

NEEDHAM PLANNING BOARD MINUTES

November 5, 2008

The regular meeting of the Planning Board, held in the Selectmen's Meeting Room at Town Hall, was called to order by Martin Jacobs, Chairman, on Tuesday, November 5, 2008 at 7:30 p.m. with Messrs. Handel and Ruth and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Public Hearing

7:30 p.m. – Major Project Site Plan Review No. 2008-09: Town of Needham, Permanent Public Building Committee, 470 Dedham Avenue, Needham, MA, Petitioner (Property located at 500 Dedham Avenue, Needham, MA). (This hearing continued from October 16, 2008.)

Dana Weeder, representative for the applicant, noted they had a meeting with the Conservation Commission and it went well. Things look good. Steve Popper stated they had a favorable vote at Town Meeting. They supported the funding. It is fully funded through the construction and is key to the project moving forward. He brought the minutes of the Conservation Commission meeting. No. 2.19 and 2.20 refer to the Planning Board and relate to communication with the Planning Board. He feels the Conservation Commission should give the Planning Board an idea on their thoughts. Mr. Ruth noted the Conservation Commission refers to Coltex as an alternate to Gallup. He asked what they were. Mr. Popper noted they are a type of storage container with a metal enclosure as opposed to a concrete structure. Concrete was recommended.

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

Mr. Jacobs requested Ms. Newman prepare a draft and they will vote next week.

Request for Establishment of Performance Bond and release of lots, 708 South Street Subdivision.

Mr. Cramer, representative for the applicant, noted this is a request for a performance bond for the subdivision. They have finished the roadway, completed an agreement for release of lots form, signed it and got a bond in an amount set by the DPW for \$67,000. That is fine with them. They would like a release of lots once a check is received from Mr. Petrini. Ms. Newman noted she received an e-mail from Kirsten Phelps of the Conservation Commission requesting a NPDES permit for 2 lots. She wants to make sure the subdivision itself did not make this request. Mr. Cramer noted it was not applicable on lots 4a and b. Ms. McKnight noted the total development would disturb more than one acre. Greg Petrini noted that is right but for the roadway improvement it is not an issue. Ms. McKnight questioned the agreement in draft form. Ms. Newman noted it is a draft. They do not have a bond amount, they would have to add this, and they have no clerk certificate. Ms. McKnight noted Chapter 41, section 81U and asked what is the form of security. Section 1 refers to a bond but Section 2 refers to a check. Mr. Petrini noted it would be a cashiers check. Mr. Cramer suggested they sign the agreement and hold until they get the check.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to accept the draft materials as altered in subsection 1 with the bond amount included.

The Board signed the request. Mr. Petrini invited all to come look at the project.

Request to authorize the Planning Director to review and approve plans for Major Project Site Plan Review No. 2007-05: 868 Highland Avenue, LLC, 66 Crescent Road, Needham, MA 02494, Petitioner (Property located at 868 Highland Avenue, Needham, MA).

Mr. Cramer, representative for the applicant, noted they are almost ready for a Certificate of Occupancy. They got the As-Built today. They would like the Board to authorize the Planning Director to review the affidavits and plans and make a recommendation to the Building Department. Ms. Newman noted it could be occupied by the cleaner only. It

may need some site work. They have a cash bond to cover the work. Mr. Cramer noted the bench is the only item that would not be done. They would like a temporary for 90 days. Ms. McKnight noted she had a question about the site plan. Facing the building on the immediate right it seemed the paving filled the corner right up to the building. There is no landscaping. Ms. Newman noted that is a handicap space. Ms. McKnight noted she wants to make sure the landscaping is in before issuance.

Upon a motion made by Mr. Handel, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to delegate to the Planning Director the authority to review and approve as requested.

ANR Plan – Julie Barker & Cecilia Kottman, Wildwood Drive.

