**TOWN OF NAHANT**

**Planning Board**

**October 21, 2021**

**LOCATION: ZOOM CONFERENCING, NAHANT, MA**

**Hearing Minutes for 2A Wilson Road**

Dan Berman called the hearing to order at 7:03 pm, stating that the hearing was properly noticed, and called the roll of those members attending:

Daniel Berman, Chairman – Here

Calvin Hastings, Vice Chairman – Here

Sheila Hambleton – Here

Patrick O’Reilly – Here

J Shannon Bianchi – Here

Steven Viviano – Here

Rob Steinberg, Recording Secretary – Here

Kristen Standish (alternative member) – Not Present at start but joined at 7:10 pm

John Stabile (alternate member) - Here

Dan Berman opened the meeting by noting that members of the PB members use the Tides, and some are members of the “Tides Advantage” loyalty program, but that isn’t a reason for recusal. Shannon recused himself, however, and John Stabile was appointed by the Chairman as a member of the Board for consideration of this application.

Stephen Smith, counsel for President of Tides, Inc., then presented his case for a special permit for construction and for use. Smith noted the name of the owners of the property. Smith stated that submissions showed the structure at the former Dunkin Donuts. Smith said the request of the applicant is to remove and replace the existing structure. The new structure, already built, has been seen by many members of the Board. Steve provided the following highlights of the application:

* The building is a one story wood structure about the same size.
* The roof design is a gable room instead of a combination of a gable and shed roof.
* Window placement reflects the fact it is retail store rather than a restaurant.
* There is natural cedar siding that matches the Tides.
* The green metal roof blends with Tides.
* The height is well below the 30 foot limit at under 18 feet.
* There are no material changes to the property.

Steve asserted that the new structure is not substantially more detrimental than what existed in the past.

Dan said we should have had application for construction in advance, but we want to act on it now and will consider the application to rebuild the building. Dan asked if we had all the documents required. Smith said with respect to the survey plans, it is very difficult to locate a surveyor, and he could not get a site plan certification at this time. Steve said that there are no changes to the plan of record.

Dan asked if we can act in anticipation of getting the certified survey. Cal said we should have something in the public record that the surveyors were not available to provide the site plan. Steve said he suggests conditional approval based on a site plan showing there were no changes. Sheila suggested an affidavit. Dan said the certified site plan can be a condition subsequent that would be provided at a later time.

Sheila noted that neither counsel nor Mike O’Callahan are part of the application. Steve noted that the owner has been given notice but chose not to participate.

Dan noted that we haven’t heard from the Conservation Commission and they want to comment. Steve said he made a filing with the Conservation Commission and Board of Health on September 8, 2021, but he hasn’t heard anything. Steve said the 35 day time limit of those Committees/Boards has lapsed.

Cal then noted that the parking spaces are identified. Steve said the zoning by-law set the number of parking spaces by the square footage. Steve said the calculated amount for the retail space is 7. Dan noted it is an issue for the “use” permit.

Dan said we would put one condition on the special permit for construction related to providing a survey and that might be done in six months. Dan noted an issue related to the Conservation Commission – that he gave the Chairman time after this hearing to provide her comments. Dan noted that we could create a condition that the applicant needs to responds to concerns of the ConComm.

Dan then moved to the second application to allow for the retail use of the property. Steve said the business use will not be detrimental to the community nor to health or the environment. As to parking, Steve noted that they were given 67 spaces for restaurant and 9 for Dunkin Donuts. A variance was given to allow 12 less spaces. Steve says the parking is more than is required at 83 spaces. Mike O’Callahan said overflow parking was an issue when they didn’t take reservation which resulted in customers waiting. Mike expects to require reservations going forward which has alleviated parking issues. It was noted that the peak hours of retail shop and restaurant are different so that will help.

Dan asked if anyone had question for surf shop operators and there were none. Mike said the operators of the surf shop aren’t in attendance and there is no lease with them yet.

Dan asked if we are replacing or modifying the Dunkin Donuts permit. Mike said the restaurant permit will lapse shortly and they aren’t going to be selling food but, if they do, they can come back to the PB.

Kristin Kent, Chair of the Nahant Conservation Commission, then appeared at the hearing. Kristin said they did not receive a notice when the building was constructed and did not receive the filling on September 8. Kristin said as long as the footprint is the same they are fine with the application.

Dan asked for a motion to find that the reconstruction of Dunkins at 2A Wilson Rd would not be substantially more detrimental to the neighborhood than was the previous structure. Cal so moved, seconded by Sheila. The PB voted as follows:

Daniel Berman, Chairman – Yes

Calvin Hastings, Vice Chairman – Yes

Sheila Hambleton – Yes

Patrick O’Reilly – Yes

J Shannon Bianchi – Recused

Steven Viviano – Yes

Rob Steinberg, Recording Secretary – Yes

John Stabile– Yes

Dan asked for a motion to approve the special permit for removal and reconstruction under Zoning By-Law section 7.03(D)(3), subject to a condition that a signed and sealed site plan approved by a certified professional engineer be submitted within one year, which deadline may be extended as necessary. Motion by Cal, seconded by Shelia. The Board voted as follow:

Daniel Berman, Chairman – Yes

Calvin Hastings, Vice Chairman – Yes

Sheila Hambleton – Yes

Patrick O’Reilly – Yes

J Shannon Bianchi – Recused

Steven Viviano – Yes

Rob Steinberg, Recording Secretary – Yes

John Stabile– Yes

Dan then noted that the special permit for construction is granted.

Dan then asked for a motion to make a finding that the special permit for use of the property as a surf shop would not be substantially more detrimental to the neighborhood than the prior use as a restaurant. Shelia so moved, seconded by Cal. The Board voted as follows:

Daniel Berman, Chairman – Yes

Calvin Hastings, Vice Chairman – Yes

Sheila Hambleton – Yes

Patrick O’Reilly – Yes

J Shannon Bianchi – Recused

Steven Viviano – Yes

Rob Steinberg, Recording Secretary – Yes

John Stabile– Yes

Dan then asked if there motion to approve a special permit for change of use, having made the required finding under Zoning By-Law section 7.03(D)(3). Cal so moved, seconded by Sheila. The Board voted as follows:

Daniel Berman, Chairman – Yes

Calvin Hastings, Vice Chairman – Yes

Sheila Hambleton – Yes

Patrick O’Reilly – Yes

J Shannon Bianchi – Recused

Steven Viviano – Yes

Rob Steinberg, Recording Secretary – Yes

John Stabile– Yes

The special permit for change of use was granted.

Dan then asked for a motion to close the hearing and resume the meeting in Executive Session pursuant to G.L. c. 30A, s 21(a)(3) to discuss strategy with respect to litigation in the matter of Northeastern University v. Town of Nahant Planning Board where a discussion in open session will have a detrimental effect on the Planning Board’s litigation position, and the chair so declares. As chair, Dan did so declare. Cal so moved, seconded by Sheila. The Board voted as follows:

Daniel Berman, Chairman – Yes

Calvin Hastings, Vice Chairman – Yes

Shelia Hambleton - Yes

Patrick O’Reilly – Yes

J Shannon Bianchi – Yes

Steven Viviano - Yes

Rob Steinberg, Recording Secretary – Yes

John Stabile– Yes

Meeting adjourned at 8:10 pm.

Meeting Minutes prepared by Recording Secretary Rob Steinberg.

Approved by Planning Board on December 7, 2021.