

## NEEDHAM PLANNING BOARD MINUTES

March 15, 2022

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Tuesday, March 15, 2022, 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 includes four public hearings 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.**

Rick Mann, Attorney for the applicant, gave the background. In 2006 a special permit for the center approved the installation of a single 6-foot-high dumpster in the center of the parking lot. Over time more dumpsters were needed. Around 2010 the applicant installed additional dumpsters for cardboard only at the rear of the building. A complaint was filed. He let the Building Inspector know he would file an application for the dumpsters. The Building Inspector allowed the dumpsters to stay until the Board made a decision on the application.

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 waive the reading of the public hearing notice.

Mr. Mann noted this was discussed at great length at the previous hearing on a separate application relating to the property. He has submitted a formal amendment application for the 3 dumpsters. He noted the applicant did cease use of the dumpsters and padlocked the corral. He noted the pickups of the original dumpster have been increased to 3 times per week. On Monday and Tuesday, a car was parked in front of the dumpster and so the trash could not be picked up. He noted the parking signage will be enhanced. The dumpster was completely full due to the missed pickups. Trash was put beside the dumpster inside the corral. The trash will be picked up tomorrow. He noted a demolition dumpster was put along the residents' area by Omaha Steak. Mike Moskowitz, manager for the property owner, learned of this and contacted the company to have it removed. It should be located near the rear of the site near Second Avenue.

Mr. Mann noted the new corral will be 9 feet by 21 feet and 6-feet high with 3 additional dumpsters inside the corral for cardboard only. All tenants have received notice of the prohibition from anything other than cardboard. The applicant is requesting approval of the Board to install an enclosure and dumpsters. This will decrease the parking by one space. The original parking was waived from 127 spaces to 97 spaces. The applicant would like to increase the waiver by one space for 96 spaces total. A letter dated 2/28/22 was submitted stating 96 spaces would be sufficient. He noted the dumpster enclosure will be padlocked after business hours. Mr. Alpert asked the applicant to define business hours. Mr. Moskowitz noted the dumpsters will be locked between 10:00 p.m. and 11:00 p.m. by Panera Bread and unlocked by Panera between 7:00 a.m. and 7:30 a.m.

Mr. Alpert noted the following correspondence for the record: a letter from Acting Town Engineer Thomas Ryder with no comments or objections; an email from Police Chief John Schlittler with no issues; an email from Fire Chief Dennis Condon noting he was ok with this plan; an email from Assistant Public Health Director Tara Gurge with no additional comments and an email from Elizabeth Kaponya stating all abutters agree all the dumpsters should be grouped together in the center island with no pickups on weekends, holidays or before 9:00 a.m., and with complaints regarding stray trash and garbage and including pictures.

Ms. McKnight asked what tenants are currently there. Mr. Moskowitz stated Panera Bread, Omaha Steak, Supercuts, Geiko in the first building, and F.W. Webb in the second building. There is also an office for Hammer Management. Ms. McKnight noted Panera will be generating most of the trash. She asked if the existing dumpster is the one that will be used for food and was informed it was. She asked what the limitation on time in the special permit was for dumpster pickup. Mr. Mann noted not before 8:30 a.m. to 6:00 p.m., Monday through Saturday, with no holidays or Sundays. Mr. Jacobs noted when listing the current occupants, Rafi Nova was not mentioned. Mr. Moskowitz stated he is subletting a portion for a couple of months from Geiko. His is mostly office related tasks. The company was big into the mask business, which has declined, and they will be out by June. He noted 2 people work there. Mr. Block stated he appreciates the applicant called out the deficiencies regarding the current dumpster and the arrangement with the overflow. He went today and took photos. He saw considerable amounts of food garbage outside of the dumpster. He did not see garbage elsewhere on site. He was disappointed the landowner had, for 10 years, installed a second dumpster without permission. There was a specific requirement where to put the construction dumpster and it went where it should not. He expected a higher level of hands-on management. It should have been put where the Board required it. He wants to solve this once and for all. Where the new dumpster will be has been identified. How big is it? Mr. Mann stated the corral would be 9 feet by 21 feet and 6-feet high.

