

NEEDHAM PLANNING BOARD MINUTES

July 21, 2020

The Planning Board Virtual Meeting using Zoom was remotely called to order by Jeanne McKnight, Chairman, on Tuesday, July 21, 2020, at 7:15 p.m. with Messrs. Jacobs, Alpert, and Block, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Ms. McKnight took a roll call attendance of people expected to be on the agenda. She noted this is an open meeting that is being held remotely because of Governor Baker's executive order on March 12, 2020 due to the COVID Virus. All attendees are present by video conference. She reviewed the rules of conduct for zoom meetings. This meeting will include 2 public hearings that will allow public comment. She noted if any votes are taken at the meeting the vote will be conducted by roll call.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Alpert, it was by a roll call vote of the four members present unanimously:

VOTED: to automatically continue the meeting to 8/11/20 at 7:15 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting tonight.

Request to Authorize Planning Director to authorize Phase 1 Occupancy Permit: Major Project Site Plan Special Permit No. 2018-03: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 88 and 66 Chestnut Street, 89 School Street, 43 Lincoln Street, Needham, Massachusetts), regarding Police & Fire Headquarters.

Ms. McKnight noted a memo to the Planning Director from Steven Popper, Director of Design & Construction, requesting a temporary occupancy permit at 88 Chestnut Street. This is the newly constructed Phase 1 of the Public Safety Building. This will allow the Fire Department to move into the new building. Mr. Jacobs asked if there was an anticipation of any issues with this. Ms. Newman stated she anticipates getting an interim As-Built Site Plan, an interim As-Built landscape plan and certification on the architectural side. There will be inspections on Engineering's side.

Upon a motion made by Mr. Block, and seconded by Mr. Alpert, it was by a roll call vote of the four members present unanimously:

VOTED: to authorize the Planning Director to authorize the issuance of a temporary Certificate of Occupancy for 88 Chestnut Street.

ANR Plan – Christ Church of Needham, Petitioner (Property located at 1132 Highland Avenue, Needham, MA).

Ms. McKnight noted this is an endorsement of an ANR plan for 61 and 65 Rosemary Street and 1132 Highland Avenue. Evans Huber, Attorney, noted this is 3 adjacent properties. He stated 61 Rosemary Street is vacant but undersized. 65 Rosemary Street has a structure and is next to the church lot. The applicant wants to create a buildable lot at 61 Rosemary Street by demolishing the house on 65 Rosemary Street, taking that land and adding some to 61 Rosemary Street to create a conforming lot. The remaining land will be added to the 1132 Highland Avenue lot. This will eliminate or reduce nonconformities. Ms. McKnight sought clarification that no new nonconformities will be created by this plan. Mr. Huber stated that is correct.

Mr. Block noted on the plan of land, in the signature bloc for the Clerk, it says Newton Planning Board. It should be adjusted for Needham. Mr. Huber stated there were several versions of this plan. He had hoped the final version was delivered but this may not be the last version. Mr. Block asked who owns 61 Rosemary Street and was informed the church. Mr. Block asked if the church intends to sell it. Phil Trussell, representative of Christ Church of Needham, stated the intent is to sell the lot. Mr. Jacobs reviewed the changes made to the prior versions. Middlesex County has been changed to Norfolk County, Rosemary spelling was corrected, Newton was changed to Needham and the zoning table has been updated also. Mr. Huber reviewed the changes to the zoning table.

Upon a motion made by Mr. Block, and seconded by Mr. Alpert, it was by a roll call vote of the four members present unanimously:

VOTED: to endorse the plan subdivision approval not required.

Decision: Amendment to Major Project Site Plan Review No. 2008-0: V.S.A., LLC. 180 Country Way, Needham, Massachusetts, Petitioner (Property located at 225 Highland Avenue, Needham, MA).

Ms. McKnight noted the request is to allow occupancy of a portion of the building by a preschool. The latest revised version of the draft decision was sent this afternoon. Mr. Alpert noted the decision needs to be revised to reflect only 4 members present.

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by a roll call vote of the four members present unanimously:

VOTED: to approve the requested Major Project Site Plan Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law and Section 4.2 of Major Project Special Permit No. 2008-08, dated November 12, 2008, amended August 11, 2009, January 3, 2011, August 9, 2011 and June 12, 2012; the requested Special Permit under Section 5.1.1.5 of the By-Law to further waive strict adherence with the requirements of Section 5.1.2 (Required Parking), subject to and with the benefit of the Plan modifications, conditions and limitations as listed in the Decision.

