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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

SPECIAL PERMIT AMENDMENT

***Needham Pool and Racquet Club, Inc., applicant
1545 Central Avenue***

(Filed during the Municipal Relief Legislation, Chapter 53 of the Acts 2020)

July 16, 2020

Needham Pool and Racket Club, Inc., applicant, made application to the Board of Appeals for a Special Permit Amendment under Sections 3.2.1, 4.1.6.3, 5.1, 7.5.3 and any other applicable Sections of the By-Law to allow the construction of three paddle tennis courts, warming hut, viewing stand, fencing and lighting, and operation of the same from October to May. The property is located at **1545 Central Avenue**, Needham, MA in the Single Residential A District. A public hearing was held remotely on Zoom Meeting ID Number 869-6475-7241, on **Thursday, July 16, 2020 at 8:00p.m.**

Documents of Record:

- Application for Hearing, Clerk stamped June 22, 2020.
- Cover Letter from Michael A. Crowe, Attorney, June 22, 2020.
- 1545 Central Avenue – ZBA Special Permit, December 11, 1962.
- *Special Permit – Proposed Paddleball Courts*, Needham Pool and Racquet Club. Prepared by DiPrete Engineering – Proposed and Existing Conditions, Construction Plans and Elevations, Aerial Photo, Lighting Plan, Storm Water Master Plan, Storm Water Pollution Prevention Plan, and Drainage Analysis.
- Letter from Lee Newman, Director of Planning and Community Development, July 8, 2020.
- Letter from David A. Roche, Building Commissioner, July 8, 2020.
- Email from Dennis Condon, Chief of Department, Needham Fire Department, June 30, 2020.
- Email from Anthony DelGaizo, Town Engineer, July 10, 2020.
- Email from Tara Gurge, Assistant Public Health Director, July 6, 2020.
- Email from Chief John Schlittler, Police Department, June 30, 2020.
- Letter from Debbie Anderson, Director of Conservation, July 7, 2020.
- Email from John McCarthy, July 14, 2020.
- Email from Jenny Qu, July 15, 2020.
- Drone Photo of Paddle Court, July 15, 2020.

- Research links
<https://www.theridgefieldpress.com/news/article/Rowdy-paddle-courts-will-move-14301831.php>
<https://www.birminghammail.co.uk/news/midlands-news/sports-clubs-tennis-court-plan-17032044>
<https://www.athleticbusiness.com/industry-press-room/athletic-club-quiets-paddle-ball-court-noise-with-acoustifence.html>
<https://www.athleticbusiness.com/industry-press-room/athletic-club-quiets-paddle-ball-court-noise-with-acoustifence.html>

Documents submitted before or at the August 20, 2020 hearing:

- Email and attachments from Dennis Pennington, August 9, 2020.
- Email from John McCarthy, August 10, 2020.
- Emails from Catherine McCarthy, July 17, 2020 and August 6, 2020.
- Petition from Catherine McCarthy, August 10, 2020.
- Email from Tara Gurge, Assistant Public Health Director, August 6, 2020.
- Email from Livia Rizzo, August 20, 2020.
- Letter from Michael Crowe, August 10, 2020.
- Updated Lighting Plan,
- Sample Noise Impact Assessment.

July 16, 2020

The Board held this meeting virtually as allowed under “Order Suspending Certain Provisions of the Open Meeting Law G.L. c. 30A, S20.”

The Board included Jon D. Schneider, Chair; Jonathan D. Tamkin, Vice-Chair; and Peter Friedenberg, Associate Member. Also participating was Kathy Lind Berardi, Associate Member. Mr. Schneider opened the hearing at 8:10 p.m. by reading the public notice.

Michael Crowe, attorney for the applicant, reported that Needham Pool and Racquet Club, Inc. (“NPRC”) has been in operation since 1962 under a Special Permit issued December 11, 1962 (the “1962 Special Permit”). The applicant is proposing to add three paddle courts, a warming hut and viewing stands with associated lighting. Paddle tennis is similar to tennis, but played in the winter mainly during the evening. The proposed operation would be from 8:00 a.m. to 11:00 p.m., seven days a week, October through May.

The property has 80 parking spaces including handicapped spaces. The proposed paddle tennis program has a maximum parking need of 36 spaces, based on the assumption that not more than 36 people would be using the paddle tennis facilities at any one time. Mr. Crowe noted that there is no need for a parking study since there is sufficient parking and the paddle tennis use will occur when the NPRC is closed. Mr. Crowe stated that the Building Inspector requested that the parking lot be restriped and signage for the handicapped spaces be installed.

He noted that there will be zero light spillage beyond the property as required by Town regulations.

The property has wetlands. The proposed project will be outside the wetlands area. The Conservation Director has requested that a plan delineating the wetlands resource area be

provided to identify its boundaries.

The proposal will not add to the septic system. A bathroom will be provided in the warming hut with a composting toilet.

Barry Nectow, who is leading the effort for the new facility, said that he is a paddle player and plays with a small club in Brookline at Pine Manor College. He noted that the game is played at night outdoors during the winter months. He stated that the game is similar to tennis and, like squash, the fence around the courts is in play. The Boston area has an active league. The matches are generally played between 6:00 p.m. and 10:00 p.m. The proposed paddle courts and warming hut are sited to be out of the way of neighbors and to fit in the NPRC campus. The paddle program will be active from Labor Day to Memorial Day.

The paddle program will be operated by a separate entity from the NPRC that will lease the ground and pay rent to the NPRC. The program is projected for a maximum of 150 individuals and they hope to be fully subscribed in three years.

Mr. Tamkin inquired about the appearance of the courts. The applicant provided a drone photo of existing paddle tennis courts. Mr. Nectow noted that Wellesley Country Club, across from Babson College, has paddle courts and screens like those being proposed here.

