

## ***NEEDHAM PLANNING BOARD MINUTES***

March 2, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Jeanne McKnight, Chairman, on Tuesday, March 2, 2021, at 7:15 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 the Board members and staff. 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 but it will be continued. She does not expect any public comment. If any votes are taken at the meeting the vote will be conducted by roll call.

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

VOTED: to automatically continue the meeting to 3/23/21 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.

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

VOTED: to authorize the Vice-Chairman to continue the meeting if the Chairman has technical difficulties.

**De Minimus Change: Major Project Site Plan Special Permit No. 2009-06: Needham Farmer's Market, Inc., 28 Perault Road, Apt. #1, Needham, MA 02494 and Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioners (Property located at 1471 Highland Avenue, Needham, MA).**

Ms. McKnight noted the location for the Farmer's Market is in front of Town Hall again this year. Jeffrey Friedman, President of Needham Farmer's Market, stated he has applied for a renewal of their permit with 2 changes/additions. The term should be updated to 6/13/21 through 11/21/21 on Garrity's Way. This is the same location as last year. The Department of Public Works (DPW) will not renovate the town common this year. He noted the market will continue with Covid 19 protocols. There will be 2 artists with live music. He noted the rules can change with the Covid 19 rules. He will work closely with the Board of Health.

Ms. McKnight noted the following correspondence for the record: a letter from Jeffrey Friedman and the license application; an email from Tara Gurge, dated 2/26/21, with comments regarding live music noting the Board of Health will discuss further at a meeting closer to the opening; and an email from Police Chief John Schlittler, dated 3/2/21, with no issues. Board members had no comments or questions.

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 treat this as a de minimus change.

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 approve the requested relief and adopt the draft decision before us with the changes requested.

### **Public Hearing:**

**7:30 p.m. – 390 Grove Street Definitive Subdivision: Elisabeth Schmidt-Scheuber, 390 Grove Street, Needham, MA, Petitioner (Property located at 390 Grove Street, Needham, MA) Please note this is a re-noticed hearing that began on February 4, 2020 and is continued from the July 21, 2020, August 11, 2020, September 8, 2020, November 4, 2020, December 15, 2020, January 19, 2021 and February 2, 2021 Planning Board meetings.**

Ms. McKnight noted an email from Attorney George Giunta Jr., dated 3/2/21, noting an agreement had been reached last night with the abutters to table the subdivision. The Board also received a letter requesting the hearing be continued to 4/20/21 and the action deadline continued to 5/31/21. Mr. Jacobs stated the Board asked for Town Counsel Christopher Heep's opinion at the last meeting. He understands this was received and has been reviewed by the Board members. It was in the packet tonight and should be noted for the record.

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

VOTED: to continue the meeting to 4/20/21 and continue the action deadline to 5/31/21.

**Decision: 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). Regarding: proposal to construct 75 new parking spaces along a portion of the existing fire lane, widen fire lane.**

Mr. Owens recused himself from the hearing. Ms. McKnight noted she had contact with Phil Trussell, a resident of North Hill and received an email from resident Ross Whistler with a concern regarding lighting. She noted the Board received 2 plans with lighting. The plans are not helpful. She asked what the lighting would look like, would it be adequately shielded and the height of the fixtures. A lighting plan would have been more satisfactory. She noted the light should not be spread. She wants a condition to address lighting. Attorney Evans Huber had some wording if lighting was included as a condition. She read his email with the wording.

Mr. Block had no comments or questions. Mr. Jacobs was satisfied with the added condition and decision. Mr. Alpert stated he is concerned with some language such as commercially reasonable. He would be happier if the language is not as vague. Evans Huber, Attorney for North Hill, stated it is not North Hill's intent or practice to turn their backs on the residents, even if they are not obligated to do something. He will submit documents with greater detail of what the lighting would be. He stated the lights would not be streaming on the third floor balconies. It will be the same lighting as the rest of the campus with better shielding. He is confident the Board would agree a reasonable job was done. The information will be provided before installation.

Ms. McKnight noted the hearing should be reopened to accept an email from Ross Whistler, dated 3/1/21, with comments. A motion was made to reopen the hearing for the limited purpose of accepting the correspondence. Roy Cramer, Attorney for the applicant, stated they went to the Design Review Board (DRB), published notice of the hearing, the hearing was closed and this issue did not come up. He found out about it this morning. He feels it is not reasonable to reopen the hearing to accept this document. The applicant always intended to have lighting that does not shine into people's units. The motion was seconded. Mr. Alpert stated he agrees with Mr. Cramer that it is not appropriate to reopen the hearing given the timing. He would prefer to strike the word "reasonably" on the second line of the second sentence at the end after "plan." Mr. Block agrees the hearing does not need to be reopened.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Alpert, a roll call vote of the four members present was taken to reopen the hearing for the limited purpose of accepting additional correspondence from Mr. Whistler. Mr. Jacobs and Ms. McKnight voted it the affirmative. Mr. Alpert and Mr. Block voted in the negative. The vote did not pass.

