

NEEDHAM PLANNING BOARD MINUTES

February 16, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Jeanne McKnight, Chairman, on Tuesday, February 16, 2021, at 7:00 p.m. with Messrs. Alpert, Jacobs, Owens and Block, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

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

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

VOTED: to automatically continue the meeting to 3/2/21 at 7:00 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting tonight and to authorize the Vice-Chairman to continue the meeting if the Chairman has technical difficulties.

Zoning Articles for May 2021 Annual Town Meeting, Review and Vote to Transmit for Hearing: Highway Commercial 1

Ms. Newman noted there were copies of the 3 Articles in our packets. This is the implementation of the Urban Design Plan presented at the community meeting. She did a series of 3 articles. The second Article is a change to the district to enable multi-family housing and the third Article is a map change. The reason for 3 Articles is the recent legislation that provides, to add housing, only a majority vote is required. Article 1 will be presented to provide the proposed uses, then move forward with Article 2 and then Article 3, the actual map change. Ms. McKnight asked her to review the substantive changes from the prior version of Article 1.

Ms. Newman noted the following changes: clarified that retail does not include grocery stores; dimensionals as presented at the meeting and the FAR remains the same. She upped the minimum open space requirement to 30% and the affordable housing is the same as presented. Ms. McKnight noted on page 1, #1, HC1 should be HC-1 to be consistent with the By-Law. In Special Permit Section 4.11.3, there is a reference to reduce the 20% open space requirement. Ms. Newman has fixed that to 30%.

Mr. Jacobs noted Section 4.11.1 at the end of footnote 1, 2nd sentence, the last paragraph is not clear. Ms. Newman stated that is intended to describe the setback along Highland Avenue. To take a stone bound point and measure it 700 feet. Mr. Jacobs feels it should say that – define the 2 ends of the 700' line. The 700 feet as shown on Figures 1, 2 and 3, being an extension of the existing property line, measures 361 feet. It should say 700 feet east of said stone bound/drill hole. Ms. McKnight noted the bearing needs to be made easterly instead of westerly. Mr. Jacobs noted there needs to be a reference to the 300-foot setback. Ms. Newman clarified it is 200 feet along Gould and Highland and 300 feet for the garage. Mr. Jacobs summarized it should say "700 feet shown along Highland Avenue as shown on Figures 1, 2 and 3, running northeasterly along the bearing." Ms. Newman will have Natasha Espada revise the drawing to make the ends darker lines for clarity. This discussion will be continued after the public hearing.

Decision: Major Project Site Plan Special Permit No. 2020-03: Hunnewell Needham, LLC, 393 South Main Street, Cohasset, MA 02025, Petitioner (Property located at 400 Hunnewell Street, Needham, MA). Regarding request to build new residential building with 8 units (see legal notice for more info).

Ms. McKnight noted there is a draft decision. Ms. Newman noted there are changes to the lighting and the times it will be on and off and a paragraph was added regarding blasting to require a permit through the Fire Department if necessary. The Board reviewed the changes. Ms. McKnight had one concern. In the second paragraph it mentions

the relief being sought, which includes #2, under Section 1.4.6, for a change and extension of a lawful, preexisting, nonconforming use. The only nonconformity she saw was the required 10-foot landscaping. Along the railroad right of way, where there is some parking, it is going to be paved and there would not a 10-foot landscaping setback. She thought it should say pre-existing, nonconforming structure. Ms. Newman felt she was misinterpreting the section on residential uses and noted multi-family residential use does not need the setback and landscape requirement. She noted the Oak Street development sought relief as a prior nonconformity and it was granted. The Board should be granting that relief. Mr. Jacobs stated a paragraph should be added that states “alternatively, if the above paragraph is incorrect then treat it as that”. Mr. Giunta Jr. stated this is distinguished from Oak Street. Oak Street had residential and commercial and different setbacks under 4.4.8.4 – other Business Districts. He feels it is cleaner not to have “Alternatively” in. Mr. Alpert asked what happens if an abutter were to appeal the decision based on this. The appeal would fall on Mr. Giunta Jr. and his clients to argue it. He suggests leaving it alone if Mr. Giunta Jr. wants it left alone. He agrees on the interpretation. Mr. Owens is satisfied.

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

VOTED: to grant the requested Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law: (2) the requested Special Permit under Section 3.2.2 of the By-Law for apartment or multifamily dwelling in the Hillside Avenue Business District: (3) the required Special Permit under Section 4.4.2 of the By-Law to exempt the basement level underground parking from inclusion in the Floor Area Ratio calculation: and (4) the requested Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.3 (Parking Plan and Design Requirements) of the By-Law, as modified by this decision with regard to the application for 400 Hunnewell Street.

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

VOTED: to adopt the decision in the last iteration presented with the changes discussed and agreed to at this meeting.

Mr. Owens recused himself from the public hearing and left the meeting.

Public Hearing:

7:30 p.m. – Amendment to Major Project Site Plan Special Permit No. 1991-3: North Hill Needham, Inc. (formerly known as Living Care Villages of Massachusetts, Inc.), 865 Central Avenue, Needham, MA 02492, Petitioner (Property located at 865 Central Avenue, Needham, MA, 02492). Regarding: proposal to construct 75 new parking spaces along a portion of the existing fire lane, widen the fire lane).

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

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

Evans Huber, representative for the applicant, noted this is further site plan review and permits. There is a 12-foot wide fire lane around the outer edge of the main building. A lot of residents and staff started parking along the unpaved edge and have continued to use this area to park. It does not comply with the requirements. The applicant wants to widen the fire lane to 20 feet and put in perpendicular parking spaces. This will create 75 new parking spaces and there will be site work and landscaping. The conclusion is, this will increase the spaces to 587 on site and all will meet all requirements. He reviewed the special permit requests. He noted there are 6 existing parking spaces next to the building that do not meet the requirements. There was a previous waiver for those spaces that was granted and bike racks were waived.

Mr. Huber stated he met with the Design Review Board (DRB) and the plans were approved. He noted there is a cooling tower in the area that needs to be replaced. It is intended to do this at the same time. The replacement is not part of site plan review and they would like it to be permitted and overseen by the Building Department. Ms.

McKnight noted the following correspondence for the record: a letter from Assistant Town Engineer Thomas Ryder noting he reviewed the plans and has no comments or objections; a memo from Fire Chief Dennis Condon, dated 1/20/21, noting he is satisfied with the plan but would like signage for the fire lane; approval from the Design Review Board, dated 12/28/21 and stamped 1/11/21, with no conditions; and a memo from Tara Gurge, of the Department of Public Health, dated 2/16/21, with comments regarding the cooling tower. Ms. McKnight stated she assumes the comments will be complied with. She wants to make it clear if the decision deals with the cooling tower.

Mr. Huber noted Section 7.4.6 indicates this is outside the scope of the site plan review. He would not like, in the decision, that they are required to comply to what is in the email. Mr. Alpert requested more information on the location of the fire lane and spaces. Justin Mosca, Project Engineer with Vanasse Hangen Brustlin, Inc. (VHB), stated this is at the back side of the existing individual living facility. It picks up where the last project left off. It circulates in a clockwise pattern and meets up with the other parking. It is a current paved area with unpaved next to it. Ms. McKnight asked if it is one way and was informed it was. Mr. Mosca noted the community gardens will be maintained. There will be parallel parking and then head in parking. The existing paved area averages 12 feet wide. This project works within the conservation area. There will be some grading down along the back side of the parking and there will be some retaining walls. Ms. McKnight asked who holds the conservation restriction. Roy Cramer, representative for the applicant, noted when North Hill was originally created the restriction went through the Zoning Board of Appeals who approved and named the Conservation Commission as the administrator. Ms. McKnight asked if the plans have been shared with the Conservation Commission. Mr. Cramer stated the Conservation Commission knows about the conservation restriction from prior plans. This project is out of the restricted area. He noted they are aware of it and have not expressed any opinion or objection.

