

NEEDHAM PLANNING BOARD MINUTES

April 29, 2014

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building was called to order by Bruce Eisenhut, Chairman, on Tuesday, April 29, 2014 at 7:30 p.m. with Messrs. Warner and Jacobs and Mss. McKnight and Grimes as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Correspondence

Ms. Newman noted a copy of a ZBA case the Board commented on regarding 18 Maple Terrace. She noted they reduced the size of the overhang in order to be eligible for a Special Permit, which they were approved for.

Public Hearing:

7:30 p.m. – Article 2: Amend Zoning By-Law – Large Scale Ground-Mounted Solar Photovoltaic Installation Overlay District.

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

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

Michael Singer, principal at Brightfields Development LLC, stated they are a solar developer and a redeveloper of contaminated properties. He noted this is what they do around the country. They have negotiated an energy management services contract and are finalizing their permitting with Needham. They are doing their DEP re-use permit, hopefully to start work in June. The discussion, when they sat down with the Design Review Board, was to walk through the pros and cons of fencing.

Mr. Singer stated they look at the setting in making a determination for a fence or not. They look at the site from a security point of view but do not equate that to a fence. They look at the setting, the constructability and construction of the array, and utilities. They feel they have a strong case that what they are building is safe. He stated to be clear; we are at risk if anything happens; they guarantee production back to the town. He noted his experience is a fence, particularly at a landfill, complicates it. The DPW and fire are all comfortable with no fence.

Mr. Singer noted the Town Engineer would like signage and spacing. The police would like a fence above the perimeter access route because they like to do patrols around that. They will be doing that. The Town Engineer requested specifically they wanted a fence near Cedar Lane trails. He noted they are willing to do additional measures. Mr. Eisenhut stated there are a lot of deer. He asked if they were concerned the deer would go in and trample the equipment. Mr. Singer stated there is nothing attractive to deer. He has no concern with them and they will not be stepping on anything.

Ms. McKnight noted that solar panels were stolen along Route 58 in Carver. She asked if there is high voltage that could be a problem for someone who ignores the signs. Mr. Singer stated there is high voltage but there is good signage. They will not make it easy to get to. It is a utility scale facility ballasted system. It would be a matter of intent. If it is a real issue they will fence it.

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.

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

VOTED: to recommend adoption of this article to Town Meeting.

Request for Temporary Occupancy Permit: Major Project Site Plan Review No. 2013-03: Town of Needham, 500 Dedham Avenue, Needham, MA, Petitioner (Property located at 51 and 59 Lincoln Street and 89 School Street, Needham, MA).

Request for Temporary Occupancy Permit: Amendment to Major Project Site Plan Review No. 98-6: Town of Needham, 500 Dedham Avenue, Needham, MA, Petitioner (Property located at Existing Municipal Parking Lot on Chestnut and Lincoln Streets, and 37-39 Lincoln Street, Needham, MA).

Ms. Newman noted the lights are in and the wall at the corner is done. The wrong size trees were delivered today. The landscaping will arrive tomorrow and will be planted in the next week. They would like to occupy and get a temporary through 7/21/14. They will complete phase 2 also. She noted they have the funding.

Mr. Warner noted he would authorize the Planning Director to issue a permit once the planting screening is in. He feels it is important to the abutters to have the screening. Mr. Jacobs and Mr. Eisenhut both agreed. Ms. Newman stated Town Manager Kate Fitzpatrick would like to open the parking lot. Ms. Grimes asked about using it only until 5:00 p.m. when the lights go on. Ms. McKnight stated it could go until 7:00 p.m. Ms. Newman stated she will authorize a temporary occupancy permit until 7:00 p.m. – sunrise to sunset – until the landscaping is in as shown on the plan.

Request to release bond: Major Project Site Plan Review No. 2012-05: MMM Property LLC, 7 Harvard Street, Brookline, MA 02445, Petitioners (Property located at 916-932 Great Plain Avenue, Needham, MA).

Ms. Newman noted the bond is not ready to go.

Board of Appeals – May 15, 2014.

Chestnut Street Donuts, Inc. – 397-399 Great Plain Avenue, Needham, MA

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

VOTED: “No comment.”

Highland Avenue Donuts, Inc. – 1201 Highland Avenue, Needham, MA

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

VOTED: “No comment.”

Lino Aiello, 122 Water Street, Quincy, MA – 68 Highland Avenue, Needham, MA

Ms. Newman noted she looked at this and the notice last week was not complete. They cleaned it up.

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

VOTED: “No comment.”

Richard MacDonald – 215 Fox Hill Road, Needham, MA

Ms. Newman stated they are converting part of the existing house to garage space. Mr. Jacobs stated it is all within the existing garage area.

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

VOTED: "No comment."

Syed Rehan Rizvi – 125 Charles River Road, Needham, MA

Mr. Eisenhut stated they need to make clear a pre-existing, non-conforming lot is lawful pre-existing, non-conforming. Ms. Newman noted they need to make sure the setbacks conform. Mr. Eisenhut stated he is not convinced it is a lawful pre-existing. Ms. Newman stated the setbacks are 30 feet in front, 25 feet on the sides and 15 feet in the rear. The setbacks in this district are 15 feet on the side pre-1986.

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

VOTED: to comment they need to make sure they are not creating a new non-conformity.

Set Summer Schedule

Ms. Newman noted April, May and June are all set. After discussion, it was decided to meet Tuesday, July 8 at 7:30 p.m. and Wednesday, August 6. Ms. Clee will send a confirmation email with the schedule.

Planning Board Recommendations on Warrant Articles.

Ms. Newman noted they already made a recommendation. The Board needs to sign the documents so she can record them with the Town Clerk before Town Meeting. She felt they need to prepare for any questions that may come up. Ms. Grimes stated she will do the streamlining article if necessary. Mr. Eisenhut stated he is fine with it. They had good input and people were very helpful. He has a draft and will simplify it more. Mr. Jacobs stated he would be interested in feedback for medical marijuana. Ms. Newman stated people wanted to know how the Planning Board arrived at their conclusion as to where it was going to be and what did they look at. Mr. Warner stated he told them.

Regarding the 500', Mr. Jacobs asked if they are measuring from the building or the property line. This says from the property line. Ms. McKnight asked if it was from the property line of the protected use. She stated that is appropriate with this type of use. Mr. Jacobs asked if this is the way they want it. Ms. McKnight stated it is appropriate to use the property line to the facility. Ms. Newman stated they are protecting the entire protected use which includes the property.

Ms. McKnight stated day care centers came up at her meeting and it is hard to regulate but they do have protections. She stated Selectmen Dan Matthews followed her presentation. She felt he was very good. He stated nothing would be allowed except by Special Permit and she felt she should have said that. He also said how important it is to establish an area in which the use is allowable so persons going through this long process of permits and licenses have an idea that they can do it in some locations.

Ms. Newman noted she had a question as to why not in CVS and also what does it look like. Mr. Jacobs stated CVS could have applied for a license. He stated he had a question about Article 23 – Indoor Athletic/Exercise Facilities. Where did this come from and why is a swimming pool allowed? In Mixed Use 128 and Highland Commercial there are no pools. In New England Business it allows indoor/outdoor pools.

Ms. Newman noted they just added outdoor pools. Indoor pools are included in Mixed Use 128 and Highland Commercial Districts. Swimming pool use was added to the definition of what constituted the athletic facility. It is embedded in the definition. Mr. Jacobs stated it lacks clarity. Ms. Newman noted the definition on page 8 would include indoor pools. They would interpret in the past as including indoor pools. Mr. Eisenhut stated the overall intent is to have consistency in the Industrial Districts. They will need to say no pools are allowed in either the Mixed Use 128 or the Highland Commercial Districts. Ms. Newman clarified they can have indoor pools. They just allowed one for the recent approval for a large Fitness Facility (which could be Boston Sports).

She would argue pools are included in indoor athletic or exercise facilities. They cannot have an outdoor pool. Mr. Jacobs stated they need to state they have interpreted it in the past as allowing indoor pools.

Ms. Newman noted the Design Review Board needs to hear the application within 20 days. Her concern is they may not meet this requirement. Mr. Eisenhut stated they can waive that 20 day requirement.

Ms. Newman noted parking requirements in the Center Business District on upper stories. Ms. McKnight noted they should take the parking requirement for the entire building. Mr. Jacobs stated with this example it is on an upper story, in the Center Business District, and there is no actual parking affixed to this site. It was an existing building that never came in. Ms. McKnight stated she thought there was parking with this building. Mr. Eisenhut agreed he thought there were 3 spaces. He stated for the example they will say there is no parking. They are converting from office to medical. Mr. Jacobs stated the ZBA has said the Planning Board are wasting their time as they grant these waivers anyway. Mr. Eisenhut said when presenting this he would begin with the fact they historically grant the waivers.

Minutes

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

VOTED: to accept the minutes of 11/4/13, 12/17/13 and 1/7/14.

Ms. McKnight gave Ms. Clee revisions for the 3/18/14 minutes.

Report from Director of Planning and Community Development.

Ms. Newman stated she went to the Secretary of State's website to find the name of the LLC for the recent acupuncture special permit. The corporations name was changed 2 years ago from Spirit Journey Acupuncture to Blue Lotus Healing Arts. They filed the application under the old name. She will get a new application and they need to change the designation on the plan. She added that in the Decision as a plan modification. The decision in the packet is what she emailed to them, but with the name change. Ms. McKnight noted Section 1.9 was confusing. They usually do parking requirements for the entire building. Ms. Newman agreed. They usually do not do it that way. Ms. McKnight stated it does not give a clear picture. Ms. Newman stated they should not do this going forward.

Ms. Grimes stated the decision says there are no on site spaces. She thought they had 3 spaces. Mr. Eisenhut commented he heard 3 spaces also. Ms. Newman will check the Assessor's records. That will affect the parking waiver number.

Discussion of Streamlining Proposals: restaurant ownership changes and a moratorium on parking studies for new restaurants in Needham Center.

Ms. Grimes stated the Council of Economic Advisors (CEA) is looking to discuss change of ownership. The Rice Barn was sold but it had the same chef, cuisine, etc. The CEA would like to consider streamlining. Mr. Warner stated the Farmhouse from Village Fish was similar as was Spasso and Lizzie's. Ms. Clee stated they have done transfers. Ms. Grimes suggested they do these as administrative changes. The goal for them is not to come before us when there is no real change. She noted they are just starting to explain this.

Ms. Newman stated the only real problem that has developed is around the dumpsters. They need to coordinate with what the ZBA does. She knows the CEA want to expedite things. She is not sure why it is so hard for the applicants to come in and introduce themselves.

Ms. Grimes noted the CEA is looking at a moratorium for parking studies for new restaurants in the center only. Ms. Newman stated it is timely to look at a relaxation for the time being.

Mr. Warner noted they should have the town do a study every couple of years. Ms. Newman stated it would be about \$10,000. They have some money in the budget. They could go to Town Meeting and ask. Mr. Jacobs stated everyone approves a moratorium for parking study requirements. He noted all agreed once the Planning Board has a completed study they can justify the cost by saying they are reducing the burden on the applicant for the cost. Ms. Grimes stated there is no reason to require parking studies with all the new parking going on.

Ms. Newman noted in the vacant space where Vino Di Vino is they want a laser hair removal. They will need a waiver. The use will be accessible from Highland Avenue only. Do they need an updated parking study? The Urgent Care is operational and Vino Di Vino is going. Mr. Jacobs stated he would like counts a couple of days during the week and all day Saturday. He noted a study was done in 2012 but there are enough changes he would like new counts done.

Ms. Newman informed the Board she would like to move off certified mailings. First Class letters are all they are required to do. She wants to make sure everyone is ok with that.

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

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

Respectfully submitted,
Donna J. Kalinowski, Notetaker


Sam Bass Warner, Vice-Chairman and Clerk