

NEEDHAM PLANNING BOARD MINUTES

February 18, 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 18, 2020, at 7:00 p.m. with Messrs. Owens, Alpert and Eisenhut and Ms. McKnight, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Jacobs informed the public there is a request to continue or postpone the ANR Plan for 766 Chestnut Street until the 3/17/20 meeting. If this agenda item is postponed, Mr. Jacobs will take an update on the Children's Hospital Citizens Petition.

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). Please note: this hearing has been continued from the February 4, 2020 meeting of the Planning Board.

Mr. Jacobs noted the following additional materials for the record: a letter, dated 2/11/20, from Domenic Colasacco in opposition; a letter, dated 2/11/20, from James Curley in opposition; a letter, dated 2/11/20, from David Kelley, Senior Project Manager for Meridian Associates, attaching revised subdivision plans for the site and describing the vision; Planning Board comments from the last meeting; a 2/14/20 email from Domenic Colasacco and a letter dated today from Marsha Salett in opposition.

George Giunta Jr., representative for the applicant, reviewed the changes made to the plans due to comments from Engineering and comments from the last meeting. For the Engineering comments, the plan was revised to show the culvert under the driveway which changes are on Sheets 5 and 6. Also, the subsurface filtration basin was redrawn to be the size in the drainage calculations. A note was added at the Town Engineers' request regarding overflow into the town system.

Mr. Giunta Jr. noted the changes made due to the Planning Board comments included a change to Lot 2 to carve off a piece in the back (Parcel B), and regarding an existing tree on the property line, a note was added that the tree was to remain and be protected. A note was also added that the FilterMitt is to be one foot off the property line. Over 2 acres are to be donated to the town for conservation land. He clarified the list of waivers and the reasons for the requests. He noted this project could be done as of right. Sidewalks on both sides have been consistently waived and a waiver is requested, but there is room to put sidewalks all the way around. The plans are showing a 40-foot wide road with 24 feet of pavement, a 4-foot sidewalk on one side and a planting grass strip on the other side.

Mr. Giunta Jr. stated it was not logical to have 24 feet of pavement to one house. The applicant has proposed a more attractive subdivision with a lot less pavement. This could be done without waivers but it does not make sense. The owner is giving away over 2 acres of land to the town to help preserve the environment. He feels it is an appropriate design with minimal impact and he is asking the Board to approve the request. Mr. Eisenhut noted an issue was raised that the way be moved over. He asked if there was any consideration given to that. Mr. Giunta Jr. stated the road is 11 feet off the property line. The request was the road be moved an additional 10 feet. The lot is being squeezed on the other side and it makes a significant negative impact. The applicant would need to completely redesign the circle and push the swail more into the lot making it difficult to work in that lot. Mr. Eisenhut asked if it would be manageable to move it 2 to 3 feet. Mr. Giunta Jr. stated it may be able to be moved 2 feet but he is not sure of the benefit.

Ms. McKnight noted the movement of the FilterMitt lacks a foot mark. She asked if the dotted line near the rear of proposed Lot 2 is a utility easement right-of-way. Mr. Giunta Jr. noted it is an easement. It may be a drainage or sewer easement. Ms. McKnight feels the plan should indicate what the easement is for and who holds it. It seems incomplete and should be shown. Mr. Giunta Jr. believes it may be an old private easement. Mr. Alpert stated there needs to be clarification on that. Ms. McKnight noted one condition is significant trees over a certain caliper need to be noted and saved to the extent possible. There was a discussion of the feasibility of that with these 2 houses. Mr. Giunta Jr. stated typically that is not done due to the cost and it is not required. It is a significant effort and takes days or weeks. He would not recommend his client to do that. The trees are all marked on Sheet 5 and it has the trees to be removed. Ms. McKnight asked if any trees were marked for removal that could be saved. David Kelley, of Meridian Associates, noted there may be a couple that could be saved.

Ms. McKnight noted the letter from Mr. Colasacco requesting as few trees as possible be removed and the Board consider fire access to the rear lot. This has already been considered. The Fire Department reviewed and approved. She asked if there are any fire hydrants. Mr. Jacobs noted one fire hydrant is being proposed. Mr. Alpert stated he is concerned with the comments made by Mr. Curley regarding trees and the property line. He asked if a field survey was done and the property line delineated on the ground. Mr. Giunta Jr. noted this was done recently. Mr. Alpert asked Mr. Giunta Jr. if he would meet with Mr. Curley regarding the property line and the trees and he agreed. Mr. Kelley stated the trees along the property line will be saved and are depicted on the plan.

