

NEEDHAM PLANNING BOARD MINUTES

October 18, 2011

The regular meeting of the Planning Board held in the Charles River Room of the Public Services Administration Building was called to order by Bruce Eisenhut, Chairman, on Tuesday, October 18, 2011 at 7:30 p.m. with Messrs. Warner, Jacobs and Ruth and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Public Hearing

7:30 p.m. – Oak Street Definitive Subdivision: Richard Nigro, 9 Cabernet Drive, Unit 2, Concord, NH 03303-1035, Petitioner (Property located at 66 Oak Street). Note: This hearing is continued from the June 21, 2011, July 12, 2011 and September 8, 2100 Planning Board meetings and will be further continued to the November 1, 2011 Planning Board meeting.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to continue the hearing to 11/1/11 at 7:30 p.m.

Upon a motion made by Mr. Warner, and seconded by Ms. McKnight, it was by the five members present unanimously:
VOTED: to extend the action deadline to 12/31/11.

Endorsement of Decision: Lot A Amendment to Major Project Site Plan Review No. 2000-02: Digital Realty Trust, c/o Walter Greaney, 451 D Street, Suite 912, Boston, MA 02210, Petitioner (Property located at 128 First Avenue and 72 A Street, Needham, Massachusetts.)

Paul Laudano, representative for the applicant, stated he was ok with the decision. Ms. Newman reviewed the changes to the draft such as clarification to paragraph 3.5 and paragraph 3.26 – trash pick-up as necessary. Mr. Laudano noted paragraph 17 clarified no further changes outside the site plan approval. Mr. Ruth stated he is unclear as to what the 3rd sentence in 3.3 means. Ms. McKnight clarified it is the same as 3.6 that what is in the lease shall be included in the condo documents.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to grant the requested Major Project Site Plan Special Permit Amendment and the requested Special Permit under Zoning By-Law, Sections 3.2.4.4, 4.8 and 6.8, for a floor-area ratio in excess of 0.4 and grant in the form of the relief as presented.

Endorsement of Decision: Lot B Amendment to Major Project Site Plan Review No. 2000-02: Digital Realty Trust, c/o Walter Greaney, 451 D Street, Suite 912, Boston, MA 02210, Petitioner (Property located at 128 First Avenue and 72 A Street, Needham MA).

Upon a motion made by Mr. Ruth, and seconded by Ms. McKnight, it was by the five members present unanimously:
VOTED: to grant the requested Major Project Site Plan Special Permit Amendment under Section 7.4 of the Zoning By-Law and Section 4.2 of Major Project Special Permit No. 2000-02, dated April 24, 2000, amended April 6, 2004, March 1, 2005, September 20, 2005 and April 21, 2011; the requested Special Permit under Section 3.2.1, for any lawful purpose or special use not enumerated elsewhere in the By-Law; and a Special Permit under Section 5.1.1.5, to waive strict adherence to the requirements of Section 5.1.2 – Required Parking and Section 5.1.3 – Parking Plan and Design Requirements and grant in the form of the relief as presented.

Parking Determination: Tobin Afterschool

Ms. Newman noted the recommendation on the parking requirement was based on a daycare facility use. The recommended standard was 13 spaces. Mr. Warner noted additional parking is being provided on the front lawn. Mr. Eisenhut stated they should focus on a number now. They will discuss the location at the Board of Appeals.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to adopt the recommendation of the Town Engineer of 13 parking spaces for the Tobin Afterschool.

Parking Determination: Kumon Tutoring at 70 Chestnut Street

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to adopt the recommendation of the Town Engineer and determine that 6 parking spaces are required.

Board of Appeals – October 20, 2011

Town of Needham Department of Public Works, c/o. Vincent Roy, Water Superintendent, 470 Dedham Avenue – 914 Charles River Street, Needham, MA.

Upon a motion made by Mr. Warner, and seconded by Ms. McKnight, it was by the five members present unanimously:
VOTED: “No comment.”

Robert Murphy, 25 East Belcher Road, Foxborough, MA – 231-233 West Street, Needham, MA.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to comment the demolition called for in the second sentence of 3.3.3(a) should be insisted upon by the Board.

