

NEEDHAM PLANNING BOARD MINUTES

December 20, 2016

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building, was called to order by Paul Alpert, Vice-Chairman, on Tuesday, December 20, 2016 at 7:05 p.m. with Messrs. Jacobs and Owens and Ms. McKnight, as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski.

Public Hearing:

7:05 p.m. -- Amendment to Major Project Site Plan Special Permit No. 1998-D, ATI, Physical Therapy, 790 Remington Blvd., Blingbrook, IL 60440, Petitioner, (Property located at 50 Cabot Street, Needham, MA, 02492).

Steven Kolber, of Kolbrook Design, noted his client's physical therapy clinic is currently located in the NE Business District. Their lease is ending due to construction and they have found a new location also in the New England Business District. Physical therapy is not allowed by right, and the applicant would like relief. For the parking, this is an office building and a waiver of 6 spots would be necessary. The hours are 7:00 a.m. to 7:00 p.m. He feels this is a complementary use and does not feel there is a stress on the parking. At the maximum peak there will be up to 14 people in the location.

Mr. Alpert noted this is allowed by Special Permit. Mr. Jacobs thanked the applicant for providing an alternative application signed in the correct form. He asked if the name is ATI, Physical Therapy. Mr. Kolber noted there is no comma. Mr. Jacobs clarified that will be fixed. He noted the draft decision mentions several times "not to exceed a maximum number of employees (7) and a maximum number of patients (7)." Mr. Jacobs asked how often appointments are scheduled. Bob McDonnell, of ATI Physical Therapy, noted every 30 minutes. Mr. Jacobs clarified it was likely there will be people waiting for appointments. The decision should say something about that. There may be times when there are more than 14 people. Mr. Alpert suggested the decision be changed to reflect in the findings there may be up to 21 people at a time. Mr. McDonnell stated there could be 4 to 5 professionals and 1 or 2 office staff. Ms. McKnight noted 7 employees and 7 to 10 patients on site. This should go in the findings section.

Ms. McKnight stated she went to the site. It is an attractive building and a nice entrance. It has a well arranged parking lot that is well designed. She did not see any problems with the site accommodating this. Mr. Alpert noted the following correspondence for the record: an email from Fire Chief Dennis Condon with no issues, an email from Tara Gurge, of the Health Department, with no comments; a letter from Assistant Town Engineer Thomas Ryder with no comments or objections and an email from Police Lt. John Kraemer with no safety concerns.

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

VOTED: to close the hearing.

The Board discussed the draft decision. Mr. Jacobs noted the comma between ATI and Physical Therapy should be removed. In section 1.2, 6th line, delete "Physical Therapy tenant"; in section 1.8, it should say "onsite parking spaces are adequate"; in section 1.16, "physical" is spelled wrong; in section 1.3, it should say "no more than..." and it should be "therapy space; and in section 4.7, 2nd line, it should say "recorded document." Mr. Alpert noted on the first page, at the bottom, the word "members" needs to be added after "Board.

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

VOTED: to grant the requested Major Project Site Plan Review Special Permit Amendment under Section 7.4 and Section 21 of the July 19, 1988 Major Project Site Plan Review Special Permit Decision; the requested Special Permit under Section 3.2.4.2(i) for a physical therapy facility in the New England Business Center Zoning District; and the requested Special Permit under Section 5.1.1.5 to waive strict adherence with the off-street parking requirements of Section 5.1.2 and Section 5.1.3.

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

VOTED: with the changes made, to accept and sign the form of amendment to the decision that is before the Board that contains the relief the Board granted.

Correspondence

Mr. Alpert noted the BETA Engineering Report. Ms. McKnight summarized the report. The conclusion is that the town can have a quiet zone for the whole town approved by the Federal Railroad Administration (FRA) if improvements are made to the 5 public crossings in Needham and with modification of the current agreement with the MBTA to deal with the private golf course crossing. The quad gates for the total of 5 public crossings are estimated at \$2.5 million. That includes additional safety improvements, constant speed safety warnings, power out indicators, vehicle presence detectors and moving an existing set of gates to the golf course crossing.

Mr. Jacobs noted the conclusions talk about 26 towns in Massachusetts having implemented quiet zones. Ms. McKnight stated that is correct. Most have used less expensive remedies. A lot of towns have used median barriers. The DPW objected to median barriers to separate lanes of vehicular traffic approaching crossings, rather than quad gates. Three streets -- Oak Street, May Street and West Street -- are fairly narrow and may be difficult and driveways are close. Mr. Jacobs feels the DPW may be able to look at other towns and see how they deal with issues. The issue is for the Board of Selectmen. They should maybe assemble the experiences of other towns and evaluate safety.

