacobs stated the amended application filed by Mr. Balyosian should be in the LLC name with the Manager's signature.

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

VOTED: to approve ANR.

ANR Plan – Mary D. Borris and Marianne B. Hunter, Trustees of the Boris Nominee Trust, Petitioners (Property located at 692 Greendale Avenue, Needham, MA).

ANR Plan – MCREF Needham LLC, Petitioner (Property located at 692 Greendale Avenue and 744 Greendale Avenue, Needham, MA).

Brian Judge, of Goulston & Storrs, noted the original plan was endorsed in 2002 but never recorded. The request is the same application that was given then. The applicant would like to subdivide the 5.44 acre lot into two. One acre has a single family home. The rest is vacant.

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

VOTED: to approve ANR.

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

VOTED: to approve ANR.

Ms. McKnight arrived at 7:20 p.m.

Public Hearing:

7:15 p.m. -- Article 1PB: Amend Zoning By-Law – Height Limitation Exceptions
Article 2PB: Amend Zoning By-Law – Definition of Basement

Ms. Newman noted Article 1 is being put forth by the Planning Board. The town's limited land resources and restrictions are getting in the way. This relaxes the height restriction on municipal and educational buildings from 40 to 45 feet. It allows mechanical features on roofs up to 15 feet above the height, no more than 30% of the roof and allows parapets not more than 5 feet. It allows solar with stipulations. This will allow the Hillside School to go forward.

Mr. Jacobs noted solar panels that are 20 feet high and 20 feet back, not flat but standing up. He asked if this is what the Board envisioned. He asked if the Board is ok if the panels are not flat. Ms. Grimes stated solar panels are included in the list of allowable roof structures. Ms. McKnight noted panels could be 15 feet but set back 15 feet from the edge. Mr. Jacobs stated the last sentence that refers back to 15 foot height limitation still applies. Ms. McKnight stated solar panels as allowed above with the height limitation. Mr. Jacobs noted "further provided subject to 15 foot maximum height limitation cited in the second sentence above, solar panels should also be included." All agreed.

Ms. McKnight suggested taking out after "other municipal buildings." This was agreed. William Biedron, a resident, stated most solar panels are parallel to the roof and no one sees them. If the panels are upright at an angle it is a totally different look.

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

VOTED: to close the hearing.

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

VOTED: to recommend incorporation of Article 1 in the Warrant in the amended form and recommend adoption.

Ms. Newman noted Article 2 is designed to address the issue on Wachusett Road with multiple basements and 2½ stories on the top. This allows one story 50% below the ground and any other basement is totally underground with a maximum height of 9 feet. Ms. McKnight noted a minimum of 50% and asked if someone could think 2 walls is 50%. Mr. Biedron stated it should be perimeter times height. 50% of the area of the wall would be considered a basement. Mr. Jacobs noted 50% of the area. After discussion it was decided the Board should add “the area shall mean the exterior perimeter (whether or not exposed) of basement walls times the height of all basement walls (whether or not exposed) be computed by the exterior perimeter of the basement” at the end.

Paul Dawson, an abutter of Wachusett Road, stated there were 2 issues. The first is there needs to be a definition of what the height is of the wall that is being measured. The second is he strongly suggests not making the height reference to the underside of the ceiling but the height of the basement. He suggests 10 feet from basement to ceiling. Mr. Jacobs suggested 9 feet from finished basement floor. Ms. Newman stated the Building Inspector suggested a maximum height of 10 feet from finished floor to bottom of first floor structure. Mr. Dawson noted the lowest point in the basement to the highest point of the floor above. Tom Parker, a resident, stated he wants to the top of the first floor. He feels the Board should define what basement is.

Robert Smart noted the Board should define grade. He asked if there was any thought of measuring existing grade before finish grade. Ms. Grimes noted yes, in the Large House Study. Mr. Owens asked if grade is defined in the By-Law and was informed it is not. He suggested 10 feet from the finished basement floor to the underside of the first floor structure or the walkout basement plane of the finish basement floor to the plane of the underside of the finished first floor and make it 11 feet. Mr. Alpert noted, with the current definition, the Building Inspector says a minimum of 50% of the height of the basement walls must be below grade.