Brandon Carr, engineer with DiPrete Engineering, reported that they had completed the wetlands resource delineation and will be following up with the Conservation Director. The work will be 150 feet outside the wetlands, so no Conservation Commission approval will be required. The proposed courts will be located in the center of the property in a wooded area which will be cleared off and graded to capture stormwater. The courts are raised decks with open boards to allow rainwater to drain off the courts to a stone base which allows for ground infiltration.

The proposed toilets will not be tying into the septic system. Self-contained composting toilets will be provided in the warming hut. A model from the MASS DEP's list of approved manufacturers will be selected. The project will be located away from the existing septic system components.

The site work for the project will be minimal because the raised deck system is built on piers. Some of the area pathways will need to be rerouted.

The lighting plan indicates that the lighting will not spill beyond the courts. The courts are 400 to 500 feet from the closest residential neighbors.

Chris Casiraghi, Reilly Green Mountain Platform Tennis Courts, indicated that the raised deck material for the courts is aluminum and will be heated to melt any snow or ice that cannot be cleared off the courts by hand. The raised deck allows for easy snow removal. The courts will be one foot off grade and will taper downhill. The courts are enclosed with a skirting material which maintains the heat and acts as a sound barrier. The warming hut will be an enclosed structure. The deck surface is an aggregate of epoxy paint and aluminum oxide which provides a non-slip surface and absorbs sound. The players and balls can bounce off the screens surrounding the courts, which have flexibility and sound absorbency.

There will be six LED lights which are 20 feet tall. There is little light spill with the light directed on the courts. The zero-foot candle limit occurs well within the boundary of the property.

Kevin Kileen, current president of the NPRC, reported that the Board of the NPRC voted unanimously in support of the project and the creation of a separate LLC to lease the land from NPRC, Inc. and then build and operate the paddle facility.

Mr. Tamkin inquired if any tennis courts would be eliminated. Mr. Crowe responded that no tennis courts would be eliminated. The proposed site of the paddle facility is presently undeveloped.

Tony DiBiasio, paddle manager of the Dedham Country Club, reported that they have four paddle courts. He said it was a growing sport. There have been no complaints about noise or lighting from the paddle courts in Dedham. It's generally an affluent adult sport. They offered clinics for children. Most paddle courts are located at country clubs.

Mr. Schneider inquired if alcohol was going to be allowed at the facility. Mr. Crowe responded that the same alcohol policy as for the NPRC will apply. Mr. Kileen said that the NPRC alcohol policy allows alcohol during the weekends – Friday, Saturday and Sunday. They obtained their liquor license four or five years ago. Alcohol is allowed in the tent area between the Club and the pool area. Mr. Nectow added that alcohol will be allowed for the paddle operation on a carry-in/carry-out system without the need of a liquor license.

Mr. Schneider asked if the new entity will be a non-profit. Mr. Crowe responded that it would be a separate not-for profit entity; and four of the five board members are members of the NPRC.

Mr. Schneider asked about the noise and lighting. Mr. Casiraghi responded that the light spillage is less than the lights for baseball and football fields. The three paddle courts are compact and use less area space than one tennis court. The courts will be located in the woods which provides screening.

Mr. Casiraghi said that sound has never been an issue with paddle courts. You cannot hear the ball or the players running on the courts or bouncing into the screens. He has built 6,000 courts in 26 states and sound has never been an issue. Lighting, however, has been a concern. He noted that paddle tennis is played in the winter when most people are indoors with the doors and windows closed.

The following comments were received:

- The Planning Board had no comment.
- The Fire Department had no issue.
- The Police had no issue.
- The Engineering Department identified that the applicant has not signed the Stormwater Forms for delegating responsibility for the project, construction and maintenance.
- The Health Department requested that an *Addition to a Septic System* form be submitted to the Health Department and that this proposal not add to the existing load of the existing septic system; Covid19 distancing protocols be in place for the courts,

warming hut and viewing stands; and that lighting not spill or cause a public health nuisance. If complaints are received, lighting may need to be adjusted.

- The Building Commissioner requested if issued, any permit contain conditions for the parking spaces to be restriped, that the handicapped spaces have the required signage and that a chain obstructing access for the handicapped from the parking lot to the building be removed.
- The Conservation Commission requested a delineation of the wetlands on the property be provided.
- John McCarthy opposed the proposal because it has commercial implications, the year-round use, the hours of operation until 11:00 p.m., the light and noise generation, the compost toilets, and the negative impact on his property value.
- Jenny Qu opposed the proposal because of the noise, increase in traffic, use of alcohol and the light pollution.

Mr. Tamkin did not see any document which identified Needham Platform Tennis Club, LLC, the proposed paddle entity, as a non-profit entity. Mr. Crowe responded that Paragraph 4 on the Certificate of Organization of that entity filed with the Secretary of the Commonwealth identifies it as a “private club not conducted as a business”. Mr. Tamkin responded that notwithstanding that, there is nothing that identifies the entity as a non-profit entity. Mr. Crowe argued that “a private club not conducted as a business” is the type of entity required under section 3.2.1 of the Zoning By-Law. Mr. Tamkin wanted clarification on the non-profit status of the NPRC as well.

The meeting was opened to public comment.

John and Cathy McCarthy, 1509 Central Avenue, are neighbors of the NPRC. They are concerned with the expansion and the compost toilets, specifically the possibility of odors and who will be responsible for toilet maintenance. They wanted to see the toilets upgraded and tied into the septic system with available running water. He was concerned if the toilets were not properly maintained, participants would use the woods to relieve themselves, visible from his home. He was also concerned about the hours of operation until 11:00 p.m. and the car noises and headlights from players lingering and socializing with alcohol until midnight. During the summer, he can hear all the noise and see lights from the activities at the NPRC. Mr. Schneider responded that the closing time would be a condition in the Special Permit. Mr. McCarthy preferred a 9:00 p.m. closing time especially since it will be open 7 days a week from 8:00 a.m.

