

NEEDHAM PLANNING BOARD MINUTES

June 18, 2019

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building, was called to order by Martin Jacobs, Chairman, on Tuesday, June 18, 2019, at 7:02 p.m. with Mr. Owens and Ms. Grimes, as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary Ms. Kalinowski.

Request to Authorize Director to authorize Temporary Occupancy Permit: Major Project Site Plan Special Permit No. 2017-02: Town of Needham, Permanent Public Building Committee, Petitioner (Property is the site of the new Sunita L. Williams Elementary School, located at 585 Central Avenue, 597 Central Avenue, 603 Central Avenue, 609 Central Avenue, 573 Central Avenue, 567 Central Avenue, 559 Central Avenue and 45 Sunset, Needham, MA 02494).

Ms. Newman noted the interior space will be available over time and the applicant wants the Administrative staff to be able to move in.

Upon a motion made by Ms. Grimes, and seconded by Mr. Owens, it was by the three members present unanimously:

VOTED: to allow the Planning Director to allow temporary Occupancy Permits for Special Permit No. 2017-02: Town of Needham, Permanent Public Building Committee, as applicable over time.

Request to review design: Major Project Site Plan Special Permit No. 2018-05: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 28 Glen Gary Road, Needham, Massachusetts), regarding temporary location of Police & Fire Headquarters.

Ken Sargent, representative for the applicant, noted he went to the Design Review Board (DRB) who signed off on the tent and modulars. He needed to come back in with the actual design. The location and footprint have not changed. Only the finish on the outside of the modulars is different. Mr. Jacobs noted it is hard to tell what the finish is. Mr. Sargent stated it is like a T111 finish.

Upon a motion made by Ms. Grimes, and seconded by Mr. Owens, it was by the three members present unanimously:

VOTED: to approve the final design for Major Project Site Plan Special Permit No. 2018-05 for 28 Glen Gary Road.

Request to authorize Temporary Occupancy Permit: Major Project Site Plan Special Permit No. 2018-01: Town of Needham Permanent Public Building Committee, 500 Dedham Avenue, Needham, MA, Petitioner (Property located at 1154 Highland Avenue and 92 Rosemary Street, Needham, Massachusetts).

Steven Popper, representative for the applicant, stated he anticipates opening the building partially for the July 4 festivities. He asks that the Planning Director approve a temporary Occupancy Permit for that period only. The Town will vacate the building and the contractor will resume work on the second floor after the 4th.

Upon a motion made by Ms. Grimes, and seconded by Mr. Owens, it was by the three members present unanimously:

VOTED: to authorize the Planning Director to issue a temporary Occupancy Permit for Special Permit No. 2018-01 for property at 1154 Highland Avenue and 92 Rosemary Street.

Review of Noise Criteria for Emergency/Standby Generators

Mr. Jacobs noted the following correspondence for the record: a letter, dated 5/27/19, from L.G. Copley Associates to the Town of Needham with attachments – 310 CMR; a notice, dated 2/1/1990, from the Executive

Office of Environmental Affairs regarding 301 CMR 7.10 and a letter from Christopher Heep, dated 6/18/19, regarding emergency generation. Mr. Heep, representative for the town, noted this is a general discussion for emergency back-up generators but specifically for the Hillside temporary Police and Fire station. Condition 3.36(c) of the decision stated that a “noise analysis shall be provided demonstrating that the emergency back-up generator has been designed and will operate in compliance with all applicable Federal, state and local regulations, including those addressing sound attenuation to protect the adjoining adjacent properties”. The key rule is the Mass. DEP noise policy which is 10 DBAs over ambient. The Planning Board looks at both daytime and nighttime ambient background noise levels so the nighttime makes the numbers more restrictive. Night time should not be the rule the Board uses for the levels. The generator is only tested during the day time hours. He noted the vast majority of generator use would be during the day time. He would like to use day time ambient levels for the generators.

Ms. Grimes asked if this was specific for this site or for bulk. Mr. Heep noted for bulk but mainly for this site. He wants to use day time levels. Mr. Jacobs noted there are 2 issues – testing and true emergencies. Testing is only during the daylight hours and emergencies are exempt under DEP noise policy. Is Mr. Heep saying there is no reason to measure night time ambient levels? Mr. Heep stated the policy exempts Police and Fire. He feels the use of day time ambient is the route to go.