Mr. Alpert asked if there could be a condition that is agreeable to the abutter regarding a landscape plan that provides screening for the abutter. Mr. Eisenhut stated there will be language in the decision. Ms. Newman stated the Board will require landscaping along the property line and that the requested plan be received before the subdivision plan decision to create a dialogue that would be satisfactory to all. It should be reflected in the decision. Ms. McKnight does not want to see rows of arborvitae. She would like some trees and plantings and some space for snow.

Mr. Alpert asked if the applicant has spoke to the Conservation Commission as to what they would like with Parcel B. Mr. Giunta Jr. noted either a deed or a restriction would be fine with the Conservation Commission. Ms. Newman noted a deed would be best. Mr. Owens stated there are benefits of all waivers. Parcel B is not buildable so there is no value of that piece. All the waivers are done to improve aesthetics and the environmental impact of the subdivision. He asked if there is no benefit to the current property owner from the waivers. Mr. Giunta Jr. noted there is some benefit. The reduction of infrastructure costs is not significant but there is a benefit of reduced pavement.

Mr. Owens feels there is an attempt to disguise a road as a driveway. He is not swayed by the argument. He asserted that Mr. Giunta Jr. has said the Board has made so many waivers that the subdivision rules have no meaning any longer. He disagrees with that. He would do away with 2 house lots. He does not think this is a good idea and would not vote in favor of the waivers. This is not beneficial to the town and is not aesthetically attractive to the abutters. Only 2 homeowners would benefit. Ms. McKnight noted the letter from Ms. Salett describes the easement as a gas easement.

Mr. Jacobs commented he heard what Mr. Owens said but he disagrees. If Mr. Giunta Jr. is correct this could be done as of right with a wider drive and a larger circle at the end. What is being shown is preferable. He has concerns with the landscaping to the north and south borders of the property. He would be in favor of moving the access drive 2 feet to the south with a slight jog to the right. That could save a couple of trees. He suggested the applicant think about that. All are in favor of reducing impermeability. He asked to what extent could the drive be made out of permeable material. Mr. Giunta Jr. noted there are sections of the drive that are permeable around the circle but not the rest. Engineering prefers not to see permeable pavers for the main drive.

Ms. McKnight stated she likes the suggestion of moving the drive to the south. She would like the drainage system explained. Mr. Kelley stated the road is super elevated to the south with a vertical granite curb with the water flowing westerly to the gutter to a double catch basin to a drain manhole to the large subsurface system.

James Curley, of 380 Grove Street and a direct abutter, stated he measured the street. If you take the proposed 8 foot buffer and add 4.5 feet of sidewalk and 3 feet of grass buffer after that you are at 7.5 feet. They have 4 feet of tree that would block the sidewalk and that tree cannot be touched. He asked how the applicant could build the sidewalk. Mr. Jacobs noted that Mr. Giunta Jr. conceded that, as shown, Mr. Curley is probably right but the applicant can show it. Mr. Giunta Jr. stated essentially, and legally, because the Board has waived sidewalks so often to not do that now would be capricious.

Mr. Curley stated he is concerned with the placement of the road. The applicant has not shown an as of right plan. He does not want a road or driveway near his property line. He does not want the roots of the old trees dug up and disturbed. Mr. Jacobs noted the plan shows a single tree to be protected. Are there other trees on his property? Mr. Curley stated there were at least 3 or 4 with substantial root systems on his land. Mr. Kelley stated the impact to roots is minimal to none. Mr. Jacobs stated all efforts should be made to protect the trees. Mr. Curley stated one lot is entirely in the woods and would be clear cut. He is concerned with his privacy. Domenic Colasacco, a direct abutter on the south side, agrees with Mr. Owens remarks. He wants to reiterate the entire rear part of the property is tall mature trees. A house cannot be built without taking down trees and they will want a yard also. It would be an environmental detriment to the wetlands. The land being given is entirely wetlands and protected. He has been planting trees for 20 years on his property. He would not like to see the property next door clear cut. He feels the entire request is about money. It is far less to build a driveway than a road. This also increases the size of the lots and the value.

