

NEEDHAM PLANNING BOARD MINUTES

October 6, 2020

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Jeanne McKnight, Chairman, on Tuesday, October 6, 2020, at 7:15 p.m. with Messrs. Jacobs, Alpert, Owens and Block, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Ms. McKnight took a roll call attendance of people expected to be on the agenda. She noted this is an open meeting that is being held remotely because of Governor Baker's executive order on March 12, 2020 due to the COVID Virus. All attendees are present by video conference. She reviewed the rules of conduct for zoom meetings. She noted this meeting has 2 public hearings and there will be an opportunity for public participation. If any votes are taken at the meeting the vote will be conducted by roll call.

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: to automatically continue the meeting to 10/20/20 at 7:15 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting tonight.

Public Hearings:

7:20 p.m. – Amendment to Major Project Site Plan Special Permit No. 98-4: Petco, 163 Highland Avenue, Needham, MA, Petitioner (Property located at 163 Highland Avenue, Needham, MA), regarding veterinarian services at Petco.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Block, it was by a roll call vote of the five members present unanimously:

VOTED: to waive the reading of the public hearing notice with the caveat the application is noticed as Petco, which is incomplete in the legal notice as it should be Petco Animal Supplies Stores, Inc.

Mr. Jacobs asked if the public notice was faulty due to the inaccuracy. Mr. Block stated if it is a DBA and it is clear what is intended, and it specifies the address then it makes it clear which applicant this is dealing with. Mr. Alpert feels the public notice is sufficient. Ms. McKnight agreed. Petco is a well-known retailer and she feels it is clear. She would go forward with the understanding the notice is sufficient for the application for site plan review. Ms. Newman stated a revised application is forthcoming with a revised name and address. Once received the decision will be revised to reflect that. Stephen Hartley, of SBLM Architects and Project Manager, stated he received notice today the application needed to be revised. He is working to get it as soon as possible.

Ms. McKnight stated the zoning district says Mixed Use 128 but is actually 2 districts – Mixed Use 128 and Highway Commercial 128. She asked if that correction would be made. Ms. Newman stated that had not been discussed but it makes sense to make the correction. Mr. Hartley gave a history of the project. The project was permitted by the Building Department and built. Then they were told to go to the Planning Board. This is a veterinary clinic, 1,679 square feet, within the existing space. It will have its own entrance and will only be open during retail store business hours. There will be no boarding at this location and no animals overnight. A single door will be added at the front. Signage is under a separate permit. The major change is the door to the exterior.

Sharon Siekierski, of Petco, noted the veterinary clinic closes earlier than the retail store. The store closes at 9:00 p.m. but the clinic will close at 7:00 p.m. There are no emergency services. The clinic tries to partner with another clinic in the area for emergency service. Mr. Jacobs noted he understands there will be 5 people at most in this area – a receptionist, a veterinarian and 2 or 3 vet techs. He asked if these people are all employees of Petco and was informed they would be. Mr. Jacobs clarified there would be no subletting. He stated the Board wants to know that any lessee knows all the conditions and will abide by them.

Mr. Owens asked how it came to be the applicant is coming to the Planning Board after the project was constructed. Ms. Newman did not know why the Building Department issued the permit. Ms. McKnight noted correspondence from Tara Gurge of the Health Department, dated 9/30/20, with comments. The applicant has provided a document with responses to the comments. She asked if there was a response from Ms. Gurge. Ms. Newman noted Ms. Gurge is satisfied with the applicant's responses. The Town Engineer correspondence came late but there are no comments or objections. The Fire Department email has no comments or objections.

Ms. Newman stated the applicant will deliver an updated application with the full name and address of the applicant and signed by someone with legal authority to sign.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Alpert, it was by a roll call vote of the five members present unanimously:

VOTED: to close the hearing subject to receipt of the corrected application.

Ms. McKnight noted there were 2 typos in the draft decision. In Section 1.7, 6th line at the end, it should say "specify" not "specific" and in Section 1.9, 2nd to last line, "is" should be deleted. Mr. Jacobs asked if Mr. Hartley has reviewed the decision and if he has any comments or questions. Mr. Hartley stated he has reviewed it and has no comments or questions. Mr. Alpert questioned what happens if an animal is not picked up at close. Ms. Siekierski stated she would have to see what the procedure is. The clinic will mainly do small procedures. Convalescence would require going to the emergency clinic they have partnered with. Ms. Newman feels this should be added as a condition.

