

NEEDHAM PLANNING BOARD MINUTES

September 2, 2014

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, September 2, 2014 at 7:00 p.m. with Mr. Warner and Mss. McKnight and Grimes as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski. Mr. Eisenhut arrived at 7:12 p.m.

Correspondence

Mr. Jacobs noted the following correspondence for the record: a letter from Planning Director Lee Newman to Town Manager Kate Fitzpatrick dated 8/13/14 regarding zoning articles for the Special Town Meeting; a series of filed decisions with the Town Clerk from the Board of Appeals and data and plans from the Large House Study Review Committee.

Board of Appeals – September 18, 2014.

Roadside Rescue & Transport, Inc. – 150 Webster Street.

Ms. Newman noted the Planning Board already commented on this.

Mr. Eisenhut arrived at 7:12 p.m.

Boston Swim School, LLC d/b/a Goldfish Swim School – 45 Fourth Avenue.

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

VOTED: “No comment.”

Stephen Ashkinos, 341 Cochituate Road, Framingham, MA -- 68 Highland Avenue.

Ms. Newman stated this is a pre-existing, non-conforming parcel with parking on site. The parking backs up on Highland Terrace and Riverside Road. The applicant is talking 3 take-out stations. Mr. Eisenhut commented his view is the Town does not do enough to incentivize the aesthetics of parking. Requests for waivers is an opportunity to look at design and materials.

Mr. Jacobs stated he thinks an incentive is good but he does not think it is for this case. The site is very limited in terms of size and parking but he would like landscaping where it is possible. He would urge the ZBA to be attentive to environmental issues. He would encourage the applicant to take the opportunity. Ms. Newman stated there is no planting plan and no details of what the applicant proposes to plant.

Upon a motion made by Mr. Warner, and seconded by Mr. Eisenhut, it was by four of the five members present (Ms. Grimes voted in the negative):

VOTED: to comment this is an opportunity to upgrade the appearance of the building along the street and we would hope the ZBA would look at some kind of planting plan for the front area in exchange for the waivers.

Reginald C. Foster, Trustee of 898 South Street Realty Trust – 898 South Street.

Ms. Newman stated there is a 50 foot setback. She does not have a revised plot plan. The applicant plans a small addition within 50 feet and will shave off a portion so the square footage swap is comparable. She feels this requires a variance. Ms. McKnight stated she is not sure they are creating a new non-conformity if they are

already violating the setback. Ms. Grimes suggested they point out the case law as well as the Zoning By-Law language and let the ZBA make the decision. All board members agreed.

Mr. Jacobs noted a letter dated 8/22/14 from Roy Cramer regarding North Hill requesting the Board delegate authority to the Planning Director to authorize temporary or permanent Certificates of Occupancy. Ms. Newman stated she is comfortable authorizing temporary occupancy permits but permanent permits she would prefer to come to the Board.

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

VOTED: to authorize the Planning Director to issue temporary Certificates of Occupancy at her discretion unless she feels it should come to the attention of the Board.

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

VOTED: to have the Planning Board sign off on the final project.

Public Hearing

7:30 p.m. – Definitive Subdivision Amendment: 250 Cedar Street Realty, LLC, Dennis Paul, Manager, Petitioner (Property located at 250 Cedar Street in Needham, MA).

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

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

Robert Smart, representative for the applicant, stated Dennis Paul is buying the property from Mr. Flynt assuming he gets approval here. He is seeking approval for modification of a definitive subdivision plan to allow for the razing of the existing house at 250 Cedar Street on the corner of Cedar Street and Homsy Lane and a division of the lot to make 2 new lots -- 12A and 13B. The original subdivision was approved for 10 lots in 1994 with a private sewer pumping station. In 1996, the Planning Board approved a modification to add Lots 11 and 13. In 2008, the Board approved another modification and basically approved this subdivision for Mr. Flynt, but then he never filed anything. The Applicant received an endorsement of ANR from the Wellesley Planning Board. He noted one third of each lot is in Wellesley.

