

NEEDHAM PLANNING BOARD MINUTES

February 4, 2020

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, February 4, 2020, at 7:05 p.m. with Messrs. Owens, Alpert and Eisenhut and Ms. McKnight, as well as Assistant Planner, Ms. Clee.

Public Hearing:

7:05 p.m. – 390 Grove Street Definitive Subdivision Amendment: Elisabeth Schmidt-Scheuber, 390 Grove Street, Needham, MA, Petitioner (Property located at 390 Grove Street, Needham, MA).

Upon a motion made by Mr. Owens, and seconded by Mr. Alpert, it was by the five members present unanimously:

VOTED: to waive the reading of the public hearing notice.

Mr. Jacobs noted the following correspondence for the record: a legal notice, a letter, dated 1/3/20, from George Giunta Jr., an 11/22/19 application; Exhibit A & B; a letter from the applicant authorizing George Giunta Jr. to represent her; a proposed subdivision plan dated 7/20/18 and revised 10/4/19; comments from the Public Health Department, dated 1/27/20; a letter from Assistant Town Engineer Thomas Ryder, dated 1/29/20, with comments; an email from Fire Chief Dennis Condon, dated 1/30/20, noting he is satisfied; an email from Police Chief John Schlittler, dated 1/30/20, with no issues; a letter from Janet Bernardo of the Conservation Commission, dated 2/4/20, with comments; and letters of opposition from Robert and Kalliope Badavas, of 402 Grove Street, dated 2/1/20, Josh and Carrie Benet, of 403 Grove Street, dated 2/3/20 and Paul Geddes of 461 Grove Street, dated 2/3/20.

George Giunta Jr., representative for the applicant, noted this is parcel 9 on Assessors Map 229. This is 5.3 acres of registered and unregistered land with 573 feet of frontage. This will be subdivided into 2 lots each with a house. This can be done by right. This is the Single Residence A (SRA) District and a rural part of town. The proposal is less intensive and scaled down. There is a 40-foot wide layout with 18 feet of asphalt. There is a super elevated sloped to a swale on the side. Each lot has more than an acre and over 200 feet of frontage. The applicant is proposing pervious pavers to minimize the asphalt with a landscape circle in the center. It would look more like a common driveway but loop around for emergency access to get around.

Mr. Giunta Jr. reviewed the waivers which include a private way, post lights, waivers of layout width from 50 feet to 40 feet, pavement width from 24 feet to 18 feet and for the length of level area at the intersection of streets from 50 feet to 30 feet. David Kelly, of Kelly Engineering, noted other waiver requests are required pavement radius width, curbing requirements and sidewalks on both sides. Mr. Alpert asked for clarification on the sidewalk waiver. Mr. Giunta Jr. stated they would like the sidewalk waived on both sides. Mr. Eisenhut stated sidewalks do not have to be paved. It could be a pervious surface. Mr. Giunta Jr. noted this is only for one house and he does not feel there is a need for sidewalks.

Mr. Jacobs asked why the Public Health Department would not approve of a waiver of sidewalks. Ms. Clee stated they are trying to promote safety and trying to be consistent with the requirements. It was noted there are no sidewalks on Grove Street. Mr. Kelly noted, for the drainage, the road is elevated on the southern side with double catch basins at the bottom to catch the water, which then goes into a manhole to a subsurface system to the municipal system. There is a net decrease in runoff and volume. Mr. Giunta Jr. stated his client is willing to either donate land to the Conservation Commission or convey a Conservation Commission restriction. That could be a plan revision.

Mr. Eisenhut stated the waivers will need to be called out in the decision with an explanation of why the waivers are necessary. Ms. McKnight noted the different lighting is not called out in the list of waivers. She asked how the lights were different. Mr. Giunta Jr. stated there is a certain amount of illumination. Engineering has

deemed the lighting to be acceptable. He is not sure it is a waiver. Ms. McKnight asked if the DPW comments would be reflected in the revised plans. Mr. Giunta Jr. believes the changes have already been made. He noted discussions with Engineering have already happened. Mr. Alpert had no comments. Mr. Owens stated he is not a fan of houses in the back yard of others. He is opposed purely on aesthetics. He would let them build as of right but is not in favor of any waivers.

