

PLANNING AND DEVELOPMENT BOARD MINUTES

July 7, 2008 City Hall, Planning and Development Department Rm 209, 7:30 p.m.
1000 Commonwealth Avenue, Newton, Massachusetts 02459

Full Members Present:

Joyce Moss, Acting Chair
Tabetha McCartney
David Banash
Scott Wolf

Alternate Members Present:

Leslie Burg

Staff Present:

Steve Gartrell, Associate Director for Housing and Community Development
Kathleen Cahill, Community Development Senior Planner
Lou Taverna, City Engineer

Public Present:

Alderman Carlton Merrill
Carol Schein, Parks and Recreation
Harvey Epstein, Newton Housing Authority
Bob Flaherty, Lasalle Development LLC
Peter Harrington, Attorney for Developer
Dan Cruz, Representative Peter Koutojian's Office

J. Moss, Acting Chair, called the meeting to order at 7:35 p.m.

Community Development Board

- 1. Action Item:** Approve the minutes of the June 9, 2008, meeting of the Planning and Development Board acting as the Planning Board and the Community Development Board.

On request of J. Moss for a motion to approve the minutes, D. Banash so moved. S. Gartrell, acting as ex-officio member of the Board, seconded the motion. The Board voted 4-0-0 to approve the minutes.

- 2. Discussion Item:** J. Moss requested that a discussion take place concerning the Board's stance on whether or not a representative of a committee, making a recommendation to the Planning and Development Board's for the approval of funds, should be present at the meeting during which the request for funds is being considered.

J. Moss reported that historically when the Board has been asked to approve transfers of funds a volunteer representative from the interest group affected by the transfer would attend the Board meeting. She indicated that this should be re-instituted. J. Moss understands from staff comments that the Mayor's Committee for People with Disabilities would be under a hardship to attend night meetings. Therefore, any group, with the

exception of the Mayor's Committee for People with Disabilities, should be in attendance to make a presentation pertaining to their recommendation for funding. D. Banash concurred, commenting that it is beneficial to receive the perspective of the individuals requesting money themselves and to develop a direct link with the people that are utilizing the funds.

T. McCartney, referring to several items on the agenda, questioned why CDBG funds, which are in short supply, are being used to repair sidewalks. She wondered why these repairs could not be made in the course of 'normal city business.' S. Gartrell responded by indicating that normally general city revenue would support the repair of sidewalks, however, there are situations where it is critical to develop accessible pathways. This issue will be addressed further during the presentation of the specific projects. J. Moss sought confirmation from S. Gartrell that sidewalk improvements fall within the priority objectives of CDBG funds, used in the four target neighborhoods. S. Gartrell confirmed this statement and explained that CDBG funds were initially used to pay for sidewalk improvements in low-income neighborhoods to supplement resident contributions, or betterment funds, that are commonly accessed for these projects in other areas. Although in the past CDBG has contributed substantially to sidewalk improvements these contributions are no longer made unless the sidewalk is classified as an access project.

The Board was joined at this time by S. Wolf. J. Moss restated the current discussion topic concerning the Board's stance on whether or not a representative of a committee, making a recommendation to the Planning and Development Board's for the approval of funds, should be present at the meeting during which the request for funds is being considered. J. Moss restated that the Mayor's Committee for People with Disabilities would be exempt from representation. She then inquired if members of the Mayor's Committee for People with Disabilities did at one time attend meetings. S. Gartrell indicated that at this time the chair of the committee, Doug Sweet, is blind and therefore unable to drive. T. McCarthy asked if there was money to fund transportation for members of this committee. S. Gartrell indicated that transportation service for individuals with disabilities is free upon request. T. McCarthy commented that the free service eliminated the burden of transportation. S. Gartrell suggested that the chair of the Planning and Development Board speak with the chair of the Mayor's Committee for People with Disabilities to resolve this issue.