Mr. Smart stated the Wellesley lot size requirements are larger so the applicant does not comply. There is a note on the plan that states no part of the structure on these lots can be in Wellesley. Sheet 2 shows the existing 2½ story house that is to be razed. Mr. Jacobs asked if the Board needs to know where the houses will be located. Mr. Smart stated he does not think so. He stated, assuming the Board grants the approval, Mr. Paul will have to file a building permit application and a plot plan for the 2 lots and at that time he will have to show where the houses will be located. Ms. Newman stated the Board is making a determination on Zoning, not the setbacks of the house on the lot.

Mr. Jacobs stated for the record the understanding is that without a proposed location in terms of setbacks the Board cannot tell the applicant they can locate the houses on these lots. Mr. Smart stated it was understood. Mr. Jacobs stated a lot of small detail things need to be corrected. That can be corrected later. There is also a question of how the lots are numbered in this subdivision. Mr. Smart stated he does not know what the history is. He noted the lots are numbered 1, 2A, 3A, 4A, 5B, 6, 7, 8, 9, 10, 11, 12, 13A and 13B. He noted Ms. Newman contacted him and noted the number on the Assessor's map is different for Lots 5 and 6. It shows 5 and 6A. He stated he needs to make sure he has a current list of owners as the applicant needs consents from all the owners for what they are doing on the lots. He also needs to understand the numbering of the lots. The document says 1A through 5A and 6 through 10. He noted Lots 1 through 10 are the original plan.

Mr. Jacobs noted the following correspondence for the record: an email from Fire Chief Paul Buckley, dated 7/28/14, with no objections or concerns; an email from Tara Gurge of the Board of Health, dated 7/31/14, with comments; an email from Police Chief Phil Droney, dated 8/28/14, noting no safety concerns; an amended Certificate of Action; a draft amendment to the Certificate of Action with redlining, and a letter from Town Engineer Anthony DelGaizo, dated 8/29/14, with comments and recommendations.

Mr. Jacobs asked Mr. Smart if he has seen the Town Engineer's letter and if he had any response. Mr. Smart stated he has seen it and noted the second comment does not need a response. The third comment states some documents will require signatures from trustees or owners.

Ms. Newman stated that under the Subdivision control law, physical access to the site is required. Dennis Paul stated he is going to cut the elevation of the lot approximately 7 feet to be level or 1 to 2 feet above Homsy Lane. He feels it is very doable. He stated he will sit down with the Town Engineer. Ms. Newman stated the Board will need to see how it will be re-graded on a topographical plan. Mr. Paul stated on the 2008 plan it said that it will be cut down by 6½ feet. He will cut it all down. It is just a matter of digging it out. The applicant will get something from Town Engineer Del Gaizo. Ms. Grimes asked if this was brought to the attention of the other owners. Mr. Paul stated they were informed. Ms. Grimes asked if all lots pay a yearly fee for the upgrade of sewer and such. Mr. Paul stated they do and he will enter into that same agreement.

Ms. McKnight asked why this plan could not be endorsed ANR by the Planning Board. Ms. Newman stated the original decision does not allow this to happen. It was limited to 10 lots and was a modification to add the other 2 lots. Ms. McKnight asked where the utility connections are to be. Ms. Newman stated that is what Town Engineer DelGaizo commented on.

Suzanne Nissen, of 16 Homsy Lane, stated she is right across the street. She noted Mr. Paul has been very helpful but she has 2 concerns. She asked if there would be blasting to get rid of ledge. If there is, she would like a bond or whatever is necessary. Also, is the pump station designed for 10 houses or does the applicant need to update it to accommodate 14 houses? She stated she does support this application. Mr. Paul does not feel it will be necessary to blast, but cannot guarantee. He informed Ms. Nissen that he was told the pump station has almost double capacity of what it is currently doing. Ms. Nissen commented she was told that also. Mr. Jacobs stated he would like that in writing.

