

NEEDHAM PLANNING BOARD MINUTES

February 7, 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, February 7, 2017, at 7:07 p.m. with Messrs. Jacobs, Alpert 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 a copy of a zoning article from the Town of Wellesley.

Public Hearing:

7:05 p.m. – Amendment to 1242 South Street Definitive Subdivision (Aly Raisman Way): 242 South Street LLC, Jason Brickman, Manager, 18 North Road, Bedford, MA 01730, Petitioner (Property located at 1242 South Street, Needham, MA).

Paul Beaulieu, of Field Resources, noted after construction of the way they looked into excavating where the drainage was to go. The initial approach was to save trees. The applicant agreed upon a certain number of trees they may be able to save. Ms. Newman noted excavation will damage the root systems. Mr. Beaulieu stated there are 7 additional trees that will need to come down. To mitigate, the applicant is proposing planting 14 more trees, all additional species to add diversity.

Ms. Grimes noted the following correspondence for the record: an email from Tree Warden Edward Olsen with comments and a letter from Assistant Town Engineer Thomas Ryder noting no comments or objections.

Ms. McKnight asked if any of the original trees on the parcel have been saved. Mr. Beaulieu stated yes and showed the ones coming down on the plan. Ms. McKnight noted the language is that the setback must be left undisturbed. There was going to be a good tree screen as if it had not been disturbed. Mr. Beaulieu noted the trees in the public right of way are not being disturbed. Mr. Jacobs thanked the applicant for being straight forward and cooperative.

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

VOTED: to close the hearing.

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

VOTED: to allow the plan substitution.

Parking Determination – Sage Cannabis (Property located at 29-37 Franklin Street).

Roy Cramer, representative for the applicant, noted the By-Law does not specify a parking requirement for this use. The Building Inspector makes a determination but since he was unable to so the Planning Board should make it. He noted he gave the Building Inspector a traffic study done by Vanasse & Associates which recommended that the project should have 18 spaces. The Town Engineer agreed 18 spaces is an appropriate number. This is by appointment only with a maximum of 5 sales stations in the facility. It is a secure facility. People will have to show a pass and get buzzed in. There are 2 security guards and customers will be taken to a waiting room.

Mr. Cramer stated if all 5 sales stations are utilized and others are waiting that would be 10. With 8 employees, 5 sale stations, 2 security guards and 1 manager, there could be a maximum total of 18 on site. It is unlikely to have

all 5 stations busy with 5 customers waiting. Sean Kelly, of Vannase & Associates, walked through the parking analysis. There may be 20 cars an hour, so the parking requirement is based on the worst case scenario. Mr. Cramer noted the applicant also looked at on-street parking on Franklin Street. That is not being counted and parking will be handled on site. Ms. McKnight noted the area is not laid out well. Is any parking striped? Mr. Cramer noted it is an old fashioned area. Some parking is striped and there is some parallel parking.

Ms. McKnight asked if the use was compared with a similar use like a medical office building. Mr. Cramer noted regular office is 1 space per 300 square feet and medical office is 1 space per 200 square feet. He noted there is a van for home deliveries as requested by the Town. The applicant will deliver to Needham residents for free. He noted medical office use is not by appointment only so there is more activity. He looked at the Newton medical marijuana facility. Their weekday peak had 11 in and 11 out per hour. The weekend peak was 15 in and 15 out per hour. He feels 18 spaces are more than adequate.

Ms. Grimes noted 6 spaces are compact only and there is one handicap space. She asked if the applicant would be asking for waivers from the parking area design requirements or if they are just asking for the required number of spaces to be determined. Mr. Jacobs stated he has no issue with the 18 space number. He noted spaces 1 through 7 are not on the land. Mr. Cramer noted the applicants have an exclusive access easement over 55 Franklin Street for spaces 1-7 and it is in writing.

Ms. Grimes asked how long the easement was good for and was informed it was the term of the lease. Ms. Grimes asked what is 37 Franklin Street. Mr. Cramer noted the van can enter the garage and load and unload in the secure garage. He noted 37 has been vacant for years but is part of this rental. It may be used for dead storage. Ms. Grimes stated she would like this parking space determination contingent upon 37 Franklin not being used for anything other than storage.

Mr. Jacobs noted that 2 to 3 parking spaces would require others to move. Mr. Cramer stated that will be employee parking. Mr. Jacobs stated the spaces could get boxed in by a customer. Mr. Cramer noted people will be told where employee parking is. The project has rotated spaces to make them parallel rather than have people back out. Ms. McKnight noted they will not count those spaces as they are in the public way. Mr. Cramer stated the spaces have been made parallel and almost all are on the property.

Ms. McKnight stated that the applicant is actually applying for approval of 15 on-site spaces. Mr. Cramer noted Town Engineer Anthony DelGaizo felt the spaces in the public way were countable and did not feel there would be a problem. Ms. Newman commented she feels the applicant still needs a waiver. Spaces in the public way cannot be counted. Mr. Cramer stated the spaces are mostly on the property and countable. The applicant is planning for the maximum. Mr. Owens stated it seems perfectly reasonable to him. He feels it is a perfectly reasonable approach and an improvement to the area. The body shop uses spaces in the street to put cars.

Mr. Alpert asked if one handicap space would be enough. Mr. Cramer stated one space is a requirement and there will be home delivery for free. Ms. McKnight stated she is inclined to go with 15 spaces and say the strip in front of 29 Franklin Street should be devoted to parking. Mr. Cramer agreed that was a good solution. Ms. Grimes stated she does not agree. She feels 15 spaces is too tight. She would like the applicant to look and see if they can find other spaces. Ms. Newman suggested the Board set the number at 18 and the applicant would need to ask for a waiver of 3 spaces when they come in. Mr. Cramer stated he would prefer to get approval from the Selectmen to use the 3 spaces and not require a waiver for the number of spaces.

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

VOTED: to set the number of spaces at 18.

Update on Inspection Fee: Rockwood Lane Definitive Subdivision: Wayside Realty Trust, Chris Kotsiopoulos, Owner and Trustee, 36 Rockwood Lane, Needham, MA, Petitioner (current owner: Hillcrest Development, Inc. and Elite Homebuilders, LLC), (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 the Board needs an inspection fee. It started with \$90,000 and has gone down to the trigger to replenish. The Board voted to replenish to \$45,000. It is now down to \$0. She is still waiting for the As-Built plan, landscaping to be installed and the entry to the subdivision to Richard Road. The fee needs to be replenished so Beta can conduct inspections.

Jim Tomaiolo, representative for the applicant, stated they took the project in good faith and it is back on line. He noted in mid-October all roadwork was done. They have not done anything since October so he is not sure why Beta is inspecting. He is asking the Board to review this in fairness to them. The applicant feels they are being taken advantage of by Beta. He stated they would give Beta 48 hours notice when something is done. As of January 10 there was \$9,000 in the account and now there is nothing. There has been no need for any inspections since October.

Mr. Jacobs asked why Beta would inspect when there is no money there. Mr. Tomaiolo stated he needs to know what they are inspecting. Ms. Newman stated she just found out the issue today. She will ask Town Engineer Anthony DelGaizo to account for the money. She has no As-Built plan so does not know if it has been built properly. Engineering is telling her there is more work to be done that requires money to be there.

Mr. Tomaiolo stated he is looking for fairness. He does not know why Beta has been there since October. He will let the town know when they need more inspections. He does not think the town is getting a benefit from these Beta inspections. Ms. Grimes stated she would like to set a meeting with Engineering and would like to go. The applicant would need to come with money. She feels the Board and the applicant need to sit with Beta and go through the invoices. She thinks \$45,000 is reasonable. The Board needs to protect the neighbors. Mr. Jacobs agreed there needs to be a sit down with the Town Engineer and Beta. Mr. Alpert suggested the complaint be examined and dealt with. The Board needs to come up with a reasonable method going forward. Mr. Jacobs asked Mr. Tomaiolo what his position is. Mr. Tomaiolo stated he is a licensed contractor for the new owner. Ms. Grimes noted the next meeting is 2/28.

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

Ms. Newman noted Articles 5 and 6 have changed because they had to put together a Special Permit process for demolitions over 50% that allow people to build in a nonconforming front or side yard setback. Article 1 is a technical amendment. It rewrites Section 4.2 to put it into a new form that creates 4 tables out of what was 1 table. The Board felt it would be beneficial. It is the same document the Board saw last week. Mr. Owens asked if it was merely a format change and no substance change and was informed that is correct.

Ms. McKnight noted on page 4, table 4.2.3, footnotes b and c, pertains to buildings and structures. She asked if the wording "created on any lot through new construction and that it only applies to new construction" needs to be added to either footnote. Ms. Newman did not feel it was necessary. Mr. Jacobs asked why remove that phrase in b and c and not d. Mr. Alpert stated he would not change that. All agreed. Ms. McKnight noted Section 4.2.4 had a footnote b that had a sentence that was deleted.