7:30 p.m. – Amendment to Major Project Site Plan Special Permit No. 2014-04, Artisan Dance Academy, LLC, Kai Chen, Manager, 322 Reservoir Street, Needham, MA, Petitioner (Property located at 10-16 Charles Street, Needham, MA 02492).

Kai Chen, Manager, stated the academy is currently at 322 Reservoir Street. The applicant rents a dance studio during the studio's off time. The academy has grown and needs its own space. The academy teaches ballet and Chinese folk dance. This is a change of use for a private school for dance instruction. A parking waiver has been requested. The application hours are Monday through Friday, 5:00 p.m. to 8:00 p.m. and Saturday and Sunday, 9:00 a.m. to 8:00 p.m. He would like 8:00 a.m. to 8:00 p.m. Monday through Friday, and 9:00 a.m. to 8:00 p.m. Saturday and Sunday. It should not impact the parking requirement. He added the parking lot is in low demand during these hours.

Ms. Newman clarified the applicant would like the hours to be 8:00 a.m. to 8:00 p.m. This is correct. Ms. Newman noted there is a total change to the application with these hours. Ms. McKnight asked if it is mostly children who are dropped off and picked up. Mr. Chen stated it is. Mr. Jacobs stated the drop off and pick up may not apply because the applicant wants adults and it is no longer off peak. Mr. Chen stated he went over the decision and those are the primary hours of operation. Mr. Jacobs stated he would want more information on the parking during the day.

Ms. McKnight stated she went at 5:00 p.m. and the parking lot was almost full. The parking arrangement is completely inadequate. She is not sure the parking width is compliant. She does not feel it is a safe situation. It is a terrible parking situation around this building. She is concerned with parking associated with the type of operation going in. Mr. Chen stated One Nations' peak hours are 5:00 p.m. to 6:00 p.m. He is requesting

expanded hours to accommodate special events. Mr. Alpert stated the Board needs more information. There may not be enough parking.

Ms. Newman noted there may need to be a parking survey. Ms. McKnight noted the spaces on Fremont Street are not on the property. It should be clear these spaces are not being counted. Ms. Newman noted the Board has granted waivers based on on-street parking availability. Mr. Jacobs asked if part of the resolution was parking on the abutting property. Ms. Newman noted not on this one. There would need to be a parking survey done.

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

VOTED: to continue the hearing to 1/10/17 at 7:05 p.m.

Minutes

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

VOTED: to accept the minutes of 9/27/16 as written.

Request to extend Temporary Occupancy Permit: Major Project Site Plan Special Permit No. 2015-07: Great Plain Hospitality, LLC d/b/a RFK Kitchen, 42 Birch Street, Needham, MA, Petitioner (Property located at 948 Great Plain Avenue, Needham, MA).

Mr. Alpert noted a letter from Rachel Klein requesting an extension of their temporary occupancy permit from January 1, 2017 to June 1, 2017. Ms. Newman noted there are 2 dumpsters. One was required for 50 Dedham Avenue and was to be inside a wood enclosure. Then a permit was issued to Ms. Klein. The site inspection showed a chain link enclosure with vinyl slats not wood. 50 Dedham Avenue did not use wood either. The Board issued a temporary to open and gave a bond. Ms. Klein is having difficulty getting the other tenants to help with the costs. The Board is currently holding money to have the enclosure changed to wood.

A motion was made to extend the temporary occupancy permit. Mr. Jacobs noted he has no problem with an extension but it should be relayed to Ms. Klein that if she wants to come in she should do it sooner rather than later. Ms. Newman stated Ms. Klein will be coming in in January.

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

VOTED: to extend the temporary occupancy permit for Great Plain Hospitality, LLC at 948 Great Plain Avenue to June 1, 2017.

8:00 p.m. – Major Project Site Plan Special Permit No. 2016-03 Town of Needham, 500 Dedham Avenue, Needham, MA, Petitioner (Property located at Rosemary Street (adjacent to Rosemary Lake), Needham, MA). Please note: this hearing has been continued from the November 15, 2016 and December 6, 2016 meetings of the Planning Board.

Mike Retzky, representative for the applicant, provided a draft plan of the land with the revisions the Board requested. He has added easements and deed numbers. There is a key sheet on the front of the plan and all are labeled on the back. The plan was to show paths and other areas. Note 7 was revised and research was performed. Note 9 was also changed.

Ms. Newman stated Town Counsel David Tobin has chosen to recommend that the Town take the entire property around Rosemary Lake nominally owned by the Town by eminent domain.

Mr. Alpert noted a letter from Police Chief John Schlittler regarding a higher illumination needed. The police department supports higher candles. Mr. Alpert noted a letter from Shepherd Engineering, dated 12/12/16,

regarding exterior lighting. Ms. McKnight noted the letter from Shepherd Engineering. She commented she was pleased to see the letter says motion sensors, a number of candles and light spill eliminators. She feels the letter is helpful. Mr. Jacobs asked what is dark sky lighting? Joel Bargmann noted the light is down and not up to the clouds.

Mr. Alpert noted an email from Town Engineer Anthony DelGaizo, dated 12/20/16, with comments. He stated comments 2 and 3 are being handled as plan modification, 4 and 5 are linked to the building permit, 6 is linked to the occupancy permit and one is already on the plan. Mr. Owens commented the hearing was opened on 11/15/16 then continued twice. The Board received memos today dated today. He feels this is completely unacceptable. Ms. McKnight stated she was handed materials tonight. She is uncomfortable. She needs time to read the materials. Mr. Alpert agreed with all comments. This is unnecessary pressure. Ms. Newman stated she wrote the decision to have the lights go off at 10:00 p.m. She asked when the lights will be turned down. Mr. Bargmann stated the lights will be turned down whenever the town wants them turned down.

Steve Popper, of the Permanent Public Building Committee, stated he is surprised with the conversation. The town has worked hard to get it all done. The letter was sent with verbiage last Tuesday, then sent back with changes. The applicant has tried to comply with what the Board has requested. Mr. Owens stated he is comfortable closing the hearing tonight. The Board has asked for a couple of things and the applicant has been responsive. He stated the comment was an administrative comment. Mr. Popper stated he has tried to get the Town Engineer to comment earlier but it is a process. They do not always get a response until the 11th hour. He received the draft decision an hour ago.

Mr. Jacobs asked what is the problem with waiting until the 1/10/17 meeting. Mr. Popper noted the only issue would be if there is an issue with the schedule for issuing the Request for Proposals. The applicant is waiting for the final decision to get the construction documents. Mr. Bargmann added there are other permits the project needs to get also. Mr. Alpert noted the hearing will be recessed for a short period.

Mr. Alpert reopened the hearing. Ms. Newman reviewed everything she has done and received. She noted the first section is exhibits then the findings describes the project. The overview is the programming profile of the site, then parking and how that would work, parking and design waivers, traffic engineering assessment, traffic on Rosemary Street, the transitional zone, then normal findings are called out, plan modifications and conditions. The plan shows the crosswalk but not in the correct location. That needs to be changed. The Selectmen and DPW have approved this.

Ms. Newman noted section 3.25 regarding lights needs to be changed and section 3.32e is the final consolidation plan. Ms. McKnight noted section 3.4 should have another sentence that the applicant shall provide a final consolidation plan. Mr. Alpert stated a clear title should be a condition. Ms. McKnight noted section 3.32f should be 3.21. Ms. Newman noted it is not a phased plan so section 3.33 should be removed. There is a 2 year time line to complete the work. Mr. Jacobs asked how long it would take. Mr. Retzky stated it would be 13 months – June to June.

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

VOTED: to close the hearing.

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

VOTED: to grant the requested Major Project Site Plan Special Permit under Section 7.4; the requested Special Permit under Section 4.2.8.4 to reduce the transition area setback requirement from 25 to 10 feet 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 By-Law, more specifically, in 5.1.3(a), 5.1.3(k) and 5.1.3(l).

Mr. Jacobs asked if the applicant has reviewed the draft and if there were any questions or changes. Ms. McKnight asked in section 1.7, what does primarily maintained mean? Ms. Newman noted the intersection of the existing drive with the intersection with Rosemary will be shifted approximately 40 feet. Ms. McKnight stated "and the petitioner proposes a crosswalk" should be added. She noted in section 1.11 it says the Planning Board agrees with the calculation. It should say "the Board finds that the calculation is acceptable."