T. McCarthy moved that the Board strongly suggest that committees requesting the Board to approve funding send a representative to the Board meeting during which the request is considered. J. Moss announced the arrival of board member L. Burg at this time. D. Banash seconded the motion. J. Moss indicated that she would like to insist that, with the exception of the Committee for People with Disabilities, the Board should require one representative of the committee recommending the approval of funds be present. T. McCarthy stated that if the Board creates a requirement then an exception needs to be made for the Mayor's Committee for People with Disabilities. T. McCarthy said the Board should 'strongly suggest' the presence of a committee and if the committee in question ignores the suggestion the request will not be approved. S. Gartrell mentioned that there are instances when committee members have a valid reason for their inability to represent at a Board meeting or in some situations staff can do an ample job of communicating the request. J. Moss inquired how the Board can communicate this strong suggestion. S. Gartrell said staff will maintain responsibility for passing along this message. L. Burg commented that she endorses the action as an appropriate protocol for a recommendation of funding. J. Moss indicated that, with the exception of the current meeting's

agenda, she will no longer vote on a request for approval of funding if a representative from the recommending committee is not present. Given this comment, J. Moss wondered if the language should indicate 'strongly suggest' or something that connotes a more stringent threshold. D. Banash supported the use of 'strongly suggest' because it allows for the instances when circumstances prevent a committee representative from being present. He stated that a committee should understand that if they do not appear it is at their own peril. J. Moss emphasized that it is a question of protocol, and given that all of the committees in question are composed of volunteers, like the Planning and Development Board, there should be a mutual contribution of volunteer time.

The Board voted to approve the motion that the board strongly suggest that people requesting funds from the Planning and Development Board send a representative from the group that they are a part of to accompany staff, with the exception that it may be a hardship for the members of the committee on disabilities and they would be exempt from this strong suggestion, 5-0-0.

3. Public Hearing and Action Items: Recommendation from the Mayor's Committee for People with Disabilities to grant \$56,640.00 in CDBG funds to sidewalk improvements at Norumbega Garden Apartments in Auburndale.

S. Gartrell and K. Cahill introduced H. Epstein, representing the Housing Authority request for CDBG funding. S. Gartrell made a point of clarification that H. Epstein represents the party requesting the funds. The Board may want to rephrase the motion that was passed 'strongly suggesting' that individuals requesting funds be present, to include 'interest groups' recommending the approval of funding. J. Moss inquired as to whether or not H. Epstein was a volunteer or staff to the Housing Authority. H. Epstein responded that he was a staff member of the Housing Authority. J. Moss clarified that an 'interest group' should be present at the Board meetings when a request for funding is presented.

H. Epstein distributed photos of the current state of sidewalks in Norumbega Garden Apartments. He explained that there are a multitude of trees abutting the sidewalk. The tree's root systems have damaged the sidewalks over time. H. Epstein recalled that this situation occurred once twenty years prior, at which time, CDBG funded the repair of these sidewalks.

H. Epstein described the location of Norumbega Garden Apartments, which abuts Corpus Christi Church and the Aburndale Library. The apartment buildings are bordered by Ash Street and Walker Street. Residents of the building are comprised of elderly and some individuals with disabilities. The state of the sidewalks presents a navigational challenge for residents to travel from their apartment to visit neighbors or attend events at the community center. It was the residents themselves that brought the disrepair of the sidewalks to the attention of Housing Authority staff.

H. Epstein has met with Stephen Tocci, Director of Highway Operations for the Newton Department of Public Works, to determine a viable plan for the repair of these sidewalks. S. Tocci submitted two proposals to H. Epstein for work on the sidewalks. Plan A represents the scope of work involved in replacing all of the area's sidewalks and the scope of Plan B involves the repair of the most critically damaged sidewalks. H. Epstein referenced an

illustrative diagram where two different colors represented Plan A and Plan B. The cost of Plan A is estimated at \$152,000.00 and Plan B at \$56,000.00.

S. Gartrell clarified that the areas referenced by H. Epstein are interior walkways which are owned by the Housing Authority. This Housing Authority project was initially federally funded, in the 1950s or 1960s, prior to the creation of CDBG funds. Housing Authorities are currently experiencing a decrease in both federal and state funding. H. Epstein explained that this project is eligible for CDBG funds because of its emphasis on creating accessible walkways.

