

NEEDHAM PLANNING BOARD MINUTES

July 15, 2008

The regular meeting of the Planning Board, held in the Selectmen's Meeting Room at Town Hall, was called to order by Jeanne McKnight, Vice-Chairman, on Tuesday, July 15, 2008 at 7:30 p.m. with Messrs. Eisenhut, Handel and Ruth as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

7:30 p.m. – Minor Project Site Plan Review No. 2008-01: Tom Healy, 71 Stockdale Road, Needham, MA, Petitioner (Property located at 1315 Highland Avenue, Needham, MA).

Ms. McKnight noted the following correspondence for the record: a memo from Thomas Ryder to Lee Newman regarding the site plan. Ms. Newman stated this was a minor project, not a hearing. They require a recommendation to the Building Inspector on the site plan reviews. Tom Healy stated he would like a law firm in the building. It is historically residential in a commercial district. He proposes to renovate and re-skin. He will put a new door, windows, siding, roof and a dormer. There is no change to the footprint except to have a handicap accessible ramp. He has a handicapped person who works for him who is a quadriplegic. The interior will be completely gutted. They will knock down the garage and will put in a wheelchair access ramp and parking space in the back. There are 2 parking spaces on the property. This requires 7 spaces. They will have 3 spaces and an additional 4 will be leased from Eaton. This will be a first class office space with no exterior lighting. Ms. McKnight asked about Tab 3 on the pictures of the building and the separation between the existing paved area and the grass. She noted the proposed site plan seems to be the same. Mr. Healy noted it will not change. He will keep one tree. Ms. McKnight noted there is no interior elevator. She asked if he has spoken with the access board and if the public will use the conference rooms to meet with the attorneys. Mr. Healy stated he has met with the access board and they seem willing to accept the first floor as public and the rest as private.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: "No comment."

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to amend the previous vote to comment this is an aesthetic improvement to the neighborhood.

7:45 p.m. – Riverview Estates Definitive Subdivision Amendment: Michael London, 80 Burr Drive, Needham, MA, Petitioner (Property located at 80 Burr Drive, Needham, MA).

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

Susan Sullivan of Zanca Land Surveying, representative for the applicant, noted this is a residential compound at the end of Burr Drive. They are increasing the footprint but it is 308 square feet more than allowed. Ms. Newman noted there is a limit on the size of houses. They have been allowing the footprint with a certain amount of expansion and, over that limit, they need to amend the Special Permit. She added they have been setting limits on cluster developments. Mr. Eisenhut clarified they are increasing the footprint. Mr. Handel asked what the new size was and was informed 4,750 square feet. Ms. Newman noted this conforms within the provisions of zoning. Mr. Handel commented it is a large lot. He does not think it makes a lot of difference here with a small addition on a large house on a small portion of a large lot. Ms. McKnight stated the notice says 310 feet and 4,752 but Ms. Sullivan's letter stated they are increasing to 4,750 square feet. She asked which was correct. Ms. Sullivan noted 310 and 4,752 were correct.

Aaron Prenman, of 1012 South Street, noted his property runs along the back of 80 Burr Drive. He is concerned with the short and long term safety issues and the wall being built along the back of the property. It is almost all ledge and there is a lot of blasting. He noted large boulders have fallen onto his driveway due to the blasting which is a safety concern. He asked the Building Inspector to come look at it and he agreed there were safety concerns. He would request more safety precautions be taken, the sifting machine be taken off site and the rear wall section be a permanent safe structure rather than random boulders. Mr. Handel noted he does not see a relation between their request and what is being done. Ms. Sullivan

stated the blasting is complete and the footprint is there. Whitney Connaughton, of 1012 South Street, stated she spoke with the general contractor on Friday. He told her there would be about 3 more weeks of blasting then it would be sporadic after that. Mr. Handel stated they should clarify jack hammering was being done as opposed to blasting. Mr. Ruth asked if Ms. Connaughton has had any communication with the owners. Ms. Connaughton stated a boulder landed on their driveway on Wednesday, the Building Inspector came Thursday and she spoke with Ms. London on Friday. She told her she would have her husband call her but he never called her back. Mr. Handel stated they would have an issue whether there was an increase or not. Mr. Ruth noted he would like to hear from the owner and proposed they postpone the hearing. Mr. Eisenhut agreed. Mr. Handel commented they owe it to the neighbors to let them know the recourse they have. Mr. Ruth stated the neighbors should have an active conversation with the owners. Ms. Sullivan noted they may have no construction to undo what they have already built. Mr. Ruth stated they built it at risk. He is not sympathetic. Mr. Handel stated they need a good faith attempt to resolve this issue with the abutters. Ms. Connaughton informed the Board the London's are building a pool and it should be on the plans. Ms. Sullivan noted they were trying to keep things separate, which is why the pool is not on the plan. Ms. McKnight stated since there could be drainage issues they should discuss this at the next meeting. Mr. Handel confirmed they should have a complete plan. Mr. Ruth commented that given the complaints from the neighbors they should wait to ensure they are aware of any ledge removal. Mr. Handel informed Ms. Sullivan that safeguards need to be taken between now and the next hearing.

Upon a motion made by Mr. Ruth, and seconded by Mr. Handel, it was by the four members present unanimously:
VOTED: to extend the hearing to August 12, 2008 at 7:30 p.m.

8:00 p.m. – Major Project Site Plan Review No. 2008-04: Spasso Foods LLC d/b/a Caffè Spasso, 155 Middle Road, Brentwood, NH 03833, Petitioner (Property located at 1498 Highland Avenue, Needham, MA).

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

Roy Cramer, representative for the applicant, noted there is no change of use. There is a minor change in design, hours and menu. They propose the same use and layout. They will install a handicap bathroom on the first floor. The gelato is made off-site so he has the room. The Building Inspector interpreted the plumbing code. Mr. Cramer felt that the handicapped bathroom is really not required but the inspector did not see it that way. They have applied for 18 seats but modified the plans to reduce it to 15 with a maximum of 4 employees. Twelve seats will be interior and 2 outside. They will have a bi-fold window that can be opened. The menu is pretty much the same with a couple of small other items such as soups, sandwiches, ice cream, yogurt. The hours will be different. They would like 6:00 a.m. to 11:00 p.m. Sunday through Thursday and 6:00 a.m. to midnight Friday and Saturday. Mr. Cramer noted they did a traffic study and parking counts. He reviewed the counts. He noted Joyce Moss, Needham Economic Development Specialist, did the counts. He noted there was an issue with the comments in the letter from Tony DelGaizo. He thinks he means they can only count 8 spaces in front of the store and not all 27 spaces. Mr. Cramer feels 27 is correct. There is no change in use, some expansion of hours and the only change in the exterior is the bi-fold door. Mr. Handel asked if a bench could be counted in the window area. Mr. Cramer stated they would like to suggest a bench in lieu of chairs. Ms. Newman noted they could do it as a plan modification. Mr. Cramer noted they could add a sentence that they can move seats around. Mr. Handel agreed it should be done that way. Ms. McKnight noted they were asking for certain items on the menu to be specified that were not specified in the Café Mocha Blu decision and asked what specifically they were. Mr. Cramer noted sorbet, Italian deserts but added he was not sure as he did not have the decision here. He noted there are 3 or 4 additional items. Ms. McKnight asked if by gourmet foods they meant packaged foods. Curtis Grace, owner, stated that could be an example. Mr. Handel stated it was absurd to specify the menu and asked if there was any way to do it without specifying. Mr. Cramer noted they want it to look as similar to the prior as possible to expedite it. He could state "including but not limited to." Mr. Eisenhut suggested "or other similar offerings." Ms. McKnight noted the others are accessory and these others can be 45%. Mr. Handel noted they should leave it as similar products. Ms. McKnight asked if the late evening hours were the same as Café Mocha Blu. Mr. Cramer was not sure but noted they were the same as the surrounding restaurants such as Village Fish, etc. Ms. McKnight noted she wants the same.

Ms. McKnight noted the following correspondence for the record: a memo from the Health Department with comments; a memo from the Fire Department noting no comments; a memo from the police regarding concern with the Town Hall side of parking and that people will park there; and a memo from the DPW suggesting a cross hatch area in front of the alley to

clarify no parking.. Mr. Grace noted a lot of the food is prepared off site. Mr. Handel asked why require something if it is not a problem. They do not normally require people to crosshatch driveways. Mr. Cramer noted the DPW's other comments regarding a study he disagrees with. Mr. Handel noted the driveway was not an issue previously. He commented this bothers him. Ms. Newman stated it is not an issue for ice cream but may be an issue as a coffee shop.