Mr. McCarthy suggested that the paddle courts be located at the basketball courts, which would have less impact on trees and be further from abutting residential neighbors. From his observation, paddle tennis was an aggressive and loud sport. He felt that the paddle courts would transform the seasonal NPRC into a year-round for-profit sports complex. He believed he would be hearing the paddle noise whether his windows and doors were closed in the winter. He was concerned with the negative impact the courts would have on his property.

Seth Schulman, 18 Starr Ridge Road, was concerned with noise from the paddle tennis courts. In the summer with the air conditioning on, he can hear the noise from the tennis courts. He believed paddle tennis was louder than tennis. Based on his web searches, paddle courts are loud. In the winter, there is no tree foliage to add noise mitigation. He'd like to see more evergreens be planted for screening and noise proofing. He also suggested 12 – 15 feet high

fencing be installed on the Starr Ridge Road side for aesthetic purposes, and to provide a buffer to the noise and light. He, too, was concerned about property values.

Eric Sokol, 324 Country Way, attends the Brookline paddle courts. He is a tennis player and paddle tennis player. He enjoys playing paddle tennis in the winter. He was supportive of paddle courts and believed them to be an additional asset to the Town.

Laura DeMaio, 237 Marked Tree Road, is the treasurer and member of the NPRC. She supported the project.

Denis Pennington, representing his parents who reside at 1574 Central Avenue, opposes the paddle courts. He was concerned about the impact of the noise, light and traffic until 11:00 p.m. on his parents' sleep. He was also concerned about the effect on their property values.

Mr. Casiraghi reported that paddle tennis is a popular growing sport established in the 1970s. He assured that from a warming hut you cannot hear the noise from the courts. He could hear an occasional exuberant outburst. Noise is not an issue.

Mr. Pennington was concerned about the noise from the spectators' stands at tournaments. Mr. DiBiasio responded that there are no spectator stands proposed. There is a small deck right outside the warming hut where people can stand while they are waiting to play. He noted that the decibel level at 210 feet is 60 decibels, which is mild to moderate noise. The neighbors are located 400 to 500 feet away. Mr. DiBiasio said that pool noise is 10 times louder than a paddle facility.

Mr. Tamkin wanted clarification on the viewing stands as presented in the plans and whether the applicant would like to remove them. Mr. Crowe clarified that there are no viewing stands included in the project; the plans call for a viewing platform.

Enrique Bellido, 66 Grant Street, is a former member of the NPRC. He is a paddle player at Brookline paddle courts. He is an architect and reviewed the plans. He was in support of the project.

Andrea Shuman, 36 Starr Ridge Road, supported the comments made by Mr. Schulman. She was concerned about the noise and light from the project. She thought the daily 11:00 p.m. closing time was too late. She supported the installation of a fence and evergreens for screening.

Mark Sagamore, 36 Starr Ridge Road, did not support the project and was concerned about the daily noise and lights until 11:00 p.m. He'd like to see an earlier closing time. He was also concerned about the use of alcohol and its impact on the noise level.

Jenny Qu, 48 Starr Ridge Road, was concerned about the lights and traffic from the project. During the summer the woods and the foliage provide a buffer between the NPRC and the abutters. She thought 11:00 p.m. was too late. She requested that the NPRC add soundproofing through evergreen plantings and for an earlier closing hour.

Fred Sewall, 1554 Central Avenue, reported that the NRPC has been a good neighbor. He questioned the need for another entity for the paddle club; the financial relationship between

the NPRC and the new entity; and asked who would enforce conditions in the permit. Mr. Schneider responded that the Building Commissioner will be responsible for enforcing the conditions of the Special Permit and that neighbors can call the police if there is problem late at night. Mr. Sewall thought the project was a commercial enterprise marketed to the paddle league players of the region and did not benefit Needham residents. He thought the game was noisy with popping sounds like gunshots. He'd like some fencing or walls to buffer the sound.

Mr. Schneider announced that the hearing would be continued. He requested that the applicant be prepared at the next hearing to address the following items:

- alternative locations on the property which would put the courts further away from the residential neighbors;
 - a noise study which would provide quantifiable data on the noise generated;
 - fencing and tree planting options;
 - fewer hours of operation because of the traffic and imposition on the neighbors; and
 - an earlier closing time with the possibility for a later closing time after a trial period.
- He thinks that 11:00 p.m. is a late closing time.

Mr. Tamkin would like to watch and listen to a paddle game. Mr. Schneider suggested watching a paddle game at the Wellesley Country Club or the Dedham Country Club.

Mr. Tamkin requested that the applicant look at its hours of operation; address fencing and noise issues; and meet and work with the abutting neighbors to develop agreed-upon modifications. Mr. Tamkin requested clarification on why the tenant is not a non-profit when the NPRC is. He also had concerns about the use of alcohol at such a late hour.

Mr. Friedenberg thought 11:00 p.m. was too late and that it was an adult activity and not a family one at that hour. He was concerned about the use of alcohol. He had issues with the time the area would be vacated. He thought a noise study was needed. He thought the paddle courts were qualitatively different than the activities allowed under the 1962 Special Permit.

Ms. Berardi identified that she was a member of the NPRC. She wanted the applicant to address the concerns raised by the neighbors regarding noise and hours of operation. She questioned whether alternative locations had been explored.

The Board agreed to continue the hearing to the next Board meeting on August 20, 2020 at 8:00 p.m.

The meeting adjourned at 10:05 p.m.

