

NEEDHAM PLANNING BOARD MINUTES

January 3, 2023

The Needham Planning Board meeting, held in person at the Charles River Room of the Public Services Administration Building and virtually using Zoom, was called to order by Adam Block, Chairman, on Tuesday, January 3, 2023, at 7:00 p.m. with Messrs. Alpert and Crocker and Mmes. McKnight and Espada, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Block took a roll call attendance of the Board members and staff. He noted this is an open meeting that is being held in public and remotely per state guidelines. He reviewed the rules of conduct for all meetings. This meeting does not include any public hearings, but public comment will be allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

Appointment:

7:05 p.m. – George Giunta, Jr.: Discussion of possible redevelopment and rezoning of property located at 888 Great Plain Avenue.

Mr. Alpert recused himself from this agenda item as his office represents an abutter. Mr. Giunta Jr. gave a history of the property. It is adjacent on 2 sides with the Business District. One side is in the Single Residence B (SRB) District but is occupied by 2 churches. This lot is zoned Single Residence but was used by a commercial nursery for decades. To use the property for how it is zoned does not make sense. The only other properties like this that are close would be the ones on Pickering Place. This property is unique in the downtown area, and it makes sense to rezone. He would like to extend the Center Business District and the Needham Center A overlay to this property and make a couple of other zoning changes to allow for redevelopment. There is a piece of property behind this property, between this lot and the municipal parking lot, that belongs to the Cox property.

Mr. Block asked if he has had any conversations with Mr. Cox or Town Counsel. Mr. Giunta Jr. stated he has not had any substantial conversations with Mr. Cox and none with Town Counsel. He noted he has been before the Board with 3 different designs. Each time the suggestions and concerns that were raised have been incorporated. There was a 3-story last time and a story has been added due to feedback. Ridge lines have been added as suggested and there will be a gambrel style roof on the 4th floor like the Dedham Avenue building. The building has been pulled back 20 feet, which gives a visual line going in and out. A patio has been added in the front where there could be seating for a restaurant or there could be a pedestrian seating area. The building is 25 feet from the side yard. Provisions allow the Planning Board to waive the side yard setback down to 20 feet.

Mr. Giunta Jr. noted there is one other change. Mixed Use development is capped at 18 units per acre. The applicant wants the 12.5% affordable cap increased. This building complies with almost all dimensional rules with an FAR of 2.0 but they are 2,500 square feet over. The applicant is proposing 5 affordable units. Under the overlay the FAR does not include the affordable units but adds back in the mechanicals. There are 34 units in total with 5 affordable. This project provides a number of 1- and 2-bedroom apartments in downtown. The first floor will have 3 units of retail with 4 units of residential in back. One of those units will be handicap accessible and affordable. The building will be handicap accessible. The affordable units will be one 3-bedroom, two 2-bedroom and two 1-bedroom units.

Mr. Crocker commented he did not recall anyone saying the building should be taller. He heard it should be pushed back with access in back, but he does not remember a suggestion to make it bigger. Mr. Giunta Jr. stated the building is not necessarily bigger, but a story is being added. Mr. Crocker noted the Cox building on Dedham Avenue has 3 stories and the 4th story is pushed back from the street, so you do not see it easily. Mr. Giunta Jr. stated the Cox Building is 60 feet. He feels that with 18 units per acre it makes sense to remove the cap limiting the number of units and make dimensional/density limitations to control what is done for the building. The Board

has the discretion to grant a special permit. It feels better with more units with 1 and 2 bedrooms than a smaller number of units with 3-bedrooms. He feels this is a win for everyone.

Mr. Block asked how similar is this to 50 Dedham Avenue? Ms. Newman stated that was built under the existing rules of the zoning presently. Mr. Block asked what the difference is between the zoning relief with this and the overlay district. Mr. Newman noted Mr. Giunta Jr. is asking for the zoning to be changed so the project can go forward. He is asking to change the rule to allow a special permit to waive the 50-foot setback from abutting residential district and get rid of the cap on the number of units. He is proposing an increase in the percent of affordable units required across the district from 10% to 12 ½%. She is not clear about what is requested as to an exemption on the FAR. Mr. Giunta Jr. stated it would not require any further review as the provision is already in the overlay. Mr. Block asked what the FAR under the overlay is for 50 Dedham Avenue. Ms. Newman noted it was up to 2.0 by special permit but she would have to see what was actually required. Mr. Crocker asked if affordable-unit square footage is included or excluded in calculating floor area. Ms. Newman noted a provision in Section 3.86 (a) excludes affordable-unit square footage in this district. Mr. Block asked how this is not spot zoning. Mr. Giunta Jr. feels this is not spot zoning as spot zoning has to be a benefit to a single property. This is uniquely positioned between commercial and residential. A single house is not realistic here and not the best use, so it is a benefit and not spot zoning. Mr. Block noted there is a high desire for an increase in housing density consistent with the MBTA Communities objectives and the housing objectives. His preference with multi-family is mixed use along the spine of the town. He feels this is a benefit. It has been pushed back to enhance sight lines. He asked if the Petitioner wants the Planning Board to sponsor it or will it be a Citizen's Petition. Mr. Giunta Jr. stated he would like the Planning Board to take it up for the May Town Meeting but would otherwise do a Citizen's Petition.

