

NEEDHAM PLANNING BOARD MINUTES

January 24, 2017

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, January 24, 2017, at 7:05 p.m. with Messrs. Jacobs and Owens and Ms. McKnight, as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski. Mr. Alpert arrived at 8:45 p.m.

Correspondence

Ms. Grimes noted the following correspondence for the record: an article from the Needham Times regarding large house zoning and an email from Louis Wolfson.

Public Hearing

7:05 p.m. – Amendment to Major Project Site Plan Special Permit No. 2012-06: Brookline Development Corp., LLC, 93 Fisher Avenue, Brookline, MA 02445, Petitioner (Property located at 50 Dedham Avenue (formerly 36-58 Dedham Avenue), Needham, MA).

Robert Smart, representative for the applicant, stated there are 2 first floor spaces. The current decision of the Board says first floor spaces can be used only for retail. It is difficult to get retail tenants. This is a proposal for a photography use. It is not strictly retail and he would like to have the special permit amended. Udi Edni, of 48 Fine Art, stated he is a portrait artist. Ms. Grimes stated she has seen his work and it is lovely. Mr. Edni stated he does full size traditional portraits and oil paintings.

Jeff Feuerman, owner of 50 Dedham Avenue, noted Mr. Edni used to do his portraits out of his house in Dover. He finds 50 Dedham Avenue to be a good location. He is finding a lot of people come to talk to him about portraits. They come early and walk around, get bagels and shop. This is adding to the retail part of Needham Center. Mr. Edni stated he opened last year. The business is very successful and he is looking to expand. He commented he has clients from all over. Ms. McKnight stated she appreciates what the applicant said about people coming from out of town. That is a factor for us in what the street front looks like. That is why the Board wanted retail. She likes very much his storefront. She stated, with art showing, it would be a nice storefront. It is similar with a storefront on Grove Street in Wellesley. She asked if he would have displays in the new windows also. Mr. Edni stated he absolutely would. He just wants to expand into the space next door.

Mr. Jacobs asked what the hours are. Mr. Edni stated the hours are all over the place. They are convenient for families and individuals. There are no regular hours and it is by appointment only. Mr. Jacobs asked if there are no appointments would Mr. Edni be there. Mr. Edni stated he will be there working. He noted he can only serve one client at a time. Mr. Owens commented he was not sure why this is not a retail business. Mr. Smart stated it could be characterized as retail or consumer services. Mr. Owens stated it seems perfectly rational to him and he has no problem with it.

Ms. McKnight stated she has no problem with it either. If it was an art gallery it would be retail. This is a service and the service is photography. She would categorize it as a consumer service. She would amend the decision to allow either retail stores or consumer establishments. She would not go so far as to allow any use as Mr. Smart requests. Mr. Smart stated he would like to leave it broader. He does not feel this building should be treated differently than the rest of the town.

Mr. Jacobs stated he has no issue with Mr. Smart's request. Mr. Smart stated the decision requires a dumpster fenced with wood. The cost to surround the dumpster with fence is \$4,500. There are a couple of dumpsters with metal posts and vinyl slats. Other dumpsters have no enclosure at all. Ms. Grimes stated the Board is aware of that. Mr. Feuerman stated a dumpster does not look better with a wood enclosure. Wood gets broken, cracked

and such. The metal enclosure is much more durable. It is not noticeable and it looks really nice back there. Ms. Grimes stated, personally, she thinks his dumpster looks good. It blends in. In her opinion she does not feel it should be an issue. It is aesthetically pleasing and matches the environment. Mr. Jacobs asked if the Board did this what is to prevent others from doing the same thing. He noted the Board could do this but he does not feel they should. Ms. Grimes stated it makes sense do it and they have brought it to the applicant's attention. Mr. Jacobs stated it looks ok. Ms. McKnight noted she would have been ok if it was presented like this originally but it was not. She does not see a problem with the proposal, however. Mr. Owens stated he was ok with it.