Mr. Giunta Jr. stated the buffer zone is halfway into the rear lot. There would be some cutting for the house and yard but there would be no clear cutting. Mr. Kelley stated the 20-foot buffer around the house would not be cut. Mr. Alpert discussed the Conservation Commission rules and regulations. He noted if this is mature growth the applicant would not be allowed to cut in the 50-foot buffer. Mr. Giunta Jr. stated there is no plan to cut within the 100-foot buffer. There is plenty of room to stay outside the buffer. There is a total 3,500 square foot footprint and yard outside with plenty of room. Mr. Colasacco stated the 3,500 square foot footprint is the foundation. He feels it would be cut. He understands there would be certain restrictions but providing the waivers to make the road into a driveway would make all this possible.

Ms. McKnight suggested there be a condition that no trees would be disturbed outside of the tree line shown on the plan. Mr. Colasacco stated the Board may put in a condition but he is concerned trees on his property may be cut. If the Board allows waivers the second house will be built. This should continue to be the single family lot it has been for 100 years. Mr. Alpert stated there is nothing right now to prevent the owner of the lot from tearing down the house, putting in a 7,500 square foot house, cutting down all the trees and putting a driveway to the back. This is always in the back of his mind. He feels the waivers, and putting in conditions, is the better alternative. It is basically a driveway as it is only going to one house. He is concerned with what they could do as of right without coming to the Board.

Mr. Colasacco stated the owner could not put 2 houses there. He is concerned with his privacy. He believes this is a good lot for one house in the front. Nicholas Kourtis, representative for the Badavas', agrees with all the comments. Grove Street is a beautiful street. The screening is a good concept but a low grade alternative. Two story houses would change the nature of the area. People deserve better than that and deserve some consideration in this single family area. The Planning Board should protect the rights they pay for. Mr. Jacobs reviewed the changes that had been talked about – moving the entrance “way” driveway paving 2 feet to the south; investigating a little jog in the road to the rear of the first house to save existing trees; landscape plan working with Mr. Curley and other abutters on the north and south; label the easement and saving trees outside the building envelope.

Mr. Alpert asked what the Planning Board could do if the applicant violates the tree restriction. Ms. Newman stated they would be called in and the Board would find a way to mitigate. Mr. Eisenhut noted it could be recorded as noncompliance. Mr. Alpert stated, subject to reasonability, the Board could hold up the decision if the discussion

with the abutters is not done. Ms. McKnight commented the property line is labeled as the approximate property line. Mr. Kelley stated it is a true survey, stamped by a surveyor. He can remove the word "approximate." Ms. McKnight noted there is no tree line. Mr. Kelley will add the tree line to the plan. He could have that done in 2 weeks. Ms. Newman stated she would need to get the plans back so she could prepare the decision.

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

VOTED: to continue the hearing on 390 Grove Street to 3/17/20 at 8:30 p.m.

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

Mr. Jacobs noted a letter from Attorney Robert Smart requesting to postpone until the 3/17/20 meeting and extend the action deadline to 3/24/20.

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

VOTED: to extend the action deadline to 3/24/20 and postpone the meeting until the 3/17/20 meeting.

Report from Planning Director and Board members.

Tim Sullivan, representative for Children's Hospital, stated he has a Citizen's Petition to allow pediatric medical facility use and has also proposed a parking standard. The Board desired a special permit use. The expectation is before the public hearing he would submit information on the parking standard, then it would be sent to a peer reviewer. For traffic, he expects to submit a trip generation analysis to be reviewed by the Board. Then he would come in to amend the special permit and will have the traffic study. He wants to make sure all are on the same page.

Mr. Jacobs stated Ms. Newman met last Friday with Board Chair and Vice Chair and Town Engineer Anthony DelGaizo, who has concerns regarding traffic at Third Avenue and Kendrick Street. There would need to be a substantial upgrade. They spoke about what the scope of work would be with Beta. Ms. Newman asked Beta to do a scope of work for a parking peer review and traffic analysis with use and trip generation. They are collecting new data as the other data is 5 years old. They are looking at the impact of development, what improvements would need to be done and the cost of those improvements. Mr. Jacobs stated Beta came up with a proposal. The second part has a significant cost. Children's Hospital would prefer not to do that now. What does the Board want to say at Town Meeting?

