

NEEDHAM PLANNING BOARD MINUTES

December 4, 2012

The regular meeting of the Planning Board held in the Charles River Room at the Public Services Administration Building was called to order by Bruce Eisenhut, Chairman, on Tuesday, December 4, 2012 at 7:30 p.m. with Messrs. Warner, Ruth and Jacobs and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Correspondence

Mr. Eisenhut noted the following correspondence for the record: the legal notice from Westwood regarding Zoning By-Laws and a letter from the Needham Commission on Disabilities regarding the Volante's site. Ms. Newman noted Volante's enforcement issue will be back on the agenda. There are some easy solutions. They will meet with the state and their engineer to see what the plan will be. She stated everyone wants to solve it.

Appointments

7:30 p.m. – Discussion: Wireless Communication Facilities, Proposed Regulatory Amendments.

Ms. Newman stated she invited Jon Schneider of the Zoning Board of Appeals to discuss the wireless issue. Mr. Schneider stated they are dealing with people upgrading equipment. He feels it is appropriate for the Building Inspector to deal with upgrades rather than a Special Permit process. He noted the Building Inspector can require people to file reports that equipment is operating up to FCC guidelines. Ms. Newman stated she is looking at zoning changes for the spring. She felt one issue to consider is whether she should speak with the Board of Appeals about some changes that would allow for some of these modifications to the facilities to happen through a building permit and not go back to the ZBA.

Mr. Schneider stated there is an issue with the tower on Central Avenue and Cedar Street. It is at 105% of capacity. He noted this could be fixed easily with some bracing. Cabot Street is fine at 86% capacity. They are going to the ZBA for new installation. He noted a separate section requires design review. Mr. Ruth stated crafting something will stop wasting the time of the ZBA and Planning Board staff. Ms. Newman noted it takes everyone's time. She feels they could craft something in the spring that would address these issues.

Mr. Schneider stated he is uncomfortable when our By-Law says you have to have a Special Permit for a modification and the modification includes any change of technology. Ms. McKnight asked what change in original permitted use means. It is unclear to her. Mr. Schneider stated they could work with Town Counsel to come up with an interpretation and clarifying language.

Ms. McKnight noted Mr. Schneider mentioned capacity and asked if it meant weight. Mr. Schneider stated yes, there is a whole engineering study with measures and standards. Ms. McKnight stated there must be a state building code with guidelines. She clarified that should be the only thing they need to follow. If there is a standard in the building code that they have a structural engineer certify it that needs to be done.

Mr. Jacobs commented it should not be a matter of zoning but a matter of building code. He noted under Section 678 it says, if requested, they shall file updated maintenance reports. He feels they should do that as a matter of routine. Mr. Ruth agreed but feels the ZBA should do a draft. They are the ones living with it.

Ms. Newman stated she will work with Mr. Schneider but wants some guidance from the Planning Board. Mr. Eisenhut asked if the Building Department feels they have the resources to do this. Ms. McKnight clarified they

are being asked, in Ms. Newman's memo, if they should add provisions. They could simplify and clearly comply with the FCC regulations and leave it up to the Building Inspector or they could make it more complicated. Mr. Eisenhut stated he is going in the same direction. They could simplify on the front end and impose report regulations. Mr. Jacobs noted a change in physical dimensions or substantial changes need a Special Permit. Mr. Schneider stated upgrading or modifying equipment should be simple. Ms. Newman will check with Lexington to see what they do. Mr. Jacobs stated it is ok now but how do they know it will be fine in the future. They do not know what type of equipment they will be putting in. Mr. Schneider stated Lexington requires a report every 5 years and the initial report.

Public Hearing:

8:00 p.m. – Amendment to Definitive Subdivision Plan: 342 Cartwright Road, Paul V. Ferreira, Petitioner (Property located at 342 Cartwright Road, Needham, MA).

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to waive the reading of the public hearing notice.

George Giunta Jr., representative for the applicant, reviewed what was presented at the previous meetings. The property is in Needham but it is served by Wellesley. He noted water and electric are from Wellesley. The road was constructed in 2011. Utilities were put in but they required an extension. They found some errors in the plan. He stated to correct them they did a revised subdivision plan. They want to substitute the plan to correct the meets and bounds errors.

