NEEDHAM PLANNING BOARD MINUTES

October 10, 2017

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building, was called to order by Ted Owens, Chairman, on Tuesday, October 10, 2017, at 7:05 p.m. with Messrs. Jacobs and Alpert and Mmes. Grimes and McKnight, as well as Planning Director, Ms. Newman, Acting Assistant Town Planner, Ms. Collins and Recording Secretary, Ms. Kalinowski.

Transfer & De Minimus Change: Major Project Site Plan Special Permit No. 1991-07: Henry Hospitality, Inc., d/b/a The James, 18 Cliftondale Street, Roslindale, MA, Petitioner (Property located at 1027 Great Plain Avenue, Needham, MA).

Stuart Henry, President of Henry Hospitality, Inc., stated he will be opening a family gastro pub with higher-end comfort food. The restaurant will open early for families and be open late for train commuters. He is requesting a modification for dinner hours from 3:00 p.m. to 12:00 a.m. and brunch Saturday and Sunday 10:00 a.m. to midnight. He is also asking for a transfer of the Special Permit and a name change from the Center Café to The James.

Ms. McKnight stated she used to live in this neighborhood and does not know of any residences that would be affected. She sees no reason to not approve the different hours. Mr. Alpert and Ms. Grimes both noted they are fine with the application. Mr. Jacobs asked if there was any significance to the name James. Mr. Henry stated both his grandfathers and his middle name were named James. He added he was General Manager of a tavern in Brookline for 25 years.

Mr. Owens noted there was a draft of the amendment to the decision in the packet. Ms. Newman stated the Board may want to make some adjustments to the draft amendment. The applicant will do renovations on the inside. Number 4 is parking on site and number 5 does not need to be as limiting. The work is primarily interior and there is no need for a temporary chain link fence. She asked the hours of construction. Mr. Henry stated he was fine with 7:00 a.m. to 8:00 p.m. Ms. Grimes noted that should be Monday through Sunday. Mr. Owens noted b would be deleted and c would be relettered as b. Ms. McKnight noted on page 2, third line, there should be a comma after The James.

Upon a motion made by Mr. Jacobs, and seconded by Ms. Grimes, it was by the five members present unanimously:
VOTED: to approve the draft of the amended decision as modified tonight.

Board Discussion: Special Permit Amendment Under Site Plan Review: Beth Israel Deaconess Hospital-Needham Addition and Walkway. (Property located at 148 Chestnut Street, Needham, MA).

Mr. Jacobs noted the comments as submitted by Ron Ruth. He asked if there was a feeling, in substance, if Mr. Ruth is right and what to do about it. How many patients per hours will be seen? Mr. Owens stated he would not like to discuss it. The letter came in after the close of the hearing. It is unfortunate Mr. Ruth missed the deadline but he did. Mr. Alpert stated it is appropriate to raise the issue on our own but not by someone else after the hearing is closed. He recollects Mr. Cramer stating it will be 3 or fewer patients per hour. That is what is in the By-Law. He is not inclined to reopen the hearing.

Ms. McKnight stated that if a response is necessary it would require the hearing to be reopened. She agrees with Mr. Jacobs. It was brought to our attention that the By-Law applies. In the hearing she was very concerned with traffic and proposed the decision would be conditioned on employee parking and shuttle. She does not feel the hearing needs to be reopened but the Board members need to be aware of an incorrect citation. Mr. Alpert stated he is not sure there was an incorrect citation. The only issue presented was patients per hour. He feels this was addressed at the presentation.

Ms. Grimes stated she is not inclined to reopen the hearing as the hospital was providing 50 spaces, more than the 30 required. The Board is looking seriously at the parking. Mr. Owens also has no interest in reopening the hearing. Mr. Jacobs stated it may be satisfactory to build into the decision that in the new building physicians, physician assistants and other staff would generally see fewer than 3 patients per hour. Ms. Grimes stated she does not see a problem. The Board gave the Planning Director guidance on how to draft the decision.

Board of Appeals – October 19, 2017.

Michael and Sheila Moylan, 94-96 Hillside -Mr. Owens stated he thinks, as policy, it is not a good idea to encourage people to build houses in the back yard. Mr. Alpert stated he does not like to see small lots subdivided this way. Ms. Newman noted the applicant could build a condo structure on it and the need for a variance would go away. Mr. Jacobs agrees and does not see how this creates a hardship. Ms. McKnight asked if there was a general Massachusetts statute that allows the subdivision of lots. Mr. Alpert stated the lot was bigger than he thought. The subdivision would create a lot less than 10,000 square feet.

A motion was made to recommend the application be denied and a variance not be granted because the Board does not see a substantial hardship in the application and one lot would be less than 10,000 square feet. Ms. McKnight stated she will vote against this. She is not sure there is no hardship. She stated that condo's aren't easy to market which could be considered a hardship. The houses have been there a long time.

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

VOTED: to recommend the application be denied and a variance not granted because the variance request does not meet the statutory requirements, there is no substantial hardship in the application and one of the proposed lots does not meet the minimum lot area (10,000 square feet) required.

Minutes

Mr. Jacobs noted in the 10/2/17 minutes it should be Mr. Jacobs not Ms. Jacobs.

Correspondence

Mr. Owens stated the correspondence in the packet is from Ms. McKnight. Ms. McKnight noted she attended a conference at MMLA (Mass Municipal Law Association) on the subject of Recreational Marijuana. Most people in attendance were municipal officials. It was very well attended. The issue that alarmed those in attendance were comments made by Margaret Hurley of the Attorney General's Municipal Law Unit. She said is not clear if prohibiting recreational marijuana establishments should be by a zoning prohibition or General By-Law prohibition but the best thing to do is to adopt both. This has to be done before 12/31/2019 for municipalities whose voters voted in the majority negative upon the 2016 ballot question, otherwise a new municipal ballot question would be needed. Priority is given to existing licensed or provisionally licensed medical marijuana facilities for recreational marijuana licensing. The Cannabis Control Commission is supposed to issue regulations on how to apply for licenses in March 2018 and start accepting applications not later than April 1, 2018.

Ms. McKnight stated the Cannabis Control Commission is required by law to give priority to existing medical marijuana facilities. Once recreational marijuana is allowed those facilities that are only allowed to dispense by doctors letters may not be as economically viable. Why bother going to a dispensary and getting a doctor note if people can go to a store and buy what they think they need. It may not be economically advantageous. She said the Assistant AG Advised towns to enact a prohibition early enough to get it to the Attorney General so he has 90 days to get it approved prior to April 1, 2018. Needham would need to get it done this year (2017).

Ms. McKnight stated she spoke with Town Manager Kate Fitzpatrick. She does not feel it is feasible to have a December Town Meeting. If the Board advertises our prohibitory amendment for hearing prior to 4/1/18 would it be retroactive back? Ms. Newman stated it would be retroactive back to the date of the notice. Needham also has agreement prohibitory moratorium as a zoning b-law amendment approved by the Attorney General. Furthermore, the Needham Board of Selectmen entered into a written agreement with the applicant for a medical marijuana license whereby the applicant agreed not to convert to a recreational marijuana establishment. Ms. Newman stated a property owner could put an ANR plan on prior to advertising of a zoning by law amendment that freezes the use.

Mr. Alpert asked what the Attorney Generals' authority is to get it done by 4/1/18. Ms. McKnight stated there is no authority. Mr. Alpert noted Needham has a moratorium until 12/31/18. Ms. McKnight stated she was advised to attend the Cannabis Control hearings and seek a regulation respecting such moratorium. Mr. Jacobs asked if, as a Board, they should send this concern to the Board of Selectmen and Town Counsel David Tobin and see what they think. Ms. McKnight agreed. She just wanted to let the Board know about it.

Report from Planning Director and Board members.

Mr. Owens stated last week the Board of Selectmen had a meeting of the Chairs with regard to Open Space and Recreation 5 year plan. The Selectmen felt the regulations from 2006 were no longer applicable. The Director of Park and Recreation noted the purpose of the plan was a reference point for grants offered by the state. The Selectmen commented, though, that Needham is unlikely to get any grants because it is an affluent town. The Selectmen suggested putting together a report for the Town itself of what they think they can do in 5 years and the entity assigned to pursue each goal should be one of the Boards or Commissions whose primary responsibility is that area. The Open Space Committee needed to go back to the Boards' and get them to agree on goals and objectives. The Selectmen sent the Open Space Committee back to the drawing board to refine and the Town Manager was going to check websites to get plans submitted by other towns. The Selectmen wanted to distinguish 3 categories: what can be accomplished in 5 years; what is on the wish list to pursue later; and a separate category for things in the current plan that are ongoing. Also the money allocated for a consultant was about one third of what was needed. The Selectmen wanted to stop the consultant and keep the money to see what they want to do.

Ms. McKnight asked what the Planning Board should do. Mr. Owens stated members should look at the plan and items assigned to the Planning Board. He will put together a list of issues to discuss.

Mr. Owens noted the Board followed a pattern with the hospital decision and he would like to continue it going forward for larger projects. He feels there should be 3 meetings: the public hearing, discussion and then the decision. He feels it makes sense with larger decisions.Mr. Alpert asked what the timeline was once the hearing is closed. Ms. Newman noted 65 days. She noted the Board may want to wait to close the hearing until after the discussion. Mr. Jacobs stated he does not feel this is substantially different than what the Board does now. Ms. Newman stated she is frequently trying to get the decision done for the next meeting. The proposed process would give the opportunity for the Board to give her direction and for her to draft the decision based upon the Board's input. She feels this would be a smoother process.

Ms. Grimes does not see a problem with major projects but with smaller ones there is no need for them to wait for 3 meetings. Mr. Owens noted with smaller project the Board will discuss, give some direction and at the next meeting have a decision and vote. He noted the proposed separate hearing/discussion/decision process would be the Board's approach to the big stuff.

He stated sometimes the Board does not get a chance to talk about planning. He suggested maybe once a quarter a meeting could be added to discuss planning issues. Mr. Jacobs stated this has been an issue since he has been on the Board. He would add a meeting or a permanent agenda item. Ms. Grimes stated during the day anytime would be fine but the night is difficult for her. Mr. Alpert noted the morning is fine with him. Mr. Jacobs noted the meetings should be limited in time to one hour. There were no conflicts to meet on a Thursday morning at 8:30am – 9:30am. Ms. Collins will follow-up with possible meeting dates.

Upon a motion made by Ms. Grimes, and seconded by Mr. Alpert, it was by the five members present unanimously:
VOTED: to adjourn the meeting at 8:20 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul Alpert, Vice-Chairman and Clerk