Louis Wolfson stated he feels the use of the property is fabulous. Ms. Grimes noted the following correspondence for the record: an email from Fire Chief Dennis Condon with no issues; an email from Tara Gurge of the Board of Health with no comments; a new email from Attorney Robert Smart with background and pictures and a letter from Assistant Town Engineer Thomas Ryder with no comments or objections.

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

VOTED: to close the hearing.

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

VOTED: per the legal notice, and the relief sought, to grant the requested relief regarding the use of the space by 48 Fine Art

Mr. Owens made a motion to amend the decision to substitute language in the Decision that would allow for the alternative dumpster fencing that current exists. Ms. Newman clarified there would have to be 4 votes for this to pass due to it being Special Permit.

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

VOTED: to permit the petitioner to use the first floor commercial space, currently required to be used for retail, by 48 Fine Art, a photography studio, and in the future by any retail or consumer service use or craft consumer professional services establishment dealing directly with the general public allowed by right on the first floor in the General Business District.

Ms. Grimes stated the dumpster issue would be discussed again at the end of the meeting when Mr. Alpert arrived.

Discussion of the presentation on Large House Review Study Committee recommendations.

Louis Wolfson stated he is not at the meeting as an appraiser or a builder. He is here as a homeowner of an older house in Needham. The proposed Amendment to the By-Law regarding Large House zoning does not affect 60% of the community but it adversely affects 40% of homeowners. He was told by a former Large House Review Study Committee member that the proposed zoning change would not affect existing homes that wish to expand, but they are now trying to implement the zoning against all homes. It takes away the ability to keep older homes. He has 21 feet on his side and if he adds a garage, he would have to go into the proposed setback. He would need another 10-11 feet to add a garage, which he could do under today's zoning. He is here to talk about existing homes not teardowns. He feels the proposal, as it relates to existing homes, is not fair to those existing homes that have not already expanded their garages.

Ms. Newman stated the Committee talked about going back to the setbacks that existed at the time. Ms. McKnight commented zoning is about creating rules. Mr. Wolfson stated there are ways to allow expansions of existing homes. They are done in other communities. Mr. Jacobs stated he is not sure he understands the problem. Mr. Wolfson noted he can do it but he wants to protect his future buyer's rights. Mr. Jacobs stated an argument could be made that any change affects things. Ms. McKnight noted there is a smaller setback if the lot

has less than 80 feet of frontage so there are provisions to accommodate narrower lots. Mr. Wolfson stated there should be some sort of provision put in that protects people.

Minutes

Mr. Owens stated he wanted to modify the minutes of the November meeting; thus they were not moved to be accepted at this time.

Report from Planning Direct and Board members.

Ms. Newman noted the project at Trader Joe's. Deliveries are in the back of the store. The truck comes to the back of the store and unloads. They feel it is safer to unload in the back. The applicant would like to utilize 9 spaces at the back close to Mellon Street to unload from 5:00 p.m. to 8:00 p.m. instead of unloading next to the building. The applicant has hired a firm to do a parking analysis during the 3 hours. A waiver is needed if they do not have the required spaces. She asked if the Board would do this as a de minimus change or an amendment.

Ms. McKnight stated she is concerned they will be moving trucks closer to the house. Mr. Jacobs noted it could be done as a de minimus and notice all abutters on Mellon Street. Ms. Clee commented this has been done in the past. Ms. Grimes stated the Board could give notice without a formal hearing. Ms. McKnight noted there is considerable parking on Highland Avenue that is rarely used. This parking should be considered. Mr. Owens stated this is ok as long as the abutters know. All agreed.

Discussion Permit Conditions as relates to the trash disposal (dumpster): Major Project Site Plan Special Permit No. 2015-07: Great Plain Hospitality, LLC d/b/a RFK Kitchen, 42 Birch Street, Needham, MA, Petitioner (Property located at 30 Dedham Avenue, formerly 948 Great Plain Avenue, Needham, MA).