Mr. Jacobs asked if a clinic has been found to partner with. Ms. Siekierski stated they have but she is not sure who right now. Mr. Jacobs would like the name of the other veterinarian sent to the Planning Director. Ms. Newman feels the decision should be clarified to make it clear there are no overnight stays. Section 1.1 says no overnight stays but Section 3.6 does not specifically say that. She has the language and could add the same language to Section 3.6. Mr. Jacobs noted #2 refers to Highland Commercial-128 only and #3 refers to Mixed Use-128 only. Should they both reference both districts? Ms. Newman stated the property sits in 2 zoning districts and a special permit is needed in both.

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: subject to receipt by the Planning Director of a corrected and appropriately signed application the Board voted (1) the requested Major Project Site Plan Special Permit Amendment under Section 7.4 of the By-Law and Section 3.2 of Major Project Site Plan Special Permit No. 98-04, dated May 18, 1998, be granted; (2) the requested Special Permit under Section 3.2.5.2(n) of the By-Law for a veterinary office and/or treatment facility including convalescent stays but not the boarding of animals in the Highland Commercial-128 Zoning District; and (3) the requested Special Permit under Section 3.2.6.2(h) of the By-Law for a veterinary office and/or treatment facility and/or animal care facility, including but not limited to, the care, training, sitting and/or boarding of animals in the Mixed Use-128 Zoning District, subject to and with the benefit of the following Plan modifications, conditions and limitation as set forth in our decision.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Alpert, it was by a roll call vote of the five members present unanimously:

VOTED: to approve the decision on the condition the corrected application is submitted and subject to the changes discussed and approved.

7:40 p.m. – Amendment to Major Project Site Plan Special Permit No. 2012-07: Walter Bonola, 101 East River Drive, East Hartford, CT, Petitioner (Property located at 400 First Avenue, Needham, MA) Regarding Trip Advisor Fuel Cell Power.

A motion was made to waive the reading of the public hearing notice. Mr. Jacobs noted the application does not have the proper applicant. Walter Bonola, Installation Project Manager, stated Trip Advisor would be the

applicant. Ms. Newman stated the applicant is Trip Advisor and the owner will co-sign the application. Mr. Jacobs stated the owner rents to Trip Advisor LLC. The notice is faulty in several respects. Mr. Block asked, if the notice is insufficient, why proceed with the hearing? Mr. Alpert noted the hearing needs to be opened so it can be discussed.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Alpert, it was by a roll call vote of the five members present unanimously:

VOTED: to waive the reading of the public hearing notice with the same caveat as previous that it was not the proper applicant and they are working to get the proper application.

Ms. McKnight asked if the hearing should be continued or should the Board wait for the corrected application. Ms. Newman stated, if the hearing is re-noticed, the hearing should be held then. Mr. Jacobs noted the problem is this is about the public. The public would have no idea this is Trip Advisor. A discussion ensued. Mr. Block asked if the applicant could go through their presentation and the Board could make their decision next time. Mr. Jacobs understands but feels the public should be here. Ms. McKnight agreed. There is no point as it will have to be repeated when this is properly noticed. Mr. Jacobs asked if there was anything in the file saying Mr. Bonola is able to proceed as the agent. Ms. Newman does not have anything in writing. Mr. Jacobs stated he has no issue with the substance of the application but the technical process is deficient. A re-notice would probably save Trip Advisor in case someone complains.

Mr. Alpert stated he has reviewed the application and agrees with Mr. Jacobs. There is not sufficient notice to the public. He assumes the abutters have been given notice but they may not know it is Trip Advisor. This is a sound issue and someone may complain they were not given the opportunity to come to the hearing and speak. He feels it has to be re-noticed. Ms. Clee noted she will need the revised information in order to post the agenda item by the end of the week.

Transfer of Permit: Amendment to Major Project Site Plan Special Permit No. 96-5: Ultimate Beauty Laser Spa, Inc., c/o Jeff Reddish, 620 Park Avenue, Suite 185, Rochester NY 14607, to Laser MD Medspa, 400 Franklin Street, Braintree, MA 02184, Petitioner (Property located at 922-958 Highland Avenue, Needham, MA).

Mr. Jacobs noted Laser MD Medspa is also a DBA and not a legal entity. This is not a correct name and not a public hearing. Ms. Clee stated she received an electronic version of the updated application and the applicant will mail the original. Richard Thalman, corporate controller for Laser MD Medspa LLC, stated this is the same issue as Petco. They went to get signage and this issue came up. The website has been updated. This operates similar to Ultimate Beauty Laser Spa, Inc. who offered hair removal only. Laser MD Medspa offers more procedures such as body contouring, injectables such as Botox and skin rejuvenation such as facials. The signage is in process. There have been some updates inside the facility but no major work. The rooms are not changing. There will be licensed aestheticians and licensed nurses on site at all times. Nothing changes except the additional services.