Mr. Giunta Jr. stated originally the barn on Lot 2A was to be razed or demolished. They have prospective third party buyers who would like to keep the barn. They would like approval for the barn to remain. The other substantive change is the utility easement on Lot A. This was not previously accounted for. The other issue is inconsistencies between the lotting plan and the topo plan. This is corrected now and the plan is updated to show the 3 conduits. The subdivision stays the same and there are no technical changes other than the barn.

Mr. Giunta Jr. stated the perspective buyers would possibly like to upgrade to 400 amp service. It is currently 200 amps. Mr. Ruth asked why 400 amps. Roy Cramer, representative for the third party, stated for central air and other amenities they may need 400 amps. It is just an option to do if it is needed.

Mr. Eisenhut noted the following correspondence for the record: a letter from George Giunta Jr., dated 11/30/12, with other documents including the letter from Wellesley's Municipal Light Plant; a letter from the Town Engineer, dated 12/4/12, with no comments; a memo from Fire Chief Paul Buckley, dated 12/20/12, with no concerns or objections; a memo from the Police Department, dated 11/27/12, noting no safety concerns and a memo from the Board of Health with no comments.

Mr. Giunta Jr. noted the original plan for Lot 2 says it will not be release until the permits are issued. They are asking the decision be modified. Mr. Eisenhut stated it is in the revised draft decision. Mr. Cramer stated the latest plan is acceptable to buyers and sellers. Ms. Newman clarified Engineering has not reviewed it yet.

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.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to grant the relief requested in the form of the decision presented with the changes discussed.

8:30 p.m. – Discussion: Complete Streets

Mr. Warner stated there was a meeting of the Community Preservation Committee, Selectmen, and others and he suggested a complete street study would be useful. He stated Newton has done this and adopted it. Ms. Newman

noted she thought the Traffic Management Committee could do this or the Selectmen should deal with it. She feels they should work with them.

Mr. Eisenhut suggested they get some technical studies that have been done. He asked if they want to request the Board of Selectmen do this. Ms. McKnight stated they could ask the Selectmen to develop a set of guidelines and to develop those the Board would need a study. Ms. Newman will tell the Selectmen what they would like to accomplish and take it from there.

Request to Approve Reciprocal Easement: Major Project Site Plan Special Permit No. 2012-06: MMM Property, LLC, 7 Harvard Street, Brookline, MA 02445, Petitioner (Property located at 36-58 Dedham Avenue, Needham, Massachusetts) and Major Project Site Plan Special Permit No. 2012-05: MMM Property, LLC, 7 Harvard Street, Brookline, MA 02445, Petitioner (Property located at 916-932 Great Plain Avenue, Needham, Massachusetts).

Ms. Newman noted she received an email from Town Counsel David Tobin and he is fine with this. Town Engineer Tony DelGaizo is also ok with the easement agreement. She noted they gave them some flexibility to move around and they did not do that. They also gave them some flexibility to use some language that would allow the tenants flexibility to use the parking spaces behind the building on Great Plain Avenue when the stores were closed and they did not do that. That was an option and not a requirement. Mr. Jacobs noted page 11, section 3.1, last sentence. Mr. Mackin clarified that is the issue with the easement agreement that assures the abutter is allowed to use the right-of-way. Mr. Jacobs asked Mr. Smart if there is anything in there that will substantially impact this cross easement agreement. Mr. Smart stated they are asking for some sort of written acknowledgment of the reciprocal agreement. Mr. Mackin stated there is no impact on the reciprocal agreement.

Mr. Ruth asked when they were going to break ground. Mr. Mackin stated April or May.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to authorize the Planning Director to write a letter that the condition of the filing of the reciprocal easement has been satisfied.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously:
VOTED: to adopt the revised language as discussed.