Mr. Mosca stated the cooling tower located behind the H wing is outdated. It is being moved to a location behind the existing tower, and there is a pathway down to it for maintenance. For stormwater management, there are 2 bio retention basins being proposed along the outside parameter. Mr. Alpert questioned why the relocation and rebuilding of the cooling tower is not part of this site plan review. He has no objection but feels it is part of this project. Mr. Jacobs asked the distance from the proposed tower to the building and the nearest residence. Mr. Mosca stated it is 55 feet from the North Hill building and 260 feet to the closest residence. A discussion ensued. The proposed tower is 10 feet by 12 feet by 5 feet. Mr. Cramer stated there is no change in the number of bedrooms or units and the Building Department oversees maintenance type things. They feel the replacement of the cooling tower is ongoing maintenance.

Ms. McKnight asked how snow storage will be dealt with. Mr. Mosca noted snow will have to be hauled away. There will be guard rails where the slope drops off. Snow can be piled within the bays between the building. If a bay is not available the snow will be hauled. It will not be dumped in the wooded area or storm water management system. Roger Gurney, Project Manager, noted the current tower is 5.5 feet wide by 12.3 feet long by 9.3 feet tall. The new tower will be 5 feet by 10 feet by 12 feet. Mr. Jacobs wants it noted on the plan and to make sure it is subject to the Public Health comments. Mr. Alpert feels it is part of what is going on. He feels there should be some language in the decision that discusses the cooling tower and approving the movement and replacement of the tower.

Ms. McKnight instructed the Planning Director to include in the decision the precise information on the tower and would like a written communication with information on the tower. Mr. Cramer or Mr. Huber will send a letter with the dimensional information of the tower on it. Mr. Jacobs would like the dimensions of the pad, also.

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

VOTED: to close the hearing.

Mr. Owens returned to the meeting.

De Minimus Change: Heather Lane Definitive Subdivision: William John Piersiak, William John Piersiak, Trustee of the 768B Chestnut Street Realty Trust, Evelyn Soule Maloomian, and Koby Kempel, Manager of

the 766 Chestnut LLC, Petitioners, (Property located at 764, 766, 768-768A, and 768B Chestnut Street, Needham, Norfolk County, Massachusetts).

De Minimus Change: Heather Lane Extension Definitive Subdivision and Residential Compound: William John Piersiak, Petitioner (Property located at 768-768A Chestnut Street, Needham, Norfolk County, Massachusetts).

Robert Smart, Attorney for the applicant, has filed to amend 3 decisions. A notice has been sent to the abutter by certified mail. Heather Lane is 6 lots with Lot 4 being a Residential Compound and Heather Lane Extension is 5 Residential Compound Lots. There are 10 house lots total. Three lots are to remain. The applicant may want to move or demolish the structures on the existing lots. He noted the 8/11/20 decision contains a finding that the structures will remain. He has drafted 3 decisions after speaking with the Planning Director. The decisions allow the applicant to remove or replace the existing structures with a bond of \$3,500 per lot. He would like the decisions approved on a deminimus basis.

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

VOTED: to accept the 3 applications for Heather Lane Subdivision, Heather Lane Extension and the Residential Compound Special Permit each as a deminimus change.

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

VOTED: to approve the requested relief with regard to Heather Lane, Heather Lane Extension and the Residential Compound Special Permit.

Ms. McKnight noted the following correspondence for the record: an email from the Public Health Department, dated 2/8/21, with comments regarding process and off-street drainage bond.

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

VOTED: to accept the 3 decisions, as drafted, with regard to the 3 applications for Heather Lane, Heather Lane Extension and the Residential Compound Special Permit.

The Board took a 5 minute recess.