James Curley, of 380 Grove Street, stated he has spoken with several people regarding this. Sheet 3 is not “as of right” as there are no sidewalks and the tree that is shown is on his property and will not be coming down. If the Board agrees to allow this he would request the waivers be approved. This is a very narrow lot and he would ask the driveway be moved 10 feet further from his property. He noted the applicant wants to put 2 small houses on a lot for one house. He would also like a tree line planting plan with mature plantings. He would like the Board to consider specific waivers and would like the FilterMitt moved from his property. If approved he would like the Board to require strict adherence.

Mr. Giunta Jr. stated a sidewalk could still be put around the plan. It could be shifted but the waiver of sidewalks has been the norm. Moving the driveway 10 feet would make it too difficult to build on one of the lots. The applicant would resist that change. Ms. McKnight noted on the north side there is an 11 foot parkway with a paved part. She would like some place for snow storage if there are more plantings. Mr. Kelly stated he would work with Mr. Curley on the tree and the FilterMitt would be moved.

Nicholas Kourtis, of 21 Surry Lane, noted the Badavas’ could not be here and asked him to represent them. The Badavas’ do not believe this lot should have 2 houses. They would be looking directly into someone’s back yard and side yard and would like high screening as part of this plan if approved. He noted the Badavas’ are the property owners to the south. Mr. Giunta Jr. noted some screening comes with most development. He hesitates to make it part of the subdivision plan. There should not be an issue planting along the north and southern lines. Mr. Curley asked if reasonable screening could be enforced. Mr. Eisenhut stated it would be enforced. It would be put on an agenda for discussion. The Board has the authority to enforce if the conditions are not done.

Josh Bennett, of 403 Grove Street, stated he is right across the street. A project was recently done and Sabrina Lake needed to be protected. A berm was put in and he wants the Planning Board to be mindful of that. Ms. Clee stated a plan modification should be done with comments from Engineering and the Planning Board comments from tonight. Mr. Alpert noted there are some issues for the Planning Board to discuss. He feels the hearing should be continued. Ms. McKnight stated Mr. Kelly has the plan modification. She feels it would be helpful to have the modifications for the continued hearing. She stated the landscape plan will be approved later but questioned if the proposed 11-foot buffer on the north side is sufficient.

Upon a motion made by Mr. Alpert, and seconded by Mr. Owens, it was by the five members present unanimously:

VOTED: to continue the hearing to 2/18/20 at 7:00 p.m.

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

Robert Smart, representative for the applicant, noted this is 6.6 acres owned by Koby Kempel. He would like to divide it into 2 lots. There is an existing house and an existing 15 foot right of way dating back to 1914. The proposal is to divide it into 2 lots in front of the right of way and build a new house on the lot closest to Chestnut Street. The parcel is up against a non-buildable lot on Chestnut Street (Mr. Jacobs noted Parcel A1 for the record). Mr. Smart stated the lot is larger than required under the By-Law. The issue is the frontage off the 15 foot right of way. He suggests creating a turnaround for the fire vehicles partially on Lot A and partially on the unbuildable lot. The Fire Chief feels a 15 foot right of way is not sufficient for fire vehicles and wants 18 feet. The Town Engineer suggested creating a 25 foot access and easement. There is going to be a subdivision proposal filed in the future.

Mr. Jacobs asked who the 25 foot wide right of way easement would benefit. Mr. Smart stated it would be a benefit to the town for emergency vehicles. Mr. Alpert stated there needs to be 18 feet of pavement and asked if that is shown on the plan. Mr. Smart stated that is not part of the plan. It can be added to the plan. Mr. Piersak

owns in the back and will be filing a subdivision plan. He will be using the 40 foot right of way, which will be the road. He noted Mr. Kempel would like to get started with a single family house on Lot A.

Mr. Kempel noted 3 Planning Board members endorsed the plan previously, then Engineering asked for changes. He has done everything he has been asked to do. He would like to get moving on this. Mr. Jacobs noted the following correspondence for the record: the approved prior endorsement; a letter from Attorney Robert Smart, dated 1/7/20, with exhibits; a 1/22/20 email from the Fire Department, a 1/22/20 email from Tony Del Gaizo with concerns; and a legal memo from 2001. He noted there is no letter from the Police Department. Mr. Smart stated the Police had the opportunity to comment but did not.

Mr. Eisenhut stated he does not feel this qualifies for ANR based on the Costanza North Reading case. He has never seen an ANR with notes attached for future things to be done. Mr. Alpert stated he has a plan from the Town of Wellesley with a note so he has seen these types on notes on ANR plans. The Board could put a condition on the ANR that the 18 foot wide pavement is to be constructed by X date. Mr. Eisenhut stated he is reluctant to grant things with future work to be done.

Ms. McKnight stated the way on the ground in existence now has to be adequate. She will not endorse this. The applicant will need to go through the subdivision control process. Mr. Alpert stated he is trying to find a way to grant this. He asked, if the applicant paved the 15 foot road, then came to us, would Ms. McKnight be satisfied. Ms. McKnight stated she would not be satisfied as it was not in existence at the time the Subdivision Control Law was accepted by the Town. Mr. Smart stated there is no talk about changing the width. The access easement is across the property. This has been an extensive process. He has met repeatedly with the Fire Department and Engineering. He has talked with Ms. Newman and this is what they collectively came up with. Mr. Owens stated he has a simple view of this. If it satisfies the Town Engineer and Fire Chief he is ok with it and would vote in favor.

Mr. Alpert stated the easement may have to go to the Town. Ms. McKnight noted a way in existence having sufficient width does not meet the adequate access standard. Mr. Eisenhut noted in Polas vs. Braintree in 1992 there must be adequate access at the time of endorsement. Mr. Smart suggested he work with Ms. Newman for language on the plan for an 18 foot paved width with more detail and bring it back to the Board.

Bill Piersack, of 768 Chestnut Street, stated the way has been created. The first house was built in 1929. Before that there was a cart path. His property has 3 houses and one was sold off. He is coming in off the existing drive which is better than the option of creating a new drive. Mr. Jacobs and Mr. Alpert would like to read the 2 cases that Mr. Eisenhut mentioned. Ms. Clee noted she will need a verbal request tonight from the applicant to extend the action deadline then a written request tomorrow. Mr. Smart will provide a letter and review the other case for language.

Upon a motion made by Ms. McKnight and seconded by Mr. Alpert, it was by the five members present unanimously:

VOTED: to extend the action deadline for 766 Chestnut Street for an additional 2 weeks.

Discussion regarding Pediatric Medical Facility Zoning Article – Children’s Hospital.

Mr. Jacobs noted this is a proposed zoning amendment. He noted the following correspondence for the record: a memo from Sean Manning and Ryan White, dated 1/24/20, regarding on-site parking. Robert Smart, representative for the applicant, noted he has a Citizen’s Petition with 37 signatures that will be put on the warrant. There will be some changes. The Special Permit use will not be as of right and the definition of young adult has been provided, which is under the age of 26. He ran the language by Town Counsel and he is happy with it. He noted Ms. Newman wants the parking analysis to be a peer review. In the past the town has used BETA. He would like this to begin as soon as possible. Mr. Jacobs agrees an independent should look at it. Mr. Smart is hoping BETA can get this done quickly.

Discussion of Highland Commercial 1 Zoning initiative and follow up from Needham Heights Neighborhood Association meeting.

Mr. Jacobs stated he spoke with Ms. Newman. Ken Ho from BETA will need a month to do a new traffic study and this needs new traffic counts. He noted the following correspondence for the record: an email, dated 1/27/20, from Elizabeth Handler; an email, dated 1/26/20 from Joseph Leghorn; a Special Town Meeting Warrant; a 1/28/20 letter to Select Board member Marianne Cooley from Terence Ryan and a letter from Elizabeth Kaponya, dated 2/1/20, to the Select Board.

Mr. Owens stated there are a couple of options. If this goes on the May Warrant the language would need to be finalized tonight. If it is for the Special Town Meeting within the Annual the language would need to be completed in 2 weeks. It could be deferred to next May. There is no sense in bringing it back in the Fall. The Board needs to be less substantive and more educational. There is a lot of groundwork needed and discussions on how to modify what the Board did before. There is a lot of educating to the Finance Committee and Town Meeting members needed. A lot of concerns were heard and there is a large amount of work needed to get this on this warrant as an article. He does not think it is possible and is inclined to wait. Mr. Eisenhut agreed.

