NEEDHAM PLANNING BOARD MINUTES

August 12, 2008

The regular meeting of the Planning Board, held in the Community Room of the Needham Library, was called to order by Martin Jacobs, Chairman, on Tuesday, August 12, 2008 at 7:30 p.m. with Messrs. Eisenhut, Handel and Ruth and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Public Hearings

7:30 p.m. – Riverview Estates Definitive Subdivision Amendment: Michael London, 80 Burr Drive, Needham, MA, Petitioner (Property located at 80 Burr Drive, Needham, MA).

Mr. Jacobs noted he was abstaining as he was not here for the first hearing. Ms. McKnight chaired this hearing. Susan Sullivan, representative for the applicant, reviewed the reasons for the continuance and noted there were issues with the wall. Nick Sivieri, of BEMA Management, explained the debris. There is a 4 foot boulder rock wall. Material was generated onsite and as the talons were working one boulder rolled over the wall to the abutters drive. He met with the abutters, put up a fence and moved the screener away from the rock wall. The construction was stopped until the fence was put up. Ms. Newman noted she spoke with the Building Inspector. The complaint from the abutter was removed and she is satisfied. They have submitted a revised plan. Engineering is satisfied with the grading per the letter date 8/11/08. They now have no comments or objections. Ms. McKnight asked about the location of the pool and was informed it was on the plan now.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by four of the five members present (Mr. Jacobs abstained):
VOTED: to close the hearing.

A motion was made to grant the decision as drafted by the Planning Director as their own. Mr. Eisenhut stated his initial concern stands. With a residential compound the square foot limitations are decided. They have been asked to extend and the decision was made to conserve space. He thinks they need to think more carefully in the future. Mr. Ruth stated he agreed with Mr. Eisenhut. He feels the behavior was cowboyesque. Work was undertaken without consultation with this Board. The conduct was not good and there is loose control of site issues. Mr. Handel voiced his agreement also.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by four of the five members present (Mr. Jacobs abstained):
VOTED: to grant the decision as drafted by the Planning Director as their own.

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

Bruce Weinstein noted this is a pre-1986 lot with a 13.7 foot side setback. They have added a note to clarify if this lot is conveyed to common ownership it will be in zoning violation. If Lot A and Lot 8B come into the same ownership the zoning violation would come into effect.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to endorse ANR.

7:45 p.m. – Major Project Site Plan Review No. 2008-06: Petite Robert Needham, LLC d/b/a Petite Robert Bistro, 468 Commonwealth Avenue, Boston, MA, Petitioner (Property located at 45 Chapel Street, Needham, MA).

Roy Cramer, representative for the applicant, noted the liquor license was transferred by the Selectmen at 7:00 p.m. tonight. They are keeping everything the same – a 100 seat restaurant with a liquor license. They have 2 other restaurants. They are requesting the same relief that was granted for Indigo and Apocrypha. He reviewed the relief and noted there are only internal renovations. Parking waivers have been granted in the past. This is the same operation. They propose the hours be Sunday through Thursday 11:00 a.m. to 11:00 p.m. and 11:00 a.m. to 12:00 a.m. Friday and Saturday. Ms. McKnight noted this was different from the application, which says Sunday to midnight in Section 1.5 and 3.3. Mr. Cramer noted it was an error but they could keep it as that. They would have 8 to 10 employees for lunch and 15 to 18 for the dinner shift. The parking supply study was done and they have 151 spaces. At 12:30 p.m., which is the busiest time, 86 spaces were taken and 65 were available. He thinks there will be a lot of walking traffic and does not feel there will be an issue with parking. He noted the DPW, Police and Fire had no comments. The Board of Health commented they want the freezer out back by the loading dock enclosed. He noted Tara Gurge had no problem as of this afternoon. Ms. Newman noted the Board has not allowed these kinds of structures in the past. It had to be enclosed, attached and the same materials. Mr. Eisenhut stated it is also an aesthetic issue so they can consider it. Mr. Cramer noted he has not seen it as it is in the back of the building. Ms. McKnight noted it is near the handicap ramp and plenty of people see there. Mr. Handel asked if they could screen it. Mr. Cramer noted it was doable. Ms. Newman reiterated they have told others it has to match. Mr. Cramer stated he was certainly willing to screen it. Mr. Handel stated he has no strong feelings but does not want an expensive solution for them. Mr. Cramer stated the way the decision is drafted now the floor plan is modified to remove that. If Tara Gurge gives the go ahead they would like it to say it is allowed. Ms. McKnight noted she does not like fences and would like a utilitarian building rather than something screened. She is very familiar with this area and noted a couple of years ago someone put up a chicken wire fence. Bob Hertschel, of Petrini Corporation, noted it was put up because the Building Inspector wanted the loading dock covered. Mr. Cramer stated it is not a real problem but they want to talk to the landlord and in the worst case the freezer could be moved inside. Mr. Handel noted he would like a picture of the freezer to see if it is worse than a stockade fence. Mr. Cramer noted Section 2.1 should be modified by either removing it or have some fencing or something acceptable. Mr. Hertschel noted they could fix the railing. Mr. Jacobs clarified Mr. Cramer's suggestion for Section 2.1. Remove the freezer from the outside and put it inside. They should add "or otherwise to provide screening or something acceptable to the Board." Mr. Jacobs asked if there were any noise issues with this freezer and was informed no. Mr. Eisenhut asked how many on site parking spaces there are. Mr. Cramer noted there are 38 on site. Mr. Eisenhut then asked if there was going to be a special spot for take-out. Mr. Cramer stated no as they feel it will be mostly employees from Needham walking for take-out. Mr. Ruth asked the percent of take-out at the other locations. He was informed less than 5 percent.

