

NEEDHAM PLANNING BOARD MINUTES

March 8, 2011

The regular meeting of the Planning Board held in Performance Center of the Broadmeadow School, was called to order by Ron Ruth, Chairman, on Tuesday, March 8, 2011 at 7:00 p.m. with Messrs. Warner, Eisenhut and Jacobs and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Donna Kalinowski.

Minutes

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

VOTED: to approve the minutes of 2/15/11 with changes discussed.

Public Hearings

7:00 p.m. – Article 1: PB Amend Zoning By-Law – Outdoor Seating

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

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

Devra Bailin noted there are no provisions in place for outdoor seating. The thought was to create a process where outdoor seating would be permitted administratively and allowed at restaurants. There are 2 options: it would be entirely on the property with review by the Planning Board or it would be on public property and the applicant would have to get a license from the Selectmen.

Paul Attridge noted this will enhance the overall look. He feels having guidelines will help. He noted this is a destination area.

Robert Smart stated the intent is great. It will be helpful to clarify what the process will be, what plan needs to be filed, public hearing, filing requirements and review process. He is unclear on the conditions in Subsections A and B. If satisfied is it the Planning Board or Selectmen who approve? And is it must approve or may approve?

Roy Cramer stated it was an excellent idea and he feels it will enhance the town. He asked about the procedure. If a restaurant wants to do this and if there is a liquor license, will this require a change in Special Permit or a seating requirement?

Ms. Bailin clarified the Selectmen have regulations regarding liquor and eating outside. Service outside must comply with the Selectmen's regulations. It will not require a public hearing notice but will require a public meeting.

Ms. McKnight stated the concept of administrative review is not found anywhere else in the Needham By-Laws with Special Permits or Site Plan Review. It is not clear what administrative review means. Ms. Bailin noted the site plan review process is different. It is not discretionary if the requirements are met. They must allow it. They could call it minor site plan review if they are more comfortable with that.

Ms. McKnight stated it should be discretionary -- a Special Permit -- or site plan approval for a use allowed by right. She asked if a Board of Selectmen is identified in Massachusetts General Laws, Chapter 40A as a Board

that is recommended as a Board that can decide in this process. Ms. Newman stated under M.G.L. Chp. 40A the Selectmen can be designated. Ms. McKnight asked if by right with site plan approval it should be made clear the Selectmen can say no no matter what criteria you have. It is permitting the use of public property. It needs some reference to the Selectmen as the licensing authority.

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

VOTED: to close the hearing for Article 1.

Article 2:PB – Amend Zoning By-Law – Schedule of Use Regulations.

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

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

Ms. Bailin stated it is clear the use table is antiquated. They cannot foresee the types of uses that may come in. They are having to ask for a By-Law change each time a use is not called out. She feels discretion could be built in so the Planning Board has discretion. They need to allow flexibility.

Roy Cramer stated he is in favor. He has many calls for uses not in the By-Law. This is the perfect mechanism to get a quick answer as to whether the use fits the By-Law. He noted this is similar to setting parking requirements with a public meeting not a public hearing. It is a very simple and efficient way to deal with this.

Paul Attridge reiterated what Mr. Cramer said. There needs to be a way to make Needham a place where people can find out anything if they can get here. Robert Smart stated he has a draft change to suggest. He feels they should change “notwithstanding” to “in addition to.”

Mr. Jacobs stated he agrees with Mr. Smart it should say “in addition to.” This is very important to the business community and he feels it is exactly what they should be doing. Ms. McKnight stated she can see how the use would be similar in impact but not intent. She is not sure what the same general use would be. It seems vague.

Mr. Eisenhut stated that is his concern. It is very vague. He feels it should be as narrowly worded as possible. Mr. Ruth stated he wants to distinguish between public hearing and public meeting. Mr. Warner noted the word intent.

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

VOTED: to close the hearing.

Article 3: PB – Amend Zoning By-Law – Neighborhood Business District.

Upon a motion made by Mr. Warner, and seconded by Mr. Eisenhut, it was by the five members present unanimously:

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

Ms. Bailin noted the uses described here are uses that belong here. Some uses called out have greater parking than other uses. There are 3 small areas – along South Street, Birds Hill and Reservoir Street.

Mr. Cramer spoke in favor. He suggested in Section 1.4.7.4 they make a reference to criteria a through e. In c, he noted it is day spa not spay. In e, he asked, if it is a landscaper with small office and trucks he keeps overnight, is that consumer sales/service or did they have something else in mind. Mr. Ruth noted a landscaper would be providing services.

Upon a motion made by Mr. Warner, and seconded by Mr. Eisenhut, it was by the five members present unanimously:

VOTED: to close the hearing.

Article 4: PB – Amend Zoning By-Law – Technical Amendments for New England Business Center, Highland Commercial-128 and Mixed Use-128.

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

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

Ms. Bailin stated they are clarifying the amendment. It is technical. They did not specify more than one use or building on a lot, yet that was the intent. There is some confusion if medical laboratories were allowed. They should create clarification.

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

VOTED: to close the hearing.

Article 5: PB – Amend Zoning By-Law – Corrective Zoning Amendments.

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

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

Ms. Bailin noted there is an inaccurate reference due to inconsistencies and errors in the By-Law due to changes through the years.

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

VOTED: to close the hearing.

8:00 p.m. – Article 1: PB – Amend Zoning By-Law – Building Height Requirements in the Needham Center Overlay and Chestnut Street Overly Districts.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Warner, it was by the five members present unanimously:

VOTED: to put Article 1 after Articles 2 and 3 due to the controversy.

Article 2: PB – Amend Zoning By-Law – Reconstruction of Two-Family Dwellings.

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

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

George Giunta Jr. stated a minor change will allow an instance of reconstruction of 2 family and single family residences. It will allow additional garage space per unit if the Board of Appeals allows it. Some neighborhoods would prefer to enter garage space to get the cars off the street. This allows flexibility. It is in keeping with the intent yet what the neighborhoods would desire.

Mr. Warner stated they try to eliminate garage doors in front of buildings. He is in favor of not having garage doors in front of the buildings. Mr. Giunta Jr. stated he is urging against such a flat rule. Mr. Warner said they would have a sea of asphalt. His wording allows the decision to be made on a case by case basis. Ms. McKnight noted it was amended not long ago to add the first notwithstanding. The language will come right after that.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Warner, it was by the five members present unanimously:

VOTED: to close the hearing.

Article 3: PB – Amend Zoning By-Law – Farmers Market.

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

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

Mr. Warner stated he was not going to vote on this as his wife has written an article on this. Jeff Reed stated he was from the Needham Farmers Market Committee and is in support of this. He feels they should exclude commercial business. This has a narrow scope. He stated it will be fully self funded and open Sunday afternoon for 4 hours. Vendors are self insured and it is non-profit.

Mya Herzog, of Plymouth Road, stated she chose this town for the community. A market will be good for locally grown fresh produce. There are many community benefits. Wendy Blum stated she was in support. It is good for the health and the environment. It builds community and gets people talking to each other. It is also educational.

Ms. McKnight asked what is the reason for limiting it to a non-profit corporation? Mr. Reed stated it would have to be a non-profit. Ms. McKnight clarified the concept of the non-profit corporation would be the lessee of the land, then the vendors that would show the booths. Mr. Reed stated the farmers market has a set of rules for vendors. Vendors would have to be licensed. Ms. McKnight noted it would be farmer raised and noted they may need to tinker with the wording a little. Mr. Jacobs stated the intent is to see locally grown produce. The question is how local? Mr. Reed stated they hope one of the 2 farms in Needham will be interested. They may extend as far as 495 but it is unrealistic for vendors beyond 495. They will not go out of state.

Mr. Jacobs clarified it will definitely be one time per week and asked if it would be Sunday. Mr. Reed noted people expressed problems with weekday and Natick has a Saturday farmers market. They feel Sunday is a good day. Mr. Jacobs noted the day of the week is an issue for him and he asked how it will be regulated. Ms. Newman stated it will be set up as a Special Permit. Mr. Jacobs asked what the impact on the farms we do have will be. Mr. Reed stated it will increase their business.

Jeff Heller stated he was in support of the market. He feels some questions seem to be beyond the parameters of the Planning Board. He questioned where the control lies. Mr. Ruth stated the Planning Board recommends. Mr. Heller asked why the definition of local falls into the Planning Board decision when they stay within the definition of usage. What is the Planning Board charge?

Robert Smart made a friendly suggestion that they eliminate “not to exceed once per week.” It is busy the 4th of July and they may want more than one day. Ms. Herzog stated she would like to see it expanded to have cheeses and possibly arts.

Paul Iantosca stated farmers markets are a social event. It gives farmers a venue to introduce their products, a trend that has been going on for 30 years. He feels this is great for the community.

Mr. Jacobs stated he is not opposed to markets. He does have an issue when the description does not follow through.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by four of the five members present (Mr. Warner did not vote):

VOTED: to close the hearing.

8:00 p.m. – Article 1: PB – Amend Zoning By-Law – Building Height Requirements in the Needham Center Overlay and Chestnut Street Overlay Districts.

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

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

Louis Wolfson, of 29 Cimino Road, stated 4 stories is unacceptable to abutters. Paul Iantosca stated he hired an architect who specializes in laser technology. He took pictures of downtown and recreated buildings from the plans proposed and computer generated pictures. They feel 3 stories would look good. He feels the citizens should be able to look at what it would be like before it happens. He has filed an amendment for Town Meeting members to reconsider their vote and residents can weight in. The amendment has a cap of 3 stories.

Gil Cox stated 4 stories is too onerous. He hopes the Planning Board agrees. He would like the Planning Board support.

Paul Attridge, Town Meeting Member Precinct G, stated he commends this but is in opposition of the amendment. There was a thorough process 2 years ago at Town Meeting. They have not given it enough time to verify if the By-Law would work. It was created to allow by Special Permit an increase in height. They may decide through the permit process that 4 stories is too high. He feels they should let the permit process work for them.

Louise Condon stated she cares about the town. Two and ½ or 3 stories is all they can put up with and stay within the character of the town. It looks like a country town.

Bob Raffol, of Manning Street, stated people come to Needham because of the character and the country atmosphere. Looking at the pictures he would not want to pay high taxes to live in a town like this. He does not know who this benefits. He asked the Board to consider lowering it to 3 stories.

Greg Soren stated he was concerned he did not see photos or sketches at Town Meeting. There was a schematic of 4 stories but not pictures or plans. There was a streetscape of 3 stories but not 4 stories. He feels to move ahead now before plans are adequately completed is like putting the cart before the horse.

Chris Thomas, of Warren Street, thinks 4 stories are too high. Everybody he talks to are shocked that 4 stories are being considered. Four stories are wrong for this town. He stated this is not a green project however you look at it.

Ed Sewall stated he has been examining the By-Law that allows 4 stories. They have very good policy reasons for making it 3 stories. There is no reason not to think carefully about a 3 story limit. His opinion is that developers will start with 4 stories. They will be taken advantage of by developers. This is the issue with the very first applicant. He feels moving from 4 to 3 will remove about 90% of the issues.

Mr. Wolfson stated there are some areas that could hold 4 stories but not downtown.

Kathy Lewis, Town Meeting Member Precinct D, stated she was on the Design Review Committee and at workshops. What came out of the study was not what was said at the workshops. She did not vote for a 3 plus one. She thinks 3 is sufficient. The streetscapes shown at Town Meeting were beautiful. They should not make a consensus for parking, etc. She added they will be working diligently to support this at Town Meeting.

Robert Smart stated he was speaking as a citizen and attorney for the applicant downtown. He wants the Planning Board to oppose this at Town Meeting. The downtown study makes clear why there has been very little development over the last 30 years. Town Meeting approved an increased density to try to improve downtown. He noted on most of the sites the only way to get increased density is to go up. He noted it is the Planning Board's right to deny a permit if a 3 plus 1 is not appropriate. He feels it makes sense to leave with the Planning

Board this discretion. He stated the presentation show 3 or 4 stories with one story on each side. That probably would not be like that.

John Kuhn, of Warren Street, noted the issue was the height and the impression. It would be like the Woodlawn Station with total build out. He urged the Board members to go see the Woodland Station if they have not seen it yet. He noted pictures speak volumes. He is in favor of 3 stories.

A gentleman noted one issue not for discussion is waivers. A parking waiver should be the kiss of death for this project. He did not believe any increased density was discussed to try to liven up downtown to get people in. He urged the Planning Board to see what the original intent was.

Mr. Ruth reiterated they were not there to discuss the Mackin project. This discussion was to change the height allowed in 2 areas – the downtown area and Chestnut Street.

Anne Marie Adreani, a Needham teacher for 27 years, noted comments were made that this was not Brookline or Cambridge. It is a town, not a city. She commented she did not move here to see 4 stories.

Eric Bailey, of Precinct A, noted he voted in favor of the By-Law 2 years ago. He stands by it but is persuaded to maybe change. He does not see how he would vote today. He stated if they made a mistake lets not live with it. He added these comments would have been helpful 2 years ago.

Paul Iantosca noted the report did say to go up but not way up. There is too much density with 4 stories. They have over 400 signatures they will be submitting. He asked the Planning Board to listen to the people. He feels the Planning Board tries to do the best for the town as a whole. Four stories may have been a little too aggressive for the town. He stated he could bring more people if they need to hear from more. He commented they cannot amend a building once it is built but they can amend it now on paper.

Mr. Warner stated there was a comment people would not understand what 4 stories would look like. He asked if Mr. Iantosca could present the roof line from May to Chapel, the Post Office to Green's Field and Chestnut Street to Roche Bros. so they can see what is there. He asked for the sidewalks and roof lines so they can all be clear. Mr. Iantosca stated they would be more than happy to do that and will work on it.

Ms. McKnight stated, to clarify, it is not 2 stories with a third story setback or a half story but 3 full stories. A motion was made to close the hearing subject to the submission of the sketches Mr. Warner requested. Ms. McKnight clarified if the sketches come in the public will not be able to comment on them but the Planning Board will be able to. Mr. Ruth stated that was correct.

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

VOTED: to close the hearing subject to the submission of the sketches Mr. Warner requested.

Endorsement of Decision: Major Project Site Plan Review No. 2011-02: Town of Needham, 470 Dedham Avenue, Needham, MA, Petitioner (Property located at 200 Harris Avenue, Needham, MA).

Ms. Newman reviewed the changes she made to the draft decision. On page 6, she fixed the number of feet and the number of buses coming to the site. The first study showed 6 buses but it will be 8 buses. She clarified on Dedham Avenue the signage requires approval. On page 8, she adjusted the times programs start and changed the 6 buses to 8. On page 15, she added a condition on signage. On page 14, in 3.12, it should be 220 feet. She clarified the buses in 3.13 and in 3.14 8 buses and language regarding gates. On page 16, they offered free bus service for Kindergarten students. Mr. Jacobs noted in 3.14, the last sentence regarding unauthorized access, change "of" to "by means of"

The Board signed the decision.

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

VOTED: to adjourn the meeting at 9:50 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

A handwritten signature in blue ink, appearing to read "Bruce Eisenhut", written over a horizontal line.

Bruce Eisenhut, Vice-Chairman and Clerk