Mr. Block asked the area of a parking space. Mr. Moskowitz noted it was the same size and the 3 dumpsters should fit. Mr. Block stated a concern is if one parking spot would be sufficient given the size of the dumpsters. He is not convinced one parking spot would do it. He would be prepared to waive 2 spots. Trash has been a problem for years. He wants to cure it now for the long-term. Mr. Moskowitz stated the cardboard dumpsters are much smaller than the current garbage dumpster. One parking spot will house the requested number of dumpsters. He noted the new enclosure is smaller than what is being replaced. Mr. Block commented the neighbors wanted this sited next to the current rubbish dumpster corral. Ms. Espada asked if there is a blow-up floor plan of what is being proposed to go in there. The proposed area may be too small and the dumpsters may be outside of it.

Ms. McKnight agrees with what has been said. She is concerned with how trucks will approach the dumpsters and open the gates of the enclosure. Mr. Moskowitz stated trucks would come in and block 3 or 4 parking spaces on the right and open the gates of the enclosure. Mr. Block asked if the doors could swing open if cars are parked there and was informed the doors could swing open. Mr. Jacobs stated there should be plenty of room. Mr. Block and Ms. McKnight are satisfied with the arrangements. Ms. Espada would like a plan to see how the dumpsters would be accommodated. She asked how often they would be serviced and was informed twice a week.

Mr. Block suggested closing the hearing subject to review of and satisfaction with the plan showing space for dumpsters and traffic flow. Ms. Espada is ok with that. Mr. Alpert stated he is inclined to continue the hearing and have the staff prepare the proposed decision. The Board can review the plan and abutters will have the opportunity to look at it and comment. Janice Epstein, of 75 Highland Terrace and a Town Meeting Member, stated quite a few people had trouble getting into the link for the meeting. She mentioned an easy fix to the trash problem. Where the old dumpster was, the piece of fence that connects the property is at an angle and at least ½ foot off the ground. If that gap in the fence could be patched it would be a help. The applicant needs to maintain the fence that borders the residential area. Mr. Block stated he walked the length of the fence and did not notice any dilapidation of the fence or any leaning. Mr. Moskowitz stated the old corral will be taken down. He commented he had put the fence up originally to prevent people from Highland Terrace from cutting through. Ms. Epstein stated the fence can stay but the corral should go. Mr. Moskowitz stated the piece of fence has to connect to something. If the Board wants the fence, he will keep the fence. He can remove the front and side of the corral and keep the back with the fence.

Ms. McKnight asked if it was advantageous for the abutters to have the fence or not. Ms. Epstein stated it was advantageous. Ms. Espada reiterated she wants a larger plan with what is going, what is remaining and a blow up of the dumpsters. Elizabeth Kapoyna, of 27 Highland Terrace and a Town Meeting Member, stated there has been one issue for a long time. The cleaning crew comes once or twice a week with blowers and blows trash under the fence into their yards. This needs to be addressed with the cleaning crews. They also come at 7:00 a.m. Mr. Jacobs stated trash should not be blown off the property. The cleanup crew needs to be told this. Mr. Moskowitz stated there is a big buffer zone with very dense trees. He does not believe his crew purposely blows trash beyond the fence. He will instruct them to not blow onto abutting properties.

Derek Wade, of 41 Riverside Street, stated he is a newer resident and has a suggestion. A dense residential abuts the commercial property and there is a very thin fence. Along the highways are larger fence-type structures. Has the owner considered any other barriers? Mr. Moskowitz stated the highway structures are very expensive and a fence is what was

approved by the Planning Board. Mr. Alpert recognized John Negoshian. Mr. Negoshian could not get sound or video. Mr. Alpert told him to put his comments in writing and email them to the Board. He can then speak at the next meeting.

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 continue the hearing to Monday, 3/28/22, at 7:00 p.m.

**7:30 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 a new principal use described as an indoor athletic facility providing computer simulated golf activities in the building. Please note: The Petitioner has requested that this application be withdrawn.**

**Request to withdraw application: Amendment to Major Project Site Plan Special Permit No. 2005-07: CNC Golf LLC, 113 Everett Street, Concord, MA and Needham Gateway, LLC, 66 Cranberry Lane, Needham, MA, Petitioners (Property located at 100 and 120 Highland Avenue, Needham, MA).**

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.

Mr. Alpert noted John Negoshian had his hand raised. He was brought over but had no audio. He was asked again to put his comments in writing.

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 accept the request to withdraw the application without prejudice.

Ms. Newman noted the applicant has requested a refund of the application fee. Mr. Jacobs asked how much staff time has been involved with this application. Ms. Newman stated there was minimal staff time.

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 application fee be refunded.

**7:40 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 a new principal use in the subject property, described as a medical professional office providing primary and walk-in medical care.**

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.

Rick Mann, Attorney for the applicant, noted this will be a medical office with primary care and walk-in care. He noted there are 2 building on the site with 2 acres. This is a densely developed commercial street abutting residential. He noted Omaha Steak, Supercuts and Hammer Management will all be leaving in the next 60 days. Carbon Health will occupy those spaces. There is no one for the F.W. Webb Building yet. He noted there are fewer retail tenants due to Covid. There is more online shopping. This medical use is a Florida professional corporation. It is owned by a doctor who is licensed in the Commonwealth of Massachusetts. The practice will have no more than 8 employees at any time and no more than 2 physicians. This district allows professional services establishments, and the zoning allows medical office. A professional medical office is allowed as of right and a medical clinic is not.

In a letter dated 12/29/21, Building Inspector David Roche analyzed the definitions and concluded Carbon Health fits the definition of a medical office and is allowed by right. The proposed use is not a clinic. On 1/4/21, there was an informal discussion with the Board focused on this aspect. Chapter 111, Section 52, cites an exception to solo or group practices solely owned by one practitioner. The question was if Massachusetts law allows an out of state corporation to operate. Dr.

Sujal Mandavia is a licensed physician by the Board of Registration. He is the sole corporate officer. He described the doctor's background and the process the doctor will follow. Doctor Mandavia is associated with Carbon Health. The Building Inspector has determined Carbon Health is not a group practice. He explained the definition of group practice and non-group practice.

Mr. Mann noted the proposed use will be in the space Supercuts, Omaha Steak and Hammer Management currently occupy. There are 11 parking spaces required for the existing uses. A medical use requirement would be 17 spaces, which is 6 more than the current uses. They are requesting a waiver of 6 spaces. The dumpster will eliminate one space, so they are down to 96 spaces. An 11/19/21 parking study was done by BSC Group Inc. The peak parking use would be 11 spaces. Mr. Alpert stated he wants to hear from the doctor and how it will operate. He would like to know how many patients max will be in the clinic at any one time and what type of services will be provided.

Dr. Ayobami Olufadeji, of 3686 Washington Street, Jamaica Plain, noted he is a physician and works at Beth Israel Deaconess Needham. He is the Director of Carbon Health, which is owned by Dr. Mandavia. They will treat sprains, colds, Covid, minor injuries and illnesses. There will be no more than 8 staff at any time and no more than 2 physicians. There will be some nurses, Medical Assistants (Mas) and a receptionist. There will be approximately 7 exam rooms but sometimes they will not open all the rooms. The reception area will hold 4 people at a time. There will be an x-ray facility and phlebotomy. He noted they will draw blood but will not process it. They will do lab point-of-care tests. There is not a lot of biological waste. There will be a work area, storage, bathroom, and lounge. At full capacity it can accommodate 13 people at one time. For a maximum there could be 13 patients and 8 staff for a total of 21. He noted they are never at that maximum capacity. The actual average is about 20-25 people a day. The busiest is no more than 30 patients a day. In the near future there will only be 4 staff – one medical receptionist, one medical assistant, one x-ray technician and one physician. The Boston location sees 15 patients per day with 4 staff. He noted there is a location opening in Dedham in June or July.

Mr. Jacobs asked if Dr. Olufadeji will be the physician on site. Dr. Olufadeji stated he rotates between sites. Sometimes they hire physician assistants or nurse practitioners (NP). Mr. Block asked if there will be a physician on site when it is not him or Dr. Mandavia and was informed no. Nurse practitioners and Physician Assistants (PA) are licensed to practice independently. Mr. Block questioned that there will be primary medical care at this site and there will be no other physician. Dr. Olufadeji stated it is possible they may hire another physician, but that person would not be an owner.

Mr. Block asked about how the doctor is compensated. Mr. Alpert stated he does not feel that is the Board's purview. He is concerned with one doctor covering 3 locations. Dr. Olufadeji stated they have certified and licensed PAs and NPs to cover. They will supervise the care and set the management and procedures. There is a possibility in the future of employing other doctors, but they would not be owners and would not be directors. They could employ doctors to work, and they would be employees. Mr. Jacobs understands there would not always be a doctor on site, but he asked if there will always be a nurse practitioner on site. Dr. Olufadeji stated there will always be someone who can provide care on site – either an NP or a PA, and a doctor with oversight. Mr. Jacobs asked about how much time a physician would be there and if this would be Dr. Olufadeji's full time job. Dr. Olufadeji stated he will float around at the 3 locations. Based on scheduling they may float or be at this location.

Mr. Jacobs asked, if someone needed medical care, would they be referred to the emergency room and was informed they would be. All NPs and PAs would have a scope of what they can do. If outside the defined scope the patient would be sent to the hospital. Mr. Alpert noted there are 3 anticipated locations. He asked if they would expand beyond the 3 locations and was informed they would be expanding. Mr. Alpert assumes there will be more doctors covering the multiple locations and he would not be the only physician. Dr. Olufadeji stated a medical doctor is not the only one who could provide basic care in office. If they had another medical doctor that person would be an employee.

Ms. Espada asked what the actual question is. Mr. Alpert stated the By-Law prohibits in this zoning district a group practice that consists of 3 or more professionals, and he read aloud the By-Law provision. In the Building Inspector's 12/29/21 letter he noted an NP or PA is not a professional under the By-Law definition. He is hearing there will only be 2 doctors so it is not a group practice. Mr. Jacobs stated he does not want to spend time on the group practice issue but the medical clinic definition. An easy way to find out would be to ask the state whether they need to be licensed. The real question is going to be if the language in the permit would repeat a lot of information and say, if any changes, this permit can be reviewed. What happens if the Foley and Lardner legal opinion is wrong and the state says it is a medical clinic and needs to be licensed? There would be non-compliance with the By-Law. Mr. Mann stated Carbon Health would have to recognize the

risk if the opinion turns out to be wrong. Mr. Jacobs agrees but wants to make sure all understand that. Mr. Mann stated those here tonight believe they qualify under the current law but recognize the risk.

Ms. McKnight asked why this is not a medical services building. It sounds like a facility where there will be a PA, NP and medical doctors who supervise but may not be on site. She does not see that fitting a medical office. She would like to know how it was interpreted in the past. She feels it is more like a medical services building. Mr. Alpert read the definition in the By-Law of medical services then read the definition of premises. This is not within the entire building. A discussion ensued as to why an NP is not a professional. Mr. Jacobs stated our By-Law makes a distinction. Ms. McKnight noted the Building Inspector is skilled at interpreting the code. If the Building Inspector says that is the interpretation the Board can say that is it. The medical world is changing, and the By-Law has not caught up with it. She finds it hard to believe it is a professional office as the Building Inspector determined. She is having a hard time coming to the same conclusion.

Mr. Jacobs stated he has no problem adopting the Building Inspector's reading. What if the state thinks this needs to be licensed at some point as a medical clinic and it violates our By-Law? Mr. Alpert feels they need to make a distinction. A clinic may not need to be licensed but each professional would need to be licensed under the state. Ms. McKnight asked if the members agreed with the Building Inspector. Ms. Espada agrees with Mr. Jacobs and concurs with the Building Inspector this constitutes a professional office. Mr. Alpert also agrees with the Building Inspector's letter. He feels this fits within the exception and does not need to be licensed. It fits in the definition of what is allowed in this space. The parking issue will take some time. He noted there are 5 people with their hands raised. He requested they not talk about parking. That will be taken up at the next meeting. Jill Kahn, Precinct I, agrees with Ms. McKnight regarding the definition. NPs are different from nurses and more akin to physicians. They are very similar to doctors. The By-Law does not reflect the change. She is skeptical about any health care for-profits. She asked the Doctor about horrible reviews for the Carbon Health Center. Most bad reviews were due to the fact they do not take insurance. She asked if the Boston facility takes insurance. Dr. Olufadeji stated they do take certain forms of insurance. The insurance application has to be applied for, but the center needs to be open in order to apply. He is currently applying to Blue Cross and Blue Shield. He noted it will not be a total for profit. Ms. Kahn stated the assumption would be when people go their insurance would be accepted. Dr. Olufadeji tells people with insurance if they will be out of network. The process of getting approval from the insurance company may take 6 to 9 months.

Patricia Baker, of 30 Highland Terrace, agrees with Ms. McKnight and Ms. Kahn. Since NPs and PAs are not professional and there is no doctor there, there are no professionals there in this facility giving care. She asked the doctor what percentage are walk-ins and how many are appointments. Dr. Olufadeji stated currently they are about 70% appointment based and the rest are walk-ins. Their preference is appointments. Ms. Baker stated she does not get the difference between this and a clinic and asked what the difference is. Dr. Olufadeji noted the difference is in the way they are defined. Mr. Alpert stated there is a legal definition of what needs to be licensed as a clinic. This does not need to be licensed as a clinic. Ms. Baker asked where the medical waste goes. Dr. Olufadeji stated there is a contract with SteriCycle who manages medical waste and removes it weekly.

Janice Epstein wanted to remind people not long ago there were long lines at CareMark. It can get quite crowded. By 10:00 a.m. at CareMark everything was booked, and they have 4 staff and one doctor every day. She does not think the Building Inspector had all the information when he made his determination. All health clinics should be licensed. There was a nightmare in the Town Center with the unlicensed Covid testing site. The neighbors are working with Mass DOT. There is currently no left turn out of the plaza and Mass DOT will keep that no left turn. Mass DOT said the Manager would need to put up a no left turn sign. Mr. Moskowitz stated if that is what Mass DOT wants, he will put up a sign. Ms. Epstein feels the [DPW – DPH?] and the state should look at licensing this.

John Negoshian, of South Street, gave the history of the property. The setback was supposed to be 50 feet and the abutters agreed to 24 feet. They never wanted a clinic. There are a lot of elderly on this street who do not have computers but have a lot to say. He stated he has different views on the dumpsters. Mr. Alpert encouraged Mr. Negoshian to put his comments in writing and send it to them. Mr. Negoshian would like to meet. He has a lot to say. He noted he has the right to appeal. Elizabeth Kaponya stated she did her research on Carbon Health out of Portland Oregon. The reviews say there are long lines, up to \$170 for a Covid test and they do not accept insurance. She went to their website and there is a General Manager of Clinics and a Medical Director of Clinics. Building Inspector Roche is not a medical professional. These things speak for themselves.

A motion was made to continue the hearing to 4/5/22 at 7:45 p.m. Mr. Jacobs noted that will be his last night on the Board. Mr. Mann asked if it was proper to have a vote on one part tonight and the parking waiver next time. Mr. Alpert thinks they

need to do it all at once at the end. Ms. Newman stated the Board would need to vote the decision that night or it would be only 4 votes.

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 continue the hearing to 4/5/22 at 7:45 p.m.

**8:00 p.m. – 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 farmers market on a portion of Green’s Field on Sundays during the renovation of the Town Common. Please note: this hearing is a continuation from the March 1, 2022 Planning Board meeting.**

Jeff Friedman, President of the Needham Farmer’s Market, noted the Board raised several issues last time that are now resolved. This is a new location but a continuation of the operation. There are some different issues. He read a 2/25/18 Certificate of Appreciation from the Select Board. He noted the Select Board members attend the market and have a lot of personal knowledge of the market. Town Manager Kate Fitzpatrick signs off on the application and license agreement. She also has first-hand knowledge of the market. Lisa Cherbuliez, Board member of the Market, discussed the new plan. They remeasured the field and forwarded a map to all Planning Board members with the layout. There will be 10 foot by 10 foot tents. She is waiting on the town’s determination of where they will put the electricity. There are 2 possible locations for the meat and egg truck. The vendors last year drove the trucks up to the market site because of the freezers on board. That vendor cannot do it this year, so they are looking at another vendor.

Ms. Cherbuliez noted the rules are clear that vendors are responsible to remove their own trash. There have been no problems in the past. She is working with the YMCA and another restaurant for bathroom agreements. Ms. McKnight noted the information provided is much better. The map shows how the tents would be arranged and there is a copy of the license agreement with a description of the licensed area. She is still confused where exactly the licensed area is. Ms. Cherbuliez stated it is the exact area in the map shown within the pink lines. It is 80,600 square feet and does not include the sidewalk. Mr. Friedman has been in contact with Myles Tucker of the Town Manager’s office. He is the Support Services Manager. He emailed him and he has no objection to the drop off procedures from Great Plain Avenue and Pickering Street near the walkways. There will be no traffic to or on Green’s Field. The electrical service outlets will be ready by opening day on 6/12. The trash procedures have been covered. He noted Needham Farmer’s Market has been on Town property for the last 8 years and he has worked closely with the Town Manager’s office.

Mr. Jacobs stated he does not see musicians on the chart. Ms. Cherbuliez stated their location would depend on where the electricity is. She thought near the flagpole by the back but needs to wait and see where they can be located safely. Mr. Jacobs asked how many musicians there would be and was informed one each shift. Mr. Jacobs noted there would be 13 tents for food separate from meat and eggs. Ms. Cherbuliez noted there could be pickles, relish, baked good and bread. Mr. Jacobs asked if they were all within the definitions in the By-Law and was informed they were. Mr. Alpert asked what a big belly was. It is a trash compactor.

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,

Ms. Newman will prepare an affirmative decision for the next meeting.

**Decision: Amendment to Major Project Site Plan Special Permit No. 93-3: Wingate Development, LLC, 63 Kendrick Street, Needham, MA 02494, Petitioner (Property located at 589 Highland Avenue Needham, MA) Regarding the conversion of the existing 142-bed skilled nursing facility to 50 Independent Living Units.**

Mr. Alpert noted he had reviewed the decision and has no questions or comments. Mr. Block noted the Board has received a revised site plan for the whole campus. He asked if there was anything related to the revised site plan that may require additional conditions. Ms. Newman stated she has not thoroughly reviewed it. Under 2.0 (b) it has to meet the standards and will be reviewed in conjunction with this decision. Ms. McKnight stated the decision says parking, under Section 3.4, has to be at least 96 paved spaces. The analysis says only 28 spaces are needed. She suggested some parking could be

converted to open space areas. She asked if the Board wants to say the applicant has to provide 98 paved spaces. Can we give them flexibility to eliminate spaces without coming back? Ms. Newman thought the Board would want to see any changes. This is designed so they would need to come back for review. It could be done as a de minimus change.

Ms. McKnight stated she is thrilled the applicant has agreed to 7 affordable housing units. Ms. Espada agreed. Mr. Alpert asked if the Attorney for the applicant has read the decision. Evans Huber, Attorney for the applicant, noted he had read the decision and sent it back to Ms. Newman with a few edits.

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) the requested special permit for 50 independent living units in the Elder Services Zoning District under Section 3.12. of the Zoning By-Law; and (2) a special permit for a Major Project Site Plan Review Amendment under Section 7.4 of the Zoning By-Law; subject to the following plan modifications, conditions and limitations, with respect to Application Number 93-3, as amended.

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 accept the decision as drafted.

### **Board of Appeals – March 17, 2022.**

#### **1154 Great Plain Avenue – Charles River Ballet Academy, LLC, applicant**

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: “No comment.”

#### **1183 Highland Avenue – Harvey Family Dental PLLC, applicant**

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: “No comment.”

### **Review and Discussion of DRAFT Compliance Guidelines for Multi-family Districts Under Section 3A of the Zoning Act.**

Ms. Newman stated comments are due on the draft guidelines issued by the MA Department of Housing and Community Development at the end of the month. She has worked with Katie King and they did a preliminary zoning analysis. She attached the draft letter the Town will send to the state. She noted comments need to be discussed tonight and the Select Board will discuss it next week. Mr. Alpert encouraged members to review and send comments to Ms. Newman. There will be time on 3/28 if any member feels the comments need a vote of the Board.

Ms. McKnight stated the biggest issue is the draft guidelines have been interpreted to mean that Needham is a Bus Service Community that should have zoning that could produce multi-family units equal to 20% of all existing housing units in the Town. DHCD is now rewriting the ambiguous language due to what DHCD says were typographical errors. She feels they should oppose Needham being categorized as a bus service community and insist Needham is a commuter rail community. If the goal is 15% of all existing housing units, they should reach for the goal but 20% is not doable. Mr. Block asked if the whole Board supports the goals and improvement opportunities. Mr. Jacobs stated it is the law. The question is what the Board thinks of the guidelines. Ms. McKnight stated another issue is the deadlines are unrealistic. It should be one year longer. Ms. Newman stated that issue is already noted in the draft letter. Mr. Jacobs commented 25 contiguous acres is not required by statute and he does not see the need that 25 acres of a zoning district be contiguous. He thought the draft letter was good. The Board should reflect the 3 issues discussed for the Town Manager.

A motion was made to communicate to the Town Manager that the Planning Board’s comments on the proposed guidelines are that the guidelines be revised to make clear Needham is a commuter rail community, that the time frame for compliance be extended to realize that the Town Meeting form of government takes time and that discontinuous zoning districts could be taken together to comply with the acreage requirements and need not be contiguous. Ms. McKnight stated she would

leave it up to the Town Manager to decide a time frame. It should be made clear that if there are 25 acres in total in a zoning district, they need not be contiguous. Mr. Jacobs commented the contiguous requirement should be removed. He noted that the A1 District only has 22 acres. A discussion ensued. Ms. Newman stated the districts could be lumped together.

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

VOTED: to communicate to the Town Manager that the Planning Board's comments on the proposed guidelines be revised to make clear Needham is a commuter rail community, that the time frame for compliance be extended to realize that the Town Meeting form of government takes time and that discontinuous zoning districts could be taken together to comply with acreage requirements and need not be contiguous.

### **Minutes**

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

VOTED: to accept the minutes of 10/5/22 with the changes.

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

Ms. Newman noted there is a Housing Plan Working Group Workshop on 3/24. Ms. McKnight, Ms. Espada and herself are working on it and hope for a large attendance. People need to register to attend. A survey will go out after the workshop. There will be break out groups to develop community wide goals. Then they will come back to the full group to identify strategies. They are hoping to get a lot of interest.

### **Correspondence.**

Mr. Alpert noted the following for the record: a memo from the Planning Director to Building Inspector David Roche regarding temporary occupancy for the Police and Fire Station; and a notice from the Wellesley Planning Board regarding an upcoming public hearing.

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

VOTED: to adjourn the meeting at 11:45 p.m.

Respectfully submitted,  
Donna J. Kalinowski, Notetaker

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Adam Block, Vice-Chairman and Clerk