Needham Presbyterian Church – 1458 Great Plain Avenue, Needham, MA.

The Tobin School, Inc. d/b/a Tobin Afterschool – 1458 Great Plain Avenue, Needham, MA.

Mr. Eisenhut commented he is concerned that it is unclear how the 2 schools will be working with the parking requirement. Mr. Warner noted there will be new parking on the grass on Great Plain Avenue. He commented the aesthetics are not good.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to comment their concerns are aesthetics and degradation of the historical nature of the neighborhood if parking is constructed on the front lawn of the church. This is an important section of town and they are concerned with how the proposed parking will work with other parking on the site.

VTH, LLC, 15 Highland Place, Needham, MA - 33-35 Marsh Road, Needham, MA

Ms. Newman noted the facility is going into the existing building that had an office use. They need to place a ramp and handicap space. Mr. Warner stated they have no plans or direction for this area. He feels it is a bad area with no upkeep. He stated this is the kind of area that warrants attention. Ms. Newman stated they encouraged density and the vision was that the area would turnover and be redeveloped.

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

8:00 p.m. – Article 2: Amend Zoning By-Law – Definitions

Article 3: Amend Zoning By-Law – Dimensional Regulations for New England Business Center

Article 4: Amend Zoning By-Law – Dimensional Regulations

Article 5: Amend Zoning By-Law – Off-Street Parking Requirements

Ms. Newman noted the Town Manager has asked they limit the Town Meeting articles. She feels the most important is rezoning the NE Business Center and North Hill. They could put the other 3 off to the annual meeting. She feels they could put off Articles 2, 4 and 5.

A motion was made to withdraw Articles 2, 4 and 5.

Brian Shumaker, of Mellon Street, stated he would like to know what articles are being withdrawn and why they feel they are not important enough to go forward with. He noted people in Needham are upset the artists are not considered and treated as well as doctors and such.

Mr. Ruth stated the issue is a change of regime in work office at home. It is a pandora's box. This is a large area and may well take a lot of time at Town Meeting. Ms. McKnight stated it is not whether these are important but whether they can wait to spring Town Meeting. She feels they can.

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

VOTED: to withdraw Articles 2, 4 and 5 from this Town Meeting consideration.

Mr. Eisenhut opened Article 2 for public hearing.

Mr. Shumaker stated this allows professionally trained artists with studio space less than 25% to give classes in the home. They want the town to know being an artist is not to make money but to help people. A lot of people do not have access to art. Studio rental space is unreasonable these days. He feels everyone should have access. Allowing them out of homes gives everyone access. It is a gift to the public to allow people into their studios.

Mr. Warner noted in Boston when stores are vacant they allow artists to go in there. Maybe Needham would allow that on an interim basis. Mr. Shumaker stated he feels the definition of studio is a place to study.

Mr. Ruth noted the Building Inspector has interpreted the By-Law to be that a lawyer can work out of the home but no artists, which the Building Inspector characterizes as a school. This is an effort to correct the Building Inspectors' interpretation. Devra Bailin stated an artist is listed as professional in the definition section. The interpretation only allowed artists to have a workshop.

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

VOTED: to close the hearing.

Mr. Eisenhut opened Article 4 for public hearing.

Ms. Newman noted this was an eminent domain issue.

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

VOTED: to close the hearing.

Mr. Eisenhut opened Article 5 for public hearing.

Ms. Newman noted this was illumination across parking lots.

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

VOTED: to close the hearing.

Mr. Eisenhut opened Article 3 for public hearing.

Ms. Bailin briefly recalled the history. She noted the Council of Economic Advisors brought forth some changes. They noted there are undue constraints placed on development. She hopes this provides flexibility. The 20 foot setback is going to 15 feet, maximum lot coverage is going from 50% to 65%, FAR is going from .4 to 1.0 and maximum height as of right is going from 72 feet to 84 feet as long as it can be serviced by fire equipment.

Ms. Bailin noted there was an error in the Goody Clancy report. There is a 41 foot limitation in General Residence and SRB, adjoining landscape changes from 60% to 75%, there is a decrease in front setback, increase in FAR from 1.5 to 2.0, a decrease in open space from 25% to 20% and a discretionary provision.

