NEEDHAM PLANNING BOARD MINUTES

January 22, 2008

The regular meeting of the Planning Board, held in the Performance Center of the Eliot School, was called to order by Devra Bailin, Chairman, on Tuesday, January 22, 2008 at 7:30 p.m. with Messrs. Handel and Jacobs and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Temporary Occupancy Permit Extension to Major Project Site Plan Special Permit No. 2005-07: Needham Gateway, 100 Highland Avenue (Mattress Giant Building) Needham, MA.

Mike Moskowitz, representative noted they have a temporary only until 1/31/08. The article past at Town Meeting that cured the setback requirement and they are swapping 24 square feet of land in front of Mattress Giant and 24 feet in front of Panera Bread. They have resubmitted to the government in the past couple of days and it will be vetoed or overthrown. They need a letter. The issue is the Mattress Giant building. They need more time to resolve the front of the building issue. Mr. Jacobs noted for the record he has a conflict and will not vote.

Upon a motion made by Mr. Handel, and seconded by Ms. McKnight, it was by the three members present unanimously:
VOTED: to extend the deadline for a temporary occupancy permit to 12/31/08.

Appointments

7:45 p.m. – David and Susan Nigro: informal discussion regarding the rezoning of land at 66 Oak Street.

Richard Nigro, representative for the applicants, noted he came to discuss zoning on Linden Street with the veteran's project. They would like the zoning to continue the 5 houses down Linden Street and wrap around to the 2 houses on Oak Street. Mr. Handel questioned if they spoke with the abutters. Mr. Nigro stated they had not yet but it would be helpful. His father owns 66 Oak Street and they would have more options if it was general residence. Ms. Newman noted it is single home now and, if changed, it could be subdivided to 2 lots. Ms. Bailin stated they need the support of more people. They should check to see if the neighbors have any opposition. She clarified the Board does not normally instigate changes like this. She noted at least 2 lots appear to be split which could be problematic. Ms. Newman noted it is surrounded by general residence. Ms. McKnight stated she does not think a street is a good dividing line. She commented for frontage you want the same. She noted it looks like general residence directly across the street from them. She added she does not agree with spot zoning and they should only extend the Oak Street general residence. Mr. Handel noted he agrees with Ms. McKnight. They should request only Oak Street and not continue it down Linden. Mr. Nigro questioned how he should continue. Ms. Bailin stated for a citizens' petition they need 10 signatures and this needs to be done by February 4. Ms. McKnight noted they should show potential development as people like to see what is being done. Ms. Bailin added they need to figure out the maximum density.

8:00 p.m. – Roy Cramer: Presentation of 81X Plan for the Beth Israel Deaconess Hospital (Property located at 148 Chestnut Street and 98 School Street, Needham, MA).

Mr. Cramer noted they have prepared an 81X plan that merges 86 School Street and the hospital into one lot. An old registered piece of land is sitting in the middle of everything. A suggestion was made to him to put a note on the plan what the intention was. Ms. Bailin questioned if the building would remain there and was informed it would. Mr. Cramer stated he came up with language for a note and put it on the plan, otherwise it was the same plan. He will courier the mylar to the registry tomorrow. They endorsed the plan last time but it needed a few revisions. Ms. Newman noted there were discrepancies on the final analysis. It is now corrected and the number reflects the number on the parking tables. Mr. Cramer noted the hospital change on the cover page.

Public Hearing

7:30 p.m. – Proposed Zoning Change: Article 1: Amend Zoning By-Law – Definition of Structure.

Upon a motion made by Mr. Handel, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to waive the reading of the public hearing notice.

Ms. Bailin asked if anyone wanted to speak in favor, against or comment. No one had any comments.

Upon a motion made by Mr. Handel, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to close the hearing.

Ms. McKnight commented there would be the customary presentation at Town Meeting. She noted it says "new language is underlined" but there are a couple of "a's" that are not underlined such as "a" public utility pole. Ms. Newman will revise.

Upon a motion made by Mr. Handel, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to endorse adoption of this amendment, as proposed, by Town Meeting.

Appointments

8:15 p.m. – Roy Cramer and Christopher Barker: informal discussion regarding side yard setback standard and its affect on property located at 60 and 84 Wildwood Drive, Needham, MA.

Roy Cramer, representative for the applicant, stated Lot 101 is owned by Cecilia Kottman and Lot 95A is owned by Christopher Baker. Both want to create Parcel A and Mr. Baker wants to buy it from Lot 101. Both lots have correct footage and frontage and no new construction is proposed. The one problem is the side yard setback is 15.91 feet. New lots require 25 feet for a side yard setback. Created before 1986 the 15 foot setback applies. If they create a new lot they lose the grandfathering. They would like to change the By-Law to have this happen. They are currently working with the abutter to get the 25 foot setback. Ms. Bailin noted from a zoning perspective the problem is creating an opportunity for infill. Mr. Cramer stated they could make it lawful by grandfathering the new lot but 1.4.8 is not clear. Ms. Bailin noted the intent is not a swap but to allow a small lot to become larger. This is a common problem and people have chosen to build on one side of the lot or the other. Mr. Cramer noted there is a limit to Single Residence A. Ms. Bailin questioned how they could restrict it on an ANR. There is no way to track it. Ms. McKnight asked if it was possible under the current By-Law to do it in and out. Mr. Cramer noted they have gone to the third lot owner and offered 300 feet for 100 feet so her lot would increase and the side setback would be ok. He added there is 48 feet between the 2 lots so they could never get 25 foot setbacks on both. They would like to resolve this without changing the zoning. Ms. Bailin stated she would prefer option 3 of Mr. Barker's suggestions – grandfathering in a much narrower way -- but they need to work with the language. You can change the area provided you have the build factor.