August 20, 2020

The Board included Jon D. Schneider, Chair; Jonathan D. Tamkin, Vice-Chair; and Peter Friedenberg, Associate Member. Also participating was Howard S. Goldman, Member. Mr. Schneider opened the hearing at 8:00 p.m. by reading the public notice. The meeting was held virtually on Zoom.

Mr. Schneider requested clarification on the paddle tennis program period of operation. Mr. Crowe responded that the program is being proposed from October to April when the NPRC

is closed.

Mr. Schneider reported that a number of Board members went to the Wellesley Country Club paddle courts to observe paddle tennis, the courts' design and materials, and the lighting and sound generated. The Board also researched the internet for information on paddle tennis. The relevant sites were shared with the applicant.

Mr. Schneider reminded the applicant that the Board had requested they explore and report back on four issues:

- a better location;
- an acoustical sound report;
- fencing and trees options; and
- shorter operational hours.

Mr. Crowe reported that a neighborhood meeting was held to provide information on paddle tennis and to clarify any confusion between pickleball (which is much noisier) and paddle tennis. He also informed that the paddle tennis entity will be re-filed as a non-profit entity with no commercial or profit ability.

Mr. Nectow said that the proposed site is the best site because it is surrounded by wooded vegetation and is far from abutting neighbors. Several other locations on site were explored but were not an option because of the location of the septic system, which has some large components. They do not want to disturb the existing septic system.

Acoustical sound barriers, fencing and trees were also explored. The best option is to place fencing along the driveway on the Starr Ridge Drive side. This option was presented to the neighbors. NPRC does not own enough land on the far side of that driveway to provide the fencing on their property, so any fencing would need to be installed on each neighbor's property.

Mr. Crowe stated that the applicant is open to reducing the hours of operation to 10:00 p.m.

Mr. Schneider asked why the courts couldn't be moved 30 to 40 feet closer to tennis courts #1 and #2. Mr. Nectow responded that this area is where the leaching field for the septic system is located, which cannot be disturbed.

Mr. Schneider inquired if the hut could be moved to the opposite side of the paddle courts so it would be further away from the neighbors. Mr. Nectow responded that the property slopes down at that location, but a relocation of the hut could be explored.

Mr. Schneider asked if they had investigated acoustical fencing for the court walls to buffer the sound. Mr. Nectow replied that they do not think it is necessary.

Mr. Nectow noted that the proposed program was compatible with the NPRC. It will be in operation from mid-October to April, when the NPRC is closed. It provides a healthy outdoor activity during the winter months. The addition of paddle courts is a positive addition to the NPRC and to Needham. The sport attracts families and professionals. The membership will be open to Needham and non-Needham residents. Paddle tennis is played seven days a week with the weekend being the busiest days. It's a league sport. The players will participate in

away games and host games as well.

Mr. Nectow discussed the difference between pickleball and paddle tennis. Paddle tennis is relatively quiet. He believes that there are no noise issues with neighbors at existing paddle courts.

Mr. Nectow shared a site map illustrating the vegetative areas of the property which surround the proposed courts. There will be little disturbance to the vegetation by the proposed project. Tree removal is limited to the court area. He also shared a drone photo of the lighting at similar courts which demonstrated that the lighting is directed onto the courts with little spill outside the courts and with none outside the boundary of the property. The closest neighbor is 375 feet from the courts across the street on Central Avenue. The majority of the abutting neighbors are 400 feet or further from the courts.

Mr. Nectow stated that the self-contained composting toilets are common at golf courses, beaches and recreation areas. A specific model will be selected from Mass DEP list of approved models to be approved by the Town Health and Building Departments. A maintenance plan will be provided. Mr. Schneider questioned why the existing NPRC bathroom facilities were not being used. Mr. Nectow said that the NPRC bathroom and facilities are closed during the paddle season.

The only shared NPRC facility is the parking. No parking will be allowed along the driveway. The maximum people number of people playing at the courts at one time would be twelve (four people per court) generating a maximum of twelve cars. With three games per night, the maximum of 36 cars will have staggered arrival and departure times. The impact on traffic is far less than what is generated by the NPRC. There is plenty of parking available at the property.

He reported that alcohol will be allowed on a carry-in/carry-out basis. No drinking will be allowed on the courts.

Mr. Schneider inquired about trees and fencing. Mr. Crowe responded that there is no need for fencing as the noise level is not detrimental.

Mr. Casiraghi presented that the hut, at its proposed location, acts as a barrier for light and noise and does not recommend relocating it to the other side. He noted that the height and peak of the hut is at the same height as the lights, providing a buffer for the lights.

Mr. Casiraghi reported that he has constructed 6,000 courts in the US. Only one has acoustic walls. Acoustic walls compromise the engineering of the fencing design which is supposed to be flexible. The solid wall would be a hazard to the players and would be expensive.

No sound study was conducted. Mr. Casiraghi found a sound study for a four-court paddle tennis facility that was conducted at 6:00 p.m. – 7:00 p.m. and 9:00 p.m. to 10:00 p.m. The decibel levels at 6:00 p.m. – 7:00 p.m. were recorded at 40 decibels; at 9:00 p.m. to 10:00 p.m. the levels were 37 decibels. He noted that a dishwasher was 55 decibels at 50 feet of distance. Neighbors to the courts are seven times the distance.

Joe Penny, engineer with Deprete Engineering, reported that he attended the site visit by

members of the Board at Wellesley Country Club's paddle courts. There were no buffering trees and there was no discernable sound at 375 feet from the courts. The courts at NPRC will have heavy vegetative surroundings, unlike those at Wellesley Country Club.

Mr. Kileen reported that the NPRC has been a good neighbor for the past 50 years. They serve alcohol on Friday, Saturday and Sunday without incident. It is a fair and affordable club. They are a fiscally sound institution.

