

NEEDHAM PLANNING BOARD MINUTES

August 12, 2014

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, August 12, 2014 at 7:00 p.m. with Mr. Warner and Eisenhut and Mss. McKnight and Grimes as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski

Correspondence

Mr. Jacobs noted a letter from Joyce Sterling, of 77 Elder Road, dated 7/30/14, noting concern with construction in her neighborhood, especially large houses. Ms. Newman stated she will give this to the Large House Study Committee and they will respond.

Discussion about Zoning Articles for Fall Town Meeting.

Mr. Jacobs stated the proposed amendments to Section 2.3 and Section 3.3 of the Zoning By-Law were proposed by the Nectow Family. Roy Cramer, representative for David and Stacy Nectow, stated it was a simple request. Edgewater Drive backs up to the Charles River and the flood plain is there. The Nectows want to do work in their back yard, which will include adding a swimming pool. The Conservation Commission has no issue. The Nectow's went to the ZBA who felt there was nothing wrong with the proposal. Mr. Cramer stated pools are a prohibited use in the By-Laws so the Nectow's cannot do it.

Mr. Cramer stated he wants the Board to change the By-Law to change swimming pools from a prohibited use to a Special Permit use. The Nectow's can go back to the ZBA and get a Special Permit if it is changed. He noted other By-Laws around the state are Special Permit use including Eastham, Concord and Northampton. He stated there is no real reason for it to be a prohibited use. He feels it should be taken out of Section 3.3.1(d) and added to Section 3.3.3(h). He noted he spoke with Selectmen Moe Handel and John Bullian and they are in favor of this proposal.

Mr. Jacobs asked if Mr. Cramer knew the history of how this came to be a prohibited use. Mr. Cramer stated no, he does not ever remember it coming up when he was on the Conservation Commission. He stated he went on the Commission in 1982 and this was prohibited then. He thinks this is part of the original language.

Mr. Eisenhut stated he wants to know what the Conservation Commission's stand would be. Mr. Cramer stated he met with Matt Varrell, Director of Conservation, and he had no issue. Mr. Varrell stated he felt the members would have no issue either. Ms. Newman noted she would verify with the Conservation Commission what their stand would be. She hopes to move to a hearing and hear from the Conservation Commission. Mr. Eisenhut stated he wants to hear from the Commission not an agent. He needs to hear from them if they agree and if there are any limitations.

Ms. Newman stated she will begin the process. The Board will need to vote to forward the article to the Board of Selectmen. The Selectmen will refer it back and the Planning Board will hold a hearing at the second meeting in September. Mr. Jacobs stated the Board should say they are deleting Section 3.3.1(d). Ms. McKnight stated she needs to understand and this Board needs to be clear. Mr. Jacobs noted the Board is changing Section 3.3.3(h) to (i).

Ms. McKnight agrees the wording needs to be tweaked a little. She asked if Section 3.3.1(c) will still apply. Mr. Cramer stated a professional engineer will certify this. They should modify Section 3.3.1.

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

VOTED: to forward the article to the Board of Selectmen for referral back to the Planning Board.

Ms. Newman stated the amendment to the Zoning By-Law for Outdoor Seating is coming from the Planning Board. The purpose is to extend the use to other districts – Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, Apartment A-2, Apartment A-3, Institutional, Industrial and Industrial 1 Districts.

Mr. Jacobs stated the Planning Director should delete the # in the first section. Ms. Newman noted it is correct. It refers back to a note that refers to Section 7.4 and the procedure in Section 6.9. Ms. Grimes stated she is very in favor of this based on the fact the Board is trying to revamp our Business Center and Industrial Centers. She feels it will be good to allow outdoor seating.

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

VOTED: to send this Article to the Selectmen for referral back for the October Town Meeting.

Ms. Newman stated this amendment is to allow for a Personal Fitness Establishment in Industrial 1. The Board allowed for the fitness use but not a personal training use. This amendment corrects that in Industrial and Industrial 1. She stated, as relates to the Industrial use, the Board only allowed the gym use within a certain distance of 128. She asked if the Board wants to confine the personal fitness use the same way. Mr. Eisenhut stated the Board needs to make it consistent.

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

VOTED: to propose the amendment to the Zoning By-Law for a Personal Fitness Establishment be referred to the Board of Selectmen for referral back to the Planning Board for response.