Mr. Jacobs noted the following correspondence for the record: a memo from the Fire Department with no comment; a memo from the Police Department noting no safety issues; a memo from the Board of Health regarding the freezer; and a memo from the Assistant Director of the DPW with no comments or objections.

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

Mr. Jacobs noted the typo in Section 1.6 on Page 3 has to be fixed. A motion was made to grant the requested relief as presented in 6 sub parts: a Major Project Site Plan Special Permit under Section 7.4 of the By-Law and Section 4.2 of Decision Nos. 94-3, 2000-10 and 2006-03; a Special Permit under Section 3.2.2 of the By-Law to operate a restaurant serving meals for consumption of the premises and at tables with service provided by waitress or waiter in the Center Business District; a Special Permit under Section 3.2.2 for a take-out operation accessory to a restaurant; a Special Permit under Section 3.2.2 of the By-Law for more than one non-residential building or use on a lot; a Special Permit under Section 1.4.6 of the By-Law for the alteration of a non-conforming structure; and a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements) Subsections 5.1.3 (a) through 5.1.3 (n) inclusive. Ms. McKnight noted in Section 2.1(a) the change in language by Mr. Ruth did not refer to the site plan. In the second sentence they should add "or may revise the site plan to erect a freezer accessed directly to the outside provided there is screening approved by the Planning Board." All agreed. Ms. McKnight noted the hours of operation should be consistent with the others – 11:00 a.m. to 11:00 p.m. Sunday through Thursday and 11:00 a.m. to 12:00 a.m. Friday and Saturday.

Upon a motion made by Ms. McKnight, and seconded by Mr. Eisenhut, it was by the five members present unanimously:
VOTED: to modify so as to make the hours consistent with the other restaurants.

Ms. McKnight noted in 3.10 the relief shall lapse automatically and asked if this means the Special Permit lapses also. Ms. Newman noted it does. Mr. Cramer noted in 3.20 it says "if there is a violation of conditions" and stated he was glad they picked that up. Mr. Eisenhut stated they should be consistent. Ms. Newman stated it was meant to pertain to off-site parking for employees. If that goes away, so does the permit. Mr. Jacobs noted in Section 3.10 it should state "relief granted by this decision" not "section." He stated if 3.20 comes into play they do not need this sentence at the end of 3.10. Ms. Newman noted if refers to parking only and they should leave it. Mr. Ruth noted they should strike the word "automatically." Mr. Jacobs stated if they delete "automatically" and it brings it under 3.20 the section becomes decision.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to adopt the draft decision as modified by the discussion.