Mr. Tamkin reported that he had attended the site visit. He listened to the difference of pickleball and paddle tennis and found paddle to be quieter. He viewed and listened to paddle playing at 300 feet and 200 feet. He was convinced that sound from paddle is minimum. He thought paddle tennis is so similar to tennis, that it is consistent with the existing Special Permit. He had a concern about the corporate status of the new entity but was satisfied with making the entity a non-profit as presented by Mr. Crowe. He thought limiting the operation to 10:00 p.m. was appropriate and that a trial period, similar to the one issued at DeFazio Field, should be a condition. He preferred an early end time. He preferred that there be a bartender dispensing alcohol and that its consumption be limited to three days a week. He thought the October 1- April 30 season was reasonable and that playing in the summer be restricted. He wanted the parking restriction to be clarified.

Steve Shauer, 20 Pheasant Road, was a member of the NPRC and supported the paddle tennis proposal.

Mr. McCarthy was pleased about the clarification of the status of the paddle court entity as a non-profit. He was concerned about the composting toilets. He was glad the hours had been changed to 10:00 p.m. He preferred a closing time at 9:00 p.m. He was concerned about the drinking from 10:00 p.m. to 11:00 p.m. He had no issues with the noise and lights if the use ends at 9:00 p.m. He thought the ideal location was on the front lawn in front of the basketball courts and that the facility should be tied into the septic system. Because of Covid19, he'd like the bathrooms to have running water.

Scott Packard, 847 Webster Street, supported the paddle tennis courts proposal. He plays paddle tennis in Brookline. He had no issues with noise.

Robert Rizzo, 8 Starr Ridge Road, reported that there was a noise issue with a paddle court in Connecticut that was located 40 feet from residents. It was relocated to 900 to 1000 feet away. He was not supportive of the paddle courts. The trees would be bare in the winter. He did not notice the NPRC in the summer because of the vegetation. He was glad that there would be no parking along the driveway. He questioned who would police the courts when the games got spirited. He wanted the bathroom to have running water especially with Covid19.

Janet Petronia, 21 Woodbury Drive, said she was a member of the NPRC and a paddle tennis player. She was supportive of the proposed project.

Fred Sewall, 1554 Central Avenue, said that he lived 350 feet from the proposed courts. As an abutter, he felt the courts would negatively impact him. He thought the proposal would add to the noise and traffic. He did not support the paddle courts being open to members outside of Needham.

Mike Elcock, 838 Webster Street, supported the paddle courts. He belongs to the Brookline paddle courts which had no complaints about noise from the neighbors. He wanted the courts to be open until 11:00 p.m.

Dennis Pennington sent links to a Globe article about paddle tennis as a party sport; and articles about stress and the deleterious effect on adults and children. He likened paddle tennis to MMA cage fights because people and balls bounce off the fences and create noise. He believed the sponsored tournaments will bring spectators and yelling.

Kate Carroll, 25 Ardmore Road, was supportive of the project. She is a paddle tennis player. She described the players as responsible, active athletes, and not a tailgating crowd. She was familiar with composting toilets and they were fine.

Greg Strakosh, 41 High Rock, supports paddle as a great family, outdoor recreational amenity for Needham.

Marc Sagamore did not support the courts in his neighborhood. He noted that all the supporters are not abutters. He thought the courts should be placed on DeFazio Field where there was plenty of parking and lighting. He thought no running water in the proposed bathroom was inadequate. He was concerned about the noise from three sessions of games during tournaments.

Gordon Myer, 70 Whittier Road, supported the proposal. He said that paddle provided an outdoor, fresh air activity during the winter.

Mr. Crowe said that compost toilets are a sophisticated alternative to traditional water toilets and can be found at Walden Pond, the Audubon in Wellfleet and at various beaches and recreational areas. The final model selection will be approved by the Building and Health Departments. The location of the courts is the best location. It is outside the wetlands and septic system areas. Any project must be 40 feet away from the leaching field of the septic system. He described the paddle courts to be a natural extension of the NPRC's activities with no commercial or profit motive. Noise will not be an issue with paddle tennis. There will be no parking on the driveway, and there will be no spillage of light outside the property. In response to the Building Commissioner's concern, the temporary gate was removed. NPRC will continue to be a good neighbor as required by Condition #9 of the Special Permit.

The Public Hearing was closed and the Board began deliberations.

Mr. Friedenbergl found the site visit to the Wellesley Country Club helpful. He asked what were the NPRC hours of operation during the summer. Mr. Crowe answered that they are open until 9:00 p.m. There have been no complaints about the closing time.

Mr. Friedenbergl asked who would hold the permit and how would the conditions be imposed on the operator. Mr. Crowe responded that the NPRC was the applicant and holder of the existing special permit and would be the responsible party. Mr. Friedenbergl inquired about the status of the Conservation Commission request. Mr. Crowe reported that the delineation of the resource area was provided by their engineer to the Conservation Commission who were satisfied that the work was outside their jurisdiction.

Mr. Friedenberberg was concerned about the halo effect from the court lights that can be seen from a distance and questioned what was being done to shield that. Mr. Crowe responded that the lighting is designed to have zero spillage beyond the site. Based on the photometric study the spillage ends within the boundaries of the lot at the easement driveway. Mr. Friedenberberg said he could see the lights from the Babson College entrance. Mr. Crowe said that that the lights at Wellesley Country Club are higher than the ones proposed.

Mr. Friedenberberg had concerns with the hours. He preferred 9:00 p.m. lights off with players off of the premises by 9:30 p.m. similar to the DeFazio Field schedule.

Mr. Friedenberberg would like to explore limiting alcohol consumption to beer and wine and that it be consumed only in the hut to avoid tailgating.

