

PLANNING AND DEVELOPMENT BOARD MINUTES

January 5, 2009 City Hall, Planning and Development Department Rm 209, 7:30 p.m.
1000 Commonwealth Avenue, Newton, Massachusetts 02459

Full Members Present:

Tabetha McCartney, Chair
Joyce Moss, Vice Chair
David Banash
Carol Beard
Scott Wolf

Alternate Members Present:

Leslie Burg
Keith Craig

Staff Present:

Lou Taverna, City Engineer
Amy Yuhasz, Community Development Program Manager
Kathleen Cahill, Community Development Senior Planner

Public Present:

Robert Flaherty, Lasalle Developers LLC
Peter Flaherty, Lasalle Developers LLC

T. McCartney, Chair, called the meeting to order at 7:30 p.m.

Board of Survey

1. **Discussion Item:** Pine Meadow Drive Extension, continuation [from December 1, 2008] of the discussion of conditions for issuance of building permits.

See Board of Survey Minutes.

Community Development Board

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

On request of T. McCartney for a motion to approve the minutes, C. Beard so moved. J. Moss seconded the motion. The Board voted 5-0-0 to approve the minutes.

2. **Discussion Item:** Home Business Ordinance.

D. Banash reported that the Home Business Ordinance was recommitted to the Zoning and Planning Committee. The Ordinance is currently “dead” because ninety days have lapsed since the Board of Aldermen’s last vote and no further action has been taken with regard to the Ordinance. The Planning Board must decide whether or not to resurrect activity on the Home Business Ordinance.

D. Banash summarized the recent public hearings before the Board of Aldermen and the Zoning and Planning Committee. The first full vote of the Board of Aldermen, December 1, was to postpone the discussion because Aldermen Johnson was absent. A series of questions came up at this meeting, concerning special permit granting authority provisions that could be best answered by Alderman Johnson. In the interim, between the two public hearings before the Board of Aldermen, the Zoning and Planning Committee met on December 8, 2009. Two issues with the Ordinance came up at this meeting; the special permit granting authority and the number of allowable trip ends before a home business triggers the threshold for a special permit.

The Zoning and Planning Committee voted to increase the allowable trip ends to 32 and to include the Planning Board as the special permit granting authority. D. Banash feels strongly that absent new arguments to support the Planning Board acting as the special permit granting authority for the Home Business Ordinance, the Board of Aldermen are unlikely to approve the Ordinance. The primary issues with the Home Business Ordinance continue to include the special permit granting authority and the number of trip ends allowed before the business triggers the requirement for a special permit. There is concern that the concept of trip ends may be too steep for the Board of Aldermen to master. This concept is a change from the current qualitative standard of measurement, with regard to traffic, to a quantitative standard. D. Banash stated that he believes the Ordinance is worthy of additional work and advocacy. Phil Herr is also willing to recommit himself to the project. Although there remains continued discussion about two primary issues, these issues are small in comparison to gaining the Board of Aldermen's approval of the entire ordinance.

S. Wolf inquired about how the trip ends work with regard to the special permit granting process. His understanding is that if a business (originally exempt from a special permit) is suspected by the Inspectional Services Department to surpass their recorded trip ends, that business is required to apply for a special permit through the special permit granting authority. D. Banash responded that originally the Ordinance was written with those provisions however, after opposition among the Aldermen, this section was redefined in order to reach a compromise. Currently, time trip ends are only counted during the application process for a permit. The Inspectional Services Department uses guidelines to determine whether or not the applicant's trip end estimate is realistic. If the estimate exceeds the estimate put forth in the guidelines the application is forwarded to the special permit granting authority for consideration. After the point of application, trip ends are no longer a consideration, even if neighbors come forward with complaints.

J. Moss inquired about the issue of storage of goods for small businesses. The current proposed Home Business Ordinance does not allow the storage of goods on-site by right. If there are plans to revisit the Ordinance this issue should also be brought to light.

L. Burg asked how many applications for home businesses have gone through the City in recent years. D. Banash responded that seven applications were received by Newton in the past seventeen years. L. Burg's primary interest is the potential of the Ordinance's to shift some of the special permit granting authority from the Board of Aldermen to the Planning Board, in an effort to streamline the permitting process. D. Banash does not believe the special permit granting authority will be changed to the Planning Board in this context.

J. Moss wondered if the original goal of revising the Home Business Ordinance was still being met. D. Banash stated that the initial goal of the Ordinance was to address neighborhood concerns of traffic and excessive noise generated by several home businesses. The current ordinance was written before the age of the internet, and prohibited computer based businesses. The redrafting of the Ordinance sought to mediate and align public desire to maintain the character of neighborhoods while simultaneously advancing the homeowner's economic development. These motivations drove a large number of changes to the original ordinance. Changes to the original ordinance were also made to develop a consistent registration process where one did not exist. A three tiered approach was formulated to segregate home business that did not need to register from those that did need to register for a permit, from those that needed to apply for a special permit.

S. Wolf moved the Board support the continued redrafting of the Home Business Ordinance and submittal to the appropriate sponsorship. The decision about whether or not to change the special permit granting authority will be left to the Home Business Subcommittee. J. Moss seconded the motion, and the Board voted 5-0-0.

3. Discussion Item: FY10 Annual Action public hearing and brief overview of the upcoming Consolidated Planning process (FY11-FY15).

K. Cahill distributed a revised copy of the Annual Action Plan schedule. The public hearing before the Planning and Development Board for the Annual Action Plan was rescheduled from March to April. Traditionally, the Annual Action Plan presentation is an all-staff presentation however; new Board policy reflects a desire to have both advisory committees as well as project applicants present when the Board is asked to recommend funding requests. T. McCartney inquired if project-by-project allocations were made in the Annual Action Plan. All funds are being allocated to specific projects, with the exception of housing projects, which vary due to market conditions. The Board voiced a desire to have both applicants and advisory boards present. Due to the number of human service projects, it was suggested that these applicants would rotate every year.

K. Cahill reviewed the schedule for the upcoming FY06-FY11 Strategic Plan and distributed the City's Citizen Participation Plan for Board members to review before the February meeting. The Board will discuss possible revisions to the Plan at that time.

The meeting adjourned at 9:05pm.

Respectfully submitted,

Stephen D. Gartrell
Secretary