Mr. Sullivan stated Beta cannot do a traffic study on information they do not have. He feels this is the right level of analysis. Mr. Alpert is concerned where the Finance Committee will come down if they cannot get a traffic study. Mr. Eisenhut suggested it be explained at Town Meeting there is no special permit application but a zoning change and show the existing use and what the proposed would do. It is at the applicant's risk. Mr. Alpert is confident the traffic could be mitigated at the special permit level.

Ms. McKnight noted the concern was that questions would be asked about what traffic improvements would be needed. Normandy said they would pay for the Kendrick Street improvements. Mr. Jacobs noted that was an oral representation by someone that is no longer there. Mr. Alpert stated the town needs to spend \$1.5 million to \$2 million to fix the intersection. Someone has to spend it. He asked if it has anything to do with what Children's Hospital needs to do. It needs to be reconfigured. It could be said to Town Meeting that they could pass the zoning but it would not force a reconfiguration at Third Street and Kendrick Street.

Mr. Owens stated if Mr. Sullivan is willing to accept the risk that is fine. He is willing to let Children's Hospital accept the risk but he has no idea what will happen. Mr. Sullivan stated he is submitting a trip analysis. There is a

traffic study they are comparing this use to. Mr. Alpert suggested Children's Hospital address the issue when they are making their presentation. Ms. Newman noted Task 3 needs to be modified a little. One question was how much floor area was general office as opposed to medical office. Mr. Jacobs stated, as guidance for the Planning Director, the parking evaluation is Task 1 and Task 3 needs to be reevaluated a little bit.

Determination of Proposed Use – Self Storage (Property located at 77 Charles River Street, Needham, MA.)

Paul Ferreira, of Blue Hawk, stated he was here many months ago to see if they had an acceptable use. He came across a use application and came to get some guidance if the use is acceptable. He prepared an analysis and submitted it recently. He noted the project has not changed. He got an inquiry by a telecommunication carrier recently and configured it to be identical to the self storage because the use is similar but there is no parking definition. He would like a determination that the portion of the project that is self storage would be a use allowed by special permit in this district. Self storage has not been a use enumerated in the By-Law.

Mr. Jacobs noted he was looking at (e), the last paragraph in Section 3.1 in the By-Law. The Planning Board could determine similar in kind and similar in use. What use allowed by special permit, in this use, are you comparing to? Greg Sampson, of Brown Rudnick LLP, noted (e), which is equipment rental services, and he would also compare it with the telecommunication use which is a passive use. The traffic impacts are benign. A parking garage is allowed by special permit and consumer services establishment is acceptable. Also, (i) wholesale distribution facilities.

Mr. Alpert stated the word "storage" was purposely removed in the Mixed Use 128 District. People said they did not want to see facilities like Gentle Giant. Mr. Sampson stated Watertown just approved storage use. The opponents were about aesthetics. When you look at uses, traffic needs to be looked at closely. In Watertown the design and low passivity of the use was what passed it. He feels a self storage facility is similar in kind to other listed uses. Mr. Jacobs noted the following correspondence for the record: the minutes of 10/22/19; a memo from Ronald Ruth dated 2/15/19 and 10/17/01 minutes from the New England Business Center Sub Committee meeting. Mr. Alpert stated those are the minutes where the word "storage" was taken out. Mr. Jacobs also noted the Council of Economic Advisors (CEA) minutes of 12/5/18, CEA minutes from 5/1/19 and a letter received today from William Curtis from Cresett Group.

Mr. Eisenhut stated he appreciates the aesthetics of design but there are many reasons storage is not intended in this district. Mr. Sampson stated Mr. Curtis does not own any property in the Mixed Use 128 District. He has spoken with the abutters and received support. There are only 4 landowners in Block A. He has reached out to 40% of the landowners and all owners in Block A and could not make a deal. He is not sure why this use is not acceptable and similar. Mr. Ferreira stated he is not looking to get it approved as an as of right use.