Ms. Newman noted Article 2 amends the base document and gets rid of the 1999 amendment. It puts everything at the same side setback. Mr. Alpert stated drafting this makes drafting the other articles easier. Ms. Newman will add an explanation.

Ms. Newman noted Article 3 introduces new requirements for height. It adds a definition and some footnotes. Mr. Jacobs asked who chooses which alternative method to use. Ms. Newman stated it is at the applicant's discretion. Mr. Jacobs stated it should say that. Mr. Alpert suggested height shall be measured by the applicant using one of the 2 methods. Mr. Jacobs agreed. He noted he does not know what the average of the highest 1/3 of the property street footage means. Ms. Newman noted it was worked out at the technical meeting with 3 architects. Ms. Grimes commented the Board reached out to 3 architects to get 3D models made. She stated Mr.

Jacobs had a valid point. The Board members need to understand it in order to explain it. Mr. Owens suggested Marc Gluesing should explain it to them so the Board understands it.

Mr. Jacobs asked why footnote (b) in 4.2 and 4.1 and why the number 41 feet. Mr. Owens stated Mr. Gluesing worked it backwards. If there is a walk out basement you want to have enough for a door in the walkout basement so it would be the lower of the 35 foot average or 41 feet with a slope. Ms. McKnight stated it should be at the discretion of the applicant. This was agreed.

Mr. Owens asked if the Board needs to define grade such as the grade is where it meets the foundation. Ms. McKnight noted in Section 1.3 of the Zoning By-Law it says the grade is the average grade of the ground adjoining the building. Mr. Owens noted this closes the slope loophole. Mr. Jacobs stated this is supposed to be a new definition but is not written as a definition. It should be "heights for this purpose shall mean the following....." Ms. Newman will fix it. She needs to get it advertised then the Board can tinker with it.

Ms. Newman noted Article 4 is the introduction of FAR. She added a definition of how it is measured and she is adding a floor area standard in the table. The Board discussed the definition of FAR and what was excluded. Ms. Grimes asked where did the language regarding "600 square feet of accessory building or structures" come into play? She said her understanding was that it would be 600 square feet of *attached* garage only. She stated this was never talked about and she is not ok with this. Mr. Alpert stated there needs to be a maximum on accessory structures they are going to exclude from floor area. Selectman John Bulian stated the Board should have a chart of what the current allowance is for FAR and the new regulations, what are the current rules and what are the proposed rules. He thinks a chart that shows the size house based on lot size would be helpful, including the attic and basement, even if it does not count towards the FAR. He thinks Town Meeting will want to understand how the proposal affects the actual size. He added that there should be an exemption for a shed.

Ms. McKnight suggested "the term FAR means the floor area divided by the lot area. Floor area shall be the sum of the horizontal areas of the several floors of each building on a lot, as measured from the exterior faces of the exterior walls, but excluding the floor areas of the basements, attics, half stories located directly above the second floor, enclosed porches, up to 600 square feet of floor area intended and designed for the parking of automobiles, whether in accessory buildings or structures or in main buildings or structures." Mr. Jacobs suggested putting the whole "whether" section in ().

Ms. Newman noted Article 5, which introduces an increase in side yard setbacks. Basically this applies for additions, new construction and pre and post 1986 lot. For a non-conforming pre 86 or post 86 lot they are allowed to do an addition to a single family house provided a building permit is issued prior to 6/1/17. Mr. Bulian noted that the side setback is 12.5 feet now and it will go to 14 feet. Ms. Grimes stated there is a change in #2 with the rear yard setback increasing to 20 feet. She did not agree to do that. Ms. Newman stated most houses are not being built to the current 10 foot setback rule. The rules should be the same for additions as for new construction. It is 20 feet for new construction. Ms. Grimes stated she is not in favor of that. People did not want that changed. Ms. Newman noted the rear setback expansion only applies to additions. Ms. Grimes stated she would not support this. The Committee's recommendation was to not touch rear setbacks. Mr. Alpert agreed with Ms. Grimes. Ms. Newman will take it out.

Mr. Owens expressed his displeasure with the change. He stated Town Meeting members are the decision makers and not others. He stated this is annoying to him. Selectman Bulian agreed the rear setbacks should not be changed.