Ms. Bailin noted the traffic impact analysis concluded, based on anticipated traffic improvements, we will see the same amount of traffic as present because traffic will be disbursed a different way. Newton is in the process of doing a master plan for Needham Street. She feels they need to have development rather than pass through traffic.

Mr. Jacobs stated he is the Board representative to the CEA, which is a committee of the Board of Selectmen. He asked what is their thought and sentiment at the workshop. Ms. Bailin noted the Board of Selectmen did not take a position. They merely heard the description. There were some questions at the workshop but it was not well attended. They had 35 people but sent out 400 invitations. There was not a lot of discussion.

Ms. McKnight stated they are changing the front setback. She asked if it is really necessary to decrease it and have less planting area. Ms. Bailin stated the new setback is consistent with the vision. Ms. McKnight asked if they could preserve the 20 foot setback. Ms. Bailin stated they need to be competitive and have more of an urbanization. They want to have a streetscape and encourage people to walk.

Roy Cramer stated, with one exception, he feels this is a very positive step. He is supportive of the changes but he has one comment. He suggests they reconsider the height. The height that made sense to him was 68 to 72 feet as a matter of right and up to 84 feet with a Special Permit as long as the fire apparatus could get up there. He noted there has been a change in the last couple of weeks in the language and it satisfied the question in Section 6.8. However, he suggests that language will undo the good done with a change in height. Section 6.8 is so expansive and all inclusive that a developer will never know if he has met the standard. He suggested they make the Special Permit conditional on the fire condition.

Justin Krebs, of Normandy Real Estate Partners, stated they acquired 3 buildings with Special Permits from Cabot, Cabot and Forbes and are looking actively at developing that site. They need to suit the needs of the tenants. A lot of tenants want campuses with smaller open spaces and intimate, tied together campuses like in Cambridge. They are doing some progressive things to create a resource. This is a great opportunity and he supports it.

Matt Talcoff, Chairman of the CEA, stated he is supportive of all this. It has taken 2 to 3 years to get to this point, to create a walking area. He commented this is a great place we have come to.

Greg Hoffmeister, a resident of Needham, commented from a tenant's perspective. He echoed what Mr. Krebs stated. Tenants do want density and collaboration. The traffic improvements taking place are huge. He feels the Needham Business Park is positioned perfectly for growth.

Ms. McKnight noted Section 4.8.1 should state “open space may” rather than “open space shall.” Ms. Bailin stated it should be “shall.”

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to close the hearing.

Mr. Warner noted he is happy as long as the 72 to 84 feet is contingent upon the fire apparatus being able to reach.

Ms. McKnight stated in the Section that is Amend Footnote (2) it should read “coverage” not “cover.” Ms. Newman will correct it. Ms. McKnight stated she would rather not sponsor an item that changes the front setbacks from 15 feet to 20 feet. She feels it does not leave a deep enough area for plantings. Mr. Jacobs suggested adding a new Section 4.8.3, a last provision that allows a relaxation of up to a maximum percentage of 25%. Ms. McKnight feels it should be waived by Special Permit so you can see the particular feel of the particular project.

Ms. McKnight commented she does not like the word “etc.” in a decision and would rather it not be used. She noted she agrees they should let the height discretion be limited by the fire apparatus.

Mr. Ruth stated he agrees with Ms. McKnight to eliminate the language with regards to “may” versus “shall.” He feels it is important to the town to see this development. He noted new tenants to this location would be meaningful high income jobs for Needham and effects Needham people in a very positive way. He is very much in favor of this and feels a little latitude is good.

Mr. Jacobs stated he is in favor. He understands the concerns with Footnote 1 to Section 6.8. He thinks he would like to see the word “shall” replaced. His understanding was the CEA not choosing 84 feet as a matter of right was due to the Fire Department’s concern with the ladders at the higher height. Mr. Ruth stated he would like to put it back on the Fire Chief to make the determination.

Mr. Eisenhut stated he generally supports most dimensional changes. He does not think any of them there really know what a building at 84 feet with 65% lot coverage with a 1.75 FAR on a 135,000 square foot lot would look like. It is massive and they really need to present that fairly to Town Meeting or we will end up with another theater block fiasco. He stated that what is being sought here is a complete rejection of the Goody Clancy vision. It is a replication of Kendall Square and Longwood. It is an entirely different vision.