J. Moss wondered if the limitation of available CDBG funds was dictating the decision to opt for the 'abbreviated job' contained in Plan B. H. Epstein stated that the Housing Authority wanted to be prudent in their request, particularly with regard to the current economic climate. S. Gartrell explained that H. Epstein has been meeting with S. Tocci because the City will be responsible for the improvements to the walkways, which will substantially decrease the overall cost of the project.

J. Moss inquired as to the species of trees that are planted in the area of the Housing Authority which are presenting problems. Although the species of the trees are not currently known, H. Epstein plans to collaborate with Mark Welch, from Parks and Recreation, to analyze the tree element of this project. J. Moss stated that if trees are replaced in this area they should be planted in the lawn where they will not interfere with the sidewalk. L. Burg wondered if it made sense to spend \$52,000 in funds if in another two years additional damage will require further repairs. H. Epstein stated the decision to go with the more prudent plan is not anticipated to result in additional expense in the foreseeable future.

D. Banash said that he would like to know the species of the trees, if repair of the sidewalks would or would not damage the trees, where the trees are situated on their life cycle, an analysis concerning the repair of sidewalks without replacing trees versus the repair of sidewalks with the replacement of trees. A report containing answers to these questions would influence his decision to vote in favor of approving this funding. He also stated that he did not remember the Board being asked to approve the use of CDBG funds for interior pathways before. In this instance, he wondered, what was preventing the funding from coming from the Housing Authority. H. Epstein responded that there are multiple projects currently being funded by the Housing Authority, in addition, this particular project is within the germane of CDBG access funding. D. Banash stated that other projects coming before the Board may not have additional opportunities for funding as the Housing Authority does. H. Epstein said that although the Housing Authority has operational funds these do not cover sidewalk improvements. S. Gartrell affirmed that the Housing Authority has experienced funding cuts even greater than CDBG cuts. L. Burg commented that she is comfortable with placing the authority in Mark Welsh to make the call on the tree component of this project. T. McCarthy questioned whether there was an opportunity for the Housing Authority to set aside reserves for these types of projects. H. Epstein stated that the Housing Authority does have capital funds but this is not a fungible source for this particular project.

J. Moss requested that in the future additional context be provided to projects such as the one currently being presented. Such context would include the percentage of total available

funding that the request represents as well as the amount remaining of the available funding. D. Banash stated that he would like to have a report from Mark Welsh in hand before making a vote. L. Burg moved that the Board approve the recommendation from the Mayor's Committee for People with Disabilities to grant \$56,640.00 in CDBG funds to sidewalk improvements at Norumbega Garden Apartments in Auburndale. T. McCarthy seconded the motion. The motion carried 4-1-0.

4. **Public Hearing and Action Item:** Recommendation from the Mayor's Committee for People with Disabilities to grant \$30,000 in CDBG funds to install both a handicapped accessible ramp and drinking fountain, in addition to replacement of perimeter sidewalks at Coletti-Magni Park in Nonantum.

Carol Schein, of Newton Parks and Recreation, was introduced to the Board by S. Gartrell. She introduced the Coletti-Magni Park proposal as a project driven by the Nonantum Advisory Committee, a citizen neighborhood group. The project, which is designed to improve the image of the park and increase its accessibility, is currently in the design, pre-development phase and will go out to bid. C. Schein used an illustrative master plan to show the Board the proposed design of the park. The plans for the park include a new, accessible water fountain and widening of the sidewalk in order to facilitate plowing in the winter. A curbcut and ramp will be added to make the park more accessible and a solar powered garbage collector, Big Belly©, will be installed.

J. Moss inquired as to whether or not these improvements were part of the \$30,000 being requested. C. Schein responded that the \$30,000 will accommodate the expanded bidding structure. She stated that the entire project was estimated at \$120,000. J. Moss commented on her appreciation of the park, particularly during the holiday season. C. Schein also stated that the park hosts a memorial service on Memorial Day.

J. Moss asked if CDBG funds were financing the balance (\$90,000) of the project as part of the Nonantum target neighborhood funds. C. Schein confirmed this fact and S. Gartrell added that the project was approved in FY08. S. Wolf inquired about the appearance of the ornamental fencing that will be installed around the park. C. Schein compared ornamental fencing to the Newton Senior Center's newly installed fence, which is a black iron, picketed fence. C. Schein also pointed out that a pad for a wheelchair will be added in the park. J. Moss asked if there would be any changes to the landscape portion of the park. C. Schein identified some bushes that will be replaced and stated that the portion of the lawn that is disrupted during construction will be re-graded.

D. Banash asked why additional funds were being requested after initial funds for the project were approved last fiscal year. C. Schein cited the increase in costs and the uncertainty about the development costs.

Alderman Carlton Merrill spoke in support of the project and the important role that the park plays in the community, for visitors on a daily basis, during the holiday season, and on Memorial Day. D. Banash asked Alderman Merrill about the result of the lawsuit against the Nonantum Children's Christmas Party. Alderman Merrill responded that it was a conflict between relatives. D. Banash asked if he was correct in his understanding that the financial outcome of the lawsuit was used to partially support activities at Coletti-Magni Park.

Alderman Merrill noted that during his work with Veteran State Services when a veteran passed away who had lived in Nonantum Village both Pellegrini and Christmas Party Association funds were accessed to honor the veteran with a decent burial. D. Banash inquired as to who paid the electricity for the lights at Christmas time. Alderman Merrill responded that he did not know, however, he did note that volunteers contribute time to upkeep the park, particularly during the holiday season.

Peter Harrington asked what the circles represented on the illustrative master plan. C. Schein responded that these were existing trees, that there were no plans to plant new trees. Dan Cruz from Representative Peter Koutojian's office spoke in favor of the proposed park improvements to Colleti-Magni Park on behalf of Representative Koutojian, particularly in appreciation for the memorial services conducted at the park. L. Burg stated that she supports the proposal because of the ways in which it will increase the park's accessibility, thereby increasing the parks ability to serve the community. L. Burg made a motion that the Board approve the recommendation from the Mayor's Committee for People with Disabilities to grant \$30,000 in CDBG funds to install both a handicapped accessible ramp and drinking fountain, in addition to replacement of perimeter sidewalks at Coletti-Magni Park in Nonantum. T. McCarthy seconded the motion. The motion carried 5-0-0.

5. Public Hearing and Action Item: Recommendation from the Mayor's Committee for People with Disabilities to grant \$30,000 in CDBG funds to install an accessible ramped concrete walkway with metal handrail at Charlesbank Playground in Newton Corner.

Alderman Merrill assisted the Board in describing the location of the Charlesbank Park bordered by the Massachusetts Turnpike, Nonantum Road and Jefferson Street in Newton Corner. S. Gartrell stated that Charlesbank Playground was purchased using CDBG funds around 1980. Charlesbank Playground is the only park in this neighborhood, north of the Massachusetts Turnpike. C. Schein distributed current photos of Charlesbank Playground illustrating the poor condition of the park, including the dilapidated steps and crumbling retaining wall. She described a large stump that remains on the property, the after-effects of a tree taken down post-storm. C. Schein also indicated that currently there is no accessible pathway in the park.

The project is driven by the Newton Corner Advisory Committee, who hired landscape architect Ray Dunitz to design a plan for the space. Three public meetings held by the Newton Corner Advisory Committee resulted in the design that is before the Board. The plan has the goal of creating a large amount of green space, an accessible concrete walkway with a railway, an accessible picnic table, and the addition of multiple trees. J. Moss inquired as to the species of the trees to which C. Schein indicated they are unspecified at this time. T. McCarthy asked if there is a fence around the play area. C. Schein responded that there is no fencing around the play area, however, there is fencing along the top portion of the retaining wall. T. McCarthy commented that installing fencing around the play yard helps to segregate dogs and children.

Alderman Merrill spoke in favor of Charlesbank Playground as a member of the Newton Corner Advisory Committee. Alderman Merrill stated that this park represents an important component of the neighborhood, comprised of many young families. T. McCarthy commented that implementing park activities for teens (i.e. paddleball, basketball) would

ensure that there were activities for people over ten years of age and account for a changing population in the neighborhood. D. Banash stated that in this case it is acceptable to plan for the present, given that swings do not have a youthful life of infinity. C. Schein said that although design concepts involving youth activity areas had been discussed by the Newton Corner Advisory Committee the majority of its members wanted toddler play equipment.

S. Wolf moved that the Board approve the recommendation from the Mayor's Committee for People with Disabilities to grant \$30,000 in CDBG funds to install an accessible ramped concrete walkway with metal handrail at Charlesbank Playground in Newton Corner. L. Burg seconded the motion. The motion carried 5-0-0.

The meeting adjourned at 9:45pm

Respectfully submitted,

Stephen D. Gartell
Secretary

DEPARTMENT OF PUBLIC WORKS

ENGINEERING DIVISION

OFFICE OF THE CITY ENGINEER

1000 Commonwealth Avenue

Newton Centre, MA 02459-1449

City of Newton



David B. Cohen
Mayor

Board of Survey

**Meeting Minutes
July 7, 2008**

In attendance:

Joyce Moss – Acting Chair
Tabitha McCartney - Member
David Banash - Member
Scott Wolf - Member
Leslie Berg - Member
Peter Harrington – Atty. for Developer
Bob Flaherty – Developer
Kathleen Cahill – Planning Dept
Lou Taverna – Clerk, City Engineer

8:30 pm to 9:30 pm

- 1. Public Hearing and Action Item:** Update from Dr. Peter Harrington on documentation regarding the easement for the three lot subdivision, Pine Meadow Drive, and evidence of the installation of binder and utilities for the release of covenant. Action item to be referred to Public Facilities and Finance Committee.

Mr. Harrington stated that he was here for two purposes, one for an update and two to seek an approval of obtaining building permits. The roadway is substantially completed and one course of binder is installed, all utilities are installed, and the second course of asphalt has yet to be completed. The developer (Flaherty) does not want to install the top coat asphalt until he finishes the construction of the houses. The covenant that came with the granting of the subdivision required the road be finished before he gets the building permits, so the developer would like to get a waiver of the final binder as the top coat so that he can proceed with building because of the construction equipment moving up and down that road which will destroy that top coat. The Engineering Division is looking for an as-built plan of the work that has been done to date, and the surveyor needs to come out and do the plan.

Mr. Taverna stated that the plan for the water and sewer easements needs to go to Public Facilities Committee for approval. They would approve the easements so the City could

have the ability to maintain the water main and the sewer main. This is similar to Kessler Way.

Chairperson Moss asked about the installation of the lights.

Mr. Taverna stated that the underground conduit to the lights is installed, but not the lights.

Mr. Harrington stated that there are some administrative items to complete. John Daghlian wants a copy of the August 2005 plan for Pine Meadow Drive from the land court.

Chairperson Moss asked about bonding the project, or asking for cash or check, for work not completed.

Mr. Taverna stated that we are not at that point yet. Kessler Way was different, as he was selling lots one by one. Flaherty is developing the lots one by one. He maintains ownership of the lots and the houses that he sells.

Ms. McCartney stated her concern about having one or two partially built houses, maybe one fully built, vacant, and an incomplete road owned by a bank, and the bank not willing to put the topcoat on the road.

Mr. Harrington stated that the bank can't sell the house, because the Board has to agree that it can be sold. The standard procedure is that in the covenant, nothing can be sold until all of the work is done. So when the developer finishes one of the houses, and wants to sell it, at that point the Board will bring up the issue of a check for the remaining work. The Board will want to make sure that at least the road is going to be complete and so the Board will require the developer to put up cash, before he can make a sale.

Mr. Wolf asked a question regarding whether the extension is a private way or a common driveway, and do we require that an association or trust be formed and that each owner is a member of it to maintain the road.

Mr. Harrington stated that it is a right of way for a street, and it is built to city specifications for street, but it is the width of a driveway and it is a private way. It is built in such a manner that it cannot be accepted as a city street, and so it will have to be maintained by the owners as a private way.

Mr. Harrington stated that the homeowner's association was formed for the purpose of maintaining the storm drain system, and for the new subdivision, storm water does not go into the old storm-drain system. They will have their own system on-site and stormwater recharges into the ground. However, block four of the original subdivision (which is subdivided into three lots) is part of that homeowners association, because when the homeowners association was formed, there were five houses and one lot. How they break out the costs is going to have to be worked out. They may have to pay to support

that storm water system even though they don't use it. The maintenance cost is infinitesimal because \$25,000 was placed in a bank account. At normal investment the money that would be earned on that pays for the cleaning on an annual basis. It cost \$60.00 per year to clean out the basins.

Ms. McCartney stated that the approval should be conditional, and that Mr. Taverna would have access to the required documents, and share these with the Board, and once the Board has had a chance to see it then the vote would become effective.

Mr. Banash suggested that this issue regarding the documents be referred to the Law Department.

Chairperson Moss stated that the developer can get building permits once the City Engineer gets the required documentation, and the documentation is reviewed by law Department. The developer does not have to wait until the committee meets again.

Ms. McCartney stated that the Board will vote to approve the petitioner's ability to get a building permit, conditional upon the City Engineer obtaining the proper documentation with the Law Department's consultation. The action item regarding the easement will go to Public Facilities.

Mr. Harrington suggested the motion read: "That the Board will allow the petitioner to obtain a building permit provided that he gives satisfactory evidence to the Engineering Division. That the covenant issued with the granting of the subdivision has been recorded. And further, without the final completion of the construction of the top coat of the asphalt roadway, or to the satisfaction of the City Engineer, who has jurisdiction, and per consultation with the Law Department."

The motion was made by Mr. Wolf, and seconded by Ms. McCartney.

The Board moved five to zero in favor of the motion.

- 2. Discussion Item [continuation from May 5, 2008 Planning and Development Board Meeting]:** Committee report on the status of update work on Board of Survey traffic management regulations in Rules and Regulations of the Planning Board Acting as a Board of Survey, 1997, Section V.B.2. in connection with Petition #333-97(2).

S. Wolf led the discussion on the appropriateness of implementing a percentage guideline for Board of Survey regulations regarding the approval of subdivisions. S. Wolf indicated that a current reading of the regulations reveals 'vague and broad' language. A subdivision is not allowed if it worsens the traffic or makes it more dangerous, leaving the decision largely up to the Board's discretion. S. Wolf believes it would be hard to overturn a subdivision approval or denial by the Board if the reasoning was well articulated. The implementation of a percentage would provide more upfront information to a developer.

T. McCarthy suggested that S. Wolf analyze recent subdivision approvals with regard to potential percentages. J. Moss inquired whether the vagueness or the percentage was preferable. S. Wolf indicated he hopes to discover the answer to this question by reading and analyzing the regulation. J. Moss stated that subdivision control is an administrative law by nature where compliance versus non-compliance is very black and white. S. Wolf stated that part of the compliance is very subjective. J. Moss asked if S. Wolf had looked at other municipalities' subdivision ordinances with regard to traffic analysis. She believes an example would provide guidance to the Board. S. Wolf plans to do some preliminary analysis on the towns of Canton and Marion, Massachusetts.

D. Banash complimented S. Wolf's willingness to take on the project and stated that this sub-committee would benefit from a staff person or intern to assist in researching the issues at light. He stated that he would like answers to the following questions: is the current ordinance unenforceable, can it be written in a way that would survive a Dover Amendment attack, and what is the most desirable way to write this ordinance. He suggested speaking with David Koses, Transportation Planner and Clint Schuckel, City Traffic Engineer. S. Wolf responded that he has spoken with both D. Koses and C. Schuckel who endorse the concept of a percentage threshold. L. Burg offered to schedule a meeting with C. Schuckel to discuss the baseline criteria involving road classifications that were brought up previously in a Public Facilities Committee meeting. J. Moss stated that she would like a measure of comparison before the Board votes on including percentages. D. Banash commented that S. Wolf should speak with David Koses about getting the sub-committee staffed and continuing to analyze road classifications. J. Moss indicated it would be beneficial to have a record of the range within each level of road classification to decide if a percentage makes sense in light of this variability.

Submitted,

Louis M. Taverna, P.E.
City Engineer
Clerk of the Board of Survey