Chris Barker noted the square footage on the plan is the numbers of the combined lots. He brought revised plan with a note of the square footage once you combine the lots. Ms. Newman noted the assessors map has a discrepancy on the square footage. Mr. Barker stated the land court made them go back and redo all the lines. They may be off by a small amount. Mr. Jacobs asked he review this. Mr. Barker noted they requested an amendment to the By-Law last year. They, Lot 171, want to buy a triangle of land in their backyard. Lot 170 has a 16 foot side setback. They changed the side and rear setback to 25 feet in SRA. The Planning Board took the position that when the lot was conveyed it became a new lot and created a zoning violation. Town Meeting passed the By-Law amendment so no additional dimensional violations were committed. They did not create an additional building lot. He is here with the subdivision plan. Mr. Jacobs noted the sentence at the end of the amendment to Article 6 referring to the deed conveying land. Mr. Barker noted he has no intention of creating an additional building lot and he had put that in the deed. He does not feel there should be any language on the plan. Mr. Ruth asked what was agreed to. Mr. Barker stated the land conveyed could not be coupled with other lands of theirs. They could not make a new building lot. Mr. Ruth agrees 170, 95 and 171 would be, but both lots are subject to a restriction as a result of the conveyance. He asked if the restriction applies to both 95 and 170 and was informed it does. Mr. Barker noted they are putting in the deed the conveyance would not create an additional lot. Mr. Ruth commented there is an issue of how it is reflected on the plan. Mr. Cramer stated they should have the usual note they are creating a non-usable lot and add "and grantee". Mr. Barker noted he is ok with a note that the conveyance of the lot would not create an additional lot for the grantor or grantee. Mr. Ruth stated at a minimum they need the note carried forward. Mr. Barker stated they should limit it to "the conveyance of Lot 171 would not create an additional lot." He is ok with that. Ms. McKnight asked if it was possible for the grantor and grantee to agree among themselves to the release. Mr. Cramer noted they could not agree. The Zoning By-Law says this is part of the transaction. Ms. Newman noted they need a note on the plan for future reference. Mr. Cramer asked, if the fear is the deeds will not have this language in subsequent conveyances, they should put a note referencing 4.2.1g of the Needham Zoning By-Law.

Mr. Handel asked if they are referencing the By-Law, why not put the text in the By-Law. Mr. Barker noted it is out of context. Ms. McKnight noted there seems to be a lack of agreement on the interpretation. They could be put off by referencing the By-Law. Mr. Cramer stated having a note they would have to go back to the By-Law. They should make a reference to the By-Law section period. Mr. Jacobs asked if there were any objections to putting all of Note G but Mr. Barker noted he did not feel it was necessary. Ms. Newman suggested they read Exhibit A last sentence. Mr. Barker stated he should be able to subdivide if a new piece is not included. He feels the note should be "to the effect the addition of Lot 171 to their property cannot create additional building lots." Mr. Cramer stated this conveyance does not create a zoning violation for Ms. Kottman because of the amendment. They should make a reference to the Zoning By-Law and they will have to read it. Mr. Jacobs suggested they put the whole Note G on it verbatim. Mr. Ruth suggested "any deed of Lot 95 or 170 or any portion thereof as conveyed as referenced on the plan as a result of the original conveyance of Lot 171 into Lot 95." Mr. Ruth will draft this language and circulate it for review at the next meeting. Ms. Newman noted Lot 100 and 102 have no frontage and asked if there should be a note they are non-buildable lots. Mr. Jacobs asked if it is necessary since they are exiting lots. Ms. Newman noted no since they are existing lots. Mr. Jacobs noted paragraph 6 on the draft is fine.

Endorsement of Decision: Major Project Site Plan Review No. 2008-08: V.S.A., LLC, 1105 Massachusetts Avenue, Suite 11G, Cambridge, MA 02138, Petitioner (Property located at 225 Highland Avenue, Needham, MA).

This is off the agenda.

Request for release of surety, 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).

Ms. Newman noted the work is completed and they have the bond. They want permission to release the bond.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to release the surety.

Correspondence

Ms. Newman noted John Jensen sent a letter. He wants to amend the By-Law. He has a pool house on a patio 10 feet from the pool. Mr. Ruth noted the concept of 10 feet is for emergency vehicles to go in. Ms. Newman stated she would have a conversation with the Building Inspector and Fire Inspector for the rationale of 10 feet.