Mr. Smart stated the Board may be making it more restrictive than what was advertised. Mr. Alpert noted adding 2 feet is not more restrictive. Ms. Grimes commented it was more restrictive. Ms. McKnight noted she does not feel it is more restrictive. Mr. Biedron stated the maximum height of 10 feet to the underside of the structure gets it done. Ms. McKnight clarified said height measured from the plane of the finished basement floor to the plane of the underside of the first floor joists above. Bob Denoble, a resident, asked if this restricts how deep the basement can be.

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

VOTED: to close the hearing.

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

VOTED: to submit Article 2 for inclusion in the Warrant with 3 changes – adding the phrase “area of the” after the word “basement”, defining how basement is to be measured as a perimeter factor, change the height measurement of the walkout basement to 10 feet and recommend that the article be adopted by the Town Meeting.

7:30 p.m. – Article 1PB: Amend Zoning By-Law – Dimensional Regulations for Single Residence B and General Residence District.

Ms. Newman noted this is a Citizen’s Petition. Paul Dawson, of 46 Wachusett Road, noted this is a change to Section 4.21. He is not against teardowns. He stated he is an architect and a real estate developer. He noted most want new structures to fix their neighborhood. He noted there is a loss of sun and crowding. He has focused on the issue of scale -- overall height and relative height to abutting properties. He described the height of houses at Wilshire Park (26 feet), Kimball Street (31½ feet) and Hillcrest Road (35 feet). He stated consequences are houses are a lot taller. On Thorpe Road there is a dirt skirt to comply with zoning. The grade was lifted by about 4 feet. It is ugly and unpleasant and creates problems with storm water runoff.

Mr. Dawson stated Wachusett Road is 38 feet. He proposes the tallest façade could only be 37 feet. The neighborhood context needs to be considered and setbacks should be consistent. He proposes a maximum front setback be 35 feet. This will not undermine value. He reviewed his 4 proposals. He noted dirt skirts should be calculated for grade to include the lower of the pre-development and post-development grade. It should be the average setback of the buildings on the same street.

Mr. Owens stated Mr. Dawson ran out of patience and created a citizen's petition without ever going to the Large House Study Committee. Why not take it to the Large House Committee and come with them in May with one proposal? Mr. Dawson stated he would love to work with the Large House Committee. He is concerned with the pace, what would be proposed and the scale of the houses that would be proposed. The issue of maximum height was not addressed. He tried to take a bad situation personally and lost the opportunity to speak with the Zoning Board of Appeals. He stated this is an extremely frustrating situation for him.

Steve Vanacassa, of Home Builders, stated the measurements may not be accurate as builders look for value and what the client wants. Bob Hobbib, a resident, stated 3 houses have been taken down since he moved in. The character of the neighborhood has changed. Each new house is taller than the other. He stated he has never been to a Large House meeting. He found the Large House Committee's survey difficult to understand and challenging. The Board has addressed FAR but not height so well. He does not feel Joe Average Citizen has much of a chance. He commends Mr. Dawson for doing this.

Sam Bass Warner, a resident, stated he has been to all 3 public forums of the Large House Committee. It has been going on for 3 years. The situation is serious. Many houses have been taken down. These are a sensible set of proposals. How can we make sure they will happen? He is fearful if the proposals do not go forward it will be lost. Ms. Grimes stated she does not want Mr. Dawson to go away. She wants his input and to work with him. She feels she and Mr. Dawson can make headway together. Russell Harrington, a resident, commended all for what they have done. He asked if there were any adverse effects based on housing restrictions and height restrictions.

Carrie Galhouse, a resident, stated she has a very small house that she wants. Some are concerned with the designs of houses. She is appreciative Mr. Dawson did this work. She does not feel the Large House Committee has been accessible.

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 and take the matter under advisement.

