

NEEDHAM PLANNING BOARD MINUTES

October 19, 2021

All Planning Board members, Planning Board staff, and all those expected to present during the course of the meeting were admitted to the Zoom prior to the commencement of the October 19, 2021 meeting. The following people were present on the Zoom at or about 7:15 p.m.: Planning Board members Paul Alpert, Adam Block, Natasha Espada, Martin Jacobs and Jeanne McKnight; Director of Planning and Community Development Lee Newman; Assistant Town Planner Alex Clee; and the following panelists for the items on the meeting agenda Reg Foster, Margaret Moran, Nathalie Janson, Carys Lustig, Town Counsel Christopher Heep, George Giunta, Jr., Michael Tedoldi, Evans Huber, Pat Day, Susanne [unknown last name], John Glossa, John Gillon and John Diaz.

Beginning at approximately 7:15 p.m., Chairman Paul Alpert stated that the Planning Department had received an email that same afternoon from Mike Connelly. In this email, Mr. Connelly stated that Mr. Alpert had a conflict of interest pursuant to Chapter 268A, the State Ethics Law, with respect to the pending application concerning property located at 1688 Central Avenue. The public hearing on the application concerning 1688 Central Avenue was on the Planning Board's agenda for 7:45 p.m. that evening. Mr. Alpert stated that he intended to recuse himself from matter of 1688 Central Avenue that evening, and to postpone the public hearing on that matter until the Planning Board's next scheduled meeting, to allow time for him to obtain an opinion from the State Ethics Commission as to whether any conflict of interest affected his ability to participate in the matter further.

Planning Board member Martin Jacobs asked Town Counsel Christopher H. Heep what would happen in the event Mr. Alpert was found to have a conflict of interest with respect to the 1688 Central Avenue application. Mr. Jacobs' question was prompted by the prior recusal of Planning Board member Natasha Espada from participation on the 1688 Central Avenue application, which meant that a recusal by Mr. Alpert would result in only three (3) Planning Board members being able to vote on the application, fewer than the four (4) required by law to grant the requested zoning relief.

Mr. Heep stated he did not believe it likely that the State Ethics Commission would find Mr. Alpert to have a conflict of interest, but that in any event everyone would need to wait and see what guidance the State Ethics Commission would ultimately provide.

Evans Huber, counsel to the applicant for 1688 Central Avenue (Needham Enterprises, LLC), stated that in the event Mr. Alpert was found to possess a conflict of interest, he believed that Town Counsel would need to determine if another board within Town, such as the Zoning Board of Appeals, had the ability to hear the application in place of the Planning Board. Mr. Huber offered the opinion that if no other board was able to hear the application, the Planning Board might invoke the so-called "rule of necessity."

Mr. Heep responded to Mr. Huber that did not believe it possible for one permitting board to be substituted for another in response to a conflict of interest. Mr. Heep stated that the "rule of necessity" might be applicable, subject to consideration at a later date as to whether it might be properly invoked, in the event of a conflict of interest. Mr. Huber asked whether the public hearing on 1688 Central Avenue could proceed as scheduled that evening with only three (3) of the five (5) Planning Board members participating. Mr. Heep stated that it could not: Because four (4) affirmative votes are needed to grant the requested zoning relief, a quorum of the Planning Board for purposes of the public hearing on the application is four (4) board members. Given Mr. Alpert's recusal that evening, the Planning Board did not possess a quorum for purposes of the application for 1688 Central Avenue.

Pat Day, representative of Needham Children's Center, stated her disappointment with the delay of the public hearing on the 1688 Central Avenue application, and with the overall length of the public hearing to date. Ms. Day stated that had not played any part relative to Mr. Connelly sending the email accusing Mr. Alpert of having a conflict of interest.

Planning Board members Adam Block, Natasha Espada, and Jeanne McKnight did not comment.

At approximately 7:31 p.m., members of the general public were admitted to the Zoom and the recording of the meeting began.

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Tuesday, October 19, 2021, at 7:15 p.m. with Messrs. Jacobs and Block and Mmes. McKnight and Espada, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Alpert took a roll call attendance of the Board members and staff. He 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. He reviewed the rules of conduct for zoom meetings. He noted this meeting does include one public hearing. A matter has arisen that will be discussed at 7:45 p.m. which will necessitate opening and postponing the hearing to 11/2/21. There will be no public comment allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

Appointment:

7:15 p.m. – Discussion of Needham Housing Authority Modernization and Redevelopment Initiative.

Mr. Alpert introduced Reg Foster, Chair of the Needham Housing Authority, and Margaret Moran and Nathalie Janson both of the Cambridge Housing Authority, which is the NHA's consultant. Mr. Foster stated he has been on the NHA Board of Housing Commissioners since 2010. He wanted to introduce Ms. Moran and Ms. Janson and give the Planning Board a heads up. In mid-summer this year they launched the Modernization and Redevelopment Initiative (MRI). He wanted to give a brief opportunity for comments. The Housing Authority is starting a 5-to-10-year initiative. They were before the Planning Board 12/4/18 and presented a draft Facilities Master Plan. It was circulated to other parties and the final plan was published in 2019. He prepared a briefing document and reviewed it for the Board members. The first page is an excerpt from the Management Summary. There is a description of the 5 projects under consideration; modernize and preserve the Cook's Bridge property; redevelop the High Rock property; redevelop the Linden-Chambers property as it is not economical to do anything else, and add a new 61 unit senior/low income housing development to Seabeds/Cook. This is being done with non-taxpayer money. There is \$5 million in CPA money then private, state, and other sources for the rest.

Mr. Foster stated the Request For Proposals went out in April 2021 and they selected Cambridge Housing Authority as the consultant. He laid out the work plan for Phase 1 which will be 7/2021 through 3/2022. That will include the Cambridge Housing Authority presentation and their skills and abilities. Cambridge was chosen as they offered key advantages. He received 2 proposals from the private sector, but the most cost effective was the Cambridge Housing Authority who spent the last 10 years redoing all its public housing units. They have tremendous experience and have assisted other towns. He noted Ms. Moran played a key role in the High Rock redevelopment in 2005-2008 so she knows Needham. They are here to answer any questions and receive input from the Board members.

Ms. McKnight stated the Housing Plan Working Group will be studying their proposal. She stated she read the report a couple of years ago and does not understand what zoning is applicable to these projects. Cooks Bridge is in the Single Residence B District (SRB) and Lindenhambors is in the Single Residence A (SRA) and General Residence Districts. What legal authority were those developments originally built under? Was it state and federal funding so they were exempt from local zoning? Were any units built under 40B? She wants to understand any barriers our current zoning may present. Mr. Foster stated one task is to look into any zoning implications. Ms. Moran noted in 2005 the zoning was changed to create the duplex homes. Some may have been built under the zoning in place at the time and would be grandfathered in. They will be looking at the zoning implications to make

sure all are compliant. Mr. Foster stated they will be working with the Planning Department moving forward and have a transparent process.

Mr. Jacobs noted they are trying to anticipate any zoning change that may be needed to try to begin working on it as soon as possible. Mr. Foster stated they did a conceptual plan in 2019 and are trying to make it an actionable plan. Ms. Espada stated she is working with Ms. McKnight on the Housing Plan Working Group, and the next couple of months will be exploratory. It would be helpful if someone from his group could attend and help gather information. Mr. Foster stated the Housing Authority started working on this 10 years ago and has a large repository of information. The Planning Board can have access to all of that. Mr. Alpert thanked them all for coming.

Public Hearing:

7:45 p.m. – Major Project Site Plan: Needham Enterprises, LLC, 105 Chestnut Street, Suite 28 Needham, MA, Petitioner (Property located at 1688 Central Avenue, Needham, MA). Regarding proposal to construct a new child care facility of 9,966 square feet and 30 parking spaces, that would house an existing Needham child-care business, Needham Children’s Center (NCC). Please note: this hearing was continued from the June 14, 2021, July 20, 2021, August 17, 2021, September 8, 2021 and October 5, 2021 meetings of the Planning Board.

Mr. Alpert explained the hearing will be continued to the next meeting on 11/2/21 due to some communication that came in today forcing them to postpone. They received an email from David Lazarus, a neighbor, saying the hearing should be postponed to get the traffic study. They want the corridor analysis of that area of Central Avenue, specifically the intersections at Central and Charles River and Central and Country Way. That was not able to be done for this meeting. There was also an email from Mike Connolly who does not live in Needham. He stated his children went to Needham Children’s Center and he is speaking in favor of the proponents. The email says there is a “conflict of interest with the Chair,” and it has been reported to the Ethics Board, in that Mr. Alpert was a trustee of another child care center in Needham. Mr. Connolly wants to file a formal complaint as it was not disclosed. His e-mail stated the Chair has a conflict and should not be participating. Mr. Alpert stated he spoke with Town Counsel Christopher Heep today. They both feel Mr. Alpert should consult with the State Ethics Commission as to whether he should recuse himself. He will not participate tonight. If there were a hearing it would need 4 votes and there would not be a quorum to proceed tonight. Ms. Espada has recused herself from this at the beginning. Mr. Alpert hopes it will be resolved for the 11/2/21 meeting.

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

VOTED: to continue the hearing to 11/2/21 at 7:45 p.m.

De Minimus Change: Amendment to Major Project Site Plan Review No. 2013-02: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 1407 Central Avenue, Needham, MA). Regarding staffing at the Jack Cogswell Building.

Town Counsel Christopher Heep noted this is a request for a deminimus change. This is the DPW equipment storage building that was permitted in 2018. The intent was for it to be unstaffed and just for storage for equipment and that was captured in the Special Permit. At the onset of Covid 19 the DPW found the need to identify additional spaces to space people out. In January 2021 the applicant asked for up to 16 employees to report to the building in the a.m. and occasionally work there on a temporary basis. The Planning Board approved this request and incorporated it into the decision in January. The temporary application was for 45 days beyond the lifting of the state of emergency. The need to use the building is continuous. They are asking that the temporary occupancy permit be allowed to continue up to and including the end of April 2022 with all the same conditions.

Carys Lustig, of the DPW, has concerns with the operations if this is not allowed. They still need to keep the staff spread out due to Covid and quarantines if someone gets sick. They will vacate the Cogswell Building if all is better. Mr. Alpert commented he hopes they are not back here in April. Mr. Block asked whether, if there are 16 employees, are 16 parking spaces enough for the additional equipment and trucks. Ms. Lustig stated there have not been any issues or complaints. Mr. Block stated the request is for a particular period of time. He asked if there is a reason it should not say 8/31/22. Mr. Heep stated that would be beneficial. Coming to the Board he wanted to keep it a reasonably short timeline. Ms. McKnight asked if all DPW employees are under the federal vaccination guidelines. Ms. Lustig stated there is no order for the employees but about 95% are compliant. There are small clusters of breakthrough cases.

Mr. Alpert noted a letter from the DPW with no comment. There is a draft decision that will need the date changed in 2 places to 8/31/22.

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

VOTED: to accept as a minor modification.

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 grant the minor modification amendment to the decision in respect of application 2013-02 with the original decision dated April 2, 2013, Amended June 10, 2014, July 8, 2014, January 20, 2015, May 6, 2015, January 26, 2016, July 19, 2016, November 20, 2018, August 6, 2019, September 3, 2019, October 19, 2019, January 4, 2021 and June 1, 2021 and Insignificant Change on September 15, 2020 to effectively enable DPW staff totaling no more than 16 to be able to work in the premises currently in through August 31, 2022.