Decision: Amendment to Major Project Site Plan Review No. 2007-10: Beth Israel Deaconess Hospital Needham, 148 Chestnut Street, Needham, MA, and Beth Israel Deaconess Medical Center, Inc., 330 Brookline Avenue, Boston, MA, Petitioners (Property located at 148 Chestnut Street, 86 School Street, and 92 School Street, Needham, MA).

Ms. Newman noted Attorney Roy Cramer sent a letter dated 12/3/12 with comments regarding the draft decision. Mr. Cramer noted he received an email from Police Lt. John Kraemer stating they have reviewed and approved the Construction Management Plan. He would like this email added to the exhibit. On Page 6, Section 1.4(3) he redid the language. There will be an entrance only sign and they will change the gate function so they can exit.

Mr. Cramer stated on Page 8, Section 1.13 he would like the words "as shown on the plans" deleted. Ms. Newman feels this is fine from her perspective. Mr. Cramer noted on Page 9, Section 1.16, he would not like the words "and the Board finds" deleted. Ms. Newman is fine with this part. Mr. Cramer also feels, in lines 8 and 17, the word "interior" should not be added as it is time consuming for Board members and staff to require minor interior modifications to go through the Site Plan Review process. Ms. Newman stated she is not comfortable with changes without the Site Plan Review process. Mr. Cramer stated for minor changes to come back is expensive. If they are substantial changes they would come back.

Ms. Newman noted, on Page 10, Section 1.18(7), the gate is a language change to clarify it will be disabled. She noted on Page 10, Section 1.20, they should leave provision C and get a clarification from the police. Mr. Cramer

would like, on Page 14, Section 3.4, in line 2, to add after the word "employees" the words "who are generally." Ms. Newman stated she has no problem with this.

Mr. Cramer stated on Page 14, Section 3.9, they have no control over where the visitors park. Mr. Ruth stated the hospital agreed the first time around. He reiterated it worked and asked why they are rethinking this? Mr. Cramer stated they cannot control where others park. Mr. Ruth stated if it is a problem they need to figure it out. It is not a license to overload the neighborhood. It worked last time. He feels it would be constructive to move on. Ms. McKnight asked how can they enforce no parking off locus at any time. It is too vague to be enforced. It should be employees or staff of the hospital or anyone they have any kind of contractual relationship with. Ms. Newman noted it is not a unique condition. Mr. Eisenhut suggested they add "and the hospital shall take reasonable steps to ensure that all invitees park on premises." Ms. McKnight added "and there shall be no on-street parking by hospital staff, employees, contractors at any time."

Ms. Newman noted #9 and #10 of Mr. Cramer's letter regarding page 14, Section 3.11 and page 15, Section 3.17 are ok. Page 14, Section 3.20, should read "adequate parking to accommodate contractors." Mr. Cramer stated the contractors need to find parking for the contractors. They are not providing spaces for them. They should delete "in hospital lots" from Section 3.20. Ms. Newman stated they could say "no on-street parking allowed." They must park off-site and off-street.

Ms. Newman noted Mr. Cramer's comments regarding Page 17, Section 3.3.5 are ok. Page 17, Section 3.40(b) was raised before with police clarification. On page 19, Section 3.42(h), Mr. Cramer would like some flexibility to adjust the numbers. Mr. Eisenhut asked, if there is a substitution, could the Planning Director be shown. Mr. Cramer stated this costs a lot of money. It is a good plan. They have a landscape architect and it is an unnecessary process. He noted they could add "substantially" in 3.42(d) also. Ms. McKnight noted they combined (h) with (d) so there is one paragraph. Ms. Newman stated they need to call out the differences.

Mr. Jacobs stated they are having continuing problems with landscaping and compliance. Adding the word substantially opens up a can of worms. Mr. Cramer stated they are spending staff time and the applicant's money for simple changes. Ms. McKnight noted they should keep Section 3.42(d) the same with regard to landscaping. Mr. Jacobs agreed. Mr. Ruth stated he would like better phraseology. He suggested they could allow minor substitutions upon administrations approval. Mr. Cramer stated they should leave it the way it is. This is fine.