Appointments

8:30 p.m. – Steve Popper: Request to authorize the Planning Director to review and approve plans for Major Project Site Plan Review No. 2004-01: Needham High School, Town of Needham, 470 Dedham Avenue, Needham, MA, Petitioner (Property located at 609 Webster Street, Needham, MA).

Steve Popper noted the request is procedural. They want to open for classes on September 3. There is no meeting before that so he would like the Board to give the Director the authority to issue a temporary Certificate of Occupancy. Mr. Eisenhut asked if the physical education classes are not completed how will access be denied. Mr. Popper stated the temporary Certificate of Occupancy is only for areas acceptable for occupancy. The gym will be fenced off and access will be denied. Ms. Newman noted she will clarify the areas adequately secured if they are not done.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to authorize the Planning Director to review and approve a temporary Certificate of Occupancy.

Public Hearing

8:00 p.m. – Major Project Site Plan Review No. 2008-07: Needham Bank, Needham, MA, Petitioner (Property located at 10 Eaton Square, 1055 and 1063 Great Plain Avenue, Needham, MA).

Peter Zahka, representative for the applicant, noted they have renovated and have access between the 2 buildings. He gave a quick history of the project. There is a connector stairway proposed between the buildings. George Giunta noted Great Plain Avenue to Eaton Square to Garden Street to Great Plain Avenue. All will be combined into one lot. They will block off one curb cut and put a stone wall all around to Eaton Square. They will pick up green space and 3 additional parking spaces for a net gain of 2 spaces. Mr. Jacobs asked the status of Eaton Square. Mr. Giunta noted it is a private way that is open and dedicated to public use. They have added language that it is a private way and engineering wanted spaces restricted to 2 hour limit. Ms. McKnight noted the landscaping. There are various bushes, some trees --oak, maple – and stated it would be nice to have another tree for shade. Mr. Giunta noted if the Board was willing to eliminate parking space 18, and agree to more landscaping, they would do that. Ms. McKnight asked who controls the parking. Could the town say they are eliminating spaces in the future? Mr. Giunta noted there are 2 meters there. His guess is the town could put more meters if they want or eliminate them. Mr. Zakha noted the engineering department required a plan with one building. Mr. Ruth asked about the operations and if the loan center is a new operation for the bank. Mr. Zahka noted it was in the existing facility. Ms. McKnight asked if they were increasing the number of employees and was informed a small amount over a period of time. Mr. Jacobs noted the following correspondence for the record: a memo from the Fire Department, dated 8/1/08, with no comments; a memo from the Police Department, dated 8/5/08, noting no safety concerns and a memo from Tony DelGaizo of the DPW, dated 8/11/08, with comments and recommendations. Ms. Newman requested Mr. Zahka speak to 4.45. Mr. Zahka reviewed the relief. They are adding 640 square feet. Section 4.45 is for an FAR to 1.5 as they closed a curb cut. They are adding 3 spaces for a total of 47 spaces with 23 in the Garden Street lot. They need 61 spaces. The illumination will be the same and has been approved by the Design Review Board. The setbacks, landscaping are a continuation of the last permit. They are requesting a continuance of the Special Permit to allow the lot to continue.

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

Ms. Newman requested they take it under advisement and she will prepare a draft decision. Mr. Eisenhut noted he would like the increased landscaping and increase the parking waiver by one space. Mr. Zahka stated he would like to consider alternatives. He would not like to lose the space. Mr. Giunta noted there is no alternative without losing a space. Mr. Zahka stated he would prefer to eliminate bushes and add a tree. Jack McGeorge, president of the bank, noted they will have a beautiful stone wall. They have added green space and do not want to lose any spaces. They are there for the customers. The wall will be more attractive than any bushes or trees. He added the stone wall will cost them $80,000. Mr. Handel stated there needs to be a tree but he would hate to take away a parking space. Mr. Giunta stated they could put shrubs around the outside and a tree in the middle.

Appointment

8:45 p.m. – Informal Discussion: Roy Cramer re: Needham Woods Corporation property on Greendale Avenue (Duncan Drive).