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by a roll call vote of the four members present unanimously:

VOTED: to accept the decision as presented in the packet that was posted with the modifications made and presented.

Public Hearing:

7:30 p.m. – 390 Grove Street Definitive Subdivision Amendment: Elisabeth Schmidt-Schueber, 390 Grove Street, Needham, MA, Petitioner (Property located at 390 Grove Street, Needham, MA). Please note this is a re-noticed hearing that began on February 4, 2020.

Ms. McKnight noted this is a definitive subdivision and not an amendment.

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by a roll call vote of the four members present unanimously:

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

George Giunta Jr., representative for the applicant, noted February 18 was the last time he was in front of the Board due to COVID. He gave a quick refresh of the basics. This is a 5 acre parcel. There will be one new house. The applicant wants to do a subdivision and put in a new road. He feels this is as of right. There is a reduced road width of 18 feet and the circle at the end has been modified. At the last hearing, assorted issues were discussed and the plans were revised and submitted in early March. The Filtermitt along the north and south property line was moved to within one foot of the property line; the roadway pavement within the width of the right of way was shifted 2 feet to the south so the abutter to the north has a 13 foot buffer between the pavement and the property line; trees to be protected and to be removed have been identified on the plan and landscaping has been added. He noted the circle could not be pivoted without losing trees.

Ms. McKnight noted the following correspondence for the record: an email, dated 7/16/20, from Fire Chief Dennis Condon noting no issues; an email, dated 7/16/20, from Town Engineer Anthony DelGaizo with comments regarding the culvert pipe. She asked Mr. Giunta Jr. if he has seen the email from engineering. Mr. Giunta Jr. noted he has seen that email and had forwarded it to their engineer. The engineer has revised the plans already. The revised plans have not yet been submitted. Ms. McKnight noted the following additional correspondence for the record: letters in petition form and in opposition from: Jean McGlynn of 359 Grove Street; Roberta Swenson of

447 Grove Street; James Frates of 471 and 465 Grove Street; Fred and Tamara Ledley of 433 Grove Street; Sandy and HP Geddes of 461 Grove Street; James Curley of 380 Grove Street; Mark Warren and Victoria Vannederman of 390 Grove Street; Wendy Lane of 348 Grove Street; Robert and Kalliope Badavas of 402 Grove Street and Jane O'Brien of 430 Grove Street; an email from Robert Stetson, dated 7/21/20; a letter from Attorney Gary Lilienthal, dated 7/16/20, requesting to speak at the meeting; and a letter, dated 7/14/20, from Civil Engineers Karlis Skulte and Amy Knight.

Gary Lilienthal, Attorney representing James Curley and 2 others, stated his clients are opposed to this application. The plans were sent out to the Board this evening. He noted Mr. Skulte will go through the engineering review. Karlis Skulte, Engineer, showed a mark up of the approved as of right plan. He noted there were no meets and bounds on the plan so he recreated them. The plan does not meet the lot width requirements at Grove Street. There are a number of significant trees along the property line shared with Mr. Curley. He needs to look at if they will survive with construction. The test pits were dug and a number of assumptions were made in order to design the drainage system. He is not confident they are being consistent and uniform along the site with soil conditions. The turning radius is only 8 feet rather than 20 feet. There should be a larger radius included in the turning movement exhibit. The parkway on the plan is 13 feet wide but 11 feet elsewhere so it is inconsistent. He is not clear what is being proposed. The infiltration system appears not to meet the minimum requirements and he would like it looked at. The level area of 50 feet should not be more than a 1% grade for safety. A waiver is being requested. That is a fairly steep grade at 3%. The drainage appears to drain along, and not into, the catch basins. Based on the swale proposed, a substantial portion of stormwater will be going into the roadway. He also noted the project is in a protected area.

Mr. Lilienthal stated the plans should fail as an as-of-right subdivision as well as being entitled to waivers. Waivers would not benefit the community in any form and would only benefit the applicant. There is an existing single family house in the neighborhood. He noted this is an historic neighborhood. There are 11 people who own over 30 acres in the area that is close to this property. The Board should look to benefit the public when granting waivers. He does not feel this is a benefit to the public. The lot on an as-of-right basis will be deficient in footage by over 1,000 square feet. The plans are deficient in terms of measurements and the land is in the Needham Aquifer Overlay District as well as Massachusetts Storm Water Control areas. Mr. Lilienthal feels the drainage was improperly and inadequately calculated and there are sidewalk and parkway issues. He noted there are many mature trees. Parcel A seems to be used for an infiltration system and chambers but the applicant would like the Board to think Parcel A is not part of the subdivision. Parcel A is only there to meet the width requirement. He requests the Board close the hearing and reject the plan.

Mr. Alpert asked if the applicant has presented this as an as of right subdivision. There are 2 elements to that. Lot 1 is less than one acre. He noted there is plenty of land on Lot 1 that could be added to Lot 2. He is concerned with the 120 foot frontage requirement, which is not required for the entire lot. What is the reason for having Lot A? It is clear from the plans because of the radius of the roadway on the south side if the lot has frontage on Grove Street it is less than 120 feet. He would like to go back to the Fire and Police Chiefs and see if they are still approving this from a safety perspective. He would also like to go back to the Town Engineer on the infiltration and storm water systems to look at the objections being raised and see what he thinks. He wants more information.

Mr. Jacobs noted there were a lot of comments that this was a historic neighborhood. He asked how this is a historic neighborhood and how would the Board deal with it if it is. He asked if it makes a difference. Mr. Lilienthal stated it is not designated as an historic district. It is the character and maturity of the neighborhood and the feeling of Needham values. There has been an historic feeling over the years and the neighbors want to keep that. This proposal will affect the character of the neighborhood.

Ms. McKnight stated the police comments were to the original plans. Changes have been made to the plans in response to discussions. The email from Police Chief Schlittler says the police have no issues.

Mr. Block asked when is it appropriate to issue waivers and at what point are we waiving away our subdivision regulations. The Board has to look at the adverse impact that subdivisions or waivers would have on abutters. He asked if the engineering issues raised are cured, is there an adverse economic impact to the abutters and, if so, how

to quantify that. He noted the second house is far from Grove Street and really only a part of the driveway would be seen. He wants to be mindful of the actual characteristics of this street, the impact on the neighborhood, any precedent the Board may be setting and if any harm is actually being raised. He asked if there is any actual economic or environmental harm to the abutters.

Mr. Giunta Jr. noted Grove Street is rural with substantial lots. Large lots define the area. There is no impact on zoning. The Board needs to look at what zoning provides and that is one acre lots in this area. A lot of the properties are larger but the zoning is one acre. Parcel A was created to create a separation from Grove Street so Lot A would not be a corner lot. He noted Lot A would be owned by a trust of the homeowners and would be a separate lot. Lot 1 is not a corner lot and the 120 feet corner frontage rule does not apply. It meets 120 feet on the roadway. He noted the plan does not have an area, which is their oversight. He will come back with revised as-of-right plans. All waivers are predicated on an as-of-right plan. He feels they have an as-of-right plan.

Ms. McKnight stated an as-of-right plan would require 2 sidewalks. Trees would be disturbed for two sidewalks so this is not an as-of-right. She asked if the as-of-right plan made changes to the turning radius at the corner and apron grade to comply. David Kelley, Project Engineer, noted on the as-of-right plan the pavement radius on the south and north are different. Ms. McKnight noted the north, as shown on the waiver plan, shows different and complying turning radius. Mr. Giunta Jr. will look at this. Mr. Lilienthal noted waivers are given to enhance the projects and basically benefit all but this is a benefit to the developer only. Mr. Block asked what harm may come to abutters if the engineering issues were cured and this was approved. Mr. Lilienthal stated harm is subjective and he cannot really answer that. If an as-of-right plan was compliant with all rules and regulations that is one thing. This is a detour of the rules and regulations.

Ms. McKnight stated this hearing will be continued. She wants more information on the drainage issues and for the Town Engineer to look at the storm water. Mr. Alpert also wants the police and fire to examine the entrance of the roadway onto Grove Street. He wants them to take a second look. Mr. Giunta Jr. noted this would require an extension to the end of September.

Upon a motion made by Mr. Block, and seconded by Mr. Jacobs, it was by a roll call vote of the four members present unanimously:

VOTED: to continue the hearing to 8/11/20 at 8:00 p.m.

8:00 p.m. – Heather Lane Definitive Subdivision: William John Piersiak, William John Piersiak, Trustee of the 768B Chestnut Street Realty Trust, Evelyn Soule Maloomian, and Koby Kemple, Manager of the 766 Chestnut LLC, Petitioners (Property located at 764, 766, 768-768A, and 768B Chestnut Street, Needham, Norfolk County, Massachusetts). Please note: this hearing is continued from the June 16, 2020 Planning Board meeting.

Heather Lane Extension Definitive Subdivision and Residential Compound: William John Piersiak, Petitioner (Property located at 768A-768B Chestnut Street, Needham, Norfolk County, Massachusetts). Please note: this hearing is continued from the June 16, 2020 Planning Board meeting.

Robert Smart, representative for the applicant, noted this is 3 applications with a total of 10 lots with 5 existing residences. He noted there are 3 letters of support. There was a site meeting on 6/22/20 with the abutters to discuss the road layout and walk the property with the Conservation Commission. Mr. Piersiak has purchased Ms. Maloomian's property so he cleaned up the documents. He has filed revised Homeowner documents and plans. They are requesting the same conservation restrictions as Petrini's Riverbend Lane subdivision project. That does not give the right to enter the premises except for the grantee, which is the town. The Conservation Commission asked they track the same language as in the Petrini document. He described the property and abutting properties and noted the sewer easement. There is no trail across 770 Chestnut Street and there is no place for the public to park. He noted a walking trail would dead end and be of no use to the public. He has had additional communication with abutters over the last few days and they were in support of the application.

David Kelly, of Kelly Engineering Group LLC, showed the changes made on the plan. The drainage easement has been defined on the plan; he has provided an updated waiver list, which he reviewed; the right of way width is going from 50 feet waived to 40 feet and is currently 15 feet, the pavement width is going from 24 feet waived to 20 feet and is 12 feet now; the street slopes at the intersection, the radii at the intersection; there is no curbing now and they propose bituminous and there are no sidewalks proposed as there are no sidewalks on Chestnut Street. There are minor changes to the residential compound; the 25 foot right of way has been changed from 20 feet, utilities in the road have been put in the right of way and some revisions to the hammerhead to allow for a fire hydrant in the right of way.

Mr. Alpert noted he had no questions or comments. Mr. Jacobs stated he went over the Homeowners Trust documents and will have some edits later. The Conservation Commission has requested a restriction and no public access. He is ok with their request and would not push for public access. Mr. Block agreed with Mr. Jacobs and had no other comments. Ms. McKnight noted she participated in the site visit. The strip along the river has no access and there is a steep slope along the river. She concurs with the Conservation Commissions restriction with no public access. Simeone Brunner, representative of 770 Chestnut Street LLC, stated they may be doing a project on their property and generally he is in support of this project. There are some concerns with the easement on Heather Lane. He would like the Board to note Heather Lane would be sufficient to support 2 additional accesses if they go forward with their project.

Mr. Alpert stated he has noticed an issue with the plan on sheet 4A of the Lotting Plan. By widening Heather Lane they are reducing the line along Chestnut Street on Lot 1 so it no longer has 150 feet of frontage on Chestnut Street. It looks like 60 feet are being taken away. There needs to be 150 feet in the By-Law. Mr. Smart stated Lot 1 is part of the subdivision and will have frontage on the new road. Ms. McKnight noted the following correspondence for the record; an email from Tara Gurge, of the Health Department, with comments on the Heather Lane Extension and noting the surety required. Mr. Smart stated he is not clear the surety is necessary when moving from one location to another. Ms. McKnight noted drainage may be changed on the lot and this surety will ensure it. William Piersiak, applicant, stated he has no issue with the requirement for surety.

Mr. Smart stated he will look at the lot width provision. A parcel could be created so there is no frontage on Chestnut Street. Ms. Newman noted the issue needs to be resolved. She still needs close out letters from Engineering, a final review of the drawings, a final letter from the Conservation Commission and the exact location of the easement. This can be continued for those 3 reasons and she can have the decision ready for the 8/11/20 meeting.

Upon a motion made by Mr. Alpert, and seconded by Mr. Block, it was by a roll call vote of the four members present unanimously:

VOTED: to continue the hearing to 8/11/20 at 8:30 p.m. for the sole purpose of obtaining further information on the lot width issue for Lot 1, a letter from the Conservation Commission and final engineering review.

Minutes

Upon a motion made by Mr. Jacobs, and seconded by Mr. Alpert, it was by a roll call vote of the four members present unanimously:

VOTED: to accept the minutes of 5/20/20 and 6/2/20.

Correspondence

It was noted there is correspondence regarding an amendment to the Cogswell Building. Ms. Newman noted the Town may do a solar installation on the building. If they decide to go forward it will need to be an amendment.

Report from Planning Director and Board members.

Ms. Newman stated she is moving forward with the Highway Commercial 1 zoning. The proposal has been received from GPI on the traffic study and has been sent to the Town Manager. It will be going to the working group to see if it would be approved for a plan study. The Avery Square District rezoning hearing is scheduled for 8/11/20 at 7:30 p.m.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Alpert, it was by a roll call vote of the four members present unanimously:

VOTED: to adjourn the meeting at 9:57 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul Alpert, Vice-Chairman and Clerk