Mr. Owens stated he is concerned Mr. Heep is seeking to make a townwide change in order to deal with this particular site. He would give an exception to this site because it is temporary and would come to an end. He is not comfortable doing this on a townwide basis. This has not been broadcast to the town and it would be nighttime if it was behind one of the schools. He could imagine an issue at the hospital. He does not like to set different rules for public and private. He would be happy for this one project but he would not make a townwide change. Ms. Grimes agreed. She would like a case by case basis.

Mr. Jacobs noted there were only 3 members here tonight and the public is not able to weigh in. He has no issue with this site. He commented he appreciated Mr. Copley’s memo. Mr. Copley stated he has done this for decades with dozens of generators and has never had a complaint. The noise is equivalent to an oil delivery truck. Mr. Jacobs suggested he perhaps bring a recording if he comes back so the members can hear what it would be like.

Upon a motion made by Ms. Grimes, and seconded by Mr. Owens, it was by the three members present unanimously:

VOTED: to go with the other standard on the temporary Hillside site.

ANR Plan – 766 Chestnut Street, LLC, Petitioners (Property located at 766 Chestnut Street, Needham, MA).

Mr. Jacobs noted the following correspondence for the record: material from Attorney Robert Smart with an application for endorsement and agreement and a memo, dated 6/11/19, from Fire Chief Dennis Condon noting the access will meet their needs. Mr. Smart stated his client, Koby Kemple, is not here. He would like to see if there are 3 affirmative votes. If not, he would like to withdraw until there are 5 members. Mr. Owens stated if 5 members were there he would vote no. With only 3 members he would vote in the affirmative. Ms. Grimes stated she is ok with this. Mr. Kemple arrived at the meeting.

Ms. Newman stated she would like Mr. Smart to make a note on the plan as to the zoning violation. The Planning Board historically requests this when one of 2 lots is to be conveyed to another party. A violation is created with regard to the height of the garage, which is an accessory structure. Mr. Jacobs stated he would like to hear the proposed note language. Ms. Newman went to get the exact language. Mr. Smart stated he thought Ms. Newman’s note was “the garage location does not conform to the 25 foot setback under Zoning By-Law 4.2.9.” Mr. Jacobs wants the note to be clear. Mr. Smart does not feel a note is appropriate. This is protected under Section 1.4. He does not believe there is anything in Section 1.4 that is to the contrary. Mr. Jacobs commented his only concern was if the Police and Fire are ok with it.

Mr. Smart read the language in Section 1.4. Ms. Newman returned and stated the note should say “after the recording of this plan, and the conveyance of either lot 1 or lot 2, a zoning violation regarding the side yard setback of the existing garage on lot 2 will occur and is hereby disclosed.” An exception was added by the Planning Board under Section 1.4.8.

Mr. Smart noted he has found no case law to support the position that a reduction in lot size gets rid of the grandfathering protection. He does not want language on the plan to prevent his client from selling. He is protected under 1.4.2 and General Law 40A, Section 6. He also believes General Law 40A, Section 7 cannot be forced against his client. Mr. Smart suggested a note that says “the garage was constructed prior to the adoption of 4.2.9 and may be protected under General Law 40A, Sections 6 and 7.” Ms. Grimes stated she does not want a note there. Mr. Jacobs stated it makes sense for Ms. Newman’s note and Mr. Smart’s additional language. Ms. Grimes is fine with that. Mr. Owens agreed.

Upon a motion made by Ms. Grimes, and seconded by Mr. Owens, it was by the three members present unanimously:

VOTED: to approve the ANR plan for 766 Chestnut Street, LLC, with the proposed note and amendment to the note made by Robert Smart.

Public Hearing:

7:15 p.m. -- Amendment: Rockwood Lane Definitive Subdivision: Wayside Realty Trust, Chris Kotsiopoulos, Owner and Trustee, 36 Rockwood Lane, Needham, MA, Original Petitioner (current owners: Hillcrest Development, Inc., and Elite Homebuilders, LLC), (Property located at Rockwood Lane consists of the dwellings currently numbered 38, 45, 46, 52, 55, 58, 63, 64 and 69 Rockwood Lane and one adjacent parcel, Needham, MA, Assessors Plan No. 17 as Parcels 71, 72, 73, 79 and 80 and Plan No. 20 as Parcels 86, 87, 88, 89 and 63), Please note that this hearing has been continued from the May 21, 2019 and June 4, 2019 Planning Board meetings.

Mr. Jacobs noted a letter from George Giunta Jr., dated 6/18/19, and read the entire letter into the record. The letter requests an extension to 7/16/19. Town Engineer Anthony Del Gaizo has made himself available but the applicant has not been available. There are 2 issues – 4,000 to 5,000 feet of land are not landscaped at all and the current calculations only take into account the subdivision and not the whole watershed. He noted a concern for the action deadline and the Tripartite agreement. Ms. Clee stated the Board had voted to extend the deadline to 8/30/19. Ms. Grimes stated she is abstaining from anything pertaining to Rockwood Lane.

Upon a motion made by Mr. Owens, and seconded by Ms. Grimes, it was by two of the three members present (Ms. Grimes abstained):

VOTED: to continue the hearing to 7/16/19 as requested.

Upon a motion made by Mr. Owens, and seconded by Ms. Grimes, it was by two of the three members present (Ms. Grimes abstained):

VOTED: to extend the applicable action deadline by the length of the extension they are granting for the public hearing.

Mr. Jacobs noted a letter from John Lee, of 85 Richard Road, with concerns.

Request to release surety: Amendment to Major Project Site Plan Special Permit No. 2007-10: Beth Israel Deaconess Hospital-Needham, Inc., 148 Chestnut Street, Needham, MA, Petitioner (Property located at 148 Chestnut Street, Needham, MA 02492).

Ms. Newman noted the project is done, all final As-Builts are done and Engineering has inspected it.

Upon a motion made by Ms. Grimes, and seconded by Mr. Owens, it was by the three members present unanimously:

VOTED: to authorize the Planning Director to release the surety for Special Permit No. 2007-10: Beth Israel Deaconess Hospital-Needham, Inc.

Correspondence

Mr. Jacobs noted a legal notice, dated 6/4/19, from the City of Newton with various items; a Planning Board notice from Westwood, dated 6/7/19, with a Special Permit decision and a 6/10/19 legal notice from the City of Newton regarding inclusionary ordinance on short term rentals. Ms. Newman stated she could get more information on that.

Report from Planning Director and Board members

Ms. Newman stated she is working with Natasha Estada to get ready for the workshop on rezoning alternatives. She has developed some additional drawings. Ms. Newman had a meeting with Roy Cramer on the Staples site. There is a proposal to redo the look. The applicant will be revising the exterior of the site and adding some co-worker space and conference room. She told Mr. Cramer he would need a de minimus change per the permit. Mr. Cramer told her the DRB has approved. Some interior walls will be put up and the entire façade is changing. Ms. Newman noted the permit says "construction in accordance with the plans and any changes shall require approval by the Planning Board." The applicant received a Special Permit because the retail use was above the threshold. Mr. Owens commented delaying the applicant one month is a serious step to take. He does not hear anything substantive. Ms. Grimes stated the DRB is approving the façade change. Ms. Newman noted she does not feel comfortable ignoring a condition. If the Board would like to do that she will go along with it.

Upon a motion made by Ms. Grimes, and seconded by Mr. Owens, it was by the three members present unanimously:

VOTED: to state if the DRB has already approved the exterior and façade changes and all other changes are interior and there are no parking count changes, 3 members believe coming in is unnecessary.

Ms. Newman noted she reviewed the information and drawings Natasha has done so far. She showed an FAR of 1.35 with a smaller scale with parking beneath and 42 feet. An FAR of 1.75 needs to go on the corner at 70 feet. Mr. Owens stated he likes defining the corner. Ms. Newman stated it is a good urban development. Ms. Grimes feels it is important to show everything that could be done. Mr. Jacobs agreed.

Upon a motion made by Ms. Grimes, and seconded by Mr. Owens, it was by the three members present unanimously:

VOTED: to adjourn the meeting at 8:25 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Elizabeth Grimes, Vice-Chairman and Clerk