Update on Inspection Fee: Rockwood Lane Definitive Subdivision: Wayside Realty Trust, Chris Kotsiopoulos, Owner and Trustee, 36 Rockwood Lane, Needham, MA, Petitioner (Property located at 36 Rockwood Lane and 5 adjacent parcels, Needham, MA, Assessors Plan No. 17 as Parcels 22, 23 and 24 and Plan No. 20 as Parcels 57, 60 and 61).

Ms. Newman noted as a condition of approval the Board is to retain \$93,000 for inspections. When the bond got down to 25% it needed to be replenished. A vote was taken to replenish it and it is now at the minimum 25%. She would like to notify the developer he has to replenish within a timeline or work will be stopped. Steven Vaknasse, representative for Rockwood, stated the project is substantially completed. The road is paved at this point. He feels that is a lot of money for inspection fees for a road that is already paved. All foundations, drainage and utilities are done. There is a minimal amount of work left. He feels it is punitive and asks the Board to reconsider the amount. He stated he will be requesting an adjusted bond and bond reduction in the near future. Mr. Jacobs asked what he thought would be a dollar amount for inspections left. Mr. Vaknasse stated less than half the \$93,000. He would like it reduced to a smaller number like \$40,000 or \$50,000.

Ms. McKnight stated she felt it was reasonable for the \$93,000, as time goes on, to be reduced. Ms. Grimes noted it was reasonable to her. Mr. Alpert suggested the Board set the amount at \$45,000 and if it gets below 25% again the applicant comes in again.

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

VOTED: to require the developer for Rockwood Lane Definitive Subdivision to replenish the fund up to \$45,000 at this time retaining the floor of 25%.

Appointment

8:00 p.m. – Discussion: Needham Police and Fire Station Study.

Steve Popper, representative for the Public Facilities, reviewed the background. He gave a quick overview of where they are. He stated the applicant would like comments. He stated a fire facility would be built first. Then facilities would be combined with a shared police and fire building. Then the police building will be built. There will be a public service plaza in front of the building. The service building, with parking next to it, has a 2-story section in back with one story in front. There will be a parking area in front of the service building. David McKinley, of Kaestle Boos Associates, noted the existing lot behind will have no access. It is an efficient layout. Michael Moore, of Kaestle Boos Associates, noted there will be more apparatus at the Fire Station 2 site. It will be equal to Fire Station 1.

Mr. McKinley noted School Street is an issue with the zoning. It is Single Residence B and Central Business Districts. Fire Station 2 is General Residence. Setbacks are an issue. There is an 8 foot setback from Chestnut Street and a 25 foot setback in the rear. Mr. Popper noted there needs to be a strategy in how to build this building. Mr. McKinley stated there is 32% coverage. In Single Residence B it is only 15%. Mr. Moore noted it should be Center Business District for the whole site. Mr. Smart stated the project would need an overlay district rather than redistrict. Ms. Grimes noted she would want to study the whole street to see how this would impact it.

Ms. McKnight asked what the timing is on this. Mr. Popper stated construction will start in January 2019. The town will look for an override in April 2018. Mr. Owens stated he is hearing the zoning issue for the first time tonight. The Board has spoken of the towns' vision of what the area should look like and the use of this site is not what the town is looking for. Part is on the street, the rest is back. Parking is in front. The one story service wing in front should be in back. He does not see this moving the vision forward. He is glad the applicants improved the design. The plaza is a great concept but in reality it is dead space. He is concerned with the proposal. It is a problem that the applicant wants zoning changed for this.

Mr. Popper stated there are certain massing requirements and limited space. He wanted this meeting, to get feedback. The architect has put a lot of effort into the plaza and entry way. Mr. Owens stated he would like the building reoriented with parking in back and the one story service area pushed forward. Ms. McKnight commented it needs to be thought about and studied. She feels parking lots A and B are the wasted space. Ms. Grimes stated she loves the idea of putting the parking lot in the back and share it with the hospital. Get rid of the parking in front. She feels there is no need for a courtyard. She noted the design of the building could be softer. Mr. Jacobs asked if the town sought to purchase the additional lot.