Mr. Jacobs mentioned the Cheryl McSherry letter regarding the hospital construction. Ms. Newman noted she went out last week at 2:00 p.m. on Grant Street and there were 3 cars parked. She did not see a huge problem. On School Street there were 2 cars parked. Ms. McKnight asked about signage. Ms. Newman noted signs stated 2 hour parking or no parking. It was suggested to her posting no parking between Grant and Lincoln on School Street. She has talked to the hospital and they will look at the issue. Ms. McSherry admits things are better. Mr. Jacobs suggested they let it be if it has cooled for the moment. If there are more complaints, ask the hospital to come to a meeting to discuss the issue.

Minutes

On the minutes of 8/12/08, page 2, add the word “freezer” instead of “it” in first paragraph. On page 4, last paragraph it should be “leaching” rather than “leeching”.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to accept the minutes as changed.

Wind Power Update

They will have materials for the next meeting on 11/25. Ms. Clee gave an update. Michael Greis, of the Needham Green Group, will be coming to the next meeting. She has put together a sample of By-Laws from surrounding towns and fact sheets. She has 2 model wind By-Laws.

Board of Appeals – November 20, 2008

Kevin Cui, 11 Rosegate Road, Needham, MA – 11 Rosegate Road.

This was continued and they have already commented.

13 Highland Circle, LLC, 13 Highland Circle, Needham, MA – 13 Highland Circle.

This is a pre-existing, non-conforming parking lot being restriped. It does not meet design standards.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: “No comment.”

Arvind and Leena Agnihotri, 5 Woods End, Needham, MA, 02492 – 5 Woods End.

Ms. Newman noted they are seeking a variance. Mr. Jacobs stated the notice is improper as the public notice says Special Permit. They have no ground for a variance.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the four members present unanimously:

VOTED: to comment 1) the legal notice says Special Permit instead of a variance; 2) there are no grounds for a variance and 3) they are extending a non-conformity and they cannot do that.

North Hill, 865 Central Avenue, Needham, MA, 02492 – 865 Central Avenue.

They are seeking a Special Permit and a variance. Mr. Handel asked why they cannot comply with the sign By-Law. What is the hardship. The Board agreed they were all perplexed. They are not sure what they want. Mr. Handel stated they have no ability to comment as there is not enough information.

Upon a motion made by Mr. Handel, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to comment there is not enough information and they do not understand the grounds for the request.

Chunhong Gao, 70 Birds Hill Avenue, Needham, MA, 02492 – 70 Birds Hill Avenue.

They want an amendment for a variance. There is no statute for amending a variance. They would need a whole new variance. Mr. Ruth noted they do not meet the standard for a variance.

Upon a motion made by Mr. Handel, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to comment they would need a whole new variance but they do not meet the standard for a variance.

John H. Rogers, WGBH, 350 Cedar Street, Needham, MA, 02494 – 350 Cedar Street.

This is a Special Permit request. It is under a Special Permit for any other construction. Mr. Handel noted he is concerned with noise and the neighbors with a generator. Ms. Newman suggests a noise study be done to make sure it meets the standards.

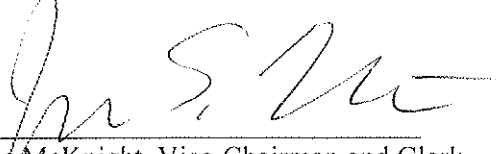
Confirm December Meeting Dates.

After discussion the Board decided December 2 and 16. Mr. Ruth will not be at the December 2 meeting. Ms. Clee will see what Mr. Eisenhuts' availability will be.

Ms. McKnight noted she has concerns regarding the Petit Robert Restaurant. Signs behind the building have gone up. There is a "no parking for the train" sign but they have put back up the chicken wire fence. It got kicked down and the rough wood was put back up. Ms. Newman will call them. They committed to reexamine opening up that fenced in enclosure to provide direct access to the train.

Upon a motion made by Mr. Handel, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to adjourn the meeting at 9:30 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Jeanne McKnight, Vice-Chairman and Clerk