Mr. Cramer noted, in his email, he wants Section 3.19 (d) deleted. That section says before anyone can park in the spaces a letter from an acoustical engineer needs to be submitted. The acoustical engineer said they do not give letters with open ended guarantees. He would not like this to hold up the project. He outlined some facts in his memo and noted this is a replacement of the same mechanism. He would like (d) deleted. Mr. Alpert stated there is a condition in the decision that the applicant comply with all state and local regulations. He is comfortable not requesting a specific letter be filed with the Building Inspector and removing (d). Mr. Jacobs stated he is also comfortable removing it. He feels Mr. Cramer's memo should be part of the record and referenced in the decision. Mr. Block also agreed and would support removing the requirement.

Ms. McKnight stated all information is not provided by Engineering. She feels (d) can be reworded. It does not say the cooling tower has been installed. She suggested the letter be changed to say, “the cooling tower has been designed” and not “installed.” It should also say “is not expected to exceed” rather than “shall not exceed.” She would like to see this wording in the decision. Mr. Alpert feels that information is already part of the record and there is a condition the project be built pursuant to the Plan. He does not feel it is necessary. Ms. McKnight disagreed. There was a discussion if the Planning Board needed to consider the cooling tower. Ms. McKnight feels there is not that level of detail in the Plan.

Mr. Alpert asked if Attorneys’ Huber and Cramer were ok with the language suggested by Ms. McKnight. Mr. Cramer stated getting the acoustical engineer to describe how the tower has been designed would be problematic. He is concerned with sound and not design. He would still like (d) deleted. He can revise his memo with the mechanical specification of the decibel level of the existing and the new. Ms. McKnight asked if the condition should be that the engineer provide the documentation that the cooling tower specifications are such that.... Mr. Block does not feel that is needed. There are 75 parking spaces and the replacement of existing equipment. He has heard sufficient information. He does not feel the Board should micromanage. The standards are already set by the state. Mr. Alpert noted there are manufacturer’s specifications. There could be a condition the applicant shall file, with the Building Inspector or the Planning Board, a copy of the manufacturer’s specifications for the cooling tower. Mr. Cramer stated it should be “sound data.” Mr. Alpert is comfortable having that information in the file. Mr. Block stated his preference would be to delete (d) but he is comfortable with the reference to sound data documents.

Ms. McKnight asked if the Planning Director had the language to substitute for (d). Mr. Cramer stated (d) should be deleted and he will redo his 3/1/21 email and make reference to the 2 sound data sheets. Mr. Jacobs stated the memo is convincing. It does not need to be redone. He feels it should be part of the record. Mr. Cramer noted Ms. McKnight wanted the dimensions of the pad. Ms. Newman stated it could be made a condition. Mr. Cramer can attach the 2 sheets and she will include the memo as Exhibit 9 and the letter with the 2 attached sheets will be Exhibit 10.

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 grant (1) the requested Major Project Site Plan Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law and Section 4.2 of Site Plan Special Permit No. 91-3, dated September 8, 2011, as amended; and (2) the requested Special Permit under Section 5.1.1.5 and 5.1.1.7 of the Zoning By-Law to waive strict adherence to the off-street parking requirements of Section 5.1.3 (Parking Plan Design Requirements) of the By-Law, more specifically, in Section 5.1.3(f), to waive the parking space size requirement of six existing parking spaces, and in Section 5.1.3(n), to waive the requirement to install bicycle racks; subject to the following plan modifications, conditions and limitations.

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 decision as drafted with insertion of a new Section 3.21 as set forth in Mr. Huber’s email, delete Section 3.19(d) and add to the list of plans 2 documents submitted after the hearing - a new Exhibit 9, which would be Mr. Cramer’s memo and a new Exhibit 10 being a corresponding letter with 2 data sheets that set out the decibel information.

Mr. Owens returned to the meeting.

### **Discussion of proposed dental use in the Center Business District at 32 Chestnut Street.**

George Giunta Jr., representative for the applicant, noted this is an informal discussion. The Art Emporium is gone, and his client would like to take over the area with a small dental practice. There will be 3 employees total – a dentist, an assistant and an administrative staff. Dr. Katherine Pennington Klein is Board certified in Orthodontia,

and is on the Faculty of Harvard Dental and Mass General Hospital. He noted this use would seem to be allowed by right. There is an existing Site Plan Special Permit on the property from back in 1998. Any change in use needs Planning Board approval. Ms. Newman noted the Board has no issue with this use. A similar use in 2015 went to the Zoning Board of Appeals (ZBA). The Planning Board recommended to the ZBA that dental on the first floor in the Business district was not an allowed use. Mr. Giunta Jr. felt a conversation was warranted.