Rana Chaudhuri, of 3 Polaris Circle, stated they are adjacent to the lot. They have not talked with Mr. Paul yet. He has concerns about blasting. Mr. Paul explained how he would blast if necessary and how he monitors each house. Mr. Jacobs asked Mr. Paul if he had an estimate of how long this will take. Mr. Paul stated he has 30 days to do it.

Dave Kerwar, of 1 Polaris Circle, stated he has 2 concerns. The structural foundation is one issue and the aesthetic is the other issue. The hill has created some separation. Mr. Paul stated he is going to put a fence up but he would work with Mr. Kerwar. He stated he will not touch Mr. Kerwar's existing landscaping. Mr. Jacobs suggested Mr. Kerwar and Mr. Paul sit down and talk about the issues.

Carrie Kerwar, of 1 Polaris Circle, stated Polaris is in Wellesley. She is not sure what the noise regulations are in Wellesley because Polaris is actually Wellesley. Mr. Jacobs stated this hearing will be continued to the 10/7/14 meeting at 7:30 p.m.

8:00 p.m. – Rockwood Lane Definitive Subdivision: Wayside Realty Trust, Chris Kotsiopoulos, Owner and Trustee, 36 Rockwood Lane, Needham, MA, Petitioner (Property located at 36 Rockwood Lane and 5 adjacent parcels, Needham, MA, Assessors Plan No. 17 as Parcels 22, 23 and 24 and Plan No. 20 as Parcels 57, 60 and 61). Please note: This hearing has been continued from the June 10, 2014 and August 6, 2014 meetings of the Planning Board.

Mr. Jacobs noted this hearing has been continued from 8/6/14. He stated Mr. Giunta Jr. is not at the meeting. He noted the following correspondence for the record: a letter to the Planning Board from Edwin Harwood, dated

8/10/14, with comments; a memo from Janet Bernardo, dated 8/11/14, with comments; a memo from Alice Schwartz of 133 Tudor Road, dated 8/14/14, with comments; a letter from Dr. and Mrs. Carl and Brigid O'Hara, dated 8/18/14, with comments; an email from Don Boronson, dated 8/21/14, with comments; an email from Fire Chief Paul Buckley, dated 8/28/14, noting no objections or concerns; a letter from Alicja Zukowski, of Samiotes, dated 8/25/14, regarding a Third Party Storm Water Peer Review; a letter from George Giunta Jr. to Planning Director Newman, dated 8/26/14, with comments; an email from Town Engineer Anthony DelGaizo, dated 9/2/14, with comments regarding the easement width and easement documents; and a copy of the Town of Carlisle Noise Control Policy.

Attorney Peter Barbieri, representative for the applicant, noted there have been 2 modifications and some compliance issues. There were no real changes to the plans. The town engineer raised some questions and one dealt with the width of the easement from the street line to the house. The applicant had originally proposed on the plan an easement that was 12 feet. That is the area where the CULTEC drainage system is underground in those locations. They did submit one revised plan that increased the easement width to 15 feet. The Town Engineer is still looking for 20 feet. The applicant can make that change as part of the easement documents. The applicant has been provided with a draft of the homeowners association. He stated they will have annual inspections. The details can be worked out but he feels the previous revisions are adequate. There were not a lot of changes but they have provided a lot of clarifications.

Steve Garvin, Engineer with SCI, stated they are importing gravel and not stone as shown on the plan. The drainage easement is 12 to 15 feet and will go to 20 feet. The applicant has provided a cut and fill plan and a cross section. They have submitted estimates on costs for landscaping and such. He responded to the Samiotes letter which was in response to Ms. Bernardo's letter. For the first comment, he has spoken with the DEP and Town Engineer DelGaizo. For comment number 2, soil samples had been provided and they received word back the testing company needed more material so he has submitted more test materials. All information has been provided. He noted there is a fairly consistent type of silty loam and ledge. Comment number 5 has been clarified and resubmitted. For comment 9 he feels they have shown that with gravel the water will leach out. For comment 23 he noted they have sized everything for 789 cubic feet with C soil.

Ms. McKnight stated she would like to hear from Ms. Bernardo as to whether her concerns have been answered. Janet Bernardo, of the Horsley Whitten Group, stated she was hired by the abutters to check this project. She has been a civil engineer for 20 years. The neighborhood has joined together for issues and have been advised not to continually speak individually. She stated there is too much impervious area. This was a 3 acre wooded lot and it now has 40% pervious. There is no problem bringing in 4 feet of fill. The concern is the applicants are not using data for the most restrictive layer. It is very specifically written in the storm water handbook. She is not sure why they are not going along with it as it is not a hardship. She is confused why they are arguing about this. She is not sure where the test pit logs were. She stated 7 out of 9 systems are below the seasonal high ground water level and none of them have the separation of 2 feet. Also, the number for Lot 4 is not modeled correctly.

Mr. Garvin stated they have made an effort to reduce the impervious area by reducing the roadway. The lots fall well within the regulations. The applicants have looked at ways to use more pervious surfaces. The town engineer had issues with them looking at using more pervious for roadways so they stopped. Each lot meets the standard of the By-Law. Ms. Bernardo noted there are large footprints. The houses are not comparable with surrounding houses. Mr. Garvin stated all walkways will be pervious.

Ms. Bernardo stated it is an experimental idea to bring in 2 feet of soil A and put it over soil C. The applicants do not know if it will work. Mr. Jacobs asked if there was any literature on it and if it has been done elsewhere. Mr. Garvin stated when it rains a certain amount absorbs into the ground and a certain amount runs off. The applicant is bringing in 2 feet of gravel over the soil. A certain amount should run off and a certain amount should be absorbed. He said that the Town Engineer DelGaizo felt confident about it.

Ms. Bernardo stated she has a concern if the project can be constructed the way the model is, as well as if it can stay that way indefinitely. She is not sure. Mr. Garvin stated there will be a minimum of 2 feet of gravel then the

8-10 inches of sod over it, which will hold the gravel in place. The front gardens will be heavily vegetated which will also hold the drainage system in place. They feel confident 2 to 4 feet is right.

Michael Radner, the landscape architect, stated he has no issue with this plan. It will be well drained soil. There is no problem with the 2 foot depth. Ms. Bernardo stated the system needs to be sized for what is in the ground. She feels the chambers should be larger. Mr. Garvin stated the chambers are sized to the largest best soil of A. Ms. Bernardo noted they should be using C soil that is on site. Mr. Garvin noted all stormwater drains toward the road. Ms. Bernardo disagreed.

Ms. Grimes asked if there are downfalls to increasing the size of the chambers to appease the neighbors. Mr. Garvin stated they meet the standard and he can show they meet the standard. He feels this is rather arbitrary. Ms. Bernardo asked about test pit logs and stated the systems are set below the estimated seasonal high water elevations. Mr. Garvin stated that is not the case and he can provide further information. Ms. Bernardo noted, for the cross section, the recommendation is the applicant put an under drain at each end that connects to the municipal system. Mr. Garvin stated if the town allows it and it can work with gravity, he is ok with that. He will discuss it with the Town Engineer.

Ms. Bernardo stated the plan does not show the 2 feet of green and the cut of that. It is unclear what is happening. The amount of ledge to be removed is a concern to neighbors. There will be trucks and noise all day long. She asked if someone would be on site to see the applicant is doing it correctly. Mr. Garvin stated he was asked to do a cut and fill plan and they did. Mr. Jacobs asked how noise, pollution and such are going to be handled. Everyone wants to hear ideas.