Michael Retzky, of Public Facilities, spoke of the security of the building. Mr. Moore noted Station 2's existing condition is non-compliant. The applicants need a plan going forward for FAR and coverage issues. Mr. Popper stated it is a very tight site. He feels he has received good feedback at this meeting.

Clarification and De Minimus Change: 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).

Mr. Smart stated the state laws prior to 2006 basically said an applicant cannot get a building permit while waiting on an appeal. The applicant does not want to wait. The appeal is from a business competitor 900 feet away. He does not feel there is any chance for success of an appeal. In 2006, the Legislature said the Town Clerk could certify on the Special Permit application that an appeal was taken. That certification could be taken to the Register of Deeds and recorded. Then the applicant could get a permit. He would like the Board to modify on a de minimus basis this decision basically to comply with state law. He noted Town Counsel says the Planning Board can grant relief and waive the public hearing since the Planning Board has inherent authority to correct the errors in the decision. He feels it is an inadvertent or clerical error. Mr. Jacobs commented he agrees. Ms. McKnight and Ms. Grimes also agreed.

Ms. Newman noted Town Counsel David Tobin said it could be done but the clean way is through an Amendment of the decision. It is an inadvertent error. Mr. Smart stated the Board has the authority to do this. Mr. Jacobs noted the Board needs to do this to comply with state law. Mr. Alpert stated the decision needs to be amended since there is a clause in the decision that violates state law. Mr. Smart noted it is a correction of a Scrivenner's error. Ms. Newman stated Town Counsel thought an amendment to a decision can be de minimus. Mr. Jacobs stated the Planning Board can fix this. It was an inadvertent error.

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

VOTED: to determine this is an inadvertent error, does not comply with state law and the Board should fix it per the Tenneco decision.

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

VOTED: to renew the vote.

A motion was made that the decision granting the special permit in this matter be amended by changing the language in Section 4.7 to read that this Major Site Plan Special Permit shall not take effect until a copy of this approval bearing the certification of the Town Clerk that 20 days have elapsed after the approval has been filed in the Town Clerks Office and with no appeal taken or that an appeal has been filed within the 20 day period, that the approval is recorded with the Norfolk District Registry of Deeds and Petitioner has delivered a certified copy of recorded document to the Planning Board. Mr. Smart would like the amendment to also include a revision to the Town Clerk's Certification on the last page.

Mr. Alpert noted it should say "there have been no appeals made to this office or an appeal has been made to this office." Take out the parenthetical. Mr. Jacobs stated the Board has acted under their inherent power to correct an inadvertent error under the Tenneco court decision. Mr. Alpert stated it should say on top it is a corrected decision to correct an inadvertent error. Mr. Jacobs noted the changes should be bolded and note changes are set forth in bold. Mr. Smart noted the changes should be reflected in the minutes. Just insert corrected in front of decision, put note right above witness signatures. Call out the error prior to signatures.

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

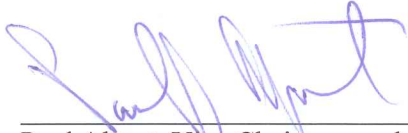
VOTED: to determine the decision granting the special permit in this matter be amended by changing the language in Section 4.7 to read that this Major Site Plan Special Permit shall not take effect until a copy of this approval bearing the certification of the Town Clerk that 20 days have elapsed after the approval has been filed in the Town Clerks Office and with no appeal taken or that an appeal has been filed within the 20 day period, that the approval is recorded with the Norfolk District Registry of Deeds and Petitioner has delivered a certified copy of recorded document to the Planning Board. It should say "there have been no appeals made to this office or an appeal has been made to this office." The decision should say on top it is a corrected decision to correct an

inadvertent error, the changes should be bolded and note the changes are set forth in bold. The changes should be reflected in the minutes and corrected in the front of the decision with a note put right above witness signatures. The error will be called out prior to the signatures.

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

VOTED: to adjourn the meeting at 11:30 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Paul Alpert, Vice-Chairman and Clerk