Mr. Cramer noted there is an issue regarding the Old Greendale Avenue frontage. They have looked at it and gave a letter. There is not a problem. They have 4.6 acres and 529 feet of frontage on Old Greendale Avenue. Instead of subdividing, they are creating one lot and selling it to Northbridge. They have determined Old Greendale is a public way from 1867 on a way. Part of Old Greendale is fine and part is in disrepair. Part is paved then it goes through the woods to Duncan Drive. It was last cleared in 2000-2001 but it is clearly there. It is passable and there is complete access in and out by Greendale. Ms. McKnight noted the distinction between a public way and a private way. It is not merely a paper street. This is consistent with case law in the area. Mr. Cramer noted they want to keep the trees and use Duncan Drive as access. He is satisfied with access and frontage. He noted the buyer is in a due diligence process. Mr. Jacobs asked when it ends and was informed in about 30 days. Mr. Eisenhut noted he would like to research a little more but trusts the experts here.

Upon a motion made by Mr. Ruth, and seconded by Mr. Handel, it was by four of the five members present (Mr. Eisenhut abstained):
VOTED: to find adequate frontage as stated in Roy Cramer's letter of 8/11/08 and as discussed.

Mr. Cramer noted he would send Mr. Eisenhut some cases. Ms. McKnight noted she would like to see a plan that shows where the frontage is. Mr. Cramer stated the final plan will show that.

9:00 p.m. – Sam Hart: Discussion regarding the Hillside Condominium Trust and zoning.

Mr. Hart noted he lives in the condos at the corner of Hunnewell and Hillside. The area is zoned commercial. The FAR is only .7 in the commercial district and he would like some level of relief. He would like to put an office in the basement. Ms. Newman noted a single residence would not allow this use. Mr. Jacobs noted he could request a change in the zoning or increase the FAR. Either one would require a change in the zoning. He explained the process to Mr. Hart. Mr. Eisenhut stated he would need to show a compelling reason and what benefit it would be to the community as a whole. Ms. Newman stated maybe modify the FAR in the Business District as it pertains to residential use. Mr. Ruth noted this Board does not have the power to change it. He would have to go to Town Meeting, they would hold a hearing and the Board would be obliged to make a recommendation. It is a big deal with a big remedy for a not so big problem. Mr. Jacobs asked if they could change the FAR where it concerns residential in the Business District.

Deminimus Change: Major Project Special Permit No. 2007-06: First Parish in Needham – Unitarian Universalist, 23 Dedham Avenue, Needham, MA, Petitioner (Property located at 23 Dedham Avenue, Needham, MA).

Carl Franceschi, on the Building Committee of the church, noted there is one minor change with the drainage system. There is variation on the way the drainage is being picked up on the west side, straight to a leaching gallery rather than piped around the building. Ms. Newman noted Tony DelGaizo approved the change. Mr. Handel asked if it affected anything offsite and was informed it did not. Ms. McKnight asked if anyone suggested the church would be more beautiful without the trees in front. Mr. Franceschi noted he would take it into consideration for the bicentennial.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to approve this as a deminimus change.

Mr. Franceschi requested relief for payment of the fees.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to waive the fees.

Deminimus Change: Major Project Site Plan Review Special Permit No. 1992-02: Walgreen's Corporation, Petitioner (Property located at 1478 Highland Avenue, Needham, MA).

Roy Cramer, representative for the applicant, noted they received approve for the work on Walgreen's. They need to adjust location of some of the windows. They need minor modifications. They have shown the changes. They had another window that was more horizontal and would like to have 2 vertical windows rather than the 2 horizontal. The old storefront is still there behind the new frontage. They want taller windows flanking the doors. Mr. Handel commented on the state of the landscaping in the lot and asked if there were any plans for that. Todd Devane noted there were plans and it will be done as soon as the permit is issued. Ms. Newman noted it has not been reviewed yet by the Design Review Board. It is going on 8/18/08. Mr. Devane noted the painted plywood will be removed and replaced with face brick to carry it around. This will be shown on the plan.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to grant the deminimus change subject to the Design Review Board and approved.

ANR – Brian Cecca under Power of Attorney, 921 South Street, Needham, MA.

Ms. Newman noted a letter from the Conservation Commission. The lots will come under the Rivers Act with the recording of the plan. Mr. Giunta noted now the 2 lots are in the same ownership. There is registered land and unregistered. There is not enough frontage by itself. They have redivided the lots to create Parcel A and added it to the other land. They are adding unregistered to registered land. They will get a Certificate of Title for Lot 13. A piece of the existing house is coming off (the porch). Mr. Jacobs noted he has a concern with the Power of Attorney limits for Brian Cecca. Ms. McKnight asked if anyone can file an application. Mr. Jacobs noted he would be more comfortable if the Lownes' signed the applications. Mr. Cramer noted they would either get the Lownes' signature or get a clearer Power of Attorney.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to endorse ANR.

Informal Discussion: Roy Cramer to discuss an addition to the Aaronson Insurance Building under Major Project Site Plan Review No. 2007-08.

Roy Cramer, representative for the applicant, noted they want to make the second floor handicap accessible. They got a variance, the Planning Board approved, the Design Review Board approved, and they got a deminimus change from the Zoning Board of Appeals. The type of lift they wanted they would not grant. They need a mechanical room to make it operational and the only place is on top of the vestibule. They would like approval, subject to Design Review Board approval. They want a deminimus change and ZBA approval. There has been no opposition to any of this. Mr. Ruth stated he could think it was deminimus only because it is a mechanical room and not usable space. Mr. Handel noted he was willing to sign off as long as they have to go to the Design Review Board. Ms. McKnight agreed.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to grant as a deminimus change subject to Design Review Board and Zoning Board of Appeals approval.

Review and Approval of final plans for building permit: 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).

Ms. Newman noted there were 2 plan modifications made. The Board signed the plans.

Discussion of Town Hall Renovation and Alternate 4.

Ms. McKnight noted at the Selectmen's meeting the architect presented Option 4 to the Selectmen. MKA Architects came to the study meeting and answered more questions. She is thrilled with it. It does not eliminate that many parking spaces and there is a separation between the old and the new with an atrium feeling. It will keep all Town Hall functioning together with a large restored Selectmen's meeting room, Town Manager and Town Clerk with Personnel on the first floor, Treasurer, Tax Collector and Assessor. The second level restores the hall. All transactional offices are on the first floor. The lower level has 3 conference rooms accessed from Highland Avenue and Chapel Street without having to open all of Town Hall. Mr. Handel noted the acoustical work will be minimal and future work will probably need fundraising. There is $2.5 to $2.8 million not covered by CPA funding. Dave Davidson is looking for money is his information. Ms. McKnight noted it needs to be restored as an auditorium basic. Mr. Handel noted the Town Manager has stated in the past she did not want performances. Ms. McKnight clarified she felt security issues were good and it is moving in a very positive direction. Mr. Eisenhut stated they should support it as the best option available and the most viable alternative to enhancing the goals of this Board. They would like a guarantee of private donations. The Board should reiterate this is the central building in town. It should have a renovation and if it costs extra it should be paid for by the town. Mr. Handel stated he does not think they should comment on the funding issue. Mr. Eisenhut stated this has the greatest potential of restoring the Great Hall to the historical and social economic function. It will enhance the vitality of the downtown. Mr. Handel noted it seems to produce a good response to the concerns raised. Ms. Newman clarified the Town Hall site is in the Single Residence B District with a 25 foot front yard setback. They could rezone it to the Center Business which works. The height is proposed at 44 feet but the limit is 35 feet in this district. The issue is what is the appropriate vehicle for allowing for this height and how to draft it. She suggests they should draft it narrowly. The height could go to 47 feet with a Special Permit in the Business District for a municipal structure. Mr. Ruth commented it was better to do it as of right. There is less process. Ms. McKnight noted they should ask Ms. Fitzpatrick what she would prefer and what she views. She noted a municipal exemption should be as of right. Mr. Eisenhut agreed. Mr. Handel noted they should let the Selectmen make the call. Mr. Ruth stated he has a bias toward a Special Permit. Mr. Jacobs agreed.

Ms. Clee noted the Selectman accepted the Fair Housing Plan and seemed pleased with it.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to adjourn the meeting at 11:20 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

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Jeanne McKnight, Vice-Chairman and Clerk