Me. Jacobs noted the next amendment is for minimum side and rear line setbacks: accessory structures. If an accessory structure exceeds 15 feet in height it needs to meet the requirements. Ms. Newman noted the Large House Study Committee is looking at this. She stated she thinks this article will get a lot of attention. She is not sure it is appropriate for the Special Town Meeting. She noted one issue the committee is starting to address is accessory garages being built on the property line. Those structures historically used to be single story and now second stories are being built on them and they are 5 feet off the property lines. The projects need to meet the setback requirements now that the structures are getting larger.

Ms. Grimes stated she agrees the Large House Study Committee needs to look at this. She feels it is premature to put this on the Special Town Meeting. Mr. Eisenhut stated he feels it should be dealt with but he has no quarrel with the Large House Committee dealing with it.

7:30 p.m. – Major Project site Plan Special Permit No. 2014-09: Paul Boucher d/b/a A New Leaf, 1038 Great Plain Avenue, Needham, MA, Petitioner (Property located at 1029 Great Plain Avenue, Needham, MA 02492).

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

VOTED: to waive the reading of the public hearing notice.

Chris Jantzen, representative for the applicant, thanked Ms. Newman and Ms. Clee. He stated the applicant wants to move from the even side to the odd side of Highland Avenue and expand from 1,000 square feet to 3,000 square feet. He stated Paul Boucher, owner, has been in Needham for 10 years and is a resident. He has been

successful and wants to recreate the 1,000 square foot grocery area and also accessory take-out with seating for juices, shakes and assorted other products.

Mr. Jantzen stated there has been no opposition. The Needham Business Association Board of Directors heartily approves and The Center Café, an abutter behind them, also approves. The DPW has no comments or objections and Police Lt. John Kraemer approves. The applicant seeks to replace an abandoned property. He noted the plans have been submitted and revised. Track lighting was a suggestion of the Building Inspector. The applicant has adopted that change and the 1,000 square feet is being delineated by the track lighting.

Mr. Jacobs asked Mr. Jantzen to specify the significance of the 1,000 square feet. Mr. Jantzen stated this is an as of right use but the applicant must restrict it to 1,000 square feet. With the track lighting suggestion from Building Inspector Roach they have delineated 1,000 square feet and will not go over. The applicant is requesting a parking waiver of 24 spaces.

Mr. Jantzen stated in Section 5.1.2, they will close at 7:00 p.m. and will not be open at night. They are a specialty retail operation. It has been a thriving business for 10 years. There will not be an appreciable effect on traffic or anything in town. He stated there are renovations only to the exterior. They will not harm the sight line. This applicant will use less water than the nail salon and will not have alcohol sales. He requests the Board allow this permit.

Mr. Jacobs noted the Board has a draft decision and asked if the applicant has received it and if they have any comments. Mr. Jantzen stated the spelling of his name is incorrect. Otherwise, it is fine. Lucio Trabucco, architect, asked the Board if they can do work before the 20 days is up. Mr. Jacobs stated the Board cannot authorize that but if the applicant wants to proceed, it is at their own risk.

Mr. Jacobs noted the following correspondence for the record: an email from Fire Chief Paul Buckley, dated 7/28/14, with no objections or concerns; an email from Police Lt. John Kraemer, dated 8/12/14, with no objections or concerns; a letter in support from the Board of Directors of the Needham Business Association, dated 8/7/14; a letter from Town Engineer Anthony Del Gaizo, dated 8/12/14 with no comments or objections; a letter in support from Steve and Karen Waller of the Center Café, dated 8/7/14; an email from Tara Gurge, dated 7/31/14, with comments regarding a grease trap; an email update from Tara Gurge, dated 8/5/14, with comments regarding a grease trap; a letter from Chris Jantzen, dated 8/11/14 and a plan.

Mr. Warner asked if the applicant has gone to the Design Review Board for signage. He was informed they have. Ms. Newman noted there is no basement floor plan. Mr. Trabucco stated part of the basement is rented to another tenant and part will be storage with a demising wall. Ms. Newman stated she will need to know the square footage of the basement area to adjust the parking waiver.

Ms. Grimes stated she is thrilled with this project and wants to thank them. She feels this will be great and she is excited for it. She asked why the applicant made the decision to put the juice bar in the back instead of the front where customers would more likely see it. Mr. Jantzen stated they needed to honor the 1,000 foot grocery and therefore logistically it would have been hard to fit it up front. Also, the plumbing is in the back. Ms. Newman stated there can be no racks in front of the windows currently and asked if they will keep that. Mr. Boucher stated they will. The basement is 1,000 feet so the waiver is increased by two.

