

NEEDHAM PLANNING BOARD MINUTES

December 17, 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, December 17, 2019, at 7:00 p.m. with Messrs. Owens and Alpert and Ms. McKnight, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

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

Mr. Jacobs noted that Attorney Robert Smart has requested that this plan be withdrawn..

Upon a motion made by Mr. Alpert, and seconded by Mr. Owens, it was by the four members present unanimously:
VOTED: to approve the request to withdraw the plan.

Discussion of possible redevelopment of 1 First Avenue (former Acapulco's Restaurant).

Mr. Jacobs noted the following correspondence for the record: a memo from Feldman Development Partners, dated 12/10/19, regarding the submission for a Special Permit and the conceptual site plan. Rick Feldman, representative, stated this is a redevelopment of the site of the current Acapulco Restaurant, which is closed. He wants to talk to the Board about prospective uses. He showed an aerial view of the property at the intersection of First Avenue and Highland Avenue and the surrounding area. This is a uniquely shaped site. There are 2 curb cuts off First Avenue and on-street parking. This is the 128 Commercial Business District.

Mr. Feldman noted the proposal is for the construction of 2 new buildings. There will be a smaller one-story retail bank. Century Bank feels this would be a good location for them and the applicant is working with them on the design. The other building will be larger and house I Fly, an international company with 80 operations around the world. It is a flight simulator that allows one to feel weightlessness. They are open to teach classes, individuals and parties. People spend one hour learning skydiving and then get into the chamber for one minute of flying time. There is always an instructor in with them. This would be the first location for I Fly in Massachusetts. There are other operations around the area with flying.

Mr. Feldman stated the building will be 65 feet high because of the duct work and exhaust. He feels this is a good location for a welcome to Needham. There will be a combination of office, class and meeting areas. There will be a flight shaft in the middle of the building. He noted retail use is permitted. I Fly is a combination of education, simulation and retail operations. The applicant is trying to figure out how it will fit in the block. There will be a 6,700 square foot building with a greenway through the site between the 2 buildings. He noted there is not much greenery there now.

Mr. Jacobs asked where the applicant thinks this use falls. Mr. Feldman stated education. The customers have to take a class and need to be educated. This is not a high volume operation. There is only one person in the chamber at a time. He feels this is quirky and wants the Board's input. Ms. McKnight stated under the Section 3.2.5.1 uses a bank is fine. She does not see anything that describes the I Fly use. She looked at Section 3.2.5.2 for private school and at athletic or exercise use. She does not see this as retail as the retail component is accessory. She noted the plan makes it look like a big drop off from Highland Avenue to this site. Mr. Feldman noted there is a green buffer from the state of Massachusetts highway layout.

Mr. McKnight noted there are 2 handicap spaces to one side at the rear of the I Fly building but none near the bank. Mr. Feldman stated there are 3 handicap spaces near the bank. The plan is not easy to read and is not labeled properly. There is an ATM there also. Mr. Jacobs asked what the capacity of the I Fly building is anticipated to be. Jamie McManus, owner of One First Avenue Realty Trust, noted there are classes and school events. There is water put in the chamber so the students can see the droplets and what happens. There are maybe 35 students. Everything is scheduled. Mr. Feldman stated there are online reservations prior to classes and events, so everything

is scheduled. The site is tight so the parking has been maximized. Mr. McManus stated there is room for staff and 2 rest rooms. He noted he was impressed by I Fly's staff. They are quality personnel. Mr. Feldman stated customers are put in a flight suit and head gear.

Mr. Alpert asked if the proposal meets all dimensional requirements and just needs the use special permit and was informed that was correct. Mr. McManus stated he sees this as an attraction for residents of the surrounding towns. Mr. Alpert noted the plan states 2 handicap parking spaces. He feels the applicant may need to work with the Planning Director and Building Inspector to determine compliance with the parking requirement. Ms. Newman noted a fitness use is 1 space per 150 square feet. She will confirm with the Building Inspector that he agrees with that use. Mr. Feldman feels it is a good use and better than what is there now.

George Giunta Jr.: Discussion of possible zoning map change along easterly side of Hunting Road from SRA to SRB.

Mr. Jacobs noted a 12/12/19 letter from George Giunta Jr. with exhibits. Mr. Alpert stated he is curious why this area was zoned SRA. Mr. Giunta Jr. stated several lots are 20,000 square feet. Needham had a 20,000 square foot zone a long time ago. He gave a brief background. He noted 20-23 properties do not meet the SRA acre zoning today. There is no logical reason lot size should be the acre and not 10,000 square feet. These properties have been limited in what they can do. All have been affected by it and have signed a statement in favor of rezoning. Mr. Alpert asked if there were any lots below 10,000 square feet. Mr. Giunta Jr. noted there is one lot that is 9,000 plus.

Mr. McKnight asked if these houses were built in the post war era. Mr. Giunta Jr. believes so but is not sure. He estimates 2 new lots and maybe 3 could be picked up. He stated any redevelopment to create new lots would probably require taking down a house or 2. Mr. Alpert stated, in looking at the map, there may be an issue with frontage. Mr. Giunta Jr. stated the abutters would need to get together to reconfigure. He does not feel there would be a serious redevelopment that would add a lot of houses. Mr. Jacobs asked if Mr. Giunta Jr. would like the Planning Board to sponsor this. Mr. Giunta Jr. feels that would be appropriate.

Ms. McKnight feels the houses are detrimentally affected by the road noise and the proximity to 128. Anything the town can do to stabilize the value of the houses and lots would be a good thing. Mr. Owens stated he is not sure this could be ready for the Spring Town Meeting. He is also not sure this would be an appropriate addition to the agenda with all the other things going on such as Muzi's and Children's Hospital. There is a cumulative effect of trying to do too much too fast in the same one mile area. He feels the timing is bad. It makes sense, particularly where they are, but he feels the timing for the Planning Board is off.

Mr. Alpert feels if Mr. Giunta Jr. brings this in May he may be better off with a Citizen's Petition with everything the Planning Board has to bring forward. He feels there is a better chance at being accepted at Town Meeting if it is a Citizen's Petition. Mr. Jacobs agreed some thought should be given to a Citizen's Petition. He feels there should be signatures from the abutters.

Review of Section 1.4.8 of the Needham Zoning By-Law.

Ms. Newman stated she needs direction from the Board given the correspondence from Town Counsel David Tobin and the slightly different opinion from the Special Town Counsel. She asked if the Board wants a formal interpretation from Town Counsel Tobin. Ms. McKnight feels the Board should seek a formal opinion as the basis for the opinion is not spelled out. Mr. Alpert stated, given the history of denying ANRs, the Board needs either an opinion of Counsel or an amended By-Law. He is reluctant to present a change in interpretation of the By-Law in the form of Town Counsel opinion. Mr. Owens agreed.

Mr. Jacobs stated he would not seek a formal opinion. He could live with a note on the plan noting a nonconformity. Mr. Giunta Jr. disagreed. He feels changing the lot does not affect the non-conformance. A note would say there is a violation. He would be concerned with marketability issues. Mr. Alpert noted if there is an existing non-conforming structure the By-Law says if you increase the size or frontage the pre-existing, non-conformity stays.

If the lot size or frontage is reduced the non-conformity is lost. Mr. Jacobs stated that is the historical position of the Planning Board. A discussion ensued.

Mr. Owens asked if Mr. Jacobs was opposed to asking Town Counsel for a legal opinion. Mr. Owens feels they need to ask for a formal opinion and follow the advice. Mr. Jacobs is not sure Town Counsel is correct and feels Special Town Counsel's opinion is equally valid. He would like not to have to be presented with a formal opinion saying Special Town Counsel is wrong. Ms. McKnight feels if there is an application that will be before the Board, the Planning Board needs the advice. Mr. Alpert wants the opinion. He does not feel current policy is the policy he wants to go forward with. He thinks the Board should change the policy but wants a more formal legal basis to change the policy. Ms. McKnight agrees. Mr. Owens also agrees. He wants the opinion formalized.

Planning and Community Development Spending Request.

Ms. Newman gave copies of the budget that has gone to the Finance Committee. In 2015 the Board received money for planning studies and has depleted that. She wants \$60,000 to plan for the required planning studies. Otherwise it is a level funded budget. She is looking for design funds for trail signage. This is the first step but this is CPA eligible funding so she is seeking the funds.

Board of Appeals – December 19, 2019.

Design Concepts Pro Contractors, Inc. -- 19 Riverside Street

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

VOTED: "No comment."

Correspondence

Mr. Jacobs noted a letter from Town Clerk Theodora Eaton, dated 12/10/19, noting Ms. Grimes' resignation and the Board's vacancy. At Selectman Moe Handel's suggestion he reached out to Natasha Espada. She is interested in serving but not now. He knows Adam Block is interested. Adam Block stated he would consider running for the vacant seat in the election. He has not thought about an appointment in the interim. Mr. Jacobs stated he would talk with Mr. Block more. Ms. Espada suggested contacting Bruce Eisenhut or Ronald Ruth about coming back until the election. Mr. Owens stated he is concerned, with the election so close, he does not want to be seen as interfering in the election if there is more than one interested person. He would agree with Mr. Eisenhut or Mr. Ruth. After discussion, Ms. Newman stated she will clarify with Town Clerk Eaton the exact process.

Ms. Newman asked if the Board wants to elect a Vice-Chairman to take over on 1/2/20. Both Ms. McKnight and Mr. Owens are interested. It was decided to wait until the 1/7/20 meeting.

Report from Planning Director and Board members.

Ms. Newman noted there will be a 1/27/20 community meeting focused on zoning for the Muzi/Channel 5 site. The Board has to have the zoning in final form to go to the Selectmen on 2/4/20. She will need to have consultants work on the material in January but coming back before the community meeting. There is usually input from community meetings to reflect in the zoning. Does the Board feel comfortable there is enough time to get this strategy done? What should she direct the consultants to prepare? Mr. Alpert noted he was not going to be at the 1/21/20 meeting. Mr. Owens thinks the community meeting will not bring anything new. He asked if the community meeting is to answer questions or if it was going to reshape the article. Ms. Newman stated it would not reshape but they are talking about changes to FAR and looking at dropping the as of right FAR. She has not talked to Town Manager Kate Fitzpatrick yet. Mr. Owens would be interested in what the Town Manager thinks. A discussion ensued.

Ms. McKnight stated the concerns she heard surrounded the visuals that were presented. Also the traffic impact and where the money would come from for traffic mitigations. Mr. Alpert noted people have an issue with the 20

foot setback. He feels the Board needs to get together with the Finance Committee. He feels the Planning Board Chair should contact the Finance Committee Chair to suggest a joint meeting. Mr. Owens noted Ms. Grimes was going to reach out to the Finance Committee Vice-Chair. The Board needs additional input from the Town Manager and the Finance Committee. If the Finance Committee is not willing to meet with the Planning Board he does not think this should go forward. Mr. Jacobs stated he would keep it on the schedule for now. There will be more discussion on 1/7/20 when there is more information.

The Board signed documents already acted on for Rockwood Lane for the reduction of the bond that closes out the Tripartite Agreement and the Tripartite Agreement extension for Belle Lane.

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 9:15 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk