

NEEDHAM PLANNING BOARD MINUTES

June 13, 2017

The regular meeting of the Planning Board held in Charles River Room, Public Services Administration Building, was called to order by Ted Owens, Chairman, on Tuesday, June 13, 2017, at 6:45 p.m. with Messrs. Jacobs and Ms. Grimes, as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski. Mr. Alpert arrived at 7:05 p.m.

Appointment:

6:45 p.m. Dan Matthews – Food Trucks

Selectman Dan Matthews stated the Selectmen have concerns with food truck changes and possible changes in the Town's practice. The Selectmen have had forums and hearings for a couple of years. There have been some productive things. The Town has allowed food trucks to operate with permits where there are no restaurants available such as at Needham Crossing. The Selectmen have worked on permits and fees. It is very complicated but progress is being made. He noted the Selectmen are working with Park and Recreation regarding something at Memorial Park with some food trucks at events.

Selectman Matthews stated the issue that has been seen at Town Meeting is whether to permit more food trucks in the Business District. The Selectmen are hesitant to do that and wanted to ask the Planning Board for input. The Board of Selectmen was to report back to Town Meeting at the Special Town Meeting in October. The main purpose for him to come to the meeting is to state that the Board of Selectmen want input of the Planning Board on what to do, what the thinking is, as to permits on public property. Should the Board allow food trucks on private property or leave the current prohibition the same? He stated this is more a planning topic than a Selectmen topic. They want input and to work with the Planning Board and to let Town Meeting know when the Selectmen go back in October.

Ms. Grimes asked if restaurant owners have come forward when the Selectmen have had public hearings. Selectman Matthews noted all owners in the Business Association are opposed. It would not increase foot traffic but it would skim businesses. Ms. Grimes stated she reached out to the proponent before the last Town Meeting. She wanted to see if the proponent had information from other towns regarding parking and access. There was nothing, which she feels is the biggest issue. The Board needs to know how many cars will be taking up spaces. Selectman Matthews agrees. He stated the food trucks would be there at peak times. Mr. Jacobs suggested having a hearing to hear from the proponent. Ms. Grimes and Mr. Owens both liked that idea. It should be put on an agenda to invite him in. Ms. Grimes noted the problem with the hot dog stand on Great Plain Avenue was people parked in the gas station. There should be a hearing. Selectman Matthews noted he would like if it was scheduled when the Board of Selectmen are not meeting.

ANR Plan – Briarwood Realty Trust, Petitioner (Property located at 42 and 54 Lakin Street, Needham, MA).

Paul Beaulieu, of Field Resources, stated this was 2 lots. Two new building lots will be formed. There is a party interested in the rest of the property. Mr. Owens clarified the proponent is making it into 3 lots with 2 buildable lots and the unbuildable parcel is being sold to an abutter. Mr. Jacobs asked if the house is to be razed and was informed it would be. Joseph Centola, owner of the property, stated he is the beneficiary of Briarwood Trust. Ms. Newman noted the lots have required frontage and appropriate notes are on the plan.

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

VOTED: to approve the ANR plan.

Request to authorize Building Permit: 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)).

Michael Retzky, of the Public Building Committee (PBC), noted that Town Meeting gave the project a favorable vote: the Committee has received funding and approval to go ahead with the eminent domain taking. There is a Plan of Land edited and stamped.

Mr. Alpert arrived at 7:05 p.m.

The Selectmen are set to approve the Order of Taking tonight. Once approved, he will go file the Plan of Land. He noted there is a contractor on board and an executed contract. The order of taking will be recorded tomorrow. He reviewed the plan modification issues. The plans were stamped as necessary. He stated there will be a crosswalk with signage and noted the DPW comments from Engineering.

Mr. Owens noted the following correspondence for the record: a memo from the Town Engineer, dated 6/8/17, with comments and revised plans dated 6/13/17. Mr. Retzky stated there is an interdepartmental agreement for 30 spaces. There will be a Memorial Park Trustees meeting tomorrow night and there will be a written agreement. Mr. Jacobs asked if it would be written like a license and why. Mr. Retzky stated it is basically being copied from the School Committee agreement with Memorial Park Trustees for the parking there at the field. Mr. Jacobs stated a license is revocable at will. That is not really satisfactory to satisfy this condition. The Decision calls for an agreement and not a license. He does not think this is the way to do it. Ms. Grimes agreed. She feels it should be memorialized in an easement agreement.