Mr. Jacobs asked if the office spaces are closed on weekends. Patty Carey, Director of the Park and Recreation Department, noted the spaces are closed to the public. Mr. Jacobs noted section 1.10 should say "when the office spaces are closed to the public." Ms. McKnight noted in section 1.13, last paragraph, add "persons" after 4-5. Ms. McKnight suggested taking the 3rd paragraph from the Shepherd memo and put in the findings and conditions in section 1.14 that the lights will be controllable. Then add the memo wording "the upper parking area shall be zoned...." In section 1.14, there should be 4 paragraphs – the introduction should be the first 2 lines, The Petitioner should be the next paragraph, then the Petitioner is seeking a further waiver would be the 3rd paragraph and the last sentence would be the last paragraph. All agreed.

Mr. Jacobs noted on the top of page 11, although it is an intersection it should be clarified what Pare Corporation is saying. Ms. McKnight noted in section 1.16, it should say to capture speeds "at that location." Mr. Alpert does not have a problem with section 1.16. He feels that it is clear. He noted in section 1.20, add "The Board finds that the facility, as proposed, will have minimal impact" and in section 1.21, add "The Board finds that the adjoining..." The 2nd paragraph should be changed to reflect the Shepherd wording. Ms. McKnight noted in section 1.21, the 2nd line should be "sight" not "site." Ms. Newman noted she will work on the language of the 2nd paragraph in section 1.21.

Ms. McKnight stated in section 1.22, it should be crosswalk. Mr. Retzky stated there may be a second crosswalk and he feels it should be left as is. Mr. Alpert stated in section 1.26, he has a problem with the adverse effect on town resources. Ms. Newman noted it refers to the water supply. Mr. Alpert suggested taking out "resources, including." All agreed.

Mr. Jacobs asked, in section 3.10, why only 15 spaces at Memorial Park? There are plenty of spaces. Why cap it at 15 spaces? He would propose a higher number. He suggested 30 spaces. Mr. Alpert noted in section 2.0, it should reference the final consolidation plan. Mr. Jacobs noted section 3.10 should say at least 30 spaces. Ms. Carey stated that is doable. All agreed.

Ms. McKnight stated in section 3.21, the notice required should say "or by hand." It should be an option. In section 3.20, is the maintenance plan consistent with Engineering's letter? Ms. Newman stated it was consistent. Mr. Alpert asked if Ms. Newman needs to revise section 3.25 to be consistent and was informed she will revise it. Mr. Jacobs asked who determines if the crosswalk is appropriate in section 3.22. Ms. Newman noted the Selectmen and the DPW make the determination. Ms. McKnight proposed inserting "exact location may differ from that on the plan." Mr. Alpert did not feel that was necessary as he felt it was pretty clear. Mr. Retzky stated the contractors will be bidding on the crosswalk so it has to be shown on the plan or it would be a plan modification. Ms. Newman will add "the plan modification location of the sidewalk will be determined."

Mr. Jacobs noted in section 3.22 take "appropriate" off and add "handicap" accessible ramps. This was agreed. Ms. McKnight noted in 3.32e, change "Plan" to "Final Consolidation Plan." Mr. Alpert noted it should just be "Plans shall be recorded at the Registry of Deeds." Mr. Jacobs suggested adding "the eminent domain taking referenced on the plan has been completed."

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

VOTED: to approve the decision in the form provided with the various changes discussed.

Report from Planning Director and Board members.

Ms. Newman informed the Board she is trying to set up meetings for Chairman Grimes and herself to meet with the Selectmen to go over the Large House Zoning. The Board is on schedule for a presentation in January. She thought she might send invitations to Town Meeting members and she will have cable there.

Ms. McKnight noted the Selectmen are having a discussion tonight regarding the allowance of recreational marijuana. It will be of concern to this Board. The Selectmen anticipate meeting with the Legislators to discuss the changes the Selectmen may want to the Act itself. Ms. McKnight stated when she read the General Law she read it differently than it has always been reported. One is pot shops that are similar to bars where you would go in and smoke pot there. The town can have a referendum to say no pot shops but when it comes to sales it can only be controlled by location. That is how she reads the statute but that is not how it has been reported. She thinks there will be a proposal for a referendum that there be no pot shops. She would suggest to the Selectmen that they read it carefully. Ms. McKnight stated no date has been set for the meeting with the Legislators.

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

VOTED: to adjourn the meeting at 10:20 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Paul Alpert, Vice-Chairman and Clerk