Mr. Eisenhut stated this does not address environmental concerns or pedestrian walkways. They need to be honest about it. He is opposed to 4.8.3 because 25% is too much discretion. He feels if they gave a 10% discretion that would be more politically palatable. He agrees with Roy Cramer that the standards are subjective. This is unfettered discretion, over inclusive and much too large a number. There are no clear cut objective standards.

Mr. Eisenhut stated his specific objection was a reduction in open space from 25% to 20%. He thinks it should be more. They should encourage pervious surface drainage. 25% would be able to get some of the greenery amenities. This is along the Charles River and they should take that aesthetic into consideration. He is amenable to including in that 25% pervious surface items such as parking areas and driveways. He feels if you keep the open space at 25% and let the developers include all surfaces such as walkways and driveways they will encourage pervious surfaces and that is what they want to achieve. He is not going to support it if they reduce the open space.

Mr. Eisenhut stated he would say 72 feet height and 84 feet by Special Permit period and not talk about fire apparatus. He feels that is the simplest way to do it. He reiterated they need to be honest with Town Meeting about what they are presenting.

Mr. Ruth stated he is giving a certain amount of deference to the CEA who have been studying this for months. He is confident they have run their calculator many times in terms of how these various changes interrelate. He is reluctant to start radically changing their numbers.

Mr. Jacobs asked where the 25% came from. Mr. Ruth stated if there is land that should be included as intense development this is it. It is important to see the streetscapes. They have to be responsive to what people want and that is corporate. He feels they should embrace the vision of the CEA.

Mr. Warner suggested the 25% open space with the pervious surface language be kept. Mr. Ruth noted with relatively small issues they cause a lack of construction. The Business Center is about jobs and tax revenue. Mr. Eisenhut stated they are not touching FAR or height. Mr. Jacobs stated he does not see a reason to mess with the recommendation. Mr. Ruth clarified the feeling is they should keep the 25% relaxation with the language on pervious surface and keep the setback. Ms. McKnight stated she would like them to take out "set forth in Section 6.8." Mr. Eisenhut reiterated there are a lot of issues with an 84 foot building.

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

VOTED: to sponsor an article to amend Section 4.8 on the Dimensional Regulations for NEBC as presented in the revised version before us tonight correcting the word "cover" to "coverage" in Footnote 2; in the new Section 4.8.3 eliminating "etc." and inserting the word "or" before the final clause; in the reference to Footnote 1 in table 4.8 eliminating the phrase "and satisfied the factors set forth in Section 6.8"; and deleting the first post amendment to subsection 4 so that it remains as it is now in the By-Law.

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

VOTED: to move the Planning Board supports the recommended adoption of this amendment in this form.

Planning Board Recommendation: Article 1:PB – Amend Zoning By-Law – Apartment-2 Zoning District.

Roy Cramer, representative for the applicant, stated they are planning about 86,000 square feet. He suggests a cap of 110,000 square feet. Mr. Ruth explained the reasoning behind these numbers as discussed earlier. They had been talking about allowing a fourth floor for nursing homes. He noted they felt if they did not put a cap on the square footage at some point in the future there may be a re-development of North Hill as a mega nursing home.

Mr. Ruth suggested "the maximum square footage of the building benefitting from the provisions of this sentence shall not exceed 110,000 square feet." Mr. Cramer suggested changing "building" to "structure or structures" and change "building" in last sentence to "structure." After discussion all agreed they should delete the first post amendment to Subsection 3 so that it remains as it is now and change the wording in Subsection 4 from "maximum square footage allowed in this district pursuant to this sentence shall not exceed xx square feet" to "maximum square footage of the structure or structures benefitting from the provision of this sentence shall not exceed 110,000 square feet" and change "building" in the last sentence to "structure"

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

VOTED: to place on the warrant the provision of the proposed amendment with the revision just read and to note the Planning Board recommends they support this at Town Meeting.

Report of the Planning Director.