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

VOTED: with a change to the date, adopt the decision as drafted.

De Minimus Change: Major Project Site Plan Special Permit No. 2016-01: 57 Dedham Ave. LLC, 471 Hunnewell Street, Needham, MA, Petitioner (Property located at 15 & 17 Oak Street, Needham, MA). Regarding proposed changes to the approved plan.

George Giunta Jr., representative for the applicant, stated this is a request for a deminimus change to the Special Permit. The issue with the survey resulted in an incorrect property line and an improper setback distance was used. It measured from the building's wall rather than the overhang. Neither is significant but this will bring the plans into conformity. They are also requesting a minor change to the front landing and steps that are a bit different. The original plan showed a handicap ramp in front. This has been removed and has been moved to the back. Several minor changes were voted by the Board such as approving a transformer location change, installation of a pole and changes to the parking and handicap ramp. This was all approved by vote but there is not a revised decision. This will clean up all the issues, the applicant can finish the project and close it out.

Mr. Block asked what the intention was of having the handicap ramp in front. Mr. Giunta Jr. stated there was going to be commercial space in front, but it did not work out well. People will be pulling into the parking lot around the back of the building. It is a more logical location for the ramp in the back. The interior of the building changed a bit, and the front door does not access the spaces. The front door is more of an emergency egress. Ms. Espada asked where the public would come into the building. Mr. Giunta Jr. noted, with the redesign, people will come in the back of the building where the parking is. The back is the main entrance and accesses the elevator.

Ms. McKnight noted someone not familiar with the building, arriving by vehicle, who uses a wheelchair or walker, how would they know where to go. Mr. Giunta Jr. stated there is no immediate parking in the front of the building

or on Oak Street. They would turn into the drive and there is signage that the handicap ramp is around back. Ms. McKnight asked where the handicap parking is located. Mr. Giunta Jr. stated there are 2 spaces next to the ramp and he showed her the location on the plan.

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

VOTED: that the requested changes to the Special Permit for 15 & 17 Oak Street be considered a de minimus change not requiring notice or a hearing.

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

VOTED: to approve the amendment to a Major Project Site Plan Special Permit dated October 19, 2021 pursuant to Application No. 2016-01, originally dated March 29, 2016, amended by First Amendment and Restated Major Site Plan Special Permit dated November 1, 2016.

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

VOTED: to accept the decision as drafted.

Ms. Newman will modify the vote.

Request to Authorize Director to Authorize Occupancy Permit or Temporary Occupancy Permit: Major Project Site Plan Special Permit No. 2018-04: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 707 Highland Avenue and 257 Webster Street, Needham, MA). regarding replacement of Fire Station 2, Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 1407 Central Avenue, Needham, MA).

Ms. Newman stated she was approached by Steven Popper regarding getting an occupancy permit over the next 3 weeks. She wants to make sure she has the authority to issue a temporary Certificate of Occupancy provided there is adequate money held back under the contract to cover work on the exterior of the building that is not completed at the time of occupancy. Mr. Alpert asked how the holdback amount is determined. Ms. Newman noted there will be an estimate for unfinished work done by an engineer, then certification from the project manager and the town will hold back that amount of funds at 135%.

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

VOTED: to grant permission to the Planning Director to issue the necessary instruction to the Building Department for a temporary Certificate of Occupancy upon receipt of required documentation and sufficient holdback to complete any unfinished work.

Discussion of Warrant Articles for October 2021 Special Town Meeting.

Ms. Newman stated she wanted to talk about protocol and how the meeting will be run. It will be at Powers Hall. There will be 2 tables at the front of the hall and the Planning Board will be seated in the front row as a group. Presentations have been recorded but the Moderator wants people to make very short 2-to-3-minute presentations. Mr. Jacobs and Ms. Newman will not be at the meeting. Ms. Newman will watch on cable and will be available by phone. Mr. Jacobs will also be available by phone. Ms. McKnight noted their position on Article 12 Accessory Dwelling Units. The proponents are seeking to refer to the Planning Board for further study. She anticipated the Board would recommend a positive vote to refer. Mr. Alpert assumed it would be a report back to a future Town Meeting without a future date attached. He would like to keep it open ended as the committee will be discussing it.

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

VOTED: to recommend to Town Meeting Article 12 be referred to the Planning Board for a report back to Town Meeting at a later date.

Ms. Newman stated the Board voted the recommendations on the Planning Board Article. The members need to sign so she can get them to the Town Clerk before Town Meeting. Usually, the Board schedules a meeting ahead of Town Meeting and holds it open through Town Meeting. She is looking for a time for a zoom pre-meeting. She was thinking maybe 15 minutes on Monday the 25th. After discussion, it was decided there would be a meeting on the 25th at noon with a vote to continue that Board meeting through Town Meeting.

Minutes

Ms. McKnight noted the vote on the 6/29/21 minutes is different than in the decision on allowing convenience stores. Mr. Alpert agreed it should not include convenience stores. Ms. Clee stated the Board could verify with verification to be done.

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

VOTED: to give approval to the minutes of 6/29/21 and 7/20/21 pending final verification by Planning Board Staff.

Report from Planning Director and Board members.

Ms. Newman stated she was approached by the Town Manager's office regarding the policy on outdoor dining. The Board had relaxed the rules through 10/31/21. The Town Manager's office has received some requests to extend that to the end of November.

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

VOTED: to continue the relaxation of the outdoor seating policy rules from 10/31/21 through 11/30/21.

Ms. Newman noted the first meeting of the Housing Plan Working Group is this Friday. She is working on an agenda. Ms. McKnight stated Karen Sunnarborg put together an agenda, and they put together a timeline for tasks to be completed through the Fall of 2022. The collection of data and housing needs were put together. There will be monthly meetings then a community input meeting to hear needs and ideas for housing strategy. Then they will prepare the housing plan with goals and strategies. Then there will be community meeting to present the plan. They are likely looking at not the 2022 Fall Town Meeting but the 2023 Annual Town Meeting for action on any recommended zoning amendment. Ms. Newman noted Marcus has a conflicting meeting and cannot attend this first meeting.

Mr. Block stated he has reconstituted the Council of Economic Advisors (CEA) and created 3 subdivisions – 1) small business conditions in town; 2) cluster-based economic strategy and 3) other commercial districts that could be improved. They took a walk around downtown Chapel Street, upper Chestnut Street and Great Plain Avenue. Next, they will go down lower Chestnut Street. They will make recommendation to the Board of Selectmen. He will keep the Planning Board posted. He noted there may be the consideration of a brewery in town. He wanted to keep the Board posted. Mr. Jacobs stated all members of the CEA should have a copy of the Needham 2025 plan. Also, all Planning Board members should have a copy. Ms. McKnight stated his subgroup on small business should meet with the Housing Plan Working Group.

Ms. Newman stated electric cars needs clarification. The Board has approved installation of infrastructure of electric cars and had approved installations at the Public Service Administration Building at 500 Dedham Avenue.

All was supposed to be underground except the mechanics in front of the cars. They needed additional electric lines with overhead wires. They got rid of that option, but it will require the installation of a new transformer and the continuation of the fencing. She wanted to get feedback and if the Board is comfortable with her approving this. Ms. Espada clarified this is the front of the building and was informed it was. She asked if it could be screened with landscaping as it is encroaching into the front yard. Ms. Newman would suggest a deminimus process so the Board could be involved. Ms. McKnight asked if it was necessary to fence it for safety and was informed no. Ms. Newman will talk with Henry Haff and tell him the Board wants to see the proposal.

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 adjourn the meeting at 9:17 p.m.

Respectfully submitted,

Donna J. Kalinowski, Notetaker

Adam Block Vice-Chairman and Clerk