Mr. Alpert stated it should have an end date or in perpetuity. Mr. Jacobs noted 99 years. Mr. Alpert feels it should be an agreement rather than an easement "for as long as there is a swimming pool at the site of Rosemary Lake." Ms. Newman stated she can move that condition to the Occupancy Permit and do as a deminimus change. Mr. Jacobs stated he was ok with that.

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

VOTED: that the requirement in the permit that there be an agreement for the use of parking spaces at Memorial Park needs to be in place before an Occupancy Permit can be issued rather than the current requirement that it be in place before the Building Permit is issued.

A motion was made to authorize the Planning Director to issue the building permit for the Rosemary Pool project once she has recorded documents from the Registry of the taking by the Town and the updated plans. Mr. Jacobs asked if Section 3.32, paragraphs a-e, are satisfied. Ms. Newman noted Section 3.32, a-e, have been satisfied.

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

VOTED: to authorize the Planning Director to issue the building permit for the Rosemary Pool project once she has recorded documents of the taking by the Town, the updated plans and she is satisfied the other conditions of our permit under Section 3.32 of our permit have been satisfied.

Transfer of Permit: Major Project Site Plan Review No. 1991-01: Needham Restaurant Project Limited Corporation d/b/a Not Your Average Joe's to TDRG Needham, Inc. c/b/a Cook Needham, Petitioner (Property located at 105 Chapel Street, Needham, MA).

Mr. Owens noted this is a transfer of a Special Permit. Ms. Newman stated Paul Turano, of Cook Newton, will live by all the existing conditions except he wants to open Saturday and Sunday at 10:30 a.m. rather than 11:00 a.m.

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

VOTED: to find the request for a change in hours to be a de minimus change.

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

VOTED: to approve the amendment to allow a change in hours to open at 10:30 a.m. rather than 11:00 a.m.

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

VOTED: to authorize a transfer of the permit as applied for.

Decision: Major Project Site Plan Special Permit No. 2017-01: Sage Biotech Inc., formerly known as Sage Cannabis, Inc., 13 Commercial Way, Milford, MA 01757, Petitioner (Property located at 29 and 37 Franklin Street, together with a parking and access easement over a portion of 55 Franklin Street, Needham, MA).

Mr. Owens noted there is a draft decision. Roy Cramer, representative for the applicant, stated he has 3 minor items in the draft decision that he would like to discuss. He noted in Section 1.22, he would like 2 findings with regard to Riverside Community Care. He would like a finding Riverside is not an elementary, middle or high school, or if it is, the standards have been met that it is sufficiently buffered. It is a multi-use building for a variety of programs. One component is the Riverside Community Care. It is a Chapter 766 school with an average stay of one year. It is different from regular schools. All the kids are driven and picked up. There is some academic but there is a heavy therapeutic component. He feels it does not fit the category of an elementary, middle or high school.

Mr. Alpert stated the Board members have a description of the Riverside School in their packets. He noted it sounds like a school. It is grade 6 to 12 and is on a 12-month schedule in an educational setting. He stated it sounds like a school but he is prepared to find it is 500 to 1,000 feet away. Mr. Jacobs stated there could be an argument either way. It does not matter really. He noted they Board could say "the Board doubts the Riverside School is within the definition but find it is sufficiently buffered." Mr. Cramer stated that works for him. Mr. Alpert stated he is comfortable with that. Mr. Owens clarified the language should be modified to find the Board is in doubt this meets the definition of a school but, regardless, it is beyond 500 feet and is sufficiently buffered.

Mr. Cramer noted in Section 3.6 there is a reference to documents. One is the Community Benefit Agreement. He wants to delete the reference to the Community Benefit Agreement because he did not file that to buttress the case. The Selectmen had to make a finding of either support or non-objection. He wants to keep the planning documents separate from the financial documents. Ms. Newman stated the Board should impose a condition that the site cannot be converted to recreational marijuana if the reference is removed. Mr. Cramer stated the applicant is asking for a permit for medical marijuana and not recreational marijuana. Mr. Alpert agreed it is medical marijuana. Mr. Jacobs commented the Board should say this is for medical marijuana and any other use needs to come back. Mr. Cramer stated he is ok with not operating a recreational marijuana facility without coming back. Ms. Grimes stated she does not like that.

Mr. Jacobs stated this is compromise language. It should be made clear that a hearing with notice is required. Mr. Alpert noted Ms. Grimes would like to put a condition on that future Planning Board's cannot make a de minimus change. He summarized the reference to the Community Benefit Agreement should be taken out and a condition should be added that the facility would not be changed to a recreational marijuana facility under this permit without an amendment with full notice to abutters, publication and a full hearing.

