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PLANNING DIVISION
Planning & Community Development

**MAJOR PROJECT SITE PLAN REVIEW SPECIAL PERMIT
DECISION
Application No. 2022-01**

**Needham Farmers Market, Inc.
Town of Needham
March 28, 2023
(Original Decision dated April 5, 2022)**

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Needham Farmers Market, Inc., 227 Eliot Street, Ashland, MA, 01721 and Town of Needham, 1471 Highland Avenue, Needham, MA, (hereinafter referred to as the Petitioner) for property located at Greene's Field, a Needham Park Facility, at Great Plain Avenue and Pickering Street, Needham, Massachusetts. Said property is shown on Assessors Plan No. 50 as Parcel 31-02 containing 108,278 square feet in the Single Residence B zoning district.

This Decision is in response to an application submitted to the Board on February 24, 2023 by the Petitioner for: (1) a Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law) and under Major Project Site Plan Special Permit No. 2022-01, Section 4.2, dated April 5, 2022, a Major Project Site Plan Special Permit Amendment; (2) a Special Permit under Section 3.2.1 of the By-Law for a farmers market in the Single Residence B zoning district; and (3) a Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the off-street parking requirements of Sections 5.1.2 and 5.1.3 of the By-Law (Off-Street Parking Requirements).

The requested Major Project Site Plan Review Special Permit Amendment would permit the operation of a farmers market on a portion of Greene's Field on Sundays for the 2023 season. Needham Farmers Market (NFM) operated on the Town Common and Garrity's Way during the seasons of 2017 to 2021; however, in 2022 NFM was required to relocate to Greene's Field due to a planned renovation of the Town Common in 2022, with Garrity's Way planned to be used for staging materials. The farmers market successfully operated at Greene's Field on Sundays beginning on June 12, 2022 through November 20, 2022. NFM was notified that the Town Commons is not available for 2023 due to the new landscaping's need for time for the new grass and trees to settle in and grow. Now, NFM requests to use Greene's Field for another season, from June 11, 2023 through November 19, 2023, inclusive, from 11:00 a.m. to 3:00 p.m. with setup time for the vendors three hours before business hours and breakdown time two hours after the close of business. The farmers market proposes to have a maximum of 18 vendors, who will use booths, canopies or other temporary structures on site. In addition to the vendors, there will be tables, booths or canopies for nonprofit organizations, six artists, artisans, musicians, and NFM's Market Manager. NFM also requests to obtain permission from the Planning Board to utilize Greene's Field in 2024 if the Town Common is not yet ready and/or the Town Manager and Park and Recreation Director so approve/desire.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted, and mailed to the Petitioner, abutters, and other parties in interest as required by law, the hearing was called to order by the Chairperson, Adam Block on Tuesday, March 28, 2022 at 7:00 PM in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264. Board members Adam Block, Jeanne S. McKnight, Paul S. Alpert, Natasha Espada and Artie Crocker were present throughout the March 28, 2023 proceedings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation prior to the close of the public hearing were the following exhibits:

- Exhibit 1- Application for a Major Project Site Plan Review Special Permit under Section 7.4 of the By-Law, and a Major Project Site Plan Special Permit Amendment under Major Project Site Plan Special Permit No. 2022-01, Section 4.2, and for Special Permits under Sections 3.2.1 and 5.1.1.5 of the By-Law, dated February 24, 2023.
- Exhibit 2- "Exhibit A", which consists of a plan entitled "Needham Farmers Market Layout - Greene's Field 2023."
- Exhibit 3- License Agreement between the Needham Farmers Market and the Town of Needham, dated February 9, 2023.
- Exhibit 4- Letter from Jeffery M. Friedman, President, Needham Farmers Market, dated February 17, 2023 with Exhibits B and C: Two Letters from Jeffery M. Friedman, President, Needham Farmers Market, both dated January 21, 2022.
- Exhibit 5 - Email from Jeffery M. Friedman, President, Needham Farmers Market, dated March 21, 2023.
- Exhibit 6- Email from Daniel Liebenrood, The Executive Board, First Church of Christ, Scientist, Needham, dated March 19, 2023.
- Exhibit 7 - Memorandum from Paula Jacobson, Executive Director, Charles River YMCA, 863 Great Plain Avenue, Needham, MA. 02492, dated March 23, 2023.
- Exhibit 8 - Inter-Departmental Communication (IDC) to the Board from Tara Gurge, Health Division, dated March 21, 2023 and March 22, 2023; IDC to the Board from Stacey Mulroy, Director, Needham Park and Recreation Department, dated March 21, 2023; IDC to the Board from Tom Ryder, Town Engineer, dated March 23, 2023; IDC to the Board from Chief Tom Conroy, Fire Department, dated March 5, 2023; and IDC to the Board from Chief John Schlittler, dated March 6, 2023.

EXHIBITS 1, 2, 3,4, and 5 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

- 1.1 The subject property is located in the Single Residence B zoning district at Greene's Field (Intersection of Great Plain Avenue and Pickering Street), Needham, Massachusetts. The property is owned by the Town of Needham and is shown on Assessors Plan No. 50 as Parcel 31-02 containing 108,278 square feet.

- 1.2 The Needham Farmers Market, Inc. is a nonprofit corporation and civic organization based in Needham with the purpose of operating a farmers market in Needham and advancing community goals of healthy food and diet, especially for children, as well as providing a meeting place for Needham residents.
- 1.3 Needham Farmers Market (NFM) operated on the Town Common and Garrity's Way during the seasons of 2017 to 2021; however, in 2022 NFM was required to relocate to Greene's Field due to a planned renovation of the Town Common in 2022, with Garrity's Way planned to be used for staging materials. The farmers market successfully operated at Greene's Field on Sundays beginning on June 12, 2022 through November 20, 2022. NFM was notified that the Town Commons is not available for 2023 due to the new landscaping's need for time for the new grass and trees to settle in and grow. Now, NFM requests to use Greene's Field for another season, from June 11, 2023 through November 19, 2023, inclusive, from 11:00 a.m. to 3:00 p.m. with setup time for the vendors three hours before business hours and breakdown time two hours after the close of business.
- 1.4 The Town of Needham has agreed to allow the Needham Farmers Market, Inc., to use the southern portion of Green's Field, a Needham Park Facility, at Pickering Street and Great Plain Avenue, for the operation of a farmers market from June 11, 2023 through November 19, 2023. This is pursuant to a License Agreement dated February 9, 2023, detailed under Exhibit 3 of this Decision. The application for Special Permit is for a one-year period as described under Section 4.6 of this Decision, with an option to extend to 2024 if the Town agrees to another License Agreement.
- 1.5 The Needham Farmers Market has proposed to operate under the exact conditions as previously approved Major Project Site Plan Special Permit No. 2022-01, dated April 5, 2022.
- 1.6 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.5 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 design requirements).
- 1.7 Under the By-Law Section 5.1.2, in the event that the Building Commissioner is unable to determine if a particular use relates to any use within the table of "Required Parking" (Section 5.1.2), the Planning Board shall recommend to the Building Commissioner a reasonable number of spaces to be provided based on the expected parking needs of occupants, users, guests or employees of the proposed business. Based on the Department of Public Works' recommendation, as recommended in Report 432 of the Planning Advisory Service for Off Street Parking Requirements for Farm Stands, the use requires 3 parking spots per every 1,000 square feet. The area of the property where the vendors will be stationed is calculated to be approximately 8,680 square feet. Therefore, in Major Project Site Plan Special Permit No. 2022-01, dated April 5, 2022, the Board recommended a total parking requirement of 26 spaces ($8,680/1,000 \times 3 = 26$). Accordingly, a waiver of 26 parking spaces was required then and associated waiver was granted. The Petitioner requests the same waiver for the year of 2023 and, if required, 2024.
- 1.8 Under Section 7.4 of the By-Law, a Major Project Site Plan Review Special Permit may be granted within the Single Residence B zoning district, provided the Board finds that the proposed development will be in compliance with the goals and objectives of the Master Plan, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, for the site

plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.

- 1.9 Under Section 3.2.1 of the By-Law, a Special Permit may be granted to allow a farmers market in the Single Residence B zoning district. On the basis of the above findings and criteria, the Board finds that the proposed use, as conditioned and limited herein, to be in harmony with the purposes and intent of the By-Law, to comply with all applicable By-Law requirements and to not increase the detriment to the Town's and neighborhood's inherent use.
- 1.10 Under Section 5.1.1.5 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure, or lot does not warrant the application of certain design and parking spaces requirements, but that a waiver of certain design and parking spaces requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances justifying the reduction in the number of required parking spaces and design requirements of the By-Law, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

THEREFORE, the Board voted 5-0 to GRANT: (1) the requested Major Project Site Plan Review Special Permit under Section 7.4 of the By-Law and under Major Project Site Plan Special Permit No. 2022-01, Section 4.2, dated April 5, 2022, a Major Project Site Plan Special Permit Amendment; (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 Sections 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.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Commissioner shall not issue any building permit, nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Commissioner to the Board prior to the issuance of a Building Permit.

- 2.0 No Plan modifications are required.

CONDITIONS

- 3.0 The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and permit conditions shall give the Board the rights and remedies set forth in Section 3.8 hereof.

- 3.1 The Board approves the use by Needham Farmers Market of a farmers market on the southerly portion of Greene's Field, as shown on the Plan, from June 11, 2023 through November 19, 2023, with an option to extend it through the 2024 season, with a relevant License Agreement signed by the Town and NFM.
- 3.2 The hours of operation shall be limited to four hours every Sunday, opening at 11:00 a.m. and closing at 3:00 p.m. from Sunday, June 11, 2023 through November 19, 2023.
- 3.3 The operation of the farmers market at Greene's Field shall be as described in Major Project Site Plan Special Permit No. 2022-01, dated April 5, 2022, Sections 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.13, 1.15, 1.16 and 1.17 and as further described under the support materials provided under Exhibits 1, 2, 3, and 5 of this Decision. All conditions from Major Project Site Plan Special Permit No. 2022-01, dated April 5, 2022 shall be in full force for the season of 2023, and 2024, if relevant, along with any additional conditions listed herein.
- 3.4 Section 3.11 from Decision Major Project Site Plan Special Permit No. 2022-01, dated April 5, 2022, shall be revised from the previous:
- “Free musical entertainment from individuals or small groups at the farmers market, such as flute, fiddle, or guitar players, may be utilized. Any required permits from the Board of Selectmen shall be obtained. Amplification, if any, shall be limited and no noise shall extend beyond Greene's Field. In the event of any complaint or issue regarding the noise, volume or amplification, the Planning Board shall retain jurisdiction to reevaluate the authorization for musical entertainment provided by this Decision.” To now say:
- “Free musical entertainment from individuals or small groups at the farmers market, such as flute, fiddle, or guitar players, may be utilized. Any required permits from the Board of Selectmen shall be obtained. Music shall only be sited at a fixed location as shown on the Plan. NFM shall provide a conspicuous sign at the locus with the name and phone number of the Market Manager presiding that day and the President of the NFM. Amplification, if any, shall be limited and no noise shall extend beyond Greene's Field. Musical entertainment may not begin before 11:30 a.m. In the event of any complaint or issue regarding the noise, volume or amplification, the Planning Board shall retain jurisdiction to reevaluate the authorization for musical entertainment provided by this Decision.”
- 3.5 This Special Permit to operate a farmers market at Greene's Field is issued to Needham Farmers Market, Inc., 227 Eliot Street, Ashland, MA, 01721 and may not be transferred, set over, or assigned by Needham Farmers Market, Inc. to any other person or entity without the prior written approval of the Board following such notice and hearing, if any as the Board, in its sole and exclusive discretion, shall deem due and sufficient.
- 3.6 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commission, or other agencies, including, but not limited to the Building Inspector, Fire Department, Department of Public Works, Conservation Commission, Police Department, Park and Recreation Commission, and Board of Health.
- 3.7 The Petitioner, by accepting this Approval, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, and that this information is true and valid to the best of the Petitioner's knowledge.

- 3.8 Violation of any of the conditions of this Decision shall be grounds for revocation of any building permit or certificate of occupancy granted hereunder as follows: In the case of violation of any conditions of this Decision, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Petitioner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Petitioner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in a recommendation to the Building Inspector to revoke any building permit or certificate of occupancy granted hereunder. This provision is not intended to limit or curtail the Town's other remedies to enforce compliance with the conditions of this Decision including, without limitation, by an action for injunctive relief before any court of competent jurisdiction. The Petitioner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this Decision if the Town prevails in such enforcement action.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this permit is limited as follows:
- 4.1 This permit applies only to the site improvements, which are the subject of this petition. All construction to be conducted on site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan.
- 4.2 There shall be no further development of this site without further site plan approval as required under Section 7.4 of the By-Law. The Board, in accordance with M.G.L., Ch. 40A, S.9 and said Section 7.4, hereby retains jurisdiction to (after hearing) modify and/or amend the conditions to, or otherwise modify, amend, or supplement, this Decision and to take other action necessary to determine and ensure compliance with the Decision.
- 4.3 This Decision applies only to the requested Special Permits and Site Plan Review. Other permits or approvals required by the By-Law, other governmental boards, agencies, or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.5 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.6 This special permit is for one season running from June 11, 2023 through November 19, 2023. The Petitioner may request an extension for the 2024 season.
- 4.7 This Decision shall be recorded in the Norfolk District Registry of Deeds. This Decision shall not take effect until (1) a copy of this Decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after this Decision has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied and (2) this Decision is recorded with Norfolk District Registry of Deeds, and (3) the Petitioner has delivered a certified copy of the recorded document to the Board.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

Witness our hands this 28th day of March, 2023.

NEEDHAM PLANNING BOARD

Adam Block
Adam Block, Chairman

Jeanne S. McKnight
Jeanne S. McKnight

Natasha Espada
Natasha Espada

Paul S. Alpert
Paul S. Alpert

Artie Crocker
Artie Crocker

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

3/28 2023

On this 28 day of March, 2023, before me, the undersigned notary public, personally appeared Adam Block, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was personally known to me, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Alexandra Lee
Notary Public name: Alexandra Lee
My Commission Expires: March 9, 2029

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Needham Farmers Market, Inc., 227 Eliot Street, Ashland, MA, 01721, and the Town of Needham, 1471 Highland Avenue, Needham, MA, for Property at the location of Greene's Field, shown on Assessor's Map No. 51 as Parcel 31-02, has passed,

 and there have been no appeals filed in the Office of the Town Clerk or
 there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail #
Town Clerk
Building Commissioner
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department
Jeffrey Friedman, NFM

Board of Health
Director, PWD
Design Review Board
Park and Recreation Commission