Zoning Articles for May 2021 Annual Town Meeting, Review and Vote to Transmit for Hearing: Highway Commercial 1 -- Continued

Ms. McKnight stated she went through all the comments and highlighted key points. She briefly reviewed. She noted general support for restaurants and retail shops but not destination retail and general support for family housing with comments that there should be no cap or a higher cap and more affordable units. Mr. Jacobs noted a group called Equal Justice wanted 3- and 4-bedroom units. Ms. Newman noted 40% are one bed and the rest are outside that class. Ms. McKnight noted there is a cap of 240 total units with 12½% affordable.

Mr. Jacobs stated the cap is arbitrary. He noted Mr. Eisenhut suggested no cap at all. Mr. Block noted rationale is important. He feels housing had been encouraged from previous comments and meetings. He stated 240 was allowed on the other side of 128 in the Mixed Use 128 district. He does not feel it is arbitrary but there are other sites in town that may be more appealing. He feels the cap should be kept at 240. This site was never intended to be for a larger multi-family development. Mr. Jacobs noted, his understanding by School Committee and the Select Board, is this would create the need for a new school and possible redistricting.

Mr. Owens stated the Board agreed to a number and he feels it was a compromise. That is the largest number he would accept. The town needs housing and less expensive housing in Needham. He does not want housing on this parcel. The town needs housing on the spine next to public transportation. There is no public transportation here.

He is content to stay with the 240 number. Mr. Alpert feels there needs to be a cap. He noted the initial vision for this parcel was totally commercial use and it evolved into some housing included. Having housing is an ancillary use. Ms. McKnight feels housing is something this Board should be looking at and also looking at appropriate sites. She noted other comments regarding FAR and height, which went in both directions and there were skeptical comments on the traffic study. There were concerns about Research and Development facilities with infectious diseases. That is within the province of the Board of Health and the state.

Ms. McKnight noted green space was mentioned by many and it has been increased from 20% to 30%. Mr. Block stated he is not sure how that change was made without the entire Board being included. Ms. Newman noted it was expressed at the Chair and Vice-Chair meeting last Friday. Mr. Owens stated it should not be in the draft without discussing it or informing the other Board members first. There needs to be discussion of the entire Board and not a discussion changing it after the meeting. It cannot be put in the public notice then decreased and made more restrictive. Ms. Newman stated if 20% was in the notice it could be increased to 25 or 30%. Mr. Block agreed with Mr. Owens. It was advertised as 20% at the community meeting. He disagrees with this process but not necessarily the number. Mr. Alpert would go back to 20%. He is uncomfortable with 30% as they are taking away 10% of the property. He would like to hear from Ms. Espada on this.

Ms. McKnight stated there were many comments on green space. Some felt more green space should be added as a special permit criterion. She asked if the 20-foot landscape setback requirement should be deeper than that. Mr. Jacobs commented, to make a change like that, he would like to hear from Ms. Espada. What does this mean for development possibilities? He noted if the decision needs to be made tonight he would not make the change. It will be left at 20%. Ms. McKnight stated there were many comments on recreation facilities. Mr. Jacobs noted some people would like the Town to take over the site and make fields and indoor recreation. He does not feel there would be support from the Select Board or the Finance Committee. Essentially that would be a taking.

Mr. Block agreed. If the Town takes over the land there would not be the revenue the town is currently receiving. He noted there is a demand for a recreation center with fields, pools, indoor courts and ice rinks. Ms. McKnight noted it could be a permitted use. Mr. Alpert stated the Board needs to look at what the role of the Planning Board is. They need to determine what can be done, not dictate what will be done. The Planning Board cannot force the Select Board to buy the land. They can only allow them to do it. Mr. Block noted retail uses are ancillary and almost incidental. He strongly recommends the retail-use size by right be reduced in a significant way. By right should be 7,500 square feet for any one individual retail unit and 10,000 square feet by special permit. He sees grocery as a potential benefit to the area. He feels above 10,000 square feet is destination retail. Mr. Owens agrees with Mr. Block's reductions. He wants retail as an ancillary use. Mr. Jacobs also agreed.

Mr. Alpert suggested 5,750 square feet by right, which is the currently-proposed limit, and 10,000 by special permit. All agreed. Mr. Block stated Town Counsel suggested housing should be separated out into a separate article. Mr. Alpert stated he and Ms. McKnight also looked at that and agree. He noted the new statute says multi-unit housing requires a majority vote and not a 2/3 vote. This needs to be presented separately in accordance with the new statute. A discussion ensued as to whether, if there is not a 2/3 vote, they would need a Town Meeting vote to withdraw the second article. Ms. Newman will contact Town Moderator Michael Fee to ask.

Mr. Block mentioned medical marijuana is an allowed use under the existing By-Law and seems to have dropped off. Ms. Newman note many uses have been removed. Medical marijuana was dropped in 2019 at the recommendation of the Council of Economic Advisors (CEA). It was agreed not to add controversial uses at this point. A discussion ensued regarding the setback for parking garages. Ms. McKnight asked where the setbacks are in the text. Ms. Newman stated she should refer to the image. Ms. McKnight noted the By-Law needs text and words as to what is being allowed and not just images. This needs to be clear to people. Ms. Newman noted it is the same language and approach as last time. Mr. Jacobs agreed it was awkward to rely on an illustration. Ms. Newman can add language under paragraph 5.

Ms. McKnight noted #3 says buildings along Highland Avenue and Gould Street must have an entrance on one of these streets. She feels this is too strict and should be waivable by special permit. People want a green edge all

around the parcel. Mr. Jacobs agreed he does not want a front door right on the landscaping and it should be waivable by special permit.

Ms. Newman noted this needs to be voted tonight and she reviewed the changes. In Article 1, adjust the size of retail to 5,750 square feet as of right and up to 10,000 square feet by special permit; in paragraph f, grocery is 10,000 square feet maximum; in Section 4.11.1, reflect setbacks as 200 feet off Highland Avenue in 2 places; description of 700 feet length of setback line should be revised to reflect that it is measured along the Highland Avenue street edge; correct the bearing representation and language; in paragraph 4, limit the open space to 20%; Section 4.11.2, paragraph b, is by special permit and paragraph 5, parameter for garage locations.

Mr. Block stated his preference is to keep things simple and keep the parking at 200 feet, the same as the other buildings. Ms. Newman noted Ms. Espada recommended the 300-foot setback for as-of-right parking. It could be closer by special permit. She noted in Section 4.11.3, the open space remains at 20%; in Article 2, the affordable housing will be 12½% rather than 12% and there are no changes to Article 3.

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

VOTED: to adopt the proposed By-Laws with those changes discussed.

Board of Appeals – February 18, 2021

16 Edwardel Road – Nader and Rhonda Sidhom, applicants.

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

VOTED: “No comment.”

1625 Great Plain Avenue – Joseph Dinneen and Cindy McGowan, applicants.

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

VOTED: “No comment.”

86 Plymouth Road – Lakshmi Balachandra and Patrick Stern, applicants.

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

VOTED: “No comment.”

Minutes

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

VOTED: to accept the minutes of 12/15/20, 1/4/21 and 1/14/21 as presented.

Correspondence

Ms. McKnight noted Article 6 that was in the packet. Ms. Newman noted the Attorney General has approved it.

Report from Planning Director and Board members

Mr. Block gave an update on the Fiscal Impact Study for the HC-1 rezoning. It will be updated to have the current date and updated uses and zoning scheme. It will be ready by the end of February and will go through the Finance

Committee. It will include some information on residential and warehouse uses as well. Ms. Newman stated it will bring it up to Fiscal Year 2021.

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

VOTED: to adjourn the meeting at 11:02 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul Alpert Vice-Chairman and Clerk