Mr. Cramer stated he would like Section 3.26 deleted. The site plan review has 2 provisions. This is not a site plan review. This is a special permit. The Board of Appeals does not have anything like this. This is a small building and there is no footprint change. Section 3.26 would be expensive and this is a non-profit. The applicant

would need to satisfy the Building Inspector. He reiterated this language was taken from a site plan review decision. Ms. Newman stated all things the applicant is doing on site are similar to what would be shown on a site plan review. Mr. Jacobs noted on page 13 there is a Section 3.24 then 3.26. Section 3.26 should be 3.25. Ms. Newman stated she will renumber them. She noted there is some flexibility to bond some items. With the Building Inspector there is no flexibility. Ms. Grimes stated she is ok with deleting Section 3.26 on page 13. Mr. Owens agreed. Mr. Jacobs commented he had a concern with precedent setting. Ms. Newman explained what she would typically get. Mr. Jacobs stated he is leery of deleting 3.26. Mr. Alpert noted it should be left in. The Planning Director feels it should be left in.

Mr. Owens stated the first Section 3.26 should be left in. Mr. Alpert noted he would take out sub paragraph d. Mr. Owens summarized 3.26 will be 3.25, take out d and re-letter. Section 3.26 will be renumbered. Ms. Newman stated she would add something that requires the applicant show the lighting installation on the site plan. Mr. Cramer stated the locations will be put on the site plan.

A motion was made to approve the decision as modified by the discussions. Ms. Newman stated Ms. McKnight sent some changes she would like. On page 1, first paragraph, second line, after "cannabis" put "Inc." On page 3, Exhibit 22, it should be "from" not "form." On page 4, who is registered? In paragraph 3.16, there should be a condition that no marijuana product can be disposed of in the dumpsters. Michael Dundas, applicant, stated that is a state regulation.

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

VOTED: to approve the decision as modified by the discussions tonight.

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

VOTED: to grant a Special Permit under Sections 3.2.6.2(h) and 6.10 of the By-Law for the operation of a Medical Marijuana Treatment Center in the Mixed Use – 128 Zoning District with the changes discussed tonight; the requested Special Permit under Section 1.4.6 of the By-Law for the alteration, enlargement or reconstruction of a non-conforming building with any changes discussed tonight that are relevant; the requested Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the off-street parking requirement of Section 5.1.3 (Parking Plan and Design Requirements) of the By-Law; the requested findings and determinations required by Sections 7.5.2 and 7.5.2.1 of the By-Law; and grant the requested finding that the criteria set forth in Section 6.1.0 of the By-Law are met subject to plan modifications and conditions in the permit as amended by the discussion tonight.

Diminimus Change: Major Project Site Plan Special Permit No. 2015-05: Normandy Real Estate Partners, 99 Summer Street, Boston, MA, Petitioner (Property is located at 77 A Street, 156 B Street, 189 B Street & 0 A Street, Needham, MA 02494).

Roy Cramer, representative for the applicant, stated this is a request for a minor modification of the existing decision. Section 3.10 lays out the uses permitted. He does not know about NBC Universal. He would like to add radio and television studios in Section 3.10 under the Insignificant Modification Policy. Ms. Newman stated the Insignificant Modification Policy does not allow her to make changes in use.

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

VOTED: to treat this as a diminimus change.

Mr. Owens noted the applicant would like the current Section 3.10 deleted and replaced with "This permit is issued for professional, business or administrative offices, laboratories engaged in scientific research and

development, retail uses, hotels and radio or television studios. Any changes of such above-described uses shall be permitted only by amendment of this approval by the Board.”

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

VOTED: to amend Section 3.10 by deleting the current provision in its entirety and replace with the language just read by the Chairman.

Mr. Owens noted the proposed letter by Roy Cramer was discussed at the last meeting. He asked the Planning Director to review it and she stated it is an accurate representation. Mr. Alpert stated he is opposed to doing this. He has been advised that in order to grant this letter it requires 4 members. He will vote if the other 3 are for it. He feels it sets a precedent this Board should not be setting. Minutes are in fact on tape and are kept on file. It does not need to be memorialized. This is taking time away from the staff. He does not want to set a precedent.

Mr. Jacobs asked why Mr. Cramer needs this. Mr. Cramer noted there are a number of unusual circumstances. The numbers are so significant the applicant wants to eliminate any doubt. This is a different category than the run of the mill. A motion was made to approve the letter to be signed by the Chairman. Mr. Jacobs stated they should note the Board determined this is a unique set of circumstances. Ms. Grimes added “it is not a precedent.”

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

VOTED: to approve the letter to be signed by the Chairman.

Public Hearing:

7:30 p.m. – Major Project Site Plan Special Permit No. 2017-02: Town of Needham, Permanent Public Building Committee, Petitioner (Property is located at 585 Central Avenue, 597 Central Avenue, 603 Central Avenue, 609 Central Avenue, 573 Central Avenue, 567 Central Avenue, 559 Central Avenue and 45 Sunset Road, Needham, MA).

Hank Haff, of the DPW, noted he met with the Design Review Board (DRB) and received approval last week. A hearing was opened with the Conservation Commission and he will meet again with them on June 22.

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

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

Michelle Rogers, of Dore and Whittier Architects, Inc., stated the property had 8 homes, a retail store and 2 large barns. There are 2 homes remaining. There is a large grade change that rolls down to the north and back toward the wetlands. She showed the existing farm pond and noted the Knoll Trail will be developed. She noted it is mostly single family homes in the vicinity. The building has been designed to set within the property. It is 1½ stories high and 3 stories high but it never looks more than 2 stories high. The cars enter from Central Avenue. The drive holds 58 cars double stacked. The pond and turf field are in back. There will be an emergency access with access to drive around the entire building.

Ms. Rogers described how the children would access the building. She noted the sensory garden and described the floor plans. There will be separate access to the gym and it can be closed off for the public. She noted the building is 90,975 square feet. She stated for the Flood Plain, the applicants are asking for a finding under Section 3.3.1(c) and a Special Permit under Section 3.3.3(b). The elevations for the Flood Plain Elevation 85 are being redone. Mr. Jacobs asked if Engineering is ok with this. Mr. Haff stated the Town Engineer has reviewed and has approved but the Conservation Commission has their own engineer. He is waiting on that.

Mr. Haff stated Section 3.3.3(d) is walkways and drives and Section 3.3.3(e) is the turf field going in. There is a part that is lower than Elevation 85. It will be fenced. The turf is to prevent mud and dirt from going into the wetlands. There will be a wire mesh fence, 6 inch above-ground boardwalks, a small outdoor classroom and bridges/walkways. They are requesting a finding for Section 4.2.1(a) for a visual buffer along Sunset Road. There is currently a fence. The applicant would like permission to put fencing in the buffer zone. There are plantings. There will be a gate off the delivery area.

Mr. Haff stated there will be a chain link fence with plantings in front. Ms. Rogers noted the buffer zone is required to be 25 feet. There is one area that is less. The applicant would like a shed within the buffer zone. Snow blowers, weed whackers and anything with gas would be stored there.

Ms. Rogers stated children will enter the sensory garden path. There is an access drive adjacent to the plan structure in back. The last Special Permit is for a reduction in the number of cars. The project would need 118 spaces and 104 are proposed. That is more than double what the school currently has. The driveway and bus loops can be used when there are special events. There are compact spaces and 5 handicap spaces. Mr. Jacobs asked if there were any thoughts about speed bumps. Ms. Rogers stated no. She noted the driveway is at a 4% slope. It was noted all roof and runoff will be captured on site. There will be pretreatment using storm buffer units. On site gets treated and discharged into the wetland non-pedestrian areas. The applicant has petitioned FEMA to reset the flood plain line. There is an approved elevation 85.

Mr. Haff noted the Town Engineer in Wellesley has reviewed and is in support. This is an improvement over the previous use in terms of the environmental use. Mr. Jacobs noted the following correspondence for the record: a memo, dated 6/7/17, from Police Lt. John Kraemer; a memo from Assistant Town Engineer Thomas Ryder, dated 6/7/17 and a letter from abutter Andrea Talis, dated 6/11/17

Mr. Haff stated he has had extensive discussions with Lt. Kraemer. The project is compliant with all requests. The project will add a cross walk and striping at Booth Street. The Fire Chief had no comments. The Assistant Town Engineer had one request at the end. The applicant has had similar public outreach and education at other schools and will do it with this. He noted the applicant is working closely with the Science Coordinator at the school to integrate aspect of the school design to meet their needs.

Mr. Alpert asked the location of the crosswalk on Central Avenue. Mr. Haff noted that information is on the traffic plans TR1 and TR2. Mr. Alpert noted at Cefalo Road and Central between Cynthia and Booth. Mr. Haff stated there would also be a crosswalk at Booth. Mr. Alpert noted night events and overflow parking. He stated people will park on side streets and cross Central Avenue. Mr. Haff noted he has given thought to that. Crosswalks will be button activated and have flashing lights at both Central Avenue crosswalks. There will be crossing guards at both crosswalks on Central Avenue. There may be a no entry sign on Glover Road during certain hours.

Andrea Talis, of 55 Briarwood Circle, stated she is concerned with the emergency access road in back adjacent to the wetlands. It will be plowed and salted. The snow will be piled up. She is concerned there will be no drainage and no access to keep salt away from the wetlands. Her property abuts the wetlands. She commented it is a great project. This is the final concern. There is only a small buffer between wetlands.

Richard Rosen, of 39 Sunset Road, stated he owns the white fence. The proposed storage shed is along his property. He spent a lot of money making his yard presentable. He thinks the shed could be put elsewhere. He added he has made a lot of concessions with buses and traffic. Ms. Rogers stated the shed is 10-15 feet from the fence. Mr. Alpert asked the height of the shed. Ms. Rogers noted it is 10 feet. Other areas were considered but this is the only available location.

Mr. Owens stated the hearing should be kept open until after the Conservation Commission meets. Ms. Newman stated it will be continued to 7/11/17. She will prepare a draft decision. Mr. Jacobs commented he would

encourage Mr. Haff to meet with Mr. Rosen to screen the shed. Ms. Grimes added looking at alternate locations also. Mr. Rosen stated he likes to look at the open space. Mr. Haff will work with Mr. Rosen.

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

VOTED: to continue the hearing to 7/11/17 at 7:30 p.m.

Planning Board Work Program for FY 2018

Mr. Owens noted a memo with things to accomplish this year. The Board members reviewed the topics. He asked if the Board would consider a workshop, at some alternative date, on some of these topics. Mr. Alpert stated he was at the second meeting that the Council of Economic Advisors held on the Industrial Zoning District. The Board may see that proposed zoning in advance of the Fall Town Meeting. It was felt it was not feasible. The Selectmen are talking about maybe scheduling a second special meeting for later in the fall. Mr. Jacobs noted this is coming out of the Council of Economic Advisors (CEA) and they will advise the Selectmen. Mr. Owens asked if it was possible to get something from the DEA or Devra Bailin as to what their thoughts are. Mr. Owens asked about the timing. He feels it is fair to say the commercial real estate market is frothy and could pop at any minute.

Ms. Grimes stated she is meeting with the Tree Committee. Ms. Clee and the Tree Warden have a great starting draft of a tree by-law. There would be a fund that the Town could use to support to By-Law, created by fines if people violate the tree by-law and filing fees. They are working with the Selectmen to get it done. The Selectmen want feedback from the Planning Board. The goal is to bring it to the May Town Meeting.

Mr. Owens noted the Chestnut Street redevelopment. He would like to get this started. He would like authorization for Ms. Grimes, Ms. Newman and himself to work on this and move forward. Thought needs to be about the hospital, parking along the railroad tracks and the overlay. He wants to start brainstorming how to encourage the consolidation of lots. Ms. Newman stated she would like to add items such as streamlining initiatives, parking study downtown and accessory apartments. There may be a need to look at zoning. Mr. Owens stated he will keep the list flowing.

Board of Appeals – June 15, 2017

Matthew Stutz – 83 Rolling Lane

The Board already commented on this. Ms. Newman stated this will be withdrawn.

Mansfield Cleaning Solutions dba Cloudberry Cleaners, Tenant – 1189 Highland Avenue

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

VOTED: “No comment.”

Manorama Shah, Owner – 102 Reservoir Street

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

VOTED: “No comment.”

Minutes

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

VOTED: to approve the minutes of 3/16/17 as highlighted in packet.

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

VOTED: to approve the minutes of 5/31/17.

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

VOTED: to approve the minutes of 3/28/17 with changes in the packet.

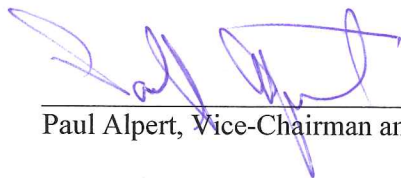
Report from Planning Director and Board Members

Ms. Newman stated the town is working with Mass Department of Transportation (DOT). There is a working group that meets every 2 weeks with Newton also. They are working for improvements for bike lanes. Mr. Owens stated the state owns a lot of land between Webster Street and the bridge. It would remove a lot of parking. People are using this state land. Ms. Newman stated along the corridor 137 takings are involved. She noted there is a bond agreement from Normandy she wants the members to sign.

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

VOTED: to adjourn the meeting at 9:40 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Paul Alpert, Vice-Chairman and Clerk