

NEEDHAM PLANNING BOARD MINUTES

October 22, 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 22, 2019, at 7:00 p.m. with Mr. Alpert and Ms. McKnight, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

ANR Plan – Boston Ventures International, LLC, Petitioner (Property located at 23 Dwight Road, Needham, MA).

Robert Bibbo, Engineer for Bibbo Bros., stated the applicant is creating an additional house lot with 170 feet of frontage and 16,000 square feet of area. The current house will remain on one lot with 27,000 square feet of land. Both lots have adequate frontage and meet all setback requirements. He noted this is a private road. Mr. Jacobs stated the side yard setback is 14 feet. The A1 lot line is 12.43 feet from the deck. Mr. Bibbo stated he was told there is a provision for the deck to go into the side yard setback. If this is not correct, he can change it. Ms. Newman noted there is a provision and the Building Inspector has looked at this.

Ms. McKnight asked if this was an older house the applicant is saving. Mr. Bibbo noted it is a 1950s house. Mr. Jacobs asked why Lot 2-A is not shown in the table. Mr. Bibbo stated it was on but he was told to remove it. Ms. Newman stated, as an empty lot, it makes no sense showing it with setbacks. Engineering and the Building Inspector are fine with it.

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

VOTED: to endorse the plan as Approval Not Required.

Decision: 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).

Ms. Newman stated the draft decision is based on the Board's last meeting. The attorney for the applicant has reviewed it and has no issue. There were no changes at the last meeting. Mr. Jacobs asked if there was an issue with adding a paragraph saying "The Board has been concerned, specifically by Exhibit 18 and 19, that the drainage solution is at least as good as that which was originally approved." Mr. Alpert disagreed. He does not want to say that. The Board is relying on representation from the Town Engineer that is the case. Mr. Jacobs felt the Board could say "relying on Exhibits 18 and 19, the Board hereby approves" at the beginning of paragraph 1. All agreed. A motion was made to add this. Ms. Newman feels that is too narrow. Mr. Jacobs stated Exhibit 15 should be added.

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

VOTED: to say "Relying on Exhibits 15, 18 and 19, the Board approves the Definitive Subdivision Amendment as shown on the Plan in the Subdivision approval."

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

VOTED: to approve the draft decision as just altered.

Appointments:

7:05 p.m. – Zoning Board of Appeals: discussion regarding Accessory Dwelling Units zoning proposal.

John Schneider, of the Zoning Board of Appeals (ZBA), noted 4 of the 5 ZBA members were at the hearing and there is unanimous support for the ADU article. The Zoning By-Law already authorizes by Special Permit taking 4 non-related boarders into the home. This is only changing cooking facilities. There is no great change in the Zoning By-Law. He stated he has been on the Zoning Board of Appeals for over 25 years and only 2 or 3 people have come in for Special Permits. He commented he has some problems with the Article as currently drafted. His main concern is there is no standard for Special Permits. Mr. Jacobs stated there is no section that says these are the decision criteria. He asked if the ZBA views the requirements as the decision criteria?

Mr. Schneider stated he finds the definition of family to be strangely narrow. Why not grandparents, aunts and uncles as family members to live in the house and to be taken care of? He feels the Board needs to deal with the transfer of ownership and LLCs. It could say “transfers of controlling interest.” The Planning Board has been silent on the issue. He is also concerned with enforcement. The Planning Board should put in a provision that the Building Inspector could request evidence of a relationship of the person living in the unit. Ms. McKnight stated the initial permit is issued based on who is living there. Mr. Alpert noted it will be part of the renewal process. Ms. Schneider feels the Building Inspector should have the right to request documentation.

Ms. McKnight discussed the criteria concern. There are criteria built in. This needs some judgment exercised. The Building Inspector will look into any complaints. She noted there are standards of criteria and enforcement built in. She feels this may put a burden on the ZBA. She wants to make sure the ZBA does not feel this is a burden for them. She anticipates some Town Meeting members may move to amend to include some of the relations discussed. Mr. Schneider stated the ZBA will go along with whatever the Planning Board has recommended, but this is strangely narrow. He feels there will be a lot of call for other relations.

7:20 p.m. – Discussion regarding Mixed-Use Retail/Self Storage Redevelopment – 77 Charles Street.

Kevin Joyce, attorney for the applicant, noted he sent in a number of materials back in early June. He reviewed the Zoning By-Law and believes the Planning Board has the authority to grant a Special Permit for the proposed use. He outlined the legal reasons. Under the Hillside decision it was determined to be allowable by Special Permit. He is ok with that for now. Mr. Jacobs noted in Mr. Pare’s letter, third paragraph, the Planning Board did not reject as of right for Hillside development; but rather convinced the petitioner that the special permit route was appropriate. Mr. Ferreira, owner of 77 Charles Street, stated he feels it is unlikely he will be coming forward with an as of right project; all of their conversations have been about a special permit process. Mr. Joyce updated what has been done. He asked if a Special Permit process is what they should embrace and begin. Ms. Newman asked what use the applicant is identifying as similar to (either as of right or by special permit). Mr. Joyce stated the Board has already allowed the self storage use in a similar district, and therefore also applies by Section 3.2. This is in the same general use category and similar in kind and similar in impact to a use already permitted; and by Section 3.2 may be approved by the Planning Board. Mr. Alpert stated it has to be a use allowed in the district and not just somewhere in the whole town.

Mr. Ferreira noted there has been a lot of discussion of support for the project. He started with a zoning amendment and pulled back. He is going back to the initial position. He still maintains putting a self storage is the only feasible option given the economics. He feels the Board should allow this use to go forward by Special Permit with the interpretation suggested. They are also willing to pursue a zoning change at Town Meeting. He thinks this is a consumer service establishment. Marlboro and several other towns in Massachusetts have relied on this definition of storage units as consumer services. Ms. McKnight stated she sees consumer service establishment as a service directly provided such as photocopying and not a storage unit.

Mr. Ferreira stated there has been a lot of discussion regarding the passivity of the use and such use not being the intent of the Board for the district. He feels this should be looked at as a small retail project. Other uses do not work and larger retail is not feasible. This fits with the parking requirements and is a service in great demand. There is a lot of functionality to self storage. He has tried to address the ugliness of them with the design and feels it is a handsome building. He would request the Board reconsider some items. Mr. Alpert asked what floor size

the applicant is offering for retail and self storage. Mr. Ferreira stated it is a consumer services as of right. He noted 1.0 FAR triggers a special permit. Ms. Newman explained that the self-storage use on Hillside was allowed by a provision that allowed the Board to grant a special permit for a use not otherwise called out in the By-Law. She explained that the section they are pointing to allows the Board to find a use to be similar in kind and impact to another use already allowed in a particular zoning district. Mr. Jacobs said he is interested in the argument that it might be a consumer service. He likes the use but would need it to work under the By-Law. Mr. Ferreira said that Westwood put a radius requirement in its zoning to limit these. Mr. Alpert stated he feels this use fits in the Board's vision for the Mixed Use 128 District. He likes the comparison this is similar to a Consumer Services Establishment. Mr. Ferreira said that a telecommunications facility, which is an allowable use, usually has very few employees. The Board discussed some of the history of the current language of the zoning district.

It was noted there will be 2 cars and 2 employees. A discussion ensued regarding next steps. Mr. Ferreira said he can provide examples of radius requirement in zoning and where it's been considered a consumer service elsewhere. Mr. Jacobs stated he needs to be convinced of the use issue, not the issue of whether they can make it presentable. It may be as of right or could be like a use in the district. Mr. Ferreira requested guidance from the Board. Mr. Alpert is reluctant to give too much guidance in advance of an actual application. He commented the applicant needs to file an application and convince the Board why this fits a consumer services use. Ms. McKnight noted a storage facility has been approved for Hillside but has not yet been constructed. She suggested the applicant wait so people can see what it looks like.

7:40 p.m. – Discussion regarding Pediatric Medical Facility Zoning Article – Children's Hospital.

Robert Smart, representative for the applicant, noted Children's Hospital wants to put a pediatric facility next to the Trip Advisor building at 380 First Avenue and 37 A Street. There is some parking on site. A pediatric facility is not allowed per the zoning. He has drafted an article and wants input from the Board. He has had conversations with BI Deaconess and they have no issue with Children's Hospital coming to Needham. This will be a satellite facility. Lisa Haggerty noted a map of other satellite locations in the packet. The hospital has developed a network of satellites to give care close to home. They work with other hospitals and doctors with specialty care and not primary care. They want to shift out of the main hospital to be more convenient to neighborhood locations.

Ms. McKnight clarified the focus is on specialty care and not primary care. Ms. Haggerty stated yes. There are geographical gaps between Waltham and Weymouth. The hospital wants to focus on the surgical specialty side. Ms. McKnight asked if they have any partnerships with community hospitals here. Ms. Haggerty noted Winchester Hospital and she has worked with the Building Inspector in Needham for pediatric issues. The Building Inspector would like more support and collaboration. She noted the hospital would like to set up an innovation and training center in conjunction with BID Needham. The access to the location is excellent. There would be a parking garage built next to the current garage. They will be creating a pediatric ambulatory surgical center with state of the art labs and an education training center with several clinical and therapeutic services such as orthopedic, sports medicine and sub specialties. There will be state of the art operating rooms, pediatric imaging and a lab.

Mr. Jacobs clarified there is no inpatient care. Ms. Haggerty noted there will be no beds at this facility. She stated the pediatric ambulatory space is to be licensed by the MA Department of Health. There will be medical office space, food service and a small medical device company with crutches, braces and such, who will lease space. The hospital feels a responsibility to the community. The hospital will pay 100% of assessed real estate taxes and will be a hub for clinical research and education. This will create 400 permanent jobs and 225 construction jobs per month. It is non-profit.

Tim Sullivan gave an overview of the zoning. This is 13.5 acres and there is a special permit that has been amended a number of times. He feels this fits within the special permit framework but some of the uses are not allowed. The ambulatory aspect is outside the allowed uses. They are proposing an amendment that would allow pediatric medical facilities. He looked at the medical overlay district. Ms. McKnight asked what age young adults are. Ms. Haggerty stated usually 16 to 22. There are a lot of orthopedic patients who have grown up with issues. The hospital tries to see them through to adulthood.

It was requested by an audience member that the applicant talk about the pilot payments in Waltham. Ms. Haggerty stated the hospital pays real estate tax. There are tenants and the tax is paid through leases. It was asked if there would be something in writing to ensure it. Mr. Sullivan noted, if rezoned, a pilot agreement would be a condition of that. It could also be a condition of a special permit. Ms. McKnight noted she would like to learn more about pilot real estate agreements. Mr. Alpert stated that his recollection is the town already has a pilot program from the residences behind the nursing home on Gould Street. Mr. Jacobs knows the applicant met with a member of the Select Board, and the Select Board wants to make sure the applicant pays their full share of assessed taxes.

Ms. Newman asked why they didn't carry forward some of the parking demand information from the medical overlay district. Mr. Sullivan stated that they spoke to their traffic consultant and they do not anticipate any short-term visits warranting the 7 spaces per thousand square feet requirement.

Ms. McKnight noted that they proposed the use to be allowed by-right. She is concerned that the Board have the discretion to deny it if the impact was shown to be too high. Mr. Sullivan said it will be a special permit no matter what because they will have to amend the existing special permit on the property. Ms. Newman clarified that although that is true, it is a site plan special permit, which has a different set of rules than a special permit with regard to use. Ms. McKnight reiterated that she feels a *discretionary* special permit is important to her.

Mr. Smart noted hospital use is allowed in the medical overlay district. Mr. Jacobs assumes the applicant would like the Planning Board to proceed with sponsoring this proposed zoning change. Mr. Smart would prefer that. He thinks it would be best and most appropriate for this spring with a public hearing in January and February. If going forward, what more information would the Board need? He assumes parking and traffic studies and a fiscal impact study. Mr. Jacobs noted they would need an independent analysis. Ms. McKnight suggested it would be good to have the existing special permit background with them. Ms. Haggerty noted it will be a 24 to 28 month construction schedule. They will do a special permit at the same time as a Determination of Need. Mr. Sullivan stated he would come in right after Town Meeting. Ms. Haggerty will bring more information on the Determination of Need and zoning impacts. Ms. Newman stated she would be interested in the Lexington zoning and how that was done.

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

Mr. Jacobs noted a letter, dated 10/16/19, from Attorney Robert Smart requesting an extension of the action deadline for ANR approval for 766 Chestnut Street.

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

VOTED: to extend the action deadline for ANR approval for 766 Chestnut Street to 11/22/19.

Discussion of Fall Special Town Meeting zoning.

Mr. Alpert stated he is comfortable with the presentation. He thinks a slide as a handout that shows items that were raised at the May Town Meeting and actions taken would be very helpful. He felt what the Board gave to the Finance Committee was very good. There should be a handout table and he can do a short summary. Ms. McKnight stated having height and setbacks all on one slide was confusing. The 20 foot setback is her big issue. She does not think it is clear. Mr. Jacobs wanted to talk about John Schneider's comments on the accessory dwelling units article. He is bewildered by his claim of no criteria. Ms. McKnight noted some of the criteria needs a judgment call by the Building Inspector. It was agreed after discussion not to include limited partnerships and that the transfer issue Mr. Schneider was concerned about was not an issue. The Building Inspector and ZBA have authority to ask at least every 3 years for proof of ownership.

Correspondence

Mr. Jacobs noted a letter from Sira Natural stating they would like to come in. Ms. Newman commented they are willing to come in if the Planning Board wants them to. They feel Cambridge is over reacting. Mr. Jacobs stated

he would like to see the source documents and Cannabis Control Commission (CCC) approval. Ms. McKnight agreed.

Mr. Jacobs noted a legal notice from Newton regarding a 10/10/19 meeting; a Town of Dedham Planning Board notice; an email from Don Lankiewicz, Chair of the Historical Commission, noting the Historic Commission has been asked not to endorse the plan for 1479 & 1473 Great Plain Avenue. The Commission will hold a hearing on a demolition delay for 6 months. Mr. Jacobs also noted minutes. Ms. Newman stated the Jack Cogswell building is looking for an occupancy permit. The consolidation plan is not ready yet. She will issue a temporary permit for 30 days until the consolidation plan is done.

Mr. Jacobs commented he has been by the RTS a couple of times lately. The applicant was going to dig down 6 feet and rip out the weeds. Instead the applicant decided to treat the area. The applicant has dug up the whole thing. Mr. Alpert stated the berm has been totally taken out. The entire berm will have to be redone. Mr. Jacobs suggested the Planning Director go out and look.

Report from Planning Director and Board members.

Ms. Newman gave an update on the traffic study. Ms. McKnight noted she went to the Select Board's hearing on Green Communities. There was some very good information. She asked if this Planning Board would vote to urge the Select Board to seek designation as a green community. It will be put on the 11/6/19 agenda. Mr. Jacobs would like to discuss this.

Minutes

Ms. McKnight noted on the minutes of 5/21/19, page 4, 2nd to last line at the bottom, a question mark is needed; on page 6, 2nd line, add "and"; and put a comma after Hillside School.

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

VOTED: to accept the minutes of 5/21/19 with changes discussed.

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

VOTED: to approve the minutes of 7/30/19.

The Board members passed in changes for the minutes of 8/6/19, 9/3/19 and 9/17/19.

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

VOTED: to adjourn the meeting at 9:45 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Jeanne S. McKnight, Vice-Chairman and Clerk