Mr. Giunta Jr. feels the use is allowed. The “use” category has at the end uses are allowed by right if not enumerated elsewhere in this section. The Building Inspector feels this is a use allowed by right under consumer, craft, professional or commercial services. There is a distinction between office and general practice. He feels the dental office is more akin to consumer services than office. It is not dissimilar to other businesses that have been allowed such as a realtor, dentist, optometrist. This should be allowed by right. He asked if the Board was receptive to this use. Mr. Alpert noted he is reluctant to say the ZBA allowed a dental office and then not allow this. It would not be fair to other dentists. He would vote to approve the use. Mr. Owens stated he was persuaded by Mr. Giunta Jr.’s argument. Mr. Jacobs also agrees with Mr. Giunta Jr.

Mr. Block noted it was a creative interpretation and argument. He agrees with it. Dental is not preferred on the ground floor but this is not the place to interfere with the market. He feels it would be arbitrary to decline. Mr. Jacobs asked if the practice would be open full time, 40 hours per week. Ms. Klein stated that is correct. Ms. Newman asked how the window space would be handled. What is the plan for the store front? Ms. Klein stated it would be nice to have a window with an overlay and a reception area with a window open to allow sunlight.

Ms. McKnight stated she has a concern with Section 3.2.2. and what section is being referred to. She asked if this was a clinic under license. Ms. Klein stated it is not. Mr. Giunta Jr. noted medical office is a use and Section 3.2 mentions that use in other districts. He feels it is Section 3.2. Ms. Newman noted the term Medical Services Building was introduced at the time the Medical District Overlay was created (Section 3.6). She does not believe the term is used in Section 3.2. Ms. McKnight stated the Board should be rethinking the downtown in general.

### **Highway Commercial 1 Rezoning and Planning Study: Project Update.**

Ms. Newman discussed the process. She has been working with Judy Barrett and they have the framework for the Fiscal Improvement Analysis with the analysis done with a working group. The working group included Mr. Block, Ms. McKnight, Select Board member Marianne Cooley, the Assistant Town Manager, the Finance Director and Judy Barrett. She will walk through with the group the underlying analysis, where the assumptions have led and link it with the traffic study with FY21 data. She will make any appropriate adjustments to the underlying assumptions and articulate the conclusion of the report. She wants to be ready for the meeting on 3/16/21.

Ms. McKnight stated the MA Executive Office of Housing and Economic Development put out guidelines interpreting the new “housing choice” provisions of G.L. c.40A that she found helpful. If there are particular questions the Executive Office will respond within 30 days. Multi-family housing for the Muzi site would be dependent on whether it is a location eligible for a mere majority vote. She feels it would be good for Town Counsel to get the opinion of EOHD and feels the opinion would carry a great deal of weight. If it is not eligible, the second Article would require a 2/3 vote. How will the Moderator deal with this? Ms. Newman will reach out to the Town Moderator this week. The Board discussed the concept of eligible locations.

Mr. Block stated a Town Meeting member held a Zoom meeting tonight. He expects there will be some organized opposition, or some revisions sought on 3/16. Ms. Newman will work with Mr. Block and Ms. McKnight over the next week to get the tables done.

### **Report from Planning Director and Board members**

Ms. Newman wanted to discuss feedback on process. She noted the town received a grant for charging stations. The introduction of parking stations, re-striping of lots and parking spaces. It will be implemented across a number of different parking lots. Mr. Jacobs stated this could start as an insignificant change and, if Ms. Newman has concerns, she could come to the Board. Ms. McKnight stated if a waiver was granted or the parking meets the exact

number required, there is an issue and it should come to the Board. If that is not the case, it should be insignificant. Ms. Newman will get a list of the properties. Mr. Alpert asked if a parking space will be taken away or will it be limited to an electric car. It is still a parking space; just devoted to electric. Ms. McKnight stated if there is no loss of parking spaces it is insignificant.

Ms. Newman stated the Hillside School has been the temporary location for the Fire and Police. There was a condition in the decision the site be returned to the pre-existing condition and use. Steven Popper does not want to return it back. It will not be an elementary school again although the school administration may use it as a temporary use. What kind of application does the Board want? She assumes it would be a modification to an existing permit. Ms. McKnight stated she walks there a lot. People live right on the street to that property. She feels there should be a meeting so people can know what is being requested and have input.

### **Minutes**

Mr. Alpert noted, on the minutes of 2/3/21, he did not make the motion as he was not there. Mr. Block made the motion.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Owens, it was by a roll call vote of four of the five members present (Mr. Alpert abstained):

VOTED: to accept the minutes of 2/3/21 with the one change.

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

VOTED: to adjourn the meeting at 9:45 p.m.

Respectfully submitted,  
Donna J. Kalinowski, Notetaker

---

Paul Alpert, Vice-Chairman and Clerk