Mr. Friedenberberg suggested a one-year renewable permit to allow the applicant to operate and prove it's not a detriment to the neighborhood.

Mr. Goldman supported a conditional permit as suggested by Mr. Friedenberberg. He'd like to see more effort for sound mitigation. He thought the review authorization process and maintenance plan for the compost toilets could be made a condition of the permit.

Mr. Tamkin thought a conditional one-year approval didn't make sense with the capital expense associated with the project. He did support a review of the conditions after a period of time. He suggested lights off at 10:00 p.m. Participants to leave the premises by 10:30 p.m. He agreed with limiting the alcohol consumption to the hut.

Mr. Tamkin asked why the new entity couldn't use the existing bathrooms at the NPRC. Mr. Kileen responded that the bathrooms are not available because of liability issues associated with the bathrooms being next to the pool, and the pipes are above ground and are drained in the winter.

Mr. Tamkin wanted clarification on how the NPRC was going to manage the new non-profit entity. Mr. Crowe said that the NPRC, as the Special Permit holder, will give permission and oversight to the paddle tennis entity. NPRC is the responsible party. Mr. Crowe was supportive of a permit where there is a review of the hours and alcohol use after a period of time.

Mr. Schneider reflected that whenever an owner develops its property, the neighbors are impacted. Nevertheless, a property owner has a right to use their property as long as it is reasonable.

Mr. Schneider said that he was familiar with composting toilets and found them to be like traditional toilets. In any event, any compost toilet selected would have to be approved by the Building and Health Departments.

Mr. Schneider was supportive of granting a special permit with the following conditions that:

- there be no light spillage beyond a set number of feet from the courts;
- a 10:00 p.m. closing with lights out and the premises to be cleared by 10:30 p.m. The applicant will be able to come back to the Board after a set period of operation for a possible modification of the hours;

- any time the Building Commissioner receives a complaint from the public, the Board may reconvene a hearing to review the hours, alcohol use, noise and lighting and may require that the applicant make mitigation to the Board's satisfaction;
- NPRC shall provide to the Building Commissioner, the Board and the neighbors the name and contact information for a person who will handle any problems at the paddle facility;
- there shall be no viewing stands;
- all parking shall be in the NPRC parking lot; and
- there shall be a maintenance plan for the composting toilets submitted to the Health and Building Departments.

Mr. Schneider noted that NPRC has been a good neighbor and deserved an opportunity to try this new venture. Mr. Goldman agreed.

Mr. Tamkin suggested that NPRC come back to the Board at a fixed time after completing a full season of operations to review the conditions and consider whether to modify the hours of operation, alcohol consumption, and light and sound barriers. He would like consumption of alcohol be limited to the hut. Mr. Tamkin thought that paddle tennis was allowable by the 1962 Special Permit because it was so similar to tennis.

Mr. Casiraghi estimated that the courts could be completed by January 2021 at the earliest.

Mr. Schneider suggested that the Board convene in the event there is a complaint within the first two years of operations. Mr. Crowe suggested a meeting be convened upon a complaint 60 days after the club has been in operation for two months.

Mr. Friedenbergs suggested that the operator of the paddle courts be controlled by the NPRC and that the Special Permit not be transferable. Mr. Crowe noted that the board of directors of the paddle club is a five-member board with three members from the NPRC. Mr. Schneider suggested that the operator be specified, and it can't be changed or transferred without the approval of the Board.

Mr. Crowe said that he will provide the existence of the non-profit entity prior to the issuance of an amendment to the Special Permit.

Mr. Tamkin moved to grant the NPRC an amendment to its Special Permit to allow the construction of three paddle tennis courts, warming hut, fencing and lighting as specified in the plans submitted conditioned on the following:

- the operation of the paddle club will be managed and operated by a Chapter 180 non-profit Massachusetts entity and the majority of the board shall be members of the NPRC;
- the operation of the paddle club shall be from October 1 to April 30, and it may not operate during the operational summer season of the NPRC;
- there shall be no light spillage from the paddle courts beyond the property boundary;
- the hours of operations shall be seven days a week, 8:00 a.m. to 10:00 p.m. with lights out by 10:00 p.m. The premises shall be cleared by 10:30 p.m.;
- the name of a contact person including phone, email, and address shall be provided to the abutters, the Building Commissioner and the Board;
- all parking shall be limited to the parking lot of the NPRC; there shall be no parking

- on the driveway;
- the composting toilet(s) shall be subject to all applicable laws, rules and regulations, including the requirements of MassDEP as well as the regulations of the Health and Building Departments;
- the applicant shall return for a hearing before the Board 60 days after the paddle club has completed three months of operation; the Board may adjust the hours, alcohol consumption, and require sound and light mitigation as necessary;
- all alcohol shall be consumed entirely within the warming hut;
- there shall be no viewing stands;
- there shall be no pickleball; and
- the parking lot shall be restriped, and the handicapped parking shall have the signage added as required by the Building Commissioner in his comments on the application; and
- the Board reserves the right to clarify as they write the decision.

Mr. Friedenbergs seconded the motion. The motion was unanimously approved.

The meeting adjourned at 10:33 p.m.