Roy Cramer, representative for Wingate, stated they have filed the final plans and modifications requested. They have filed the proposed deed, the easement agreement and the second easement agreement. He noted they have a surplus of 16 spaces. The second easement is written and has given them exclusive use of spaces one through 8.

Ms. Newman asked if they want to do a diminimus change to clean it up. Mr. Cramer stated he would not like to hold up this process.

Endorsement of Decision: Major Project Site Plan Special Permit No. 2011-04: Permanent Public Building Committee for the Town Of Needham proposed Senior Center, Petitioner (Property located at 300 Hillside Avenue, Needham, MA).

Ms. Newman noted she has a draft decision. There is no clear description of how the parking is to be managed. They need to work on language. She stated they need to include a condition that is specific to a maximum size of events with a limitation on the number of people and time. Ms. Newman suggested they keep the number at 170 and tie it to the right to use Avery Crossing.

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

VOTED: to grant a Major Project Site Plan Special Permit under Section 7.4 of the By-Law and the requested Special Permit under Section 5.1.1.5 to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan Design Requirements) of the Zoning By-Law as presented in the decision subject to plan limitations of special events linking that to availability of parking at Avery Crossing.

Planning Board Recommendation: Reservoir Street Relocation and Acceptance.

Ms. Newman noted they are rebuilding the pump station to accommodate the new sewer pumps. The existing building is in the layout.

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

VOTED: to recommend alteration of Reservoir Street as presented.

Planning Board Recommendation: Eaton Square Abandonment/Discontinuance.

Ms. Newman noted this is being discontinued in conjunction with the bank. They will put an addition on the existing building and build parking to complement the town parking. There are cross easements. The town owns the fee in the beginning of Eaton Square and the bank owns the back. The bank will pay to upgrade the entire parking lot and put in lighting.

Ms. McKnight stated it is not clear if the town owns all or half. She feels it is a question of ownership. Ms. Newman stated she thought the town owned it but it is not clear. Ms. McKnight stated she would like to see the documents. Mr. Jacobs agreed there was not enough information.

Ms. McKnight asked what are the cross easements proposed? Ms. Newman will get more information and ask what the town is getting.

Report of the Planning Director.

Mr. Eisenhut noted the Farmer's market wants to set up on the lawn at the First Parish Church on Sunday. He asked if they need a diminimus change to their permit. Ms. Newman stated she thinks they need to come in to modify their permit. Mr. Eisenhut noted the market is on the land not the parking lot. He asked why they would need to modify the permit. Mr. Ruth stated there is not a good solution to the problem. There are traffic issues at that location. Ms. Newman stated there are better sites such as Olin College. She will talk to the schools regarding the provision they have regarding the tax exempt status.

Mr. Warner stated he would like to be put on the 11/1/11 agenda to discuss his article on Lessons for Needham from Lake Oswego, OR.

Mr. Mackin stated the warning signal to be installed at the Dedham Avenue egress is to be in place at the end of Phase 1. He noted Robert Smart wants it delayed to the end of Phase 2. Mr. Ruth stated his plan showed an invisible entrance. Ms. Newman noted the other issue is the request the petitioner be responsible to do some traffic mitigation. Mr. Smart felt the condition was too broad and not limited to the adjacent property and there was no dollar limit. Ms. McKnight stated she always thought they should pay for a median if the Selectmen want it. Mr. Ruth noted they talked about this language. He feels they should meet with Mr. Smart to discuss it.

Mr. Eisenhut noted he was going to resign as the Planning Board representative for the Community Preservation Committee. Mr. Warner stated he would be willing to serve as the representative.

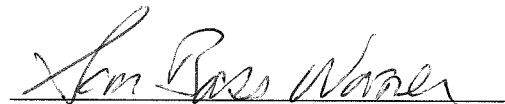
Upon a motion made by Ms. McKnight, and seconded by Mr. Ruth, it was by the five members present unanimously:

VOTED: to accept the resignation of Mr. Eisenhut as representative for the Community Preservation Committee and appoint Mr. Warner.

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

VOTED: to adjourn the meeting at 11:45 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

A handwritten signature in cursive script, reading "Sam Bass Warner", is written over a horizontal line.

Sam Bass Warner, Vice-Chairman and Clerk