Mr. Jacobs stated there are 9 numbered spaces along the left side. Ms. Grimes stated they are listed in the legend. Ms. McKnight asked if the customers can go to the freezers and get food and was informed they could. She asked if that was part of the retail operation and was informed it was. She stated the freezers are outside of the 1,000 square feet but part of the retail. She does not know how to make this work under the By-Law. Patrons could come in, wander and pick up food. The aisle and freezer aisle are not included in the retail calculations.

Mr. Warner stated the cross hatch area could be redrawn to end at the end of the shelves. Just a little adjustment in the drawing will allow the freezers in the retail area. Mr. Jantzen stated, to allay concerns, some specialty

products do not come under retail. Mr. Trabucco stated he will rework the area. Mr. Jacobs noted the grocery items should not exceed 999 square feet. Mr. Eisenhut stated it is a slippery slope. A redrawn plan will be simpler. Mr. Jacobs asked if it would reflect a grocery area and a non-grocery area. Mr. Trabucco stated it would. Ms. McKnight commented she would like to revisit the By-Law and why they have a 1,000 foot limit for groceries.

Ms. Grimes stated they should modify the plan to show track lighting encompassing the grocery. Mr. Jacobs stated with freezers 1-9, the new grocery area should not exceed 999 square feet. Mr. Trabucco noted it will be defined by the track lighting. Mr. Jacobs asked if they are doing something with the floor also. Mr. Jantzen stated David Roche, Building Commissioner, suggested track lighting so they don't have to rip off the existing floor.

Alfred Maurer, owner of 1038 Great Plain Avenue, stated he built the building across the street from this facility. He stated Mr. Boucher has been prevented from expanding due to the 1,000 square foot grocery limitation. He found this hard to believe and wants to know why it is limited. This is a serious problem for him. He did not renew the lease for someone who was there for 22 years, then Mr. Boucher could not use the space due to the 1,000 foot limit. He stated the 1,000 foot limit has prevented him from having the space occupied. Now the Board is going out of their way to allow it at the new location.

Dennis Ozer, of 34 Williams Street, stated he supports the move. It is a great community space. People share a lot of health related ideas. He stated Mr. Boucher is there all the time.

Carrigan and Bridget Horrigan stated they support Mr. Boucher. This is so much more than just a grocery store. It fills a particular niche.

Deanna Ahigian stated she was in support. She has been an employee for 8 years. The store fills specialty dietary needs. People can find whatever they need. The store has a lot of hard to find items. She feels the business will continue to grow and be a focal point.

Steve Waller, owner of The Center Café, stated he is in support. This store allows him to take care of his gluten free customers. He would like this proposal to happen as soon as possible. He requests the Board please expedite the process.

Ms. Grimes stated she thinks Mr. Maurer had a fair thing to say. She thinks as a Board they need to look at that in terms of the square footage. She feels as a Board this is something they should look at in the future and that should be sooner rather than later. Mr. Warner commented he supports Ms. Grimes in her statements. He stated there were 2 rules tonight – swimming pools and 1,000 foot retail. He feels the Board is not entirely sure how or why the rules came into place.. They are the Board's rules and they are struggling with them. Mr. Eisenhut stated the grocery store rule was just that – a grocery store rule. The arbitrary 1,000 square feet is something they can talk about in a future discussion

Ms. McKnight stated she does not believe there was ever an application before them for the premises Mr. Boucher is in now. Ms. Newman noted the Board had discussions, she prepared some sample language about how they would treat the use, but by the time this was done the landlord had moved on with another tenant in the space.

Stephen Bradley stated that was not quite true. They were told they had to have 2 cash registers and a totally separate store. There had to be a totally separate delineated 1,000 square feet. Mr. Jacobs commented, for clarification, the Board never had a formal application or ruled on anything. He stated the Board is constantly being asked to change zoning. This may be something the Board ends up doing but this is an ongoing process for the Board.

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

VOTED: to close the hearing.

Mr. Jacobs noted the Board has a draft decision. Ms. Newman stated she is adding the 1,000 square feet. This adds 1.8 parking spaces or a total demand of 25 rather than 24. Mr. Jacobs asked what the hours of operation would be. Mr. Boucher stated 9:00 a.m. to 7:00 p.m. – Monday through Friday, 9:00 a.m. to 6:00 p.m. – Saturday and 10:00 a.m. to 6:00 p.m. on Sunday. Mr. Eisenhut stated the Board needs to set the hours of operation in Section 3.3. Ms. Newman stated they typically do that and she will set the hours in the decision.