Ms. Newman noted Article 6A. She commented that 6A, 6B and 7 are front setback issues. In the first option 6A moves the front yard setback to 25 feet and allows for additions to be built as of right at 20 feet, provided they don't demolish more than 50%. Mr. Cramer stated this needs to be really clear. If he is conforming and then becomes non-conforming he has lost something. Ms. McKnight suggested adding to footnotes g and f, altered, extended or structural change. Ms. Grimes stated John Schneider said to delete the last sentence in 1.4.7.2. Mr. Alpert stated that does not do what the Board wants it to do. He suggested taking out "additions to" and start with "altered, extended or structural changes with a front yard setback." There should be the same change in 3 (f).

Ms. Grimes stated the Board needs to decide if they are going to bring 6A, 6B and 7 to the town. The concept of 6A is to change the front yard setback to 25 feet with a footnote for additions. 6B changes the front yard setback to 25 feet and may be reduced according to the setback of abutters. Selectman Bulian noted his whole neighborhood is being rebuilt and are at 20 feet. He does not understand the need to change to 25 feet. He will not support a 25 foot setback.

Ms. Grimes noted Article 7 just pushes garages back to 25 feet. Mr. Owens stated he would support that. Ms. McKnight commented she feels pushing garages back is the most important thing. Ms. Grimes took a poll of who is in favor. Mr. Alpert stated he has no personal preference. Mr. Jacobs stated 20 or 25 feet but he wants the garage at 25 feet. Mr. Owens likes Article 7. All agree with Article 7. Mr. Bulian stated people do not understand this stuff and what they are saying or the implications.

Ms. Grimes noted Article 8 and gave some design elements they would allow in the setbacks. Article 7 pushes the garage back. How do people feel about design elements in the 20 foot setback? Ms. McKnight stated she is still in favor of design elements. Mr. Alpert noted the last line of Front Yard Setback is changed from 20 feet to 15 feet. Ms. Newman noted removing the last sentence does the same thing. All agreed.

Ms. Grimes stated the Board will move Article 7 forward to the Board of Selectmen and 7 will become 6. Mr. Jacobs stated he fears Large House Committee members standing up at Town Meeting saying that is not what they talked about. He wants to know the Committee members are on board. Ms. Grimes noted Article 9 regarding lot coverage. Ms. Newman noted the new construction lot coverage requirement is 25-30% for Single Residence B and 30-35% in General Residence. Selectman Bulian stated people are interested in master bedroom suites. Mr. Alpert stated he would like this Board, in the near future, to allow mother-in-law apartments.

Ms. McKnight noted she is in favor of holding Article 9 until next year. Ms. Newman stated this is creating a rule for lot coverage for additions. Mr. Alpert noted now there is a lot coverage requirement for new homes but none for additions. This would limit that. He feels this Article should be sent to the Board of Selectmen. It can be taken out later. With Article 10 if you are doing a demolition of more than 50% it could be done by Special Permit. Ms. Grimes suggested taking the front setback off and sending it to the Selectmen. The last article is Medical Marijuana.

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

VOTED: to send Article 1 with all discussions and changes made tonight to the Board of Selectmen.

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

VOTED: to send Article 2 to the Board of Selectmen.

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

VOTED: to send Article 3 to the Board of Selectmen.

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

VOTED: to send Article 4 with changes proposed to the Board of Selectmen.

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

VOTED: to send Article 5 to the Board of Selectmen.

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

VOTED: to send Article 7, renumbered to Article 6, to the Board of Selectmen.

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

VOTED: to send Article 8, renumbered to Article 7, to the Board of Selectmen.

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

VOTED: to send Article 9, renumbered to Article 8, to the Board of Selectmen.

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

VOTED: to send Article 10, renumbered to Article 9, to the Board of Selectmen.

Ms. Grimes noted Medical Marijuana. Ms. McKnight stated she rewrote this and changed it to what the town can do rather than issuing licenses which is a state agency power. She added the Act Number and local control part and put in all the statutory references. .

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

VOTED: to accept the marijuana moratorium article for the warrant as changed by Jeanne McKnight and described to the Board. This would be renumbered to Article 10.

Board of Appeals – February 13, 2017

William C. and Diane W. Sayman – 162 Warren Street.

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

VOTED: “No comment.”

Minutes

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

VOTED: to accept the minutes of 11/15/16 as presented.

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

VOTED: to adjourn the meeting at 11:05 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Paul Alpert, Vice-Chairman and Clerk