Findings:

On the basis of the evidence presented at the hearing, the Board makes the following findings:

1. The property is owned by the applicant, Needham Pool and Racquet Club, Inc. ("NPRC"), and is situated in the Single Residence A zoning district.
2. Pursuant to the 1962 Special Permit, the NPRC has operated a seasonal recreational facility, including a pool, tennis courts, basketball court and clubhouse, for many years on the property. Based on the testimony from abutters at the hearings on this application, that operation has not created any significant issues in terms of noise, traffic, light spillage or otherwise.
3. A number of members of the NPRC also play paddle tennis during the fall, winter and spring at various clubs in the area and now wish to construct a facility on the NPRC property for paddle tennis. This facility, as shown on the plans identified above in this Decision, would include three paddle tennis courts, a warming hut, viewing platform, fencing around the courts and pole lights to illuminate the courts. During the course of the hearings, the applicant clarified that they do not intend to construct any viewing stands as part of this project.
4. The applicant proposes to operate the paddle tennis facility from 8:00 AM to 11:00 PM, seven days a week, from October to May. During this time, the other NPRC facilities are closed. In response to issues raised by the abutters concerning noise and people potentially congregating after 11:00 on-site, and questions from the Board, the applicant agreed to reduce its requested hours of operation to 8:00AM to 10:00PM, with all lights out by 10:00 PM and all persons off of the NPRC property by 10:30 PM.
5. Paddle tennis is a popular outdoor sport in the Boston area, and there are a number of

facilities and leagues. The applicant would like to enroll as many as 150 members to the paddle tennis facility and include league play against teams from other towns or clubs.

6. The applicant intends to lease the portion of the NPRC property in which the paddle tennis facility will be constructed and operated to a separate but related entity which will qualify as both a non-profit entity under applicable law and a “private club not conducted as a business” for purposes of Section 3.2.1 of the Zoning By-Law. That Section permits use in a Single Residence A zoning district by such a private club upon issuance of a Special Permit by this Board.
7. It is not clear that the proposed lessee of this property, Needham Platform Tennis Club, Inc., a Massachusetts limited liability company, is a non-profit entity. At the request of the Board, the applicant has agreed to re-organize that entity (or to create a new entity in its place) as a non-profit entity in accordance with applicable state law (which may include changing the form of that entity to a non-profit corporation organized under M.G.L. c. 180).
8. The proposed location of the paddle tennis facility is a slight depression in the interior of the NPRC property which is currently undeveloped. It is separated from the residential abutters by the existing driveway from Central Avenue and the woods on the NPRC property between that driveway and the proposed location. The nearest residential abutter to the proposed location is 375 feet away (across Central Avenue), and the next closest group of residential abutters (along Starr Ridge Road) are 400 feet or more away from the proposed location. Construction of the paddle tennis facility will not require the removal of trees other than those in the immediate location of the proposed facility.
9. In response to questions from abutters and the Board concerning possible alternative location on the NPRC property for the paddle tennis facility, the applicant demonstrated that the existence of the NPRC septic system and its leaching field precluded locating the paddle tennis facility at any of the other suggested locations.
10. With three paddle courts, each of which holds a maximum of 4 players, the applicant estimates that the highest number of people that would be at the paddle tennis facility at any one time would be approximately 36 people. The existing NPRC parking lot, which would be empty and available for use by these people, contains approximately 80 parking spaces, so there will be sufficient parking for this facility available on site.
11. In response to complaints voiced by abutters at the hearing, the applicant agreed to prohibit parking along the driveway to the NPRC facilities.
12. A number of residents of Starr Ridge Road raised the issue of the applicant installing additional fencing or trees between the paddle tennis facility and their property to provide additional light and noise buffering. The applicant believes that there is not sufficient land on the side of the driveway nearest these residences to install a fence or trees, and that any such buffering would need to be installed on the abutters’ properties.

13. The Building Commissioner has requested that (1) the existing NPRC parking lot be restriped, (2) signage identifying the handicapped parking spaces be installed, and (3) a chain which restricts access by disabled persons be removed. The applicant has removed the chain and has agreed to comply with the Building Commissioner's other two requests.
14. Based on the photometric plan provided by the applicant and the testimony at the hearing, the proposed paddle tennis facility is not anticipated to cast any light beyond the boundaries of the NPRC property.
15. Based on the materials submitted to the Board concerning the noise generated by paddle tennis (in particular as opposed to the far noisier pickleball, which is played on a similar court), the testimony received by the Board, and the view taken by members of the Board of other operating paddle tennis facilities, the noise generated by the paddles and ball is not substantially different from that generated by a tennis game. At the view taken at the Wellesley Country Club, when standing approximately 375 feet away from the paddle tennis court, the Board members could barely hear the game being played. The Board acknowledges that the presence of spectators and the possibility of spirited play may create more noise.
16. The applicant desires to permit players and spectators to bring alcohol to the paddle tennis facility for consumption on-premises. Although the NPRC has similarly permitted alcohol on-premises on weekend nights without incident, the Board is cognizant that at the paddle tennis facility this could lead to problems of noise, litter and, possibly, unruly behavior. Based on the information provided to the Board concerning the general demographic of paddle tennis players, the Board is willing to permit alcohol to be brought to the paddle tennis facility for consumption on-premises provided that all alcohol is consumed within the warming hut. The Board will review this at the follow-up hearing to be required as a condition to issuance of the amendment to the Special Permit.
17. The applicant is considering the installation of one or more composting toilets within a bathroom inside the warming hut for use by players and spectators. The applicant has investigated the possibility of tying this toilet into the existing septic system serving the other toilet facilities at the NPRC, but has determined that it is not feasible to do so.
18. Although there are bathroom facilities in the NPRC clubhouse, these facilities would not be available for use by the paddle tennis players and spectators since they will need to be shut down after the summer season for a number of reasons, including possible freezing of exposed above-ground water pipes and liability concerns about permitting people to use these facilities when the rest of the NPRC facilities are closed and unmanned.
19. Any toilet proposed to be installed at the paddle tennis facility would have to comply with all applicable laws, codes, rules and regulations.
20. The applicant reported that there are wetlands on the NPRC property, but that the proposed project is outside of the wetlands areas and outside of the Conservation

Commission jurisdiction, based on the wetlands delineation provided to the Conservation Commission by the applicant and approved by the Conservation Commission.