Ms. McKnight left the meeting at 8:45 p.m.

Mr. Jacobs noted he was not comfortable commenting on this until he has looked at it further. Mr. Cramer stated they just want to get initial feedback. Mr. Baker stated he does not mind adding provided no new building lots are created and such restriction should be contained in the deed. Ms. Bailin noted they should say which restrictions shall be in the conveyance deed and approved by the Planning Board. Ms. Newman questioned if it would be better to do a Special Permit process. Mr. Jacobs stated they should go through a permanent easement. He does not see a substantial difference. Mr. Baker stated there are more issues. Mr. Cramer noted there is a February 4 deadline to get it on the Town Meeting warrant. He questioned if they could amend after the public hearing. Ms. Bailin commented she would be more comfortable with that. He should suggest to his client they hone 4.2.1G and do a citizen's petition. Mr. Baker noted they want open space and nothing on it.

Joyce Moss: discussion with Planning Board regarding outdoor displays.

Ms. Moss noted this cannot be considered for Town Meeting. She was asked to measure sidewalks and she did that. She also did a poll of the merchants, spoke with the police in Concord, as requested, indicated where the trees and lights were and who had setbacks in the entries. She thinks there are a lot of wonderful stores in town and there should be more but the atmosphere does not support the merchants enough. She noted merchants must pay liability insurance. She polled the merchants and found there are 159 ground floor shops with banks, nails, etc, 52 retail and 26 restaurants. Of the 52, she spoke with 42 personally and no one said no. In Concord she could not find anything in the zoning by-laws that allows accessory use like this. It is in the general laws. They need to convene the merchants and talk about this. They should be asked if they are willing to stand up and say they want this. She added it is not a problem for the police. Mr. Jacobs asked she clarify what they were talking about as merchandise is not defined. Ms. Moss noted apparel, home goods, stuff for sale inside the store. Mr. Jacobs questioned flowers. Ms. Moss stated they should be included. Concord has all displays in by December 1 for plowing, etc. but it should be the end of the year. She requests the Planning Board back taking this out of zoning. Mr. Handel agreed it should be removed. Ms. Bailin stated she would like some type of enforcement. Mr. Handel noted he does not think it will be an issue. Ms. Bailin reiterated they need to put some guidelines in. They could leave it in the zoning if they make it an accessory use for outdoor displays for the business that is there. Ms. Newman noted the Center Business, Avery Business and Downtown. Ms. Bailin stated they need to give people design guidelines. Ms. Newman noted they should make it as of right and have them get a license from the Selectmen. They can set up on their own property without a license. Ms. Bailin stated they need to make sure there are ADA requirements in and they should go ahead with the meeting with merchants. Ms. Newman will find out when the special is during the annual. They may have time to get it on that.

Board of Appeals recommendations.

Alexander and Elena Shneider, 37 Linden Street, Needham, MA.

This has been continued and the Board has already commented.

Jessica and Alexander Hoguet, 97 Bradford Street, Needham, MA.

Ms. Bailin stated she does not agree it is applicable. The plot plan showed they were in conformity and they built in non-conformity. The plans submitted show conformity and it does not justify.

'pon a motion made by Mr. Handel, and seconded by Mr. Jacobs, it was by the three members present unanimously:
VOTED: to comment they need a variance and the section is not applicable.

Neehigh LLC, 93 Union Street, Suite 315, Newton, MA.

Ms. Newman noted she asked they show all uses in the lot can be adequately accommodated.

Upon a motion made by Mr. Handel, and seconded by Mr. Jacobs, it was by the three members present unanimously:
VOTED: to suggest they require the applicant do a parking study to show there is adequate parking.

Kevin Delaney, 57 Marked Tree Road, Needham, MA.

Mr. Jacobs noted neither provision allows for a variance amendment.

Upon a motion made by Mr. Handel, and seconded by Mr. Jacobs, it was by the three members present unanimously:
VOTED: to comment they need a variance.

90-94 Dedham Avenue, LLC, 264 Edgewater Drive, Needham, MA.

Upon a motion made by Mr. Handel, and seconded by Mr. Jacobs, it was by the three members present unanimously:
VOTED: to comment they are not allowed to demolish and rebuild a non-conforming use.

Temporary Occupancy Permit Extension for Phase One and Authorization for Phase 2 of Major Project Site Plan ;ecial Permit No. 2006-02: Needham Cooperative Bank, 1063 Great Plain Avenue, Needham,, MA, Petitioner ıProperty located at 1055-1063 Great Plain Avenue, Needham, MA.)

Ms. Newman noted they are occupying Phase 1 and want to extend the temporary out to February 28, 2008.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Handel, it was by the three members present unanimously:
VOTED: to authorize an extension of the temporary Certificate of Occupancy to February 28, 2008 and authorize Phase 2 when all the interior work is done.

Minutes

Upon a motion made by Mr. Handel, and seconded by Mr. Jacobs, it was by the three members present unanimously:
VOTED: to adopt the minutes of December 4, 2007 and December 18, 2007.

Upon a motion made by Mr. Handel, and seconded by Mr. Jacobs, it was by the three members present unanimously:
VOTED: to adjourn the meeting at 9:40 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne McKnight, Vice-Chairman and Clerk