

NEEDHAM PLANNING BOARD MINUTES

October 18, 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, October 18, 2016 at 7:00 p.m. with Messrs. Alpert, Jacobs and Owens and Ms. McKnight, as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski.

Correspondence

Ms. Grimes noted the following correspondence for the record: a Local Preference Document from Town Manager Kate Fitzpatrick; a letter from Sam Bass Warner regarding teardowns; a copy of the decision from the Zoning Board of Appeals in Dedham regarding accessory apartments; 2 Needham Times editorials, dated 9/29/16, regarding Needham Crossings and the project on General Dynamics; an editorial in the paper from Paul Dawson and the proposed schedule for 2017.

With regard to the proposed meeting schedule for 2017, Ms. McKnight noted she will be in Colorado in June. Ms. Grimes will be away June 15 through June 28.

Public Hearing:

7:00 p.m. – Amendment to 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).
Please note: This hearing was continued from the September 27, 2016 Planning Board meeting.

George Giunta Jr., representative for the applicant, sent a letter regarding setbacks and the buffer issue. It has been worked out with the architect to pull the building 2 feet back. The garage wall has been pulled in 2 feet so it is 10 feet off the MBTA line. Mr. Tedoldi passed out the revised plans. The aisles are all still 24 feet. Ms. Grimes asked if the project has lost any parking spaces. Michael Tedoldi, Manager of 57 Dedham Avenue, stated there are no spaces being lost. The project is within the 30% for compact cars. Mr. Jacobs asked if Engineering has seen the revised plan. Mr. Tedoldi noted Engineering has not seen the plan as there is no change in drainage. Everything stays the same except the 2 feet. Engineering has approved the plan already. The main change is to put underground parking. This gives more parking and allows more green space. The building has been redesigned and is now elongated

Mr. Tedoldi noted the elevation on Oak Street and the entrance to the lobby. He reviewed the plan. The first and second floors will be retail and the half floor is residential. The entrance to the parking is under a cover and the garage entrance is in the back. On the MBTA side, the first floor is commercial, the second and the half floor are residential. The entrance is along the MBTA side of the property and is angled away from the tracks. It is 2 way with a 24 foot wide entrance/exit driveway. There will be landscaping along the property line and the drainage has been worked out with Town Engineer Anthony DelGaizo.

Ms. Grimes noted a letter from Assistant Town Engineer Thomas Ryder, dated 10/13/16, with comments. She noted the infiltration system was designed by the applicant's engineer. She is surprised the Town Engineer questioned it. Ms. Newman stated the Town Engineer wanted sufficient height at the garage entrance for an ambulance. Mr. Tedoldi stated that is not a requirement. The code is 7 feet and that is what the project has. Ms. McKnight asked if there was access in front and back at ground level for an ambulance. Mr. Tedoldi noted there is a disagreement between Building Inspector David Roche and Town Engineer DelGaizo over this. Ms. Grimes stated, personally, she is not sure why the Board is focusing on this. The project would not get a permit if it did not comply with the building code.

Ms. Grimes noted the following correspondence for the record: a letter from Attorney George Giunta Jr, dated 10/13/16; a letter from Building Inspector David Roche, dated 10/13/16; a letter from Fire Chief Dennis Condon, dated 9/21/16, noting no objection to the change and with comments; an email from Police Lt. John Kraemer, dated 9/22/16, with comments; a letter from Assistant Town Engineer Thomas Ryder, dated 9/22/16; another letter from Police Lt. John Kraemer, dated 10/18/16, with no safety concerns and another letter from Fire Chief Dennis Condon, dated 10/17/16, regarding sprinklers.

Bob Hentschel, of 167 Chestnut Street, stated he is in favor of the project. He feels it is a great addition to the neighborhood. It is 5 feet off the property line where it abuts their property. Is there anything being done to protect the wall to the playground next door? Mr. Tedoldi stated he would put up a temporary fence during construction. Ms. Grimes requested Mr. Tedoldi keep Mr. Hentschel updated on the project.

A motion was made to close the hearing. Mr. Jacobs suggested the hearing be held open in case Engineering has any further issue with the 2 bullet items in Mr. Ryder's letter

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 but keep it open for the limited purpose of hearing from Engineering.

Establish Performance Bond and Request to Release Lots: 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 there is a request to establish a bond to include the remaining work. The performance bond will be \$380,000 and the off-street drainage bond will be \$31,500. She is not sure if it will be a Tripartite or cash bond. The Board should establish the bond amount, sign the lot release document and she will hold it until she receives the Tripartite document or cash and the agreement by Town Counsel. The Board had a discussion regarding Tripartite agreements. Ms. McKnight noted the law allows it.

Steve Venincasa, of Lee Home Builders, noted he has been building for 40 years. He has probably had 30 Tripartite agreements over the years. He has never defaulted on one in 42 years. He does not anticipate any issues. He stated there is a deed in escrow that will be transferred 11/4/16 or 11/30/16. He wants to have the title in their name before doing any more work. He is asking the Town to approve the Tripartite for form. Ms. Newman informed him the Town Counsel does that. The Board approves the dollar amount, approves the release of lots and approves the Planning Director to deliver the lot release once she has the bond documents.

Ms. McKnight asked how the drainage security is going to work being wrapped up with the Tripartite agreement. Mr. Venincasa stated the security could be reduced with a letter. Ms. McKnight stated she would like the Off-Street bond as cash and not tied to the Tripartite. Ms. Grimes noted the Tripartite does not end until it's released. Mr. Jacobs agreed. He asked if Mr. Venincasa would agree to \$31,000 in cash for the off-street drainage bond. Mr. Venincasa stated he would agree only if the Planning Board tells him he has to. The Tripartite agreement is his first preference. Mr. Alpert commented there is always the possibility Mr. Venincasa defaults on the loan. Then the bank may refuse to release the funds. Mr. Jacobs stated he would like \$31,000 separate as cash.

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

VOTED: to approve the bond amount of \$380,000.

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

VOTED: to approve the release of lots to be signed and held in escrow by the Planning Director pending approval by Town Counsel of the Tripartite agreement, posting of the bond and approval of Town Counsel on the form of the lot release documents.

Ms. Grimes requested the Planning Director inform Town Counsel she would be happy to represent the Town as the escrow agent if Town Counsel wants her to.

ANR Plan – Ballast Construction, LLC, Sean Delaney, Manager and Raymond Kwan, Petitioners (Property located at 168 Marked Tree Road and 15 Fairview Road, Needham, MA).

Ms. Newman stated this is at the intersection of Marked Tree Road and Fairview Road. There are 2 building lots. This is a parcel swap with frontage on both lots. All is compliant.

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

VOTED: to endorse ANR.

Board of Appeals – October 20, 2016.

Reginald C. Foster, Trustee of 898 South Street Realty Trust – 898 South Street.

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

VOTED: “No comment.”

68 Pleasant Street LLC/Thomas Lambert, Manager – 68 Pleasant Street.

Ms. McKnight stated she does not think the applicant needs a variance and the ZBA may allow construction with a mere finding. Ms. Newman noted the use is not allowed in the district. Ms. McKnight stated that is her view and it is supported by recent cases. Mr. Alpert stated it violates the setback.

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

VOTED: “No comment.”

KCB Homes, LLC, Dover, MA – 19 Parkinson Street.

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

VOTED: “No comment.”

Permit Streamlining

Ms. Grimes stated she agrees with the CEA (Council of Economic Advisors). Ms. Newman noted the section on restaurants with 100 seats or more. Ms. McKnight stated the town needs a town funded parking study that takes into account the new parking spaces and update it periodically. Mr. Jacobs stated that makes sense. He agrees. Ms. Grimes agreed also. She will report to the CEA that the Planning Board will take on the expense of a center parking study.