Ms. McKnight stated the Board needs to make it clear the use is retail establishment and not retail operation. The Planning Director needs to change the word “operation” to “establishment.” Mr. Jacobs stated, he would like, wherever it mentions “grocery area” it is less than 1,000 square feet. Ms. McKnight stated the decision allows the sale of yogurt and ice cream. The Health Department has other rules which might actually preclude the sale of those items. She is not sure why this Board should restrict those items.

Ms. McKnight asked what the dumpster situation is there. Ms. Newman stated the town is in the process of trying to consolidate the dumpsters in that parking lot. The short term goal is to consolidate the dumpsters in that lot and corral them in a fenced enclosure. Ms. Newman noted the only other condition is keeping the windows open and not having any shelving obstructing the views. Ms. Newman will send a revised draft.

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

VOTED: subject to the Board’s discussion, including but not limited to open windows, hours of operation, submission of a modified plan, the edits including retail establishment and specifying it is less 1,000 square feet and subject to the recalculation of the parking spaces and waivers, it is moved to grant Major Project Site Plan Special Permit under Section 7.4 of the Zoning By-Law, a Special Permit under Section 3.2.2 for certain retail sales, a Special Permit under Section 5.1.1.6 to waive strict adherence to the off-street parking requirements under Sections 5.1.2 and 5.1.3 all as set forth in the draft decision as will be modified by the Planning Director subject to our discussion.

Discussion about fall schedule

Ms. Clee noted Town Meeting is October 27. On 9/24, at 8:00 a.m. the Board has a meeting with the CEA. A meeting with the Selectmen is to be scheduled in September. Ms. Newman noted they will meet regarding medical marijuana and next steps. She stated Town Manager Kate Fitzpatrick suggested they meet on 9/10 at the Selectmen’s meeting.

Mr. Jacobs asked the Board members if they had any issue changing the meetings to 7:00 p.m. permanently. All agreed to the change. Mr. Jacobs stated he would prefer the Selectmen come to a Planning Board meeting. They could do it at the 9/2 meeting. Ms. Clee noted the 11/5 meeting date is questionable. She suggested the Board should maybe meet a little early on 10/27 instead. Ms. Newman will check as time progresses.

Mr. Eisenhut suggested they walk through the medical marijuana setbacks map. Ms. Newman stated the map shows what would be with the setbacks. She took the Department of Public Health requirements and 500 feet off sensitive uses. The cross hatch areas are day care uses. In Industrial 1 there is some impact and a small Industrial pocket on Highland Avenue by Webster Street. She stated this includes licensed day cares, parks, playgrounds and she excluded Huntington Learning Center and the dance studio.

Mr. Jacobs stated this is not, to his way of thinking, a conservative look. A conservative look would include Huntington Learning Center and the dance studio. He suggested the Planning Director could do 2 maps. Ms. McKnight stated she likes the idea of 2 maps. One map is of setbacks clearly required by state regulations; the

other map is subject to interpretation. Mr. Jacobs stated, what the map does not show, is how many buildings within Industrial/Industrial 1 are left. He feels as a Board they should figure that out. His concern is any lawful use not enumerated elsewhere. If the number of buildings left is minimal there may be an issue. Ms. Newman stated the Department of Public Health determined a setback from an ice cream store is not required.

Report from Planning Director

Ms. McKnight stated she was not realizing that legislation had been approved by the Legislature that would have created some kind of buffer zone along Route 128 and would have directed the Massachusetts Department of Transportation to purchase by eminent domain parcels of land in Needham for the purpose of creating a highway buffer zone. Ms. Newman stated it was vetoed by the Governor last Friday. Ms. Newman stated that was Denise Garlick's article.

Minutes

Ms. McKnight noted on the 2/19/14 minutes, page 3, it should say "structured" parking rather than "overhead." On page 7, Heights should be capitalized. On the minutes of 3/4/14, page 5, it should be sister's rather than sisters'.

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

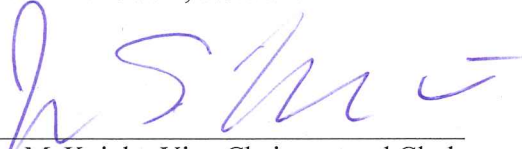
VOTED: to adopt the minutes of 2/19/14 and 3/4/14 as corrected.

The Board submitted changes to the 4/16/14, 4/29/14 and 5/20/14 draft minutes.

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

VOTED: to adjourn the meeting at 8:53 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Jeanne McKnight, Vice-Chairman and Clerk