

NEEDHAM PLANNING BOARD MINUTES

April 12, 2022

The Special Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Tuesday, April 12, 2022, at 10:30 a.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 not include any public hearings and there will not be any 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.

Decision: Amendment to Major Project Site Plan Special Permit No. 2005-07: Carbon Health Medical Group of Florida, PA, 300 California St (Suite 799), San Francisco, CA and Needham Gateway LLC, 66 Cranberry Lane, Needham, MA, Petitioners (Property located at 100 and 120 Highland Avenue, Needham, MA). Regarding request for a new principal use in the subject property, described as a medical professional office providing primary and walk-in medical care.

Mr. Alpert noted there was a draft decision prepared, then the Board received an extensively red-lined copy from Attorney Rick Mann. He has reviewed the red-lined version. Most of his changes and comments go to the changes requested by Mr. Mann. All members have reviewed both versions. Mr. Mann was brought into the Zoom meeting. Mr. Alpert went through the red-lined version in order. On page 1, Mr. Mann put in a finding that Carbon Health is allowed as a matter of right. This is covered in the 3rd paragraph, and Mr. Alpert does not feel it needs to be added in the 1st paragraph. Mr. Mann stated he has no strong feelings about it. Ms. McKnight agreed with Mr. Alpert that additional wording is not necessary. Mr. Mann is happy to take it out.

Ms. McKnight stated in the 1st paragraph "shopping center" is used but is not defined. This is the place to define that phrase. Mr. Jacobs agreed. Mr. Alpert noted on page 2, Mr. Mann stated Exhibit 5 and 9 refer to the same thing. Ms. Newman noted that was correct and she will fix it. Mr. Alpert noted on page 3, he had no problem with Mr. Mann's one change to Section 1.1. In Section 1.2, the word "Board" should be inserted after "Planning." Ms. McKnight stated that "Shopping Center" is defined in Section 1.2, so it does not need to be defined in the 1st paragraph. Mr. Jacobs would prefer it be inserted on page 1. Mr. Alpert suggested taking it out on page 3 and inserting it on page 1. Mr. Block noted Section 1.5 has 8 staff. He would like added a note that not more than 2 would be a physician, physician assistant or nurse practitioner. Ms. Newman can move the Section 3.9 language over to findings.

Mr. Block noted the hours are 9:00 a.m. to 7:00 p.m. but the hours are modified elsewhere. Mr. Mann stated the hours were changed from the 8:00 a.m. to 8:00 p.m. that was in the application. Mr. Jacobs has no problem with longer hours. Ms. Espada and Ms. McKnight agree. Mr. Block asked which other businesses have been open prior to 9:00 a.m. and after 8:00 p.m. Mr. Mann did not know about the others, but Panera Bread has been. Mr. Block commented they are reducing the traffic factor to have longer hours, so he has no issue with it. All agreed to the hours of 8:00 a.m. to 8:00 p.m. Ms. McKnight noted in Section 1.4, 4th line, after "floor area" "premises" is not defined and not capitalized. It should be defined here as "The Premises." Mr. Mann suggested adding "Premises" here after "in the building." All agreed.

Mr. Alpert noted on page 4, Section 1.7, Mr. Mann added "from any previously approved changes." Why is that there? Mr. Mann stated it is not necessary. It will be removed. Mr. Alpert noted Section 1.9, 7th line, it says 43.33 seats. He thinks it should be spaces. Ms. Newman stated that would be correct. There are 130 seats but 43 spaces plus 20 spaces for 2 take-out stations. Mr. Alpert noted 2 lines below has 3,275 and 4,747. There should be "square feet" after those numbers. At the bottom of the paragraph, take out the last sentence that begins "In the event that the proposed future use of the building...." He stated the applicant is going to have to come back when there is a tenant for FW Webb. Mr. Mann is creating an out under certain circumstances not to come back.

Ms. Newman stated any use going into the Webb building would need a parking waiver. The Board will need to get rid of the parking waiver that was previously granted for that building. Mr. Mann disagreed. He does not see the logic with getting rid of the waiver. The applicant would absolutely have to come back. If the applicant subdivides the Webb building, and have tenants come in a progression of time, they may have an issue with the last one to come in. He does not want to get rid of the waiver. Mr. Alpert stated the parking waiver goes to the entire shopping center. Ms. Newman noted that, the way she drafted the ~~decision, the decision, the~~ parking waiver now to be ~~granted is~~granted is only sufficient to allow the use in the Carbon Health building and not the Webb building. Mr. Alpert stated that would bifurcate the parking requirement between the 2 buildings. The special permit allows 96 spaces for the entire shopping center. The Board has waived a total number of spaces so there are 96 spaces. Mr. Mann noted the Board granted the waiver based on a number of uses. The basic waiver of 30 should remain in effect. This is going down a path that is just not right. He suggested the differential between Carbon Health and what was there before. Why not say if a new use exceeds 25 spaces the applicant needs to come back? Mr. Block stated there is a potential some parking engineer did not get it right. Under any new lease it would require a presentation and further amendment to the special permit. Mr. Alpert stated the parking study showed, at the peak hour, there were possibly 87 spaces filled, which would leave only 9 spaces empty. At peak hours they do not have 24 spaces. Mr. Mann stated any retailer would be looking at the parking situation and would not want to be where there is no parking.

Mr. Jacobs noted he has to leave soon. He stated the Board should vote the relief and wordsmith it later.

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: (1) an amendment to Major Project Site Plan Review Special Permit No. 2005-07 issued by the Needham Planning Board under Section 7.4 of the Needham Zoning By-Law and Further Site Plan Review under Section 4.2 of Major Project Site Plan Special Permit No. 2005-07 dated January 24, 2006, amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012, July 20, 2021 and March 28, 2022 and (2) a Special Permit Amendment under Section 5.1.1.5 of the By-Law, to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the By-Law (required parking and parking plan and design requirements, respectively): subject to the following plan modifications, conditions and limitations.

Mr. Alpert stated the Board will finish the discussion on wording at the next meeting. Ms. Newman noted there will need to be a special meeting. Mr. Jacobs left the meeting at 11:30 a.m.

Peer review pursuant to M.G.L. c.44, §53G – Traffic impacts associated with the Highland Innovation Center, 557 Highland Avenue, Needham, MA.

Ms. Newman stated there was a filing on the Muzi property. There was a finding that a peer review was necessary. Greenman-Pedersen, Inc. (GPI) has submitted a proposal for a peer review. She stated the total amount would be \$30,598.84. Mr. Block noted it was \$34,650.89 on the spreadsheet.

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

VOTED: the Planning Board recommends the need for a peer review for traffic impacts associated with the proposed redevelopment of 557 Highland Avenue and further requires the developer to finance the peer review which shall not exceed \$34,651.

Executive session pursuant to M.G.L. c.30A, §21(a)(3) to pending litigation – Appeal of Planning Board decision on 1688 Central Avenue.

A motion was made to convene in Executive session. Mr. Block noted Ms. Espada was recused during the matter but has been named in the applicant's appeal. Both the applicant's attorney and the town's attorney have agreed to remove Ms. Espada from the legal proceeding. Mr. Block, Mr. Alpert and Ms. McKnight will be the only members of the Board participating in the executive session.

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

VOTED: to convene an executive session for the purposes of discussing strategy with respect to litigation being Needham Enterprises LLC vs the Town of Needham Planning Board because the Chair has determined that having the discussion in open session would have a detrimental effect on the Board's litigation position and to allow the Town Planner and the Assistant Town Planner to participate as non-members in the discussion and to adjourn at the conclusion of the session without returning to the open session at 11:30 a.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Adam Block, Vice-Chairman and Clerk