Ms. Grimes stated the Board has a decision and noted the dumpster is to be enclosed in wood. Ian Gopin, owner of RFK Kitchens, stated the enclosure was built by the developer that did 50 Dedham Avenue at the same time he did his. When he received his permit the enclosure was already built and being used. Ms. Grimes stated some dumpsters were enclosed. There is one big dumpster that is enclosed and 3 that are not. Mr. Gopin stated that the unenclosed dumpsters are for recycling. Ms. McKnight asked if there were 4 dumpsters and only one was enclosed, and that was confirmed. She noted that the plan, however, shows all dumpsters and recycling enclosed.

Mr. Gopin stated it would cost \$5,000 to take down the dumpster enclosure and redo it. He reiterated the enclosure was done prior to RFK Kitchen. Mr. Jacobs stated he thought the Board was clear with everyone and all agreed with a wooden enclosure. Ms. Grimes stated all dumpsters need to be enclosed. The dumpster is out in the wide open and not in anything. Mr. Owens stated there are a couple of different issues. The dumpster is shared but the responsibility is only on this applicants head. The other issue is the price. The applicant admits he made a mistake. He saw the dumpster there and checked the box. There is a problem that needs to be fixed. Who will pay for it? He wants to see what the Board's options are.

Mr. Jacobs stated he understands New Leaf has a full Certificate of Occupancy and is open. The Building Inspector has gone to talk with the New Leaf proprietor. Ms. Newman stated the Building Inspector gave a Certificate of Occupancy and then went to talk to them. Nothing has happened. Mr. Jacobs noted New Leaf is not compliant and could be brought in. Mr. Gopin asked if it is possible to make the enclosure larger with the same material to match the other one. It would probably cost \$1,500 compared to \$4,600. Ms. McKnight noted the New Leaf decision came after the RFK decision.

Mr. Alpert arrived at 8:45 p.m.

Ms. Newman stated, per the Special Permit Decision, the dumpster is to be enclosed in wood and the applicant has not provided an agreement as to what they are going to do about the dumpster. Ms. Grimes stated she likes the material around the black dumpster. She would be fine if all was enclosed with this material. She is ok with

an amendment so long as all are enclosed. Mr. Alpert stated he thought today it was chain link with holes. He asked if the Board of Health has an issue. Ms. Newman noted she did not think so. Mr. Alpert stated if it was a public parking lot he would be more concerned with the aesthetics. He is a little concerned due to the residential there but he wants something aesthetically pleasing and it does need to be enclosed. Mr. Gopin stated he would add another enclosure with another door.

Ms. Grimes stated the applicant should submit an application for an amendment to its special permit. New Leaf also needs to come in to amend its permit. Mr. Jacobs stated he would hold everyone to the agreements agreed to. Mr. Gopin commented Ms. Newman and Ms. Clee have been wonderful to work with.

7:05 p.m. – Amendment to Major Project Site Plan Special Permit No. 2012-06: Brookline Development Corp., LLC, 93 Fisher Avenue, Brookline, MA 02445, Petitioner (Property located at 50 Dedham Avenue (formerly 36-58 Dedham Avenue), Needham, MA). – Continued for discussion.

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

VOTED: to allow the applicant to proceed with an application to amend the special permit to leave as is as a de minimus change.

Review of draft zoning approach

Ms. Newman discussed how she feels the Board should approach this. There needs to be an amendment to the existing article. Devra Bailin suggested the first article is a technical amendment that makes no content changes but reorganizes the zoning so that the proposed changes can be more easily displayed. This is the base article and the first article does that. The second article should show what the proposed changes are. Mr. Owens stated, for consistency, it should show the whole section each time but showing the change. Ms. Grimes stated it is easy to see and she feels it is a great approach. Ms. Newman noted the proposed changes would be converted to Zoning By-Law language but there would be charts distributed also. All members agree it is easier to understand.