Mr. Jacobs noted, speaking for himself, he likes this and thinks it would work but they need to find a way to make it fit in the By-Law. After a discussion Mr. Ferreira asked, in the Board's view, if they scrap storage and come forward with telecommunication would that be ok. Mr. Alpert stated that was an allowed use. Mr. Eisenhut stated storage use is not called out and he could not get past that. Mr. Ferreira commented he is relying more on similar in impact. He feels it is hard to believe anyone would say telecommunication is similar in impact to self-storage. Mr. Alpert noted storage was deliberately taken out and it is hard to get past that. He likes the design and wishes it could work.

Mr. Ferreira asked if going to Town Meeting with a Citizen's Petition is a potential option and was informed it was. He asked if the Board would support a zoning change. Mr. Jacobs stated if the details are there the Board could support it. What would the zoning change be? Would they be adding storage or specifically self-storage? He stated there would have to be meetings and the applicant would have to make a request to the Board in some form that they adopt as the Planning Board Article at the next Town Meeting. That would start the process. He feels there should be discussion about retail on the first floor.

Ms. McKnight stated, in her view, she does not feel any of the uses mentioned are similar in kind to self-storage. The argument is that storage was purposely taken out because no one intended that use. She does not feel anyone felt this use is appropriate. That is a use allowed by right in many areas of town but not this area. Mr. Jacobs stated the applicant should submit the proposed zoning amendment language, then something in writing that convinces the Board it is a good idea and the aesthetic standards. This will be continued to the April 7 meeting.

Discussion of Highland Commercial 1 Zoning initiative.

Ms. Newman stated she wanted to have Mr. Owens in on this conversation. There was a discussion last week on next steps. The discussion regarded taking the current foundation, making the change that had been discussed and going with the traffic and fiscal impacts. She feels it would be important to have more conversation. Mr. Owens noted it was decided not to go forward in the Spring or Fall. He wants to make sure the Board keeps working on it and not put it aside. The Finance Committee was updated on the Planning Board's decision and emphasized they want a timely and complete traffic study.

Ms. McKnight asked if the Board knew what the state will be doing as to Highland Avenue and, if so, will there be a presentation on it. Ms. Newman noted the Planning Board has the plans for that. She can have Town Engineer Anthony DelGaizo come in and inform the Board. Adam Block, of the Needham Heights Business Association, stated the Association has organized a community meeting with Town Manager Kate Fitzpatrick and the Mass Department of Transportation to update. They are on schedule to begin later this year. The community meeting will be Monday, March 23 at 7:00 p.m. at Powers Hall. Ms. McKnight noted there should be a presentation to tell what the state is going to do. Mr. Block will discuss with the Town Manager what materials are needed and what the presentation will be. Mr. Owens stated he would like to hear the state tell the Board what they are doing. Mr. Jacobs commented the state installed cameras on the town lights without approval.

Update on Economic Development Director.

Mr. Jacobs noted this was discussed at the last meeting. The position description needs to be finalized. Town Manager Fitzpatrick does not want this to be supervisory and wants to put it under her own purview. Mr. Alpert thinks it is the Town Managers' decision. The Economic Development Director does not work for the Planning Board but reports to the Council of Economic Advisors (CEA) and the CEA reports to the Select Board. Ms. Newman stated towns have both structures and she is fine either way. Ms. McKnight agrees. Her view is she feels it belongs in the Planning Department but if Ms. Newman is ok with it that is fine. Mr. Jacobs stated he has no strong objection for the Planning Board.

Appointment to Emery Grover Working Group.

Ms. Newman stated this is almost done but the working group wants Planning Board input. It is not a large time commitment. Mr. Alpert stated he cannot be the representative but would like to see the draft report. Ms. McKnight asked why not have the whole Board involved? She will be available if they want to follow up.

Minutes

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

VOTED: to accept the minutes of 10/28/19 and 12/3/19.

Ms. McKnight noted a change on the 10/22 minutes, 4th page under the 7:40 p.m. discussion, it should say "He asked if a special permit process is what they should embrace." On the 2nd page, under the 7:20 p.m. discussion, remove the sentence that says "He has about 6,000 square feet of retail in the area." On the 3rd page, 2nd paragraph,

3rd line, add “has” before “very few employees.” On the 4th page, 2nd paragraph, it should say “a pilot agreement would be a condition of that,” and 3rd paragraph, last line, it should say “7 spaces per thousand square feet.”

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

VOTED: to accept the minutes of 10/22/19 with the changes discussed.

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 10:30 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk