

NEEDHAM PLANNING BOARD MINUTES

May 23, 2017

The regular meeting of the Planning Board held in Charles River Room, Public Services Administration Building, was called to order by Martin Jacobs, Chairman, on Tuesday, May 23, 2017, at 7:05 p.m. with Messrs. Owens and Alpert and Mmes. McKnight and Grimes, as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski.

Reorganization

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

VOTED: to appoint Mr. Owens as Chairman and Mr. Alpert as Vice-Chairman.

Correspondence

Mr. Owens noted an article, dated 5/11/17, from the Needham Times regarding passage of the zoning articles at Town Meeting.

Diminimus Change: Major Project Site Plan Special Permit No. 2015-07: Great Plain Hospitality, LLC d/b/a RFK Kitchen, 42 Birch Street, Needham, MA, Petitioner (Property located at 30 Dedham Avenue, formerly 948 Great Plain Avenue, Needham, MA).

Mr. Owens noted a copy of the application; a letter, dated 5/17/17, introducing RFK Kitchen; a photo of the dumpster and enclosure; a description of the construction material; a map aerial photo; and an email trail from the Health Department with an agreement of all parties to share the dumpster. The Applicant requested to leave the existing enclosure, which differed from what was supposed to be installed. The enclosure was supposed to be wood, but another materials was installed.

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

VOTED: to determine the requested change is diminimus and the Board approves the requested change.

Mr. Jacobs commented the Board should hold parties to the agreements made.

Appointment:

7:00 p.m. – Update: Rockwood Lane Definitive Subdivision: Wayside Realty Trust, Chris Kotsiopoulos, Owner and Trustee, 36 Rockwood Lane, Needham, MA, Petitioner (current owner: Hillcrest Development, Inc., and Elite Homebuilders, LLC), (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).

Ms. Newman stated she had a meeting with Steve Venincasa, of Elite Home Builders, his team and Town Engineer Anthony DelGaizo regarding the remaining work to try to come to an agreement. The group came to an agreement and in a memo addressed most outstanding items. Number 1-12 are still in process, with a couple exceptions. It was agreed that at the end of the installation the applicant would submit an As-Built but they would still like to move forward with getting inspections for the paving work with on site inspections from the staff.

Steve Venincasa, Elite Home Builders, commented it was a pleasure to work with the staff. They are very professional. He stated he had been brought into the project. The numbers he was getting for inspection fees were higher than he thought. He brought the concerns to the Planning Board. He stated he has built upwards of 40 roads. He has 8 subdivisions going on right now. He feels it is not fair with the over the top inspection fees. He noted Grafton Road was 600 feet and cost \$6,144. Rockwood Lane is 800 feet. He asked for a summary from the other town subdivision. That subdivision was \$11.77 per linear feet. With Rockwood, he would have been charged \$7,062. He has given \$136,000 to Beta. Beta is a third party billing and he feels he has been taken advantage of. He feels it is criminal what Beta has done. It was \$439,000 to build the road and inspection fees were \$136,000. Engineering told him it was a Planning Board issue.

Mr. Owens asked what he was asking for. Mr. Venincasa stated he wanted a refund of some money. Ms. Grimes stated she had meetings with the applicant and Town Engineer. She agrees with the applicant. Beta has been stopped. She noted the Board is getting the complaint now. She wished it was brought to her attention earlier. She thinks a lot of the money was taken advantage of and should not have been. Mr. Owens asked if any money was being held. Ms. Newman stated the Town is holding about \$30,000 for the remaining work.

Mr. Venincasa stated Beta has wronged him and owes him money. He would like to go through the Town. There has been no benefit to the Town. Mr. Owens asked the Board members for any thoughts or comments. Mr. Alpert noted \$93,250 was the original amount. There was an addition of \$23,000 in September. The applicant has given \$134,000. Beta has received \$104,000 and \$30,000 is being held by the Town. The Board issued a decision that certain monitoring was to be done. The DPW contracted with Beta for the town. He has not seen a legal document. He would need to see the document to see what the rights are. Beta has allegedly overcharged and he does not know how to go about it. He feels there needs to be a discussion with Town Counsel. He feels the Board needs a copy of the contract with Beta.

Ms. McKnight asked if the Town Engineer agrees with the allegation that Beta has overcharged. Greg Snyder, Supervisor for Elite, stated the Town Engineer does not feel the applicant has been overcharged. Ms. Newman noted the Town Engineer feels it was appropriate. Ms. McKnight stated no one disputes Beta was on site. Ms. Grimes noted Beta was called numerous times per week. This Board did not say Beta had to go out with every complaint. Ms. McKnight stated she does not see how the Town can make Beta refund any money. Mr. Alpert stated he can see it. He feels he needs to see the contract to see the scope of the work and if there is a 4 hour minimum each time. Mr. Snyder stated there was no description of what the work was Beta was billing for.

Mr. Owens stated he agrees the Board needs to see the contract and would like to see the Town Engineer. He feels the town Engineer was to manage the contract. He would like to see him to hear his side of the story. Mr. Jacobs commented he has no preconceptions with this. He is happy to have an open mind. This is the most contentious subdivision in his tenure on the Board. Mr. Alpert stated he agrees with Mr. Jacobs. He is not judging. He wants to see the documentation. Ms. Grimes has done a lot of work and come to some conclusions. That carries a lot of weight for him. Ms. Newman stated she will get the contract and all bills. Mr. Jacobs asked if \$30,000 is enough for all remaining inspections. Ms. Newman stated most will be done through the As-Built. It will probably be fine.

Public Hearing:

7:30 p.m. – Major Project Site Plan Special Permit No. 2017-01: Sage Biotech, Inc., formerly known as Sage Cannabis, Inc., 13 Commercial Way, Milford, MA 01757, Petitioner (Property located at 29 and 37 Franklin Street, together with a parking and access easement over a portion of 55 Franklin Street, Needham, MA). Please note: this hearing was continued from the April 25, 2017 meeting of the Planning Board.

Mr. Owens noted in response to a request, Attorney Roy Cramer, representative for the applicant, sent a copy of the "Community Benefit Agreement." He noted a letter from the Selectmen; a provisional certificate of registration; copies of lighting plans with certification sheets; a letter from Dan Roma, dated 5/15/17, regarding the use of a trailer and location; a cover email from Roy Cramer, dated 5/17/17; a letter from Marianne Connaughton, dated 5/18/17, in opposition; a response from Roy Cramer, dated 5/22/17; a letter from the Assistant Town Engineer, dated 5/19/17, with no comments or objections and an amended letter with a change of hours.

Mr. Cramer stated he gave most of the presentation last time. He noted the letter from Ms. Connaughton regarding the Montessori School. It is a preschool and is not open yet. It has been approved by the Zoning Board of Appeals (ZBA). Under Section 6.10, the 1,000 foot By-Law, it is elementary schools, middle schools and secondary schools that have distance standards. The preschool is not relevant. He agrees the distance is about 965 feet. It is a drop off and pick up program. There will be no wandering across Highland Avenue. He feels there is sufficient buffering and this is an irrelevant issue. He noted the start hour for Sage Biotech will be 10:00 a.m., 7 days per week, to accommodate loading and unloading on Franklin Street. Ms. McKnight stated the Board deliberately left out preschool and places children congregate from the zoning restrictions. The feeling was it was too vague. She does not feel the applicant needs to go so far as to measure.

Ms. McKnight stated she has comments about the parking. The abutter has raised some issues. She is very concerned with parking. The trailer has been addressed. She is concerned with the width of the aisles between spaces 8, 9, 10, 11, 12, 13, 14 and 15. She asked if the aisle meets the minimum aisle width requirement. Mr. Cramer stated the minimum width is 24 feet and there is 25 feet. Ms. McKnight noted the handicap space. Mr. Cramer stated the abutter is incorrect as to the design of the handicapped space. There could be a striped area to the right or left of the space proper.

David Kelly, of Kelly Engineering, noted the handicapped space is 8 foot by 8 foot for a van. There will be access to the entire 16 feet. Ms. McKnight stated the handicap space is not really the problem. The problem is the employee parking spaces that are inaccessible when others are there. Mr. Cramer stated employees will be there all day and tandem spaces are common. The average time in the building is 11 to 14 minutes. If a staff member needs to get out they may have to wait 10 to 15 minutes. Employees will be aware. He reiterated tandem spaces are done all the time around Needham.

Ms. McKnight stated she does not see where snow will be stored. Mr. Cramer noted the project will put the snow in landscaped areas, in the back or will remove it. Ms. McKnight stated she would like a condition snow will be removed from the site. Mr. Jacobs noted the memo from Lt. John Kraemer, dated 5/19/17, and stated the issue of parking is a concern. Mr. Owens noted it was not a concern but a question. Mr. Cramer stated he has responded via email. It is not a problem. The estimate of 84 appointments per day is still accurate. Appointments are not less than 15 minutes apart. In Cambridge in the last week there were 78, 84 and 90 appointments in 3 days. The facility is designed for up to 200 people a day. He is comfortable the question has been answered.

Mr. Jacobs stated he would be comfortable if the Planning Board said a limit of 10 patients per hour at 15 minute intervals. Mr. Cramer is comfortable with appointments not less than 15 minutes apart. Mr. Jacobs is concerned with people lingering. He would like an hourly cap on the number of appointments per hour. Mr. Cramer stated the applicant wants to succeed. He would have appointments only, which is a compromise and reasonable. There is a limit of 5 stations and a limit to 15 minutes, which the applicant thinks is sufficient. The applicant is reluctant to go further. He noted there will also be home delivery. That could be a substantial percentage.

Andrew Gallant stated he is the attorney for Marianne Connaughton owner of 14-16 Franklin Street and 19 Brook Road. He has addressed some concerns in a letter. He stated across the street from the Montessori School is the Riverside School at 255 Highland Avenue. Riverside School is grade 6 to 12. He estimates it is about 600 feet away. There are also parking concerns with spaces 1 to 7. There is no sidewalk or proposed walkways. Spaces 1

to 7 cannot safely access the building. The greater concern is snow and the handicap spot. If someone is parked in the striped area it will block the wheelchair ramp. He stated Ms. McKnight addressed the employee spaces, which would require employees to move. He asked if there were shift changes throughout the day and the maneuvering aisle width of spaces 1 to 7. He noted the overall spirit of the By-Law would lead to increased congestion in the area. His client is concerned with idling or parking in the abutting property.

Svetlana Ostrovskaya, owner of the Newton Music Academy at 69 Wexford Street, stated she has 200-500 adolescents per week. It is not a realistic expectation for the applicant to clear the snow. The snow will end up in the abutting lots or in the streets. She noted during exchanges the customers will clog the streets. There is minimal parking on the streets. There are not clear cut parking lots. She stated she has so many kids wandering around from her school. She noted the applicant cannot guarantee drivers will be safe.

Ms. Connaughton stated she allows the Newton Music School to park on her property. Mr. Jacobs asked the hours of the school. Ms. Ostrovskaya stated 3:30 p.m. to 8:00 p.m. weekdays and on Sunday 9:00 a.m. or 10:00 a.m. to whatever time. Dan Socci, an abutter, stated Ms. Ostrovskaya is correct. The area loses street parking with a small storm. The only way to access the back would be to eliminate the middle building. He feels this is an odd fit for a medical facility. Shaun Kelly, owner of U Do It, stated he agrees with all. He feels half the spaces are difficult to get in and out of. He feels the customers will park in his lot. He asked if the Planning Board would do something for him if it becomes an issue. Mr. Cramer stated there is very little substance and a lot of conjecture. He stated 1) this site was chosen because the town limited this type of business to here and one other spot. 2) Newton Music Academy is not a school and it is not relevant. It is not covered by the Zoning By-Law. He stated this proposal is a locked facility. 3) The applicant has stated where snow will be put or it will be taken off site. The applicant has no intention of putting the snow on other properties. 4) There is no evidence of people parking on others property. 5) Drivers will not block the handicap ramp so people cannot get up the ramp. 6) Riverside School is not a school for elementary students. It is for middle or high school kids. The school does excellent work and provides services such as suicide prevention. 7) He stated he has been able to get in and out of this area easily for 40 years. Businesses use the street for parking. He does not feel this would be a problem in this district. 8) There will be one shift change per day at the most. Some employees will be there all day and others may come in for a split shift.

Ms. McKnight stated the letter from Daniel Roma, addressed to himself, is not an adequate binding agreement. She noted she wants to see an amendment to the parking easement. Mr. Cramer stated it is clear what his intention is. It could be more artfully written but he wanted to get something for the Planning Board. Ms. McKnight stated the Board needs this in legal form. Mr. Jacobs stated the Board could incorporate language into the decision as a condition. Mr. Cramer stated a lease has already been executed. Mr. Alpert stated the Board could add an addendum referencing the letter and have both sign.

Ms. McKnight stated she is not clear on the aisle width of spaces 1 to 7. Mr. Cramer noted sheet 3 shows the minimum width of 24.9 feet at its narrowest. Ms. McKnight asked what the parking requirements are currently. Mr. Cramer stated the water company was built in 1956. There was a plan with no striped spaces. There is one space per 850 square feet so the requirement is 4 or 5 spaces. There is a letter from Building Inspector David Roche explaining he approved the parking site plan for Sage and there are no zoning violations.

Ms. McKnight stated she would like more information on the Riverside School. She asked if kids go there for schooling. Ms. Newman stated the Riverside School is an accredited school. Mr. Cramer noted it is more than 500 feet away and is sufficiently buffered. It is on Highland Avenue. Ms. McKnight noted the school is next to Gymboree. Ms. Newman stated she looked at this and it does not conflict with distance. She will pull the information. Mr. Jacobs noted it is outside 500 feet.

Ms. McKnight asked about the lighting plan. Mr. Cramer stated he has filed a photometric plan. Ms. McKnight stated there is a provision in the By-Law not to cast light on ways public or private. The plan shows light being

cast on Franklin Street. Five lumens is a high casting of light and the applicant has proposed high intensity lights. She stated she does not want an industrial look. She noted the fixtures on the front of the building and asked if they need to be as bright. She would like less than 3,000 lumens. Ms. Grimes stated she is opposed to any changes in the lights.

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

VOTED: to close the hearing.

Mr. Owens reviewed the potential conditions: the Roma agreement, snow removal and an hourly cap on the number of appointments. Mr. Alpert stated the applicant has agreed to remove snow. He feels the Roma agreement should be part of the decision. He stated a quick letter from Roma and the letter could be incorporated into the lease. Mr. Jacobs stated he understands both points on the lighting. He asked if some of the lighting in front could be toned down and still keeping it safe. Mr. Owens commented he agreed with Ms. Grimes. Ms. McKnight asked if there was anyone on the town staff who could comment. Mr. Cramer stated the Town Engineer did comment with a letter noting no comments or objections.

Peter Quinn, of Peter Quinn Architects, stated the front of the building is lit. Because it is so narrow you are getting a bounce. There is very little light on the street. He feels the applicant could take some out or dim them and still have a good front façade. The rest is very heavily shielded. Mr. Jacobs stated if it is simple to tone it down and still keep it safe the applicant should tone it down. Mr. Alpert agreed. Mr. Jacobs asked if there should be a cap on the number of customers per hour. Mr. Cramer stated there has been a consistent number since before the applicant filed. He did not ask for a waiver. Mr. Jacobs feels a limit of 14 to 16 customers per hour would not crimp the operation. Mr. Cramer stated it would crimp the operation.

Ms. Grimes commented she is not in favor of changing anything. A parking determination was made a long time ago. Mr. Alpert agreed. Mr. Owens also agreed with Ms. Grimes. Mr. Jacobs felt it was worth the discussion. Ms. Newman asked if the applicant was changing the name. Mr. Cramer noted they are changing the name of the LLC. Mr. Owens stated the Planning Director will draft the decision approval with the conditions discussed and bring it back for a vote.

Request for Findings: Major Project Site Plan Special Permit No. 2015-05: Normandy Real Estate Partners, 99 Summer Street, Boston, MA, Petitioner (Property located at 77 A Street, 156 B Street, 189 B Street & 0 A Street, Needham, MA).

Roy Cramer, representative for the applicant wanted to bring the Board up to date on the proposal. There are site issues that are a result of the building. There are some zoning questions he would like guidance with. Kevin Daly, representative for Normandy Real Estate Partners, noted on the first page is the current plan as approved. 77 A Street is almost complete. On the second page are modifications. There will be a single user and there is now a central entry. The rear parking lot is secure, one curb cut has been taken out and a gated access has been added. The parking has been modified in the front to add a few spaces. The parking numbers stay the same.

Stephen Newbold, on Gensler Architects, stated NBC, the new tenant, has a level of technology they are looking for. There needs to be modern aesthetics for the building and redundant power runs 24/7 as a broadcast and office facility. The main entrance is in the west façade and there is an entrance on the east for employees. The roof needs to be raised in a certain area for television studios. Currently it is 16.6 feet and will go to 30 feet. The project will restructure part of the concrete roof for acoustics. There will be a number of satellite dishes, some on the roof. All package units will be removed from the roof.

Mr. Newbold noted the current building is 171,000 square feet and it will be reduced to 160,000 square feet. The project will put in courtyards. The west façade has been redesigned and some screening is involved. He

anticipates some signage on that side. There will be a fence around the building to secure it. There may be a variety of fencing but the specifics are to be determined. The applicant has committed to the landscape plans Normandy put forth. Some satellites on the southwest corner will be screened. There will be some space in the building for news gathering vehicles, which will be parked inside. He showed renderings/views from all sides. He noted the overall composition of programs is mostly office. 110,000 to 115,000 square feet will be for office; TV studios are only about 12,000 square feet with 5 studios at 2,500 square feet each, with the rest of the 160,000 square feet holding the vehicle fleet. .

Mr. Owens asked if this has already been approved. Mr. Cramer stated it has been. Mr. Owens noted he is asking for minor modifications. Mr. Cramer is asking for approval of modifications under the 3.34 design guidelines section. Would this be office or office with an accessory use of telecommunications? He wants guidance on the issues. The project is not bound by Section 6.7.

Mr. Owens noted a letter from the Building Inspector, dated 5/23/17 and a letter from Roy Cramer, dated 5/2/17, with 4 points. Mr. Cramer would like a finding with Section 3.10 that the applicant does not have to come back to the Board. Ms. McKnight stated her belief is this is essentially a TV studio. That is the use and the only way to proceed is to amend the Special Permit and say the Board approves TV studios. Mr. Cramer agrees with most but this is the corporate offices. The primary use is office and the accessory use is the TV studio.

Keith Barbaria, of NBC Universal, stated they are in the space running the business. A lot of the space is not related to the studio. The bulk of the staff do not work in the studios. He is puzzled by the categorization of the primary use. Mr. Alpert noted the 2 uses are both as of right uses. The first 2 points on Mr. Cramer's letter do not matter. The Board could modify Section 3.10 to add a TV studio. He feels this is a minor modification. Ms. McKnight agreed. Mr. Cramer reiterated the primary use is office and the accessory is TV. The Board could approve a minor modification or make a finding as part of the design guidelines. It would be cleaner. Ms. Grimes stated that makes sense to her. Mr. Owens commented the Board accepts the determination on points 1, 2 and 4. Mr. Jacobs asked why the equipment does not fall within a wireless communication facility. Mr. Cramer noted a satellite dish does not make a wireless communication facility. There is no real definition for a wireless communication facility.

Mr. Alpert noted Section 6.7 is dealing with personal wireless services and equipment and a television is not in Section 6.7. Ms. Grimes stated she agrees with Mr. Alpert's interpretation and feels it should be left under design guidelines. Ms. McKnight stated she would not approve a design that shows a TV studio with satellite dishes unless Section 3.10 of the Special Permit were amended. Mr. Owens clarified the discussion was about Section 6.7. Ms. McKnight stated she would agree that Section 6.7 does not apply as long as they are accessory to TV studio. The decision would need to be changed. Mr. Jacobs stated he would go along with Mr. Alpert.

Ms. McKnight stated she would not approve a design plan with satellite dishes and a studio without a de minimus change to Section 3.10. Mr. Owens stated he would defer to Mr. Cramer on the process. He noted there was consensus on the other 3 issues.

Minutes

Ms. McKnight passed in her changes.

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

VOTED: to accept the minutes of 3/9/17.

Report from Planning Director and Board members.

Ms. Newman noted she has a draft ANR. The plan subdividing would not be signed until a meeting in June. Lot A has a side yard setback of 12 feet. This is at the corner of Great Plain Avenue and Noyes Street. She is not sure the applicant could get a 14 foot width. The Board could have a special meeting to sign the ANR plan or they could make it work. This is a heads up. She asked if the Board is willing to have a 5 minute meeting in the next week if necessary. Mr. Jacobs, Mr. Owens and Ms. Grimes are ok with it. Ms. Newman noted the filing for Hillside School is in the office.

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

VOTED: to adjourn the meeting at 10:15 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Paul Alpert, Vice-Chairman and Clerk