Ms. McKnight agrees. She stated it was made very clear they should not resell what was before Town Meeting previously. She feels the Board should start planning now for next May's Town Meeting. Mr. Alpert agrees it is not ready for this year. Some excellent comments were made such as sustainability and green space. There is a lot to discuss. He is comfortable with October or next May. Mr. Jacobs agreed.

Terence Ryan noted he sent a letter to the Select Board. He feels it is exciting to think of something new. There have been a lot of ideas with 55 and over communities or a sports complex, taller buildings on the Mass DOT side for a noise barrier and green space on the Gould and Highland side. Mr. Owens stated there needs to be a clear distinction between zoning by-law details and what the developer may later come up with. That is part of the educational process. He noted the Planning Board does not design projects. Mr. Ryan stated he lives on Evelyn Road and stares at the 3-story Wingate building. He wants to be involved. Mr. Jacobs noted there will be many hearings for ideas and discussions.

Adam Block, of the Needham Heights Neighborhood Association, asked what the Select Board thinks about a one-year wait. Mr. Jacobs noted there is one member who would go along with the Planning Board decision. Mr. Block stated there is a lot of concern with what the potential could be and a lot of misinformation. He feels the discussion was exceptionally well received. He asked about the timing and noted that while the town waits, the owner could develop the property, could reduce the open space people asked for and there could also be economic changes in the future. There is a need to understand the public interest. It is clear the Planning Board has a good ear for that.

Update on Economic Development Director.

Mr. Jacobs noted Town Manager Kate Fitzpatrick does not feel the position of Economic Development Director is a management position and does not think the job should be under the Planning Director. She feels the position should be under herself or her Lieutenant. He talked with Ms. Newman and understands it is done both ways in towns. Ms. Newman has no objection either way. She noted a big part of the job was being staff for the Council of Economic Advisors (CEA).

Ms. McKnight stated it is up to the Town Manager and the Planning Director if this better suits the town. Her concern is the CEA was going ahead and the Planning Board has not really been engaged. If this position is apart from the Planning Department there may be less interaction. She sees the goal as long term planning for the Town and wants to keep communication open. Mr. Eisenhut agreed. Mr. Jacobs noted Devra Bailin had a zoning background which was a large part. Mr. Alpert stated the statutory mandates need to be looked at. He feels it may need to stay because the Planning Board is charged with long-term planning and should have a tie to this position. He would look at it. The CEA is an advisory Board to the Select Board. Mr. Owens supports that idea. He would not have an issue with the Economic Development Director reporting to the Town Manager. He is ambivalent. This will be discussed more on the 2/18/20 agenda.

Appointment to Emery Grover Working Group.

Mr. Jacobs noted Ms. Grimes was on this working group. Ms. Clee stated this committee meets monthly and there are only one or 2 meetings left. They would like a Planning Board member to help wrap the project. This will be discussed at the 2/18/20 meeting.

Board of Appeals – February 13, 2020.

Wesley and Suzanne Wildman -- 217 High Rock Street.

Mr. Jacobs commented there is a lot more impermeable space on this lot. There should be permeable pavers.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. McKnight, it was by the five members present unanimously:

VOTED: to comment there should be permeable pavers.

J. Derenzo Properties, LLC – 123 Pickering Street.

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

VOTED: “No comment.”

Ms. McKnight stated the Building Inspector said there is nothing in the By-Law that gives guidance on what a 2-family is. On Maple Street there is one house behind the other connected with a roof. The Board should put this on a list of things to consider and amend the By-Law to interpret 2-families.

Minutes

The Board members passed in comments.

Correspondence

Mr. Jacobs noted the following correspondence for the record: a letter from the Littleton Town Planner, and an article in Wicked Local Needham titled “Needham Officials warn of Amazon distribution center if zoning plans founder.”

Report from Planning Director and Board members.

Mr. Jacobs stated a comment was made and he asked if the Board wants to change their policy to televise meetings. He wants the members to think about it. He noted there is a draft final report with a lot of data and tables for Needham 2025. There is a snapshot in time of what the town looks like now. He noted the consultant has time left. They could look at the Chestnut Street corridor and he added the Muzi site. This may give them some ideas regarding the Muzi site.

Upon a motion made by Mr. Alpert, and seconded by Ms. McKnight, it was by the five members present unanimously:

VOTED: to adjourn the meeting at 9:44 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk