

NEEDHAM PLANNING BOARD MINUTES

March 28, 2022

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Monday, March 28, 2022, at 7:00 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 includes four public hearings and a statutory hearing on a Warrant Article and there will be 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.

Public Hearings:

7:20 p.m. – Amendment to Major Project Site Plan Special Permit No. 2005-07: Needham Gateway LLC, 66 Cranberry Lane, Needham, Massachusetts, Petitioner (Property located at 100 and 120 Highland Avenue, Needham, Massachusetts). Regarding request for the installation and use of an additional dumpster enclosure with up to three additional trash dumpsters for cardboard to be located within the parking lot.

Attorney Rick Mann, representative for the applicant, apologized for the 3/21/22 incident where a dumpster was placed against the residents' property line. Omaha Steak did not realize a new dumpster was being brought in. It took 2 to 3 days to remove it. He apologized to the abutters and noted that the applicant is adding 3 cameras in the parking lot. Mike Moskowitz, Property Manager, noted the fence from the property line to the corner of the building fence will remain. The other section will be removed. Mr. Mann showed how the recycling removal contractors will come in and out. They will come in from Second Avenue and put the back of the truck between spaces 2 and 3. The truck is 25 feet long and 9 feet wide. The door will swing toward Second Avenue. The dumpsters will be rolled out, lifted up and dumped. It will take about 10 minutes. He showed the corral. He noted the 3 dumpsters are all the same size – 80 inches by 40 inches. There will be 32 inches between 2 of the dumpsters and 65 inches between the other 2 dumpsters.

Mr. Alpert asked if the same contractor would pick up both sets of dumpsters. Mr. Moskowitz noted yes, but there are 2 different style trucks. The main trash dumpster truck comes between 8:30 a.m. and 10:00 a.m. The cardboard dumpster truck comes later in the day. Mr. Mann stated he asked the BSG Group to revise the calculations with the loss of one parking space. Mr. Block asked why not have the door open into space 1. Mr. Mann stated it makes it hard for cars to come in and swinging it the other way could invite some problems. Mr. Alpert noted there could also be a car parked there. Mr. Moskowitz noted the truck is 9½ feet wide and it is 25 feet from the property line to the truck. There is plenty of space to go around. The door swings flat to the fence and would be secured for the wind. The gate would not be blocking any areas.

Mr. Block stated the landlord needs to have someone physically present when the dumpsters are being dumped. This is very unfair for the residents. Ms. McKnight noted the flow of traffic could go in and take an immediate left or a regular left. There are many ways to maneuver around the parking lot. Mr. Alpert noted there were a couple of communications from neighbors requesting the cardboard dumpsters be placed next to the current trash dumpster. He feels this will create more issues within the parking lot especially where the truck may come later in the day. He also feels these spaces are only going to be used when the parking lot is full.

Ms. Espada thanked the applicant for all the information. It has provided clarity. She is concerned with the backup of traffic at the noon peak. She asked why not extend the current trash dumpster enclosure to create space for the cardboard dumpsters? This will get it out of the exit/entrance. Mr. Moskowitz stated it would take 2 spaces and those spaces would be closer to the shopping center. The spaces in back are rarely used. He noted, even with the truck, there is plenty of maneuverability. He noted they could request an afternoon pickup. Ms. Espada asked if he could request a non-peak pickup. She noted it would be important not to clog the entrance. Mr. Moskowitz stated he can make the request and see if they can schedule it. He noted there is a restriction with no pickups before 8:30 a.m. Mr. Block asked how tall the new

enclosure will be and the height of the existing enclosure. Mr. Moskowitz stated the new enclosure will be 6 feet tall and the existing is the same. Mr. Block stated he wants to make sure the cardboard is broken down and does not blow around.

Mr. Alpert noted the following correspondence for the record: an email from Elizabeth Kaponya with comments that the cardboard dumpsters should be next to the main dumpster and a request that the demolition dumpster be placed far away from the property line of the residents; a second email from Elizabeth Kaponya commenting there is plenty of space next to the existing trash dumpster enclosure, with pictures; and a letter received at 4:30 p.m. today from John Negoshian. The Board members did not have time to consider this letter for this meeting. Mr. Negoshian stated he would have liked to bring up all the issues previously. Mr. Alpert clarified this hearing is about the dumpsters. If other issues are causing a violation of the Special Permit, he should bring that to the attention of Building Inspector David Roche. Mr. Negoshian stated he brought up snow plowing because the dumpsters should be together. He took the measurements, and it would work. He does not want to call the Building Inspector and complain. He is not complaining about snow plowing but snow removal. The snow is piled too high and it is removed at night. There are 40 residential families within 150 feet of this. The snow could go where they want the new dumpster enclosure and the new dumpster enclosure can go next to the other one.

Mr. Alpert stated the snow plowing issue is not in front of the Board. He has not had a chance to look at if it is covered under the Special Permit. If there is a violation of the Special Permit the Building Inspector will take action. If it is not in the Special Permit, he feels it is a valid issue to bring to the Planning Board. Mr. Negoshian thinks if they are talking about trash, it all corresponds and becomes the same. The trash is blown under the fence. Mr. Alpert stated he is concerned about the hole in the fence. He has a note to discuss having it fixed so it is flush to the ground. Mr. Negoshian stated he does not feel the Planning Board in 2006 would have approved the cardboard dumpsters there. It will block the entrance and cause backups. The trash dumpster works now where it is, and the new dumpsters should be added there. Mr. Alpert noted it takes away 2 parking spots and when the truck is there it would be more likely to block traffic in the parking lot. Where it has been presented would be less likely to block traffic. He reminded people this is only for the cardboard.

Mr. Negoshian stated the existing trash dumpster is an electric dumpster and covered so nothing can blow around. He noted the walls are 10 ½ feet tall. Mr. Moskowitz stated Panera Bread is open until 10:00 or 11:00 p.m. He noted the fence can clearly be seen. The trees are not all that dense. Mr. Alpert stated the Board has Mr. Negoshian's letter. If he really has issues, he should take them up with the Building Inspector. This hearing is for the addition of the cardboard dumpsters. Or he could call Planning Director Newman and deal with his issues outside of this hearing. Ms. McKnight stated, in looking at the materials, she agrees with Mr. Alpert that snow removal is always being required. She does not remember setting a time limit. Mr. Alpert stated if it is not in the Special Permit, it is a legitimate concern to address at another time. Mr. Moskowitz commented there is a snow removal requirement in the special permit but no time limit. He believes the town snow dump only allows dumping at night.

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 close the hearing.

Mr. Alpert stated this will be discussed after all the hearings. Ms. Newman stated the Design Review Board has reviewed all the applications. Chad Riley of the Design Review Board is here and would like to give a brief report. Mr. Jacobs feels the Board should do the draft decision now for Needham Gateway. Mr. Alpert commented on the repair of the fence in Section 3.4. of the draft decision. The rear portion of the fence shall remain and be kept in good condition. There is at least one area where the trash is getting under. He wants language that the fence will be repaired or the ground filled in so there are no gaps. Mr. Jacobs agrees with it but would want it for the entire fence and behind the 11 houses. Mr. Alpert noted repair should be required to the extent the fence needs repair and any gaps under the fence filled in. He wants it to cover the entire fence. Ms. Newman noted there is a condition that indicates the fence needs to be repaired along the entire line abutting the residents such that no trash can blow under it. It is to be repaired and maintained.

Ms. Espada noted Section 3.5 says Plans, but she wants to make sure the Board knows the height. Mr. Block noted Mr. Negoshian stated 10 feet but Mr. Moskowitz stated 6 feet. Ms. Newman is going to mirror the current cardboard dumpster enclosure by the building at 6 feet and not the same height as the trash dumpsters. Mr. Jacobs noted it is easy to throw over a 6-foot fence and not so easy to throw over a 10-foot fence. Ms. McKnight thinks 6 feet is satisfactory. Mr. Block would like to request the enclosure be locked and he would go along with a 6-foot fence. Mr. Jacobs asked if a cover or roof could be on the enclosure. Ms. Espada noted a roof could cause issues with stormwater management. Mr. Jacobs asked how tall

the dumpsters are. Mr. Moskowitz stated the trash dumpsters are much higher than the cardboard dumpsters. The existing cardboard dumpster enclosure is 6 feet tall. The cardboard dumpsters are about 3 or 4 feet tall.

Ms. McKnight noted Exhibit 11, saying there needs to be a revised plan submitted to indicate the height of the cardboard dumpsters on the revised plans. Mr. Moskowitz will send the information to Ms. Newman in the morning. If it is 4 feet or less the applicant does not need to come back before the Planning Board. A motion was made to grant (1) an amendment to a Major Site Plan Review Special Permit issued by the Needham Planning Board on 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 and July 20 2021, under Section 7.4 of the Needham Zoning By-Law; (2) a Special Permit 2005-07, Section 4.2; and (3) a Special Permit Amendment under Sections 5.1.1.5 and 5.1.1.6, 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 suggested after Sections 5.1.1.5 and 5.1.1.6, adding the wording “of the By-Law.” All agreed.

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 (1) an amendment to a Major Site Plan Review Special Permit issued by the Needham Planning Board on 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 and July 20 2021, under Section 7.4 of the Needham Zoning By-Law; (2) a Special Permit 2005-07, Section 4.2; and (3) a Special Permit Amendment under Sections 5.1.1.5 and 5.1.1.6 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. Block questioned, regarding Section 1.3, what fence was previously approved? Ms. Newman noted the fence that runs behind the houses.

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 approve the decision as drafted for the Major Project Site Plan Special Permit dated 3/28/22 with the changes discussed at this meeting.

Chad Riley, of the Design Review Board (DRB), noted the DRB had hearings today on the 4 applications and he reviewed the hearings and findings. Mr. Riley noted all 4 applications were approved without additional conditions. There were 2 points of general conversation. The jersey barriers, provided by the Town, the applicants were encouraged to decorate but a condition would not be imposed. The CVS dumpsters will not move so there are no Farmhouse issues. He noted they found the applications to be good and positive contributions and all 4 were unanimously approved.

7:15 p.m. – Amendment to Major Project Site Plan Special Permit No. 2015-07: LATIN-A GROUP LLC d/b/a Latina Kitchen and Bar, Petitioner (Property located at 30 Dedham Avenue, Needham, MA). Regarding request to permit up to 28 outdoor seats by Latina Kitchen and Bar.

Antonio De Trizlo, owner of Latina Kitchen and Bar, would like approval for 24 outdoor seats located between the 2 buildings. The Landlord has agreed to the location. He wants 99 seats total. Mr. Jacobs noted the application says alcohol service. The applicant said yes but did not check the option. He assumes management will have dedicated personnel. –Mr. De Trizlo stated he would. The maximum number of seats is 99, which needs to be divided up between indoor and outdoor. There needs to be clear lines of what would be operational during what time. It would be 28 outdoor seats and 71 interior seats. Mr. Block stated the application says 29 outdoor. Ms. Newman noted the Building Inspector says 99 seats at any time. Mr. Alpert noted it would be 28 outside with a total of 99 seats.

Mr. Alpert noted outdoor seating would be allowed April 1 through November 30. Mr. De Trizlo is ok with that. Mr. Alpert stated there were multiple emails between the Building Inspector and the Planning Director discussing number of seats with a bottom line of 99 total; a letter from Acting Town Engineer Thomas Ryder, dated 3/24/22, with no objections; an email from Tara Gurge, of the Health Department, noting she concurs with the Building Department and has no other comments;

an email from Fire Chief Dennis Condon noting the Fire Department is ok with this; and an email from Police Chief John Schlittler with no issues.

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 close the hearing.

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 Planning Director to make modifications to the draft decision necessary to make it clear outdoor dining is allowed April 1 through November 30, then outside that window it goes back to 99 seats indoors and to grant (1) an amendment to a Major Project Site Plan Review Special Permit issued by the Needham Planning Board on October 27, 2015, amended May 23, 2017, transferred on May 21, 2019, under Section 7.4 of the Needham Zoning By-Law and Special Permit 2015-07, Section 4.2; and (2) a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modification, conditions and limitations.

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 accept the decision with the change of the number of seats to 28 outdoors and 71 indoors April 1 through November 30 and 99 seats indoors December 1 through March 30.

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 reopen the hearing.

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 waive the reading of the public hearing notice.

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 reclose the hearing.

7:30 p.m. Amendment to Major Project Site Plan Special Permit No. 2007-04: Dora Tavel-Sanchez Luz, Manager of Eat Farmhouse LLC, Petitioner (Property located at 970 Great Plain Avenue, Needham, MA). Regarding request to permit up to 58 outdoor seats by the Farmhouse Restaurant.

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 waive the reading of the public hearing notice.

Dora Tavel-Sanchez Luz, Manager of Eat Farmhouse, wants to continue with the patio and outdoor seating they had during Covid. They had 58 seats in the rear of the restaurant. She wants the season to be April 1 through October 31. There will be 76 seats inside during patio season. The restaurant wants to put more money into it with more permanent planters. Mr. Alpert noted there is a total of 134 seats. Ms. McKnight stated she is confused by what is being sought. She asked whether the outdoor seats under the existing Special Permit are limited to 64 with total seats inside limited to 100 seats. –Ms. Tavel-Sanchez Luz noted the Building Inspector said, with the bathroom capacity, they can only have 134 seats total. Ms. McKnight asked if the Board is approving a total number of permitted seats. Ms. Newman noted there are 134 total allowed during the outdoor dining season. The current Special Permit allows 100 but is limited to 40 during lunch hour. Ms. Tavel-Sanchez Luz stated they closed for lunch during Covid and have not reopened since.

Ms. Newman noted the bathroom capacity would allow them to accommodate only 134. Outside of outdoor seating season, the limit would go back to the base permit of 100 seats and 40 during lunch. Ms. Tavel-Sanchez Luz stated she had a permit

for 64 seats outdoor and now will have 58 outdoor. Mr. Jacobs noted the application for outdoor seating is wrong. The total number of seats is 100. Mr. Alpert noted the following correspondence for the record: multiple emails from Building Inspector David Roche; an email from Fire Chief Dennis Condon with no objections and an email from Tara Gurge, of the Health Department, with comments. Ms. Newman noted there were comments today from the Acting Town Engineer with no comments or objections.

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 close the hearing.

The Board had a discussion. Ms. Newman noted in 1.11, she will add the DRB comments and amend 3.1 and 3.2 so that they will stand on their own. Mr. Alpert noted in 3.7 they are adding an amendment to 3.2 that will say “the Petitioner shall limit the weekday restaurant lunchtime period (11:00 a.m. to 2:30 p.m.) to 40 of the 76 seats allocated for indoor table dining from November 1 through March 31 and 58 of the 76 seats allocated for outdoor table seats during lunch November 1 through March 31.”

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 a Major Site Plan Review Special Permit No. 2007-04, issued by the Needham Planning Board on May 7, 2007, transferred on November 5, 2012, further amended June 4, 2019, under Section 7.4 of the Needham Zoning By-Law and Special Permit 2007-04, Section 4.2; and (2) a Special Permit under Sections 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modifications, conditions and limitations, as stated in the amendment to the decision dated 3/8/22.

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 approve the decision with the one change.

7:45 p.m. – Amendment to Major Project Site Plan Special Permit No. 2015-06: Town of Needham, 1471 Highland Avenue, Needham, MA. Petitioner. (Property located at Existing Municipal Chapel Street Parking Lot, Needham, MA).

Town Counsel Christopher Heep noted they did not contemplate seasonal outdoor dining when the Special Permit was applied for and now want to amend the permit to allow the use by others on a restaurant-by-restaurant basis. The requests will be reviewed as they come in. This just allows for the use. Mr. Alpert noted Fire Chief Dennis Condon is ok with this.

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 waive the reading of the public hearing notice.

Ms. McKnight asked if there were any restaurants that are taking advantage of outdoor seating in this parking lot. Ms. Newman noted The James is coming in on 4/5/22 to make it permanent. Mr. Alpert noted Bagels Best has outdoor seating. Mr. Block noted Cook has seats in front and the rear. Ms. McKnight made a general comment that the signage at the entrance is inadequate to inform the public there is public parking. Mr. Block stated the Council of Economic Advisors (CEA) raised this some time ago. The Select Board took administrative action and acquired a number of signs. They are small blue signs not large enough to have an impact.

Ms. Newman clarified that if Cooks and Bagels Best want permanent outdoor seating it would go through the Select Board as their outdoor seating areas are on public property. The James outdoor seating is on private property and goes through the Planning Board. Mr. Alpert noted The James will be putting their seats on the 5 private parking spaces. They will be coming to the Planning Board and also the Select Board because of the existing agreement whereby the Town can use those 5 spaces in exchange for the consolidated dumpsters on the public property. Ms. McKnight clarified for the public, if

outdoor dining is approved for this public parking lot, the Town can allow outdoor seating for those restaurants that want it.

Lynn Claflin, of 229 Garden Street, asked if the season was going to be defined and was informed it was April 1 through November 30 in the By-Law. Ms. Claflin noted there will be a loss of parking spaces over there due to this change and asked where they will go. Mr. Alpert stated he cannot speak for the Select Board and what they would allow. He would guess the seating will be at the same places they are currently using. Ms. Claflin asked if there are quiet hours written in and snow removal. She hears loud karaoke from Cooks late at night and snow removal in the middle of the night. There is also the dumpster noise. She asked if there will be constraints. Ms. Newman noted the noise outdoors is from the outdoor dining that had been permitted under the Governor's order. There will be provision for noise control under the Special Permit. Ms. Claflin thinks outdoor dining is a great idea.

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 close the hearing.

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 grant: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law; and a Special Permit under Section 5.1.1.6, of the by-Law, to waive strict adherence with the requirement of Sections 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirement); subject to and with the benefit of the following Plan modifications, conditions and limitation as set forth in the decision before the Board tonight.

Mr. Alpert noted, in Exhibit 6, there is nothing from Tara Gurge or Thomas Ryder. Ms. Newman will eliminate the references for those.

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 approve the decision.

8:00 p.m. – Article 1PB: Amend Zoning By-Law – Schedule of Use Regulations Brew Pub and Microbrewery

Mr. Block noted in November 2020 the Manager of Economic Development in the town received a call from a person wanting to establish a brewery in town. The caller wanted to find out where he could put one. The Building Inspector did not think it was allowed in the Zoning By-Laws. The Board needed to make it clear it was allowed and where. Page 19 has a catch-all provision. A working group was set up and they put together a proposal for a zoning change to make it more clear. There are 2 types of breweries proposed – a brew pub and a microbrewery. He gave a description of a brew pub whose primary use was the sale of food and drinks. People could also buy food and drinks to take home. A maximum of 40% of brewery production capacity can be sold to other establishments.

Mr. Block noted a microbrewery is a facility that produces and sells brews. The maximum capacity is 15,000 barrels a year. The primary business is brewing, and the secondary business is food. Live indoor entertainment is allowed as long as it is permitted in the underlying zoning. He noted brew pubs and microbreweries were only by Special Permit and read the specific districts each are to be allowed in. The excluded districts would be residential or industrial districts. Ms. Espada stated she was reading the comments that the Planning Board has received, and asked if there is a provision for how far away from residences or residential zoning districts they had to be. Some districts where brew pubs or microbreweries are to be allowed about residential. Mr. Alpert stated all applicants would be required to get a liquor license from the Select Board and the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). They need to be a certain distance from schools and playgrounds. This should be brought up at the Select Board hearings when they request the liquor licenses.

Mr. Alpert noted there is a state statute that they cannot have a liquor license within 500 feet of a school or church unless the Select Board makes some findings. Ms. McKnight stated that under the proposed Zoning By-law amendment, none are to be allowed by right but all are allowable by special permit. The Planning Board could determine some other use is more appropriate. It will go site by site.

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 waive the reading of the public hearing notice.

Thomas Harkins, of 24 May Street, noted there are 214 commercial breweries in Massachusetts and 182 have tap rooms. There were another 22 opened in 2022. He is pleased the Planning Board is addressing this. The special permit process allows the Planning Board to address any concerns. He encourages the Planning Board to understand the importance of this article. He noted it says thirty gallons with (31) in parenthesis. It is actually 31.5. Louis Wolfson, of 29 Cimino Road, thanked Mr. Jacobs for all his hard work over the years. He noted Mr. Block overlooked the Industrial Zone in Crescent Road. Everything is allowed there. He hopes this would be allowed there. It is a matter of right to allow bottling there.

Ms. McKnight noted the only part of the Industrial District that is proposed for this use is a certain distance from Arbor Street. At this point it has not been advertised in other Industrial zoned areas. She does not think they can change what they were proposing. If it goes forward, and seems to be working in a year, they could try to expand it. By specifying breweries and brew pubs the door would be closed on allowing similar uses under the “bottling plant” use category since the Zoning By-law would define the specific terms “brew pub” and “microbrewery”. Mr. Alpert agrees with Ms. McKnight the proposed Zoning By-law amendment cannot be changed to expand what was specified in the public notice. He asked if that was an amendment that could be raised on the Town Meeting floor. Ms. Newman stated no, as it goes beyond what was noticed.

Mr. Wolfson noted every study, and everything else, has excluded Crescent Road. How can you exclude it? It is an overlooked area in town. He noted bottling is allowed there. Mr. Alpert stated it would require a further amendment. He would be willing to bring that to Town Meeting either in October or next year. Ms. Newman stated it was excluded due to the proximity to the residential district. Mr. Wolfson would appreciate if they took it up at some point.

Ken Gantz, of 26 Holmes Street, is hoping to bring the first microbrewery to Needham. He has an appreciation of craft beer that has been honed during the pandemic. The town is in a brewery desert. He feels this should be as broad as possible and judge the merits of each individual application. He is nervous because he is more interested in pursuing the microbrewery rather than the brew pub. Land is really expensive. By limiting the size of a tasting room to 25% the economics may not be there. His vision is an upscale brewery tap room.

Mr. Gantz stated he definitely will have food served but it would not be the primary business use. He asked if it should say “which may occupy no more than one half the area of the facility.” Does there need to be a divider? Mr. Block understands the confusion. The town will not have an establishment that produces alcohol and no food. That is a function of the policy. With a microbrewery, the large part is the creation of the beer. It could be a smaller area where there may be a tasting room but only 25% of the area can be a tasting room. Mr. Jacobs stated they need to define a tasting room and tap room and what the difference is. Mr. Alpert stated a tasting room has free samples. There is no charge to consume alcohol. A tap room is where you are charging for beer and food. Mr. Jacobs commented these definitions do not appear anywhere.

Ms. Newman stated a microbrewery makes the product, gives tastings and then has an area with food. Needham does not allow bars so there are currently no tap rooms. Mr. Jacobs stated a tasting room is not a defined term. Ms. McKnight noted the proposed definition of a microbrewery does not require a restaurant. It may include, as an accessory use, a restaurant. The concept is to be broad. Mr. Gantz is concerned people think food should be served, but whether just serving food in itself, does that make it a restaurant, or a tap room or a tasting room. He needs to know he would be able to have more than 25% for people to congregate. Food would be available whether it would be food trucks or someone bring food in. Mr. Alpert asked when does a brew pub become a microbrewery? Ms. McKnight noted it may include preparation “and/or” sale of food. Mr. Block stated they could bring in prepared food. There is flexibility in the definition, but they do need to further define a tasting room.

Mr. Jacobs does not know why the Board is getting into these square footage limitations. Why do we want to do that? Mr. Gantz stated the microbrewery definition allows wholesale distribution but not direct distribution. A brew pub does not mention wholesale. He asked why the brew pub language does not mirror the microbrewery language? Mr. Alpert noted a microbrewery includes retail and wholesale distribution. Ms. McKnight commented the regulations need to be looked at to make sure this is not more strict than it needs to be.

Artie Crocker, 17 Fairlawn Street, noted the Highland Terrace neighborhood and all the buildings that back up to Highland Terrace. He asked if brew pubs are allowed there. Also, outdoor music. He feels this would be a great addition to the town but feels protections should be put in now. Ms. Newman noted both uses are to be allowed in the Highland Commercial 128 District by Special Permit. Ms. McKnight noted the New England Business Center District also abuts the Highway Commercial 128 District. Mr. Crocker does not believe they should be allowed near residential, even by special permit, which is a consideration that he feels needs to be taken up now. Mr. Alpert feels the Board needs to plot a map and determine if there is already an ability to buy alcohol. Whether there should be a setback from residential should also be looked at. Ms. Newman noted the language needs to be finalized by next Tuesday.

Mr. Alpert does not feel this is ready to go to Town Meeting. Mr. Crocker agreed. Something needs to be done but they need to get it right and this is not ready. Mr. Block noted the language could be improved if the Board works hard over the next week. Mr. Alpert has no problem having Zoning By-law amendments before Town Meeting in the Fall. Elizabeth Kaponya, of 27 Highland Terrace and Town Meeting member Precinct J, thanked Artie for his comments. She feels a great spot for a microbrewery would be where Acapulco's used to be. The residents have been proposed a number of unfavorable things over the year. She feels they need a buffer so the residents do not have to fight. It would make it easier for all. It is a great idea to bring to Needham, but they need to be careful. She noted anything undesirable comes to Precinct J. Mr. Jacobs asked if Ms. Kaponya has a buffer distance in mind. Ms. Kaponya discussed with the abutters and they feel 500 feet would be reasonable.

Michelle Herman, of 33 Bridge Street, commended all for continuing the hearing so late into the evening and considering microbreweries. She is not a drinker but is a cannabis consumer. She would like some farm to table business in Needham. John Negoshian, of South Street, would like the language simplified. They are a neighborhood and have bedrooms 10 feet off the property line. He would like to address entertainment. People come outside to smoke and smoke travels. He wants the Board to find out the Massachusetts statutes and who supersedes who. Mr. Alpert stated applicants have to meet the requirements of both state and town. Mr. Negoshian feels the Board should learn what the state regulations are. The Board needs to do their homework. He did some research. The closest alcohol serving facilities are approximately 250 feet away from residents. He feels Blue on Highland is the closest to residents. He thanked Mr. Jacobs for his time served and wished him luck in his future endeavors.

Mr. Wolfson stated he had some initial concerns. He is in favor of brew pubs. The Board needs more time to put this together. The neighbors will speak at Special Permit hearings. The Board should reconsider industrial areas Hillside and Crescent prior to taking this to Town Meeting. Mr. Gantz stated he is a real estate attorney and has done his homework. He is interested in opening Needham's first brewery. He does not want the Board to let his line of questioning get in the way of progress. He feels the interest behind the By-Law amendment should be applauded. Putting it off for another six months or a year should not be done. They should consider that each applicant would be in front of them for a special permit. A blanket rule would create more confusion and restrictiveness.

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

VOTED: to close the hearing.

Mr. Block stated he would like to make an effort to make improvements and finalize for next week.

Decision: Major Project Site Plan Special Permit No. 2022-01: Needham Farmer's Market, Inc., 28 Perrault Road, Apt. #1, Needham, MA 02492 and Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioners (Property located at Greene's Field, Needham, Massachusetts, shown on Assessor's Plan No. 50 as Parcel 31-02 containing 108,278). Regarding request to operate a farmer's market on a portion of Green's Field on Sundays during the renovation of the Town Common.

Mr. Alpert noted his only issue was that Jeff Friedman noted Section 3.5 says at least 80% of vendors shall sell food products and Mr. Friedman wanted it more general. He represented there would be 16 vendors. That should be put in. The other question he had was on Section 3.13 of the draft decision – trash and waste. He feels the break out time is 2 hours from close so it should be 5:00 p.m. and not 6:00 p.m. Ms. Newman noted Mr. Jacobs had noted in 1.13 and 3.10, the term

Dedham Street Lot was used. It should be Dedham Avenue Lot. An Exhibit in 1.7 failed to make a reference and 1.6 used 11:00 p.m. and it should be 11:00 a.m.

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 grant: (1) the requested Major Project Site Plan Review Special Permit under Section 7.4 of the By-Law; (2) the requested Special Permit under Section 3.2.1 of the By-Law for a farmers market in the Single Residence B zoning district; and (3) the requested Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the off-street parking requirements of Section 5.1.2 (Required Parking) and 5.1.3 of the By-Law (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modifications, conditions and limitations contained in the amended decision dated 3/28/22 and further amended by the discussion tonight.

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 approve the decision with the changes discussed.

ANR Plan – Gordon C. Russell, Petitioner (Property located at 18 and 62 Brookside Road, Needham, MA).

Mr. Alpert noted this request is being delayed. The petitioner will come back with a revised ANR Plan.

Minutes

The minutes will be postponed until the next meeting.

Report from Planning Director and Board members.

The report will be postponed until the next meeting.

Correspondence

Mr. Alpert noted a correspondence from Jim Flanagan regarding putting ADUs on this Town Meeting but it is too late for this Town Meeting; a letter going to the Town Clerk regarding a request to withdraw the application of X Golf without prejudice; and a letter from Susan Welby regarding League of Women Voters Warrant Meetings.

Executive session pursuant to M.G.L. c30A, §21(a)(3) to pending litigation – Appeal of Planning Board decision on 1688 Central Avenue.

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 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 staff here – the Town Planner and the Assistant Town Planner -- to participate in the discussion and to adjourn at the conclusion of the session without returning to the open session at 11:25 p.m.

Mr. Alpert noted there is a separate zoom link for the Executive Session.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Adam Block, Vice-Chairman and Clerk