Mr. Alpert noted the first article has to pass. Then all others are based on that. None of the following articles are dependent upon the others passing. Ms. Grimes commented she thinks it is a bad idea to lump the front and side setbacks together. Ms. Newman agreed but is not sure how to separate them. Ms. Grimes stated she is hearing loud and clear the Board of Selectmen would not support a change in the front setback.

Mr. Alpert noted the current front setback is 20 feet in Single Residence B and General Residence. The proposal is to change 20 feet to 25 feet. The Planning Board will have an article, the Board of Selectmen will refer it back and the Board will have a public hearing. He stated they have a right as a Board to leave it or change it to 20 feet and 25 feet for a garage if there is a consensus at public hearing. Ms. Grimes noted she wants to keep it separate. She feels it is a mistake to clump them together. Mr. Owens stated he would advocate for making setback amendments 3 separate articles. Ms. Newman commented that layering this is becoming very complicated.

Mr. Jacobs asked if anyone is open to the idea of perhaps not breaking it up this way? He sees the set of proposals as a compromise solution after 2 years. Once you start breaking it up you are adding a whole new layer of process complications and confusion. He thinks Town Meeting will be baffled. This should be a single proposal. The Board should put together everything the Board of Selectmen would not oppose in one article. He feels it would lessen the confusion he sees coming.

Mr. Owens commented it is a waste of time in one proposal because it will be defeated. All objections are assembled against the whole article. He cannot predict how Town Meeting will come out on this. He feels they should start with the least controversial and work toward the most controversial. Town Meeting may go farther if it is in separate pieces. His preference would be to vote on the concepts and not the language in the By-Law. Ms. Newman stated they should do side setbacks first then the front. Ms. McKnight suggested doing the side yard

setback earlier than the front. Then if the front fails at 25 feet they could then do the 5 foot setback for garages. There should be 2 articles related to front setback.

Mr. Jacobs stated he thinks people are already going to be confused. He feels the Large House Study Committee members should be on board with separating it like this. Ms. Newman noted Mark Gluesing recommends, at a minimum, the lot coverage requirement should be set at 25 or 30%, make it consistent across the town and get rid of the sliding scale. Mr. Owens stated he would agree to that if it is last. Ms. Newman stated it makes it more conservative. She would put it as number 4. Mr. Owens reiterated it should be put at the end. Ms. McKnight agreed it should be at the end. She suggested taking the existing lot coverage requirements for new construction of 25% and set it across the board.

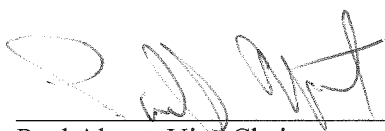
Ms. Newman stated she would draft an article to review in 2 weeks. Ms. McKnight noted #8 on the list is a Special Permit to allow additions to an existing house. She thought the Special Permit would apply to reconstruction if 100% was demolished. Ms. Newman clarified this only applies to additions and not reconstruction. There is no provision for reconstruction of existing houses in this proposed special permit By-Law, only additions. Ms. Newman noted Ms. McKnight will help her draft this but she would like another member to help draft. She will put the first layer together then have it looked at. There are 3 other articles she is working on – the Police and Fire Station downtown, the Fire Station at Webster and the tower and antenna at the Recycling and Transfer Station.

Ms. Grimes stated she would like to see some expanding of zoning she is looking at. She is not ready at this point to change zoning for the Police/Fire Station. Ms. Newman stated the other change at the Police/Fire station is increasing FAR from .3 to .5 by Special Permit only for a municipal building. Ms. Newman noted the recreational marijuana moratorium. Ms. McKnight recommended the moratorium through December 2018 to see what happens at the biennial election in November 2018. Mr. Jacobs suggested the Planning Director find out what other communities are doing through the Mass Municipal Association.

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

VOTED: to adjourn the meeting at 10:25 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

A handwritten signature in dark ink, appearing to read 'Paul Alpert', is written over a horizontal line.

Paul Alpert, Vice-Chairman and Clerk