Mr. Barbieri stated anything they can keep on site they will. It is costly to take material off site. Mr. Jacobs stated Ms. Bernardo views this as an experimental plan. Is there any way to have a test? Ms. Bernardo stated the model is how they have done it. The phasing is important, regarding stormwater management, and the gravel should be installed right away. There should be as-built plans continuously along the way, as well as evidence that the correct soil is being brought to the site.

Mr. Warner noted he has visited the site and noted large heaps of stone. He asked where the stone came from. Mr. Barbieri stated that stone was from previous construction activities. Mr. Warner asked if the surface of the lots 6 through 9 will have a slight grade toward the road. Mr. Barbieri stated the back half goes to the back and the front half to the street. Mr. Warner asked if Lots 1 through 5 drain toward the road. Mr. Garvin stated the water goes through the swale street system. Mr. Warner stated removing trees and adding grass increases water to the lots. The applicant proposes to build 9 sponges on top of rocks. If there is a big storm, the sponges will fill. Mr. Warner stated he thinks the 9 sponges will be an antisocial experiment. He thinks Lots 6 to 9 should be left as forest. He feels this is damaging the neighborhood.

Mr. Jacobs stated he thought he heard, both this time and last time, the run off would be reduced to the neighbors. Mr. Garvin stated it will be. It is standard engineering practice. Ms. Bernardo stated chambers are basically used for stormwater storage and then it infiltrates down. Mr. Garvin stated the design will reduce the flow of stormwater run off west to Richard Road. Ms. Bernardo stated it could work but ledge makes it scary. Mr. Garvin stated there are 4 feet of gravel under a CULTEC chamber. Ms. Bernardo commented the applicant needs to slow down the flow a little. Mr. Garvin stated they could have 2 feet of A soil and 2 feet of B soil. Ms. Bernardo stated that was good.

Mr. Garvin stated he will look at ways to improve the drainage but they are meeting the standard and the Town Engineer agrees. Mr. Barbieri stated the Homeowners Association will prohibit changes to drainage. Ms. Grimes stated she is concerned with the Homeowners Association. She has seen them fail and would like to see the paperwork.

John Lee, of Lot 85, stated the infiltration has not been tested and is experimental. He asked what happens if his house starts flooding. Mr. Barbieri stated they will have annual inspections of the system and will have proof it

has been built in accordance with the approved plans. Mr. Lee is concerned about the traffic, speed and the line of sight. Mr. Eisenhut stated they will have the Town Engineer check the line of sight.

Greg Fradkin, of 99 Tudor Road, stated he is concerned with ledge removal. During ledge removal there will be a considerable amount of vibrations. He has heard of the cracking of foundations and chimneys cracking. He is concerned with what the negative impacts will be. Mr. Barbieri noted blasting activities will be done according to the law and run through the Fire Department. Mr. Eisenhut asked if there is a bonding for blasting. Mr. Barbieri stated there will be a bond and it will be by state standard.

Mr. Smart stated he would like to see Attorney Giunta's letter. Joseph Lovett, of 59 Richard Road, asked why the experimental approach was chosen over other options. Mr. Barbieri stated there are guidelines for implementation of this project. Mr. Garvin stated that the idea was to have something that uses more soils and plantings rather than traditional "systems" and needs less maintenance, in more of a "country drainage" method.

Ed Rubin, of 47 Richard Road, asked what happens if there are 3 or 4 months of no rain. Will there be sprinkler systems?

Melinda Boris, of 139 Tudor Road, asked how the Board weighs the actual harm to 2 dozen abutters with 9 potential families and the developers. The balance is not clear to her. Mr. Jacobs stated the Board is bound to follow state law on subdivision approval. There are also subdivision regulations in town that need to be followed. He stated the Board always considers the concerns of the neighbors. The Board could ask the applicant to change the proposal if necessary.

Stacy Blasberg, of 59 Richard Road, stated, considering the history of the parties and the size of the proposed project, it seems the inspectors will work for the town. She asked if the abutters could have an unbiased inspector on site. Ms. Newman stated the Board could look at the cost.