Ms. McKnight suggested subsection (h) should go with subsection (d). Mr. Cramer noted on page 9, Section 1.16, any exterior work has to go to the Design Review Board, a board chosen by the Planning Board. He feels they should add "outside the scope of the project." Ms. Newman stated they could remove "interior work" and add "may require repairs and renovations at locations outside the scope of the project. Petitioner has requested than any such work..." They should add in Section 3.16 the hospital has agreed to supply a written report. Mr. Cramer suggested this is for informational purposes only and will be annually commencing in 2014. Mr. Ruth noted it could be a supplemental presentation presented in executive session.

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

VOTED: to grant a Major Project Site Plan Special Permit Amendment all in accordance with the draft decision presented tonight with the modifications discussed.

Request to authorize Planning Director to authorize Occupancy Permit: Amendment to Major Project Site Plan Special Permit No. 1997-7: Trader Joe's East, Inc. d/b/a Trader Joe's, 711 Atlantic Avenue, Floor 3, Boston, MA 02111, Petitioner (Property located at 9220958 Highland Avenue, Needham, Massachusetts).

Mr. Cramer stated Trader Joe's is putting together an As-built.

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

VOTED: to authorize the Planning Director to recommend issuance of a Certificate of Occupancy upon her discretion.

8:30 p.m. – Discussion: Complete Streets Reopened

Tom Conners informed the Board he had been here since 8:30 p.m. waiting in the hall for them to call him for the discussion. Mr. Eisenhut gave a recap of what the discussion was. He stated they would like information from other towns. Gary Levine, from Newton, stated the Board of Selectmen was not interested. He noted Newton did an entire transportation plan including a bike plan which is why their report is so large. They did not do a study for complete streets but adopted guidelines within the transportation study.

Mr. Eisenhut stated they would like a better idea of what they are looking at. Mr. Levine stated they need to look at what similar towns have adopted and how they prepared it. He has seen a website that recommended best practices. He stated any community that has adopted complete streets will be on the website. Mr. Warner stated some examples would be very helpful. Mr. Warner suggested information should go to Ms. Clee so she can look at it.

Ms. McKnight noted you often hear it said the town wants to use Chapter 90 money and therefore have to follow the state guidelines for the design of the road. She asked to what extent is the Commonwealth of Massachusetts on board with the concept of complete streets so that they incorporate their standards in their Chapter 90 design standards. Mr. Levine stated they require any municipality that has their funding to follow their guidelines. Ms. McKnight clarified the State of Massachusetts has the guidelines and was informed that is correct. The guidelines exist on the DOT website.

Ms. Newman stated they need to see if anyone else is working on it. She does not want to duplicate. She added the Selectmen have jurisdiction over the streets. Mr. Levine noted DPW Director Richard Merson and Town Engineer Anthony DelGaizo are proponents of this. Mr. Ruth stated DPW Director Merson and Town Engineer DelGaizo would have more authority and weight than the Planning Board as they are key people in town. Ms. Newman will ask how this Board can be helpful in reviewing and moving this to an institutionalized policy.

Report from Planning Director.

Ms. Newman noted the owner of the building who wrote the letter on Lincoln Street came in. He stated they have been parking there for 20 years and wanted to know why there is a problem now. She noted there was an effort to legalize it and a former Building Inspector wrote a letter to the owners that they were parking illegally. They filed with the Board of Appeals to appeal the determination but then they withdrew the application. They did not get the relief. Ms. Newman noted one of the owners passed away and his partner is looking into the issue. She noted if he leases the building he will not have the tenants parking across the street illegally.

Ms. McKnight stated she wanted to follow up and asked what it is they want to tell the Selectmen about their policies on tax increment financing information. Mr. Eisenhut stated it is overbroad. Mr. Ruth noted Ms. McKnight stated she preferred to make some direct comments. Ms. McKnight noted tiff should not be used for retail purposes. That comes out of long standing concepts of economic development and what is at the heart of economic development. Mr. Ruth noted a retailer would qualify under some but it is not clear.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously:
VOTED: to adjourn the meeting at 10:20 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker


Sam Bass Warner, Vice-Chairman and Clerk