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

Mr. Cramer reviewed his comments. On page 4, Section 1.13 – they should delete the last 2 sentences. Ms. Newman noted the finding needs to be changed to reference 27 parking spaces. Ms. McKnight noted starting with “the analysis” should be deleted and just say “adequate parking should be sufficient.” All agreed. Mr. Cramer noted page 7, section 3.3 – they anticipate 2 employees except at peak when there may be 4. They should take out the last sentence and say “maximum of 4 employees at any one time” and leave it to Mr. Grace’s discretion. Page 7, section 3.4 – he disagrees with this. It should say “parking spaces available” and strike in front of the business. They should also remove “take out.” Page 8, section 3.10, last sentence – they should add “or other off street locations if permitted by the property owner.” Ms. McKnight noted they just want to make sure the hours are not any later than other ice cream places.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to grant Special Permits under Section 7.4, Section 3.2.2 for the retail sale of ice cream, frozen yogurt and similar products for consumption on or off the premises in the Center Business District, Section 3.2.2 for more than one non-residential use on a lot; Section 1.4.6 for the alteration of a non-conforming use and non-conforming structure and Section 5.1.1.6 to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements).

Mr. Ruth noted they should add in Section 3.2 it can be configured at the owner’s discretion. In Section 3.1 it should state “and similar products including but not limited to...” then put the list. He noted Section 1.6 should also be revised for the hours. Mr. Cramer stated he would like to be able to file the revised plans and would request the Board delegate to Ms. Newman the authority to notify the Building Inspector when she has the plans approved and in an appropriate form.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to approve the plans as modified and authorize the Planning Director to notify the Building Inspector when she has the plans approved and in an appropriate form.

8:15 p.m. – Major Project Site Plan Review No. 2008-05: Patricia Guzman, d/b/a Tu Y Yo, II, LLC, Petitioner (Property located at 66 Chestnut Street, Needham, MA)

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

Graham Ruggie, Architect, noted the Special Permit was originally amended for a new back area addition. Ms. Guzman is subletting and in discussions with the Building Inspector and the owner. The existing structure will be removed and a new addition added. It will be the same footprint. This is for the purpose of storage and a walk in fridge/freezer. Ms. Newman noted it is a façade change. The building is pre-existing, non-conforming and needs site plan approval and a Special Permit. Mr. Ruggie noted they are trying to make things right. There will be a 10 foot by 20 foot storage shed and they will make modifications to stow 2 coolers. It will be enclosed with the construction. Ms. McKnight commented about the fence that is currently along the back and would like something done with this. After discussion, all agreed. Ms. McKnight noted the following correspondence for the record: a memo from the Fire Department with no comments; a memo from the Police Department with no comments; a memo from the DPW noting the need for a new plan and a memo from the Board of Health with comments.

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

Ms. Newman has prepared a draft decision the Board reviewed. She will add it is to be enclosed and will delete section 3.5 and 3.6 as it is not their jurisdiction. Ms. McKnight noted Section 1.3 on page 2. She clarified the 10 foot by 20 foot addition and 2 exterior coolers should be a 10 foot by 20 foot addition with 2 interior coolers.

Upon a motion made by Mr. Ruth, and seconded by Mr. Eisenhut, it was by the four members present unanimously:
VOTED: to grant a Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law and a Special Permit under Section 1.4.6 of the By-Law for the alteration of a non-conforming structure.

ANR – North Shore Construction and Development Inc., & Bruce and Sherrie Weinstein, 18 Shirley Road & Parish Road.

Ron Lopez, representative for the applicants, noted Lot 8 is off Shirley Road with a little leg on Parish. They were allowed a subdivision to 2 lots – 8A and 8B. Lot B was conveyed to the Weinstein's. There are no zoning or frontage issues as all are conforming. Ms. Newman noted there is one issue. The existing zoning requires a 12 ½ foot setback. It has a 10 foot setback. To change the lot they would need a 12 ½ foot setback. Mr. Eisenhut noted if they create a new lot subject to the new setbacks they need a note that it is to be conveyed to the Weinstein's and creates a non-conformity. Mr. Ruth noted it could be a permanent easement put in a separate trust. He suggested they may want to consult an attorney. Mr. Lopez suggested they should withdraw without prejudice. He will get a letter to Ms. Newman this week regarding this.

Upon a motion made by Mr. Ruth, and seconded by Mr. Handel, it was by the four members present unanimously:
VOTED: to waive the filing fee the second time around.

Diminimus Change: Major Project Site Plan Review Special Permit No. 2007-05: 868 Highland Avenue, LLC, 66 Crescent Road, Needham, MA 02494, Petitioner (Property located at 868 Highland Avenue, Needham, MA).

Ms. Newman noted they would like to flip the dry cleaning use to the other side of the building.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to authorize the Planning Director to issue a letter approving the change.

Authorization of Permanent Certificate of Occupancy: Major Project Site Plan Review No. 2008-01: Frozen Custard New England LLC d/b/a Abbotts Frozen Custard, 2 Thoroughbred Lane, Sherbourne, MA, Petitioner (Property located at 934 Great Plain Avenue, Needham, MA).

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to approve the alternative arrangement for trash disposal and issue a permanent Certificate of Occupancy.

Review and Endorsement of Definitive Subdivision Plan Amendment: Robert Barton and Stephanie Barton, 57 Frank Street, Needham, MA, Petitioner (Property located at 57 Frank Street, Needham, MA).

The Board signed the plans.

Review and Endorsement of Definitive Subdivision Plan Amendment: 342 Cartwright Road, Paul V. Ferreira, Petitioner (Property located at 342 Cartwright Road, Needham, MA).

The Board signed the plans.

Jeanne McKnight – Update Board on Town Hall Study Committee.

Ms. McKnight noted she is the representative for the Planning Board on the Town Hall Study Committee. They would like to focus the appropriate questions for the architect to understand the cost implications of using the second floor for municipal space and the size needed, the sound, acoustics and what presumptions of Option 1 and 3 were presented and what costs were assumed when they were presented. With Option 3 what assumptions were used to fit out the hall. Her impression is this is leading to 3 in favor of restoring providing all additional costs are provided by other than the taxpayers.

The alternative is a smaller hall or a rearrangement for a larger conference room for about 100 people. Mr. Handel stated he would rather see all offices than to see space that will provide no significant improvement. Ms. Newman noted they could have a 3 story building 40 feet high at the DPW as of right. Ms. McKnight noted there is terrific resistance to doing anything at the DPW. After discussion she stated she will report the Board feels a \$2,000,000 extra expenditure in public funds is reasonable.

Board of Appeals – July 17, 2008.

Mr. Handel disclosed for the record he has shares in American Tower.

Thomas F. Healy, 71 Stockdale Road, Needham, MA – 1315 Highland Avenue.

Upon a motion made by Mr. Ruth, and seconded by Mr. Handel, it was by the four members present unanimously:
VOTED: “No comment.”

Douglas and Nancy Smock, 52 Wilshire Park, Needham, MA – 52 Wilshire Park.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to comment they are sympathetic with the homeowners but see no statutory ground for what they want to do.

Temple Aliyah, Inc., 1664 Central Avenue, Needham, MA – 1664 Central Avenue.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: “No comment.”

Gregory and Susan Daoust, 290 Harris Avenue, Needham, MA with Dawn T. McDermott, 284 Harris Avenue, Needham, MA – 284 and 290 Harris Avenue.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: “No comment.”

MetroPCS Massachusetts LLC, 285 Billerica Road, Chelmsford, MA – 350 Cedar Street.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: “No comment.”

Sprint-Nextel Co., 9 Crosby Drive, Bedford, MA – 141 Cabot Street.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: “No comment.”

Sprint-Nextel Co., 9 Crosby Drive, Bedford, MA – 858 Great Plain Avenue.

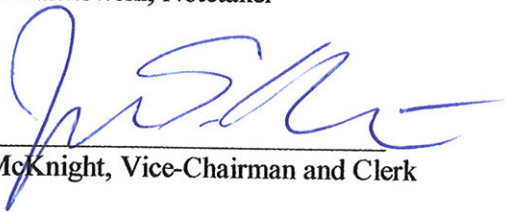
Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: “No comment.”

Discuss September dates (September 16, the third Tuesday is an election).

After discussion it was decided September 9 and 30.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to adjourn the meeting at 10:40 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

A handwritten signature in blue ink, appearing to read 'J. McKnight', is written over a horizontal line.

Jeanne McKnight, Vice-Chairman and Clerk