Joseph Comenzo, of 22 Rockwood Lane, commented he feels this area will degrade over time. He asked if the calculations take winters into account. Mr. Garvin stated they do not typically take this into account. If everything is frozen, it is frozen. Mr. Comenzo stated they are talking subsurface. Mr. Garvin stated the applicants are meeting the standards.

Kurt Lockwood, of 131 Bird Street, stated there is a significant grade. If this system is put in, what is the recourse if it fails or if it makes the situation worse. Mr. Jacobs stated he does not want to give legal advice. He suggested Mr. Lockwood speak with Mr. Smart to get such advice. Mr. Lockwood asked if they add conditions, such as can make the abutters beneficiaries as parties. Mr. Jacobs stated there will be many restrictions and stipulations. Mr. Comenzo commented there is a narrow margin of error for these builders.

Mr. Smart stated the question of enforcement down the road is a real issue. He is not sure what the applicant is willing to do for the documents they are proposing. He would like to see the documents prior to the hearing being closed. Mr. Barbieri stated the applicant needs to narrow and define the documents for the abutters. Mr. Smart asked if it could be done prior to the next meeting and was informed it could be.

Mr. Smart noted there are 2 retaining walls on Lot 6. Mr. Radner stated the wall is now 88 square feet in ground coverage. Mr. Smart commented on trees. The proposal says the applicant "should" preserve rather than "shall" preserve. He is interested that the landscaping proposed provides a visual buffer. There are a number of trees on the easterly side but not much on the west. He asked if something could be done to create a visual barrier. Mr. Radner stated they could do something such as fencing. Mr. Smart stated he will have to see it. He asked if there is an easement for the public to the town property. Mr. Barbieri stated there is no proposed use for the town property. They have provided access for the town.

Mr. Jacobs stated the hearing will be continued to 10/7/14 at 8:00 p.m.

Minutes

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

VOTED: to approve the minutes of 4/16/14.

Ms. McKnight noted on the minutes of 4/29/14, on page one, remove "they own the guarantee of production" and put "they guarantee production."

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

VOTED: to approve the minutes of 4/29/14 with changes discussed.

Ms. McKnight noted on the minutes of 5/20/14, on page one, take out Mr. Jacobs' note for the record regarding Rochester NY, capitalize Vino Di Vino and change the DPW to the Plumbing Inspector.

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

VOTED: to approve the minutes of 5/20/14 with changes discussed.

Report from Planning Director.

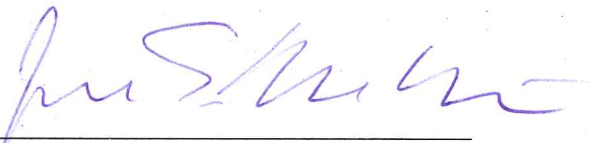
Ms. Newman gave the Board an update on the Large House Study Committee. They are making progress and have mapped out the existing floor area to lot area ratio (FAR) in town. She noted 50% of the lots mapped are at an FAR of 2.0 with a median of 19%. She has prepared a map for the Board to see. The larger lots are at 4.0 with the town average at 1.9. She noted 3,800 square feet will be looked at for the house size. She showed a map illustrating lot coverage. She noted two thirds of the proposals in Needham have less than 15% lot coverage. The issue is not lot coverage. The study committee needs to look at massing rather than coverage. There is a consensus to looking at retaining walls, the average existing grade and tree by-laws. The Committee will look at what other towns are doing. One quarter of the lots in Needham are non-conforming lots. Ms. Grimes stated 54% of homes hit the market before being bought by builders.

Ms. Newman stated the Selectmen are waiting to meet with the Chairman and Vice-Chairman to talk about medical marijuana. Ms. Grimes expressed interest in going to that meeting. Mr. Jacobs noted he will just listen and report back.

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

VOTED: to adjourn the meeting at 11:00 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Jeanne S. McKnight, Vice-Chairman and Clerk