Mr. Alpert stated he has no objection to the application or transfer but has Laser MD Medspa read the Special Permit and does Laser MD Medspa know all the conditions that apply. Ms. McKnight stated the Special Permit includes a licensed physician to oversee and asked if this was still correct. Mr. Thalman stated the medical director operates out of Newton.

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: subject to receipt by the Planning Director of a corrected application satisfactory to her, the Planning Board approves and consents to the Special Permit transfer.

It was noted there is a typo in the draft decision, 4th line, remove “from” so it just says “to.”

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: to approve the decision as drafted subject to correction of the typo.

Minutes

Ms. McKnight stated she made a red-lined version and had a couple of questions. In the 4/11/20 minutes, 2nd page, Mr. Bloom was commenting on the 4th floor and how it would be used. The minutes say “there will be no walking on the roof at all” and “tenants go to the 3rd floor and then go up.” She feels these are a mistake and suggests deleting both sentences. Mr. Jacobs stated he was not sure they are mistakes. He remembers there would be no people walking on the roof. Mr. Alpert stated this is in reference to the roof terrace. This is just access to the roof terrace. A discussion ensued. Ms. McKnight reiterated she would like to delete the 2 sentences. On Heather Lane, 4th page, regarding dry wells. The minutes say “and dry wells for all existing lots but not the new ones.” Ms. Newman stated there were existing houses that need to have dry wells installed. It is a requirement those houses also will need dry wells. Mr. Jacobs suggested striking the last 5 words – “but not the new ones.” Ms. McKnight would like to take out the reference to dry wells. In the next paragraph Heather Lane needs to be completed to a certain point. There needs to be a condition linking the 2 and the Extension needs to be in compliance with Heather Lane. Ms. Newman stated there needs to be a condition ensuring Heather Lane is completed and constructed satisfactorily before the Extension is allowed to have lot releases.

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: to accept the minutes of 8/11/20 as revised.

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: to accept the minutes of 8/26/20 with corrections suggested by Ms. McKnight.

Revise outdoor seating policy to extend applicability date to December 1, 2020.

Ms. Newman noted the Board had granted an extension to 11/26/20. The Town is asking for an extension to 12/1/20 to make the policy consistent with the Select Board policy.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Block, it was by a roll call vote of the five members present unanimously:

VOTED: to grant an extension to 12/1/20.

Correspondence

There was no correspondence.

Report from Planning Director and Board members.

Ms. Newman stated she received the first phase of the traffic study from GPI today on the Highway Commercial 1 District and is reviewing it with the Town Engineer. She hopes to set up a working group meeting within the next couple of weeks. She will forward the 40B guidelines she got from the Town Manager and the letter from the Attorney General approving a rezoning for the hospital. She anticipates a filing for Children’s Hospital in the next few weeks and 140 Kendrick Street, where they are updating the site plan and making minor changes around the entries, changes to the patios and providing for more pedestrian links down to Cutler Lake.

Ms. McKnight asked if the proposed Tree By-Law is being worked on. Ms. Newman has a meeting with the Select Board next Thursday morning to talk about next steps. Ms. McKnight stated she was made aware of an informal hearing the Mass Department of Public Works had with a timeline and proposed work to be done on Highland Avenue and Needham Street in Newton. There are links on the DPW website with plans. The time

period will begin right away with a start in Needham in November and will continue for one year. She noted there will be takings which have already occurred. An attendee asked about the fishpond at Muzi's and was told it will be eliminated as part of this work. She would like to see the plans. Ms. Newman will get the members the documents.

Ms. Clee asked if affordable housing is typically under the jurisdiction of the Zoning Board of Appeals (ZBA). Ms. Newman noted the 40B process is statutorily under the ZBA. Affordable housing is more than just an affordable housing development. Ms. McKnight stated it is important for the Select Board to take the lead on affordable housing. Needham has met and exceeded the goal of the state. A discussion ensued. Ms. McKnight stated Wellfleet has an interesting Accessory Dwelling Unit By-Law. The units are only rented as affordable housing units. She commented the unit sizes are quite large. Mr. Jacobs commented, as an alert, there is a big movement to getting rid of single-family zoning. All members should be thinking about this and how they feel about it. The Board may be asked to take a position. Mr. Block stated it should be looked at as 360-degree zoning. The Board should look at all and set goals.

Upon a motion made by Mr. Block, and seconded by Mr. Alpert, it was by a roll call vote of the five members present unanimously:

VOTED: to adjourn the meeting at 9:28 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul Alpert, Vice-Chairman and Clerk