21. In light of the fact that the paddle tennis facility will not be permitted to operate at the same time as the other NPRC facilities, the existing parking lot on the NPRC property, which contains approximately 80 spaces, is more than sufficient to accommodate the parking needs of the paddle tennis facility without any increase in the size of, or redesign of, that parking lot.
22. The proposed additional use of the NPRC property as a paddle tennis facility, and the proposed paddle tennis facility as shown on the plans referenced above, are consistent with the provisions of the 1962 Special Permit and the general purposes of the Zoning By-Law. In particular, the proposed facility has been designed to be compatible with the existing features of the site and otherwise to be compatible with the surrounding area.
23. The proposed additional use of the NPRC property as a paddle tennis facility, and the proposed paddle tennis facility as shown on the plans referenced above, will not create a demonstrable adverse impact on the surrounding area resulting from excessive noise or illumination.
24. Although the Board believes that the requested amendment to the Special Permit can be issued consistent with the provisions of the Zoning By-Law, in light of the fact that the paddle tennis facility would operate during the portion of the year that the NPRC's existing facilities have always been closed, and the concerns voiced by nearby residents, the Board believes it is appropriate to require the applicant to return to the Board after the paddle tennis facility has been open for several months so that the operation can be evaluated in terms of its effects on the neighborhood, especially in terms of noise, light spillage, parking, and issues relating to alcohol consumption.

Decision:

On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, amends the 1962 Special Permit to permit the construction and operation of three paddle tennis courts, together with an associated warming hut, viewing platform, fencing and lighting, all as shown on the plans identified above in the "Documents of Record" (collectively, the "Paddle Facility"), subject to the following conditions:

1. The Paddle Facility shall be constructed and shall be operated at all times by a private club which is organized as a non-profit entity (e.g., a non-profit corporation organized pursuant to M.G.L. c. 180) and which is controlled by members of the NPRC (such as by means of a majority of the members of the Board of that entity being members of the NPRC). The NPRC will enter into a lease with this entity to provide for such construction and operation. Prior to and as a condition to the issuance of any building permit for the Paddle Facility, the applicant shall provide to the Board an executed copy of this lease as well as evidence that the lessee named in the lease is both a non-profit entity and is controlled by members of the NPRC. The Board reserves the right

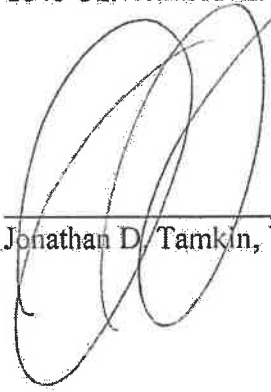
to request similar documentation from time to time in the future to ensure continued compliance with this condition;

2. No viewing stands shall be constructed as part of the Paddle Facility, but the viewing platform shown on the plans referenced above shall be permitted;
3. The Paddle Facility shall be permitted to operate between the hours of 8:00 AM and 10:00 PM from October 1 to April 30; provided that at no time shall the Paddle Facility be operated while the NPRC facilities are open and available to its members;
4. All outside lighting at the Paddle Facility shall be turned off not later than 10:00 PM (lighting within the warming hut may remain on until 10:30). Everyone must leave the NPRC grounds by 10:30 PM;
5. Alcoholic beverages may be brought to the Paddle Facility by individuals for consumption within the warming hut during operating hours of the Paddle Facility, but in no event shall alcoholic beverages be consumed outside of the warming hut (including on the viewing platform or elsewhere on the NPRC property) at any time. Any remaining alcoholic beverages not consumed shall be removed from the Paddle Facility by the end of operating hours each day and shall not be stored at the Paddle Facility;
6. All vehicles shall be parked in the NPRC parking lot. No vehicles may be parked on or alongside the driveway to the NPRC facilities;
7. No light from any light fixture (indoor or outdoor) constructed as part of the Paddle Facility may spill over beyond the boundaries of the NPRC property;
8. No pickleball shall be permitted to be played; the Paddle Facility shall be limited to use for paddle tennis;
9. Any toilet to be installed as part of the Paddleball Facility shall be installed, operated and maintained in accordance with all applicable laws, codes, rules and regulations, including, but not limited to, those of the Massachusetts Department of Environmental Protection and the Town of Needham, and otherwise in accordance with good industry practice to avoid the emission of odors or seepage of materials. A written maintenance plan for such toilets shall be filed with the Needham Board of Health;
10. The parking lot at the NPRC shall be restriped and signage identifying the handicapped parking spaces shall be installed, all as required by the Building Commissioner;
11. The applicant shall provide to the Building Commissioner, this Board, and any neighbor who requests, from time to time, the name and contact information for a representative of the operator of the Paddle Facility to whom questions and complaints concerning the Paddle Facility should be directed;
12. The applicant shall notify the Board upon the conclusion of the first three (3) months of operation of the Paddle Facility. The Board shall schedule and hold a hearing approximately 60 days after the receipt of the notice to enable the Board to evaluate compliance with the conditions of this Decision and to take such further action as may be appropriate at that time, including, but not limited to, adjusting the hours of operation, restricting the consumption of alcohol on-site, and requiring sound and/or light mitigation measures, all as the Board, in its discretion, deems necessary. All required Board public hearing notice protocols shall be followed; and

13. This Special Permit Amendment shall not be transferrable by the NPRC without the prior approval of this Board.


Jon D. Schneider, Chair

SIGNATORY PAGE – 1545 CENTRAL AVENUE



Jonathan D. Tamkin, Vice-Chair

SIGNATORY PAGE – 1545 CENTRAL AVENUE

A handwritten signature in dark ink, appearing to read 'Peter Friedenberg', written over a horizontal line.

Peter Friedenberg, Associate Member