

NEEDHAM PLANNING BOARD MINUTES

October 2, 2019

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, October 2, 2019, at 7:08 p.m. with Messrs. Alpert and Owens and Mmes. McKnight and Grimes, as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski.

Discussion of Fall Special Town Meeting zoning.

Mr. Jacobs noted the Board is proposing 3 articles. In the packet are proposed drafts, a proposed guide and a summary of comments. There are also emailed comments from Ms. McKnight, Joseph Leghorn, Janice Epstein, an email from Christopher Heep, dated 9/17/19 and questions from the Finance Committee. There is also a red lined version of Article 1 with changes. Ms. Newman stated she incorporated Ms. McKnight's changes, from her 9/25/19 email, and one of Mr. Heep's changes. There were also a couple of corrections. Mr. Jacobs noted in 3.15.2 (c), in the Accessory Dwelling Unit (ADU) Article, the only change is the definition of family.

Mr. Jacobs noted a summary of the comments on Article 1, which the Board reviewed. Mr. Alpert does not think construction will interfere with the helipad at Channel 5. Ms. Newman will follow up. Ms. McKnight feels there should be an extra slide at Town Meeting showing the green space. She stated she does not want traffic brought to the site by a large store. There is no residential at this site. Ms. Grimes stated the Finance Committee asked how the grocery store maximum square footage was determined. She clarified the Board looked at Whole Foods in Wellesley. Tree removal is part of the special permit hearing process. Mr. Alpert commented there are not a lot of trees on the Muzi site. He noted the applicant is required to submit satisfactory landscape plans. Mr. Jacobs noted the Board is not prepared at this time to consider rezoning the rest of Gould Street.

Mr. Jacobs stated the Board has not focused on this as a park use. Mr. Alpert noted the change in zoning allows for a park. The Town buying the property is not in the Planning Board's purview. Mr. Leghorn commented he was glad warehouse use is out. Ms. Epstein commented when Article 1 and 2 are presented the Board should be prepared to answer questions. There has been discussion of recent traffic studies. The Board will require traffic studies when a project comes before it and also environmental impacts. Ms. McKnight noted the Board is concerned with drainage with all projects. There are no environmental issues with this site.

Mr. Jacobs noted Mr. Heep's comments. He noted the 3 bullet points are all technical issues. He thinks Mr. Heep is right on all 3 points. Ms. Grimes agrees. Ms. Newman noted the first section Mr. Heep referenced she moved out of the table and is now a stand alone. The language in the Zoning By-Law as relates to use-for accessory uses- is broad. Parking garage has never been called out as a separate use in the other 3 districts. Ms. Newman noted in Section 4.11.12, paragraph 5, she carved out an exception for an as-of-right use for parking garages and referenced it back to where the use is allowed. All agreed that was ok.

Mr. Jacobs noted the Finance Committee's memo dated 9/26/19. Ms. Grimes stated 5 members of the Finance Committee were at the hearing. Ms. Newman stated the members of the Finance Committee made clear they would like their questions spoken to at their meeting. The Finance Committee has received all that has been posted on the website. Mr. Jacobs noted the Finance Committee is misconceiving what the Board is doing. This is allowing as much flexibility as can be and excluding what they do not want. It is allowing developers to come up with what they can within the parameters. Mr. Alpert stated the zoning is for setting out the parameters. Grocery stores have already been discussed.

Mr. Jacobs noted the Finance Committee's last comment was in regards to a traffic study. He noted 60% office and 40% warehouse came from the John Connolly study. There is a build out analysis for all components and the traffic study assumes a build out. The Muzi site was 60% of the build out that was assumed in that study. Mr. Jacobs stated it is clear that traffic concerns all the members. Ms. Newman will look into whether it's possible to get an update to the traffic study at this stage. Mr. Jacobs noted a draft report on Fiscal Impact Analysis was

received today. Judy Barrett used a 5% vacancy rate. Chip Davis wants to go to 10%. He asked how much of a net benefit there would be? He noted the Board should show it both ways. Ms. Grimes agreed. Ms. McKnight suggested adding a paragraph at the end that says "if the vacancy rate turns out to be 5%...."

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

VOTED: to agree this is the final form the Board wants to move forward with.

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

VOTED: to recommend adoption in this form to Town Meeting.

Mr. Jacobs noted the only change with Article 3 is the definition of family. All agreed. He gave a summary of the comments. The Board wants flexibility in the condition. There is a maximum and the Board does not want to go larger than that. Mr. Alpert stated the intent is to make sure this prevents turning single family homes into 2 family homes. Mr. Jacobs noted the Board is carving out an exception in single family homes for a small population. He does not want it abused. Mr. Alpert stated the assessors may know if this will increase the home's value. Building Inspector David Roche stated the assessors are assessing for higher value if they see something that looks like a second unit. He wants to be clear there is nothing in the current By-Law that says you cannot have 2 kitchens as long as rooms are not grouped and separate from the main house.

Jeff Heller, Town Meeting member, stated the wording of the By-Law creates problems; there is no language for flexibility. If the parent stays in the home but gives ownership to the next generation (child), it is not owner occupied anymore. Ms. Grimes feels the Board should get this passed and come back in the spring and tweak if necessary. Mr. Alpert feels a parent could retain a life estate so they are still an owner. Ms. Grimes left the meeting at 8:00 p.m. Mr. Heller noted no one mentioned it could be tweaked. It seemed like it was a done deal. He feels the Board slammed the door in people's faces. There were no comments on the opportunity for waivers. It was noted nannies were only excluded in separate units.

Mr. Alpert stated if Town Meeting wants to expand the definition of family he is ok with that. Mr. Owens favors greater flexibility in terms of nieces, nephews and grandchildren. Mr. Roche will be working on criteria for the Board to look at. He would like the name of the owner and the caregiver name. Mr. Alpert noted the caregiver could be anyone. Ms. McKnight is in favor of extending it farther but not today. She noted there is no lawful way to do short term rentals. She feels the Board should meet with the ZBA to discuss. Ms. Newman will set something up. Mr. Alpert noted temporary absences are the only substantial change. Mr. Heller commented it is not transferable.

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

VOTED: to adopt the ADU By-Law as written as our proposed By-Law to present to Town Meeting.

Public Hearing:

7:30 p.m. -- Amendment: Rockwood Lane Definitive Subdivision: Wayside Realty Trust, Chris Kotsiopoulos, Owner and Trustee, 36 Rockwood Lane, Needham, MA, Original Petitioner (current owners: Hillcrest Development, Inc., and Elite Homebuilders, LLC), (Property located at Rockwood Lane consists of the dwellings currently numbered 38, 45, 46, 52, 55, 58, 63, 64 and 69 Rockwood Lane and one adjacent parcel, Needham, MA, Assessors Plan No. 17 as Parcels 71, 72, 73, 79 and 80 and Plan No. 20 as Parcels 86, 87, 88, 89 and 63), Please note that this hearing has been continued from the May 21, 2019, June 4, 2019, June 18, 2019, July 16, 2019, August 6, 2019 and September 3, 2019 Planning Board meetings.

George Giunta Jr., representative for the applicant, noted there was a question whether the drainage in the As-Built was as good as what was approved. The revised calculations submitted are an apple to apple comparison. It has been reviewed by Engineering and accepted. The infiltration system is larger. He would like the Board to

approve. Mr. Jacobs asked if this is as good as what was approved and was informed it is. He asked Town Engineer Anthony DelGaizo if this was as good as what was approved. Mr. DelGaizo stated he needed one document from the proponent regarding the size of the drywells but, yes, it was ok. He just wants to certify it is larger than what was proposed and approved – what was installed versus what was submitted. Mr. Jacobs asked if he would be satisfied once a letter is received and was informed he would be. Mr. Alpert noted there is less flooding. He asked if there was any feedback from homeowners.

Ethan Kutch, of 67 Richard Road, stated he was notified but as a non-engineer he would not understand what the hearing was about. He is not sure why he is here. Mr. Jacobs explained the Board is seeking confirmation as to whether the changes are at least as good as what the Board approved. The applicant is seeking to get amendment approval. Joe Lovett, of 59 Richard Road, asked what is the justification for the difference? Steven Venincasa noted they bought the property from another developer. The plans showed X number of shrubs and plantings. This changed a little for aesthetics. He stated that they put in double the amount of trees.

Ms. McKnight stated the original plan had rain gardens that she liked very much. She asked if underground drainage structures require more maintenance than natural rain gardens. Mr. DelGaizo stated both were proposed and the As-Built systems rely on dry wells. Rain gardens require more maintenance than dry wells. A rain garden system was not approved. The dry wells are larger and have larger capacity. He needs a letter to certify the size of the installed dry wells. Ms. Newman will prepare a decision for the next meeting. She suggested the Board close the hearing and allow for receipt of a certified letter as approved by Mr. DelGaizo.

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

VOTED: to close the hearing subject to receipt of a letter and approval by Engineering.

Informal discussion regarding 1473 and 1479 Great Plain Avenue.

Mr. Jacobs noted a letter from George Giunta Jr., notes from Assistant Planner Alexandra Clee and a Needham Times article. He stated there was technically nothing before the Board. He opened it up for comments. Ms. McKnight stated she drove by and it is a very difficult site. It is near the intersection of Great Plain Avenue and Central Avenue. The narrowness of that way should never have been approved. She wants to save the historic house and asked if there is any way to make the driveway wider to an 18 foot width. Ms. Newman stated a 20 foot wide way is being proposed. Ms. McKnight asked if the Fire Department is ok with a hammerhead.

Mr. Owens stated it is easy to preserve a historic home. This subdivides 2 lots into 3 lots for financial reasons. This is not causing the destruction of a historic home. It is creating a road to create frontage and he cannot support this. Mr. Alpert stated the property has been sold and there is nothing in front of the Planning Board. The Historic Commission's job is to preserve historic houses not the Planning Board's. The applicant has filed for a demolition permit. The Historical Commission has determined the house is historic and is contemplating a 6 month delay. The Planning Board approved an ANR plan in November. This is a variation on that.

Mr. Heller stated he was not misquoted in the paper. He spoke at the Planning Board meeting where this was discussed informally as a representative of the Historical Commission and as a private citizen. There were 2 plans and he was supportive of the plan that saved the historic house. He stated the members of the Planning Board feel they were friendly but Mr. Owens said he would never approve a "flag lot"¹ and Ms. Grimes said she would never support a hammerhead even though the Fire Chief said it was fine. Ms. McKnight asked for a historic preservation restriction that was beyond required. The Planning Board was not friendly. He stands behind his comments and feels there was an unfavorable response from the Planning Board.

¹ "A flag lot is an irregularly shaped building lot or parcel that has a very limited amount of street or road frontage. It is skinny like the flag pole. Then the wider part of the lot, the flag in this analogy, is back further away from the road frontage." <https://www.useful-community-development.org/what-is-a-flag-lot.html>

ANR Plan – 766 Chestnut Street, LLC, Petitioner (Property located at 766 Chestnut Street, Needham, MA).

Mr. Jacobs noted a letter from Attorney Robert Smart, dated 10/2/19, requesting it be taken off the agenda for tonight and put on the 10/22/19 agenda.

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

VOTED: to extend the action deadline.

Decision: Major Project Site Plan Review No. 2019-03: Apirak Chueprapa, c/o Four Spoons, 796 Beacon Street, Newton, MA, Petitioner (Property located at 946 Great Plain Avenue, Needham, MA).

Ms. Newman stated in Section 1.11, add back in the requirement for a grease trap if required by the Board of Health or Engineering. Mr. Alpert noted the petitioner would also either utilize an existing trap or install a grease trap all to the satisfaction of the Board of Health. Ms. Newman noted the applicant changed the name of the Corporation. She would need an amended application. Mr. Alpert stated the applicant represented the hours of 10:00 a.m. to 10:00 p.m. but now wants 9:00 a.m. to 11:00 p.m. Mr. Giunta Jr. stated the Board can authorize more hours than requested. Ms. McKnight asked what the hours of the other 2 nearby restaurants are. She is not concerned with the start time. Ms. Clee stated the other restaurants are open until 11:00 p.m. or midnight.

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

VOTED: to grant the Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law; (2) a Special Permit under Section 3.2.2 of the By-Law for a restaurant serving meals for consumption on the premises and at tables with services provided by waitress or waiter in the Center Business District; (3) a Special permit under Section 3.2.2 of the By-Law for a take-out operation accessory to a restaurant serving meals for consumption on the premises; (4) a Special Permit under Section 3.2.2 of the By-Law for more than one non-residential building or use on a lot; (5) a Special Permit under Section 1.4.6 of the by-Law for the change and/or extension of a lawful, pre-existing, non-conforming, use or building, if applicable; and (6) a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements) of the plan modifications to be set forth in the decision.

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

VOTED: to approve the decision as presented with the red lined changed and further changes as discussed.

Report from the Planning Director and Board members.

Ms. Newman noted the Public Facilities has asked for modifications to the Jack Cogswell Building site. Mr. Jacobs noted this is not an agenda item. He asked if this was an information discussion. Steven Gentile, Project Manager, noted there are insignificant changes to the Jack Cogswell Building. He has already requested a de minimus change. He stated he wants to change the numbers of plantings. The original intent was to screen the site. Jeanne Lukenda, of Weston and Sampson, stated she has worked closely with Tree Warden Ed Olson. She has provided a robust planting palette. Materials have been chosen for instant impact. There is a selection of low, medium and higher growth, ornamental grasses and evergreen plants – materials that will screen for most of the year.

Ms. Lukenda stated she originally proposed granite block pavers but will replace those with bituminous and pavement striping. This reduced the costs by taking out the flush granite curbing. Vertical granite curb will be replaced with slope curbing. She looked at plantings in the medians for no cost reduction. The number of trees was not reduced and some ornamental grasses near the community sign have been replaced with turf grass, which

will need to be mowed. There will be pavement striping and evasive species removal such as knot weed. They have looked at full depth removal. The contractor has suggested removing less soil and using a herbicide.

Mr. Gentile stated there were 3556 pots of grass and that has been reduced to 1287 pots. This is 36% of the original amount and they are more evenly spaced. The integrity has not changed. Mr. Jacobs stated granite blocks are safe and traffic calming. Steven Popper stated he spoke with DPW Director Richard Merson. If the striping does not do what they want they will go back and do the scoring now. Mr. Jacobs asked, if it is not a costly compromise, why not just do it. Mr. Popper stated the cost is huge. Mr. Jacobs stated traffic calming measures made him happy. He is very much in favor of just doing the scoring. Mr. Popper believes the striping will serve the purpose. Mr. Alpert agreed with Mr. Jacobs. The auditory sound of scoring makes people slow down.

Ms. McKnight asked if there is a sidewalk and was informed no. Ms. McKnight stated the idea that an invasive species would be attacked if and when it comes back may not happen, so the invasive species could return. Mr. Alpert stated the applicant is using herbicides. Ms. Lukenda stated they will apply herbicide first then remove an amount of soil. There is a reduction in the proposed berming. Mr. Gentile stated the tree count has not changed. The Conservation Commission has asked for native species in the 100 foot buffer. They have adjusted the plant species so all are native now. Ms. McKnight stated she wants to keep the mugo pine and not change to arborvitae. Mr. Owens stated he is opposed to any of these changes and cannot support this. He presumes the applicant knew their budget when the plan was presented. The Board would not approve this for a private citizen and he will not back this. Ms. McKnight commented the cost of design elements in a public project is hard to determine at the beginning.

Mr. Alpert stated he is fine with the changes but would like the audible scoring. Mr. Popper noted he will accept the scoring and striping and will put it on the plan. He stated the applicant needs to move on this now. Mr. Owens stated he has an issue with the town coming in at the last minute and expecting immediate results. Mr. Jacobs feels Mr. Owens is correct that the town requests things the Board would not give to private citizens. Mr. Alpert feels the town must have known the costs were higher. Why are they just coming in now? Mr. Popper stated he just got the bids 3 weeks ago. Mr. Jacobs noted the town has to come forward with a formal application. They do not have 4 votes and the Planning Director does not have guidance. Ms. Newman stated on October 10 there will be a Chair, Vice-Chair meeting at 8:30 a.m. The hearing could be at that time.

Ms. Newman stated she sent some information on Sage Naturals. Attorney Roy Cramer conferred with his client. There is a change in the stockholders but the officers and Board of Directors are unchanged. She will need something in writing from them. Mr. Jacobs stated the Board has it in their power to call them before the Board to clarify. Ms. Newman stated Mr. Cramer is preparing a letter.

Review of House Bill 3507.

Ms. Newman stated a new draft letter has been prepared. Mr. Alpert raised the issue and got the opinion of Town Counsel who is fine with a letter going out. Personally he is still opposed with a change of a By-Law from 2/3 to a majority. This is a compromise position the Board of Selectmen are requesting. He will go along with it as most seem to be in favor.

Board of Appeals – October 17, 2019.

James Evans -- 73 Dedham Avenue

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

VOTED: "No comment."

Belle Lane Subdivision Tripartite extension.

Ms. Newman stated the Tripartite agreement has expired. She asked Roy Cramer for a request to extend for a period of time. Engineering feels the \$95,000 the Board currently holds is sufficient. She would not go for more than one year. There is only one house left to complete.

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

VOTED: to allow an extension from 9/30/19 to 9/30/20.

Correspondence

Mr. Jacobs noted the following correspondence for the record: a letter from Sherry Pugatch regarding the Eliot School; a City of Newton legal notice; a Westwood Planning Board notice and a Needham Times article regarding the September public hearing.

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

VOTED: to adjourn the meeting at 10:45 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

A handwritten signature in blue ink, appearing to read 'Elizabeth Grimes', is written above a horizontal line.

Elizabeth Grimes, Vice-Chairman and Clerk