Ms. Newman noted the condition restricting full lunch service has not been imposed in the last 2 years. Ms. McKnight stated traffic studies are only for large projects. Mr. Jacobs noted the section on Special Permit transfers and stated this is a ZBA (Zoning Board of Appeals) issue and not a Planning Board issue. Ms. Newman stated she wants the policies the same for the Planning Board and the ZBA. Mr. Jacobs noted the CEA knows

that Special Permit transfers are not a Planning Board issue. Ms. Newman stated the Board needs to reexamine pre-existing nonconforming parking lots. Mr. Jacobs asked if Devra Bailin would come before the Board to discuss the changes. Ms. Newman stated she would.

Mr. Jacobs noted the section on post construction insignificant modifications and commented he is not sure what to do about this. Ms. Newman stated the Board could allow for certain things in the conditions. She noted Bertucci's did not come in to change signs because the applicant did not want to come back. Mr. Jacobs stated the CEA got through these first 5 sections.

Ms. Grimes left the meeting at 8:38 p.m.

Mr. Jacobs noted, as to the section on modifying decision language, the enforcement issue is done. He noted allowing one as of right use for another is already being done. The Board has been allowing up to 5 year old surveys/site plans. Ms. McKnight stated, as to the section on separate permitting by tenants, Trader Joe's has a lot of site issues. Mr. Alpert commented he feels this is a case by case issue. A discussion ensued. Mr. Jacobs suggested the Board ask the landlord to come in to discuss and work it out. That is the enforcement mechanism. He stated he is hearing the Planning Board is not convinced of separating enforcement from permitting

Ms. Newman noted the pre-hearing process is used for big projects and is offered as an option. Mr. Jacobs stated he is not comfortable in informal meetings where the Board gets a piece of the project and not the whole project. He noted, as to the section on allowing more uses as of right, this is a long discussion. He feels it needs a subcommittee. Ms. Newman noted it has not been done since 1990. The overlay was done but not the underlying uses. Ms. McKnight stated she wants to wait until after the Large House Committee has completed its work. All agreed.

Mr. Owens stated he likes filings on the website. He feels it is helpful. Ms. Newman noted all filings are electronic now. The Board may have tablets for meetings. The town is looking at computer based permitting software. Mr. Jacobs stated Ms. Newman's response to the mandate of on-time responses is pretty clear. Ms. Newman stated she needs a complete package, not trickling in. Mr. Owens stated the comments were created in 2014 or late 2013. He gets a sense a lot has improved over the past 2 years. He thinks the Board has improved. If it is still an issue there should be examples.

Ms. Newman stated outdoor furnishing and displays should be a process. The Board should do this to clean it up to make it clear. Mr. Owens asked what the status of the Large House Committee is. Ms. Newman stated the Committee is done with its study and there is a draft zoning article. It is going to the Committee for its vote, then will be referred back to the Planning Board.

Minutes

The Board members gave their changes to Ms. Newman.

Report from Planning Director and Board members.

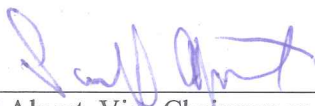
Ms. Newman noted the South Street subdivision. She stated the contractor will be damaging the root systems of trees that are to be protected. What the Board was told was going to be protected is not going to be. Ms. McKnight stated the applicant should come in with a replanting plan. Mr. Owens agreed. This is an important part of the project. Mr. Alpert stated if it is outside the 35 feet he feels the applicant should come back as a minor modification, explain the problem and what they will do about it. He feels the Board should be lenient. Ms. Newman stated it is an amendment. The applicant needs to come back before the work is started.

Ms. McKnight noted the Selectmen are having a hearing tonight to discuss the noise by-law.

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

VOTED: to adjourn the meeting at 9:30 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Paul Alpert, Vice-Chairman and Clerk