Ms. McKnight commented she appreciates the building was moved back for visibility. She wants to discuss a different use. This is a transition property between the Center Business District and the Single Residence B District. The Housing Plan proposes that these parcels be rezoned to Apartment A-1 like Rosemary Ridge, Rosemary Lake, the Highlands and Webster Green. This site is perfect for that zoning. The minimum lot size is 20,000 square feet, which this lot has, and the minimum frontage is 120 feet and this lot has 135 feet. This would allow 9 units. Apt A-1 has no affordable housing requirement currently, but they plan to add an affordability requirement for Apt A-1. There would be one affordable unit for every 10 units under the Center Business District overlay, but she wants to apply the 12.5% affordable which is one for 8 units. The front setback works. It would be considered a residential use, and the height limit is 3 stories at 40 feet. That is what the housing plan is proposing for this site. She is not in favor of the proposal presented by Mr. Giunta.

Mr. Block asked what Ms. McKnight sees as the regulatory difference between this development and Apartment A-1. Ms. McKnight stated she is not trying to match the Center Business District. She sees this as a transitional site and wants zoning appropriate to the area. Her point of view is this is not a prior non-conforming use but prior non-conforming dimensionally and she does not think that matters here in terms of development options. Mr. Crocker stated he sees nothing in the prior meeting notes about 4 stories. Ms. McKnight stated she had made the comment she would like to have the building moved back and, if possible, to compensate by going up on the site. Mr. Crocker would like it back from the road. He feels it will be high from the road and is concerned with all the cars going out on Great Plain Avenue. He heard no one wants this type of density. He feels it is too much and would not support this project here.

Mr. Block asked how many units per acre is this and was informed it is 64 units per acre. Mr. Block stated he is looking for 18 to be consistent with the MBTA Communities law's units-per-acre requirement. Mr. Giunta Jr. stated there is a minimum of 15 units per acre required by the MBTA Communities law and Apartment A-1 is 18 units per acre.

Ms. Espada appreciates the setbacks and amount of affordable units. She asked if there is a fence around the property or an opportunity for a fence. Mr. Giunta Jr. stated there is a fence along the right side now. There is no fence on the left side or back. Ms. Espada asked if there would be a connection to the back side of the property. She likes that it is Mixed Use and a transition space. The height and proportions do not look that much different

from the churches and nearby buildings. This gives 5 affordable units. She feels there is a huge benefit to that. There is a building that is a precedent nearby so that does not bother her. This is a huge opportunity of a transition space. Mr. Block agreed. There is a continuity with commercial to be on the first floor and a transition with density. It is still residential and that is achieving a number of municipal benefits. Ms. McKnight clarified Apartment A-1 has an FAR of .5 which would mean 8 units at 1,300 square feet on this site at that density.

Mr. Block opened the hearing for public comment. He encouraged all to send emails with comments. Oscar Mertz, of 67 Rybury Hillway, thanked the petitioner for the presentation and for advancing the design. He feels it does what Ms. Espada wants. He does not agree with Ms. McKnight on this. The Apartment A-1 challenge is it is .5 FAR. They need to be careful with units per acre. He feels it should be thrown out. He agrees with Mr. Giunta Jr. to let the building massing/envelope determine how many units. He asked the total housing square footage from the proposal of a year ago and now. He would urge working out a way to get in from the rear and get the garage in the back and not the front. Mr. Block noted if the drive came along the side of the building the landscaped area on the side would be lost. Mr. Mertz was saying the garage entrance should be in back and bring the pedestrian/residential entrance in front.

Joseph Leghorn stated he feels the Board is rushing forward to deal with the May Town Meeting. There are lots of questions that deserve attention. He would hold this over until the Fall to explore the difference between rentals and for sale. Ms. McKnight stated there is no distinction between condos and rental developments. There are the same dimensional standards. Mr. Leghorn asked what constitutes downtown? The development adjacent to the Congregational Church is 25% affordable. Why make an exception here at a transition property to a lower number? Ms. McKnight stated the church was developed under a friendly 40B. The Town is no longer required to approve 40B applications as we have met the 40B affordable housing requirements, but the Zoning Board of Appeals (ZBA) still has authority to grant permits under 40B, and that is what happened. Mr. Leghorn suggests if the Board wants to move forward in an informed way this be postponed at least until the Fall. His opinion is this is an attempt to ram this through. Mr. Giunta Jr. stated applying the A-1 District to this site, you would get a maximum of 8 units with one affordable and all surface parking. This is a different look and feel project. He does not feel that is the appropriate use of the site. Mixed use development is more appropriate for this site. Mr. Block stated he is looking to achieve a similar objective. He asked if Mr. Giunta Jr. intends to speak with other town committees. Mr. Giunta Jr. had an informal working group discussion with the Select Board and will likely have more with the anticipated change in membership of the Select Board.

Mr. Crocker stated there is a tremendous lack of green space on this project. He would like to see green space. He is not sure what can be done except reduce the building. He feels this building will be taller than the Christian Science Building. Dedham Avenue is next to residential, so it is not the same scenario. This lot is 80 to 85% grass and almost all of that would be gone. It is too much. He wants some mixed retail there and it should be set back. This will have a very visual impact. The petitioner should do something better. This does have some nice features and about 33,500 square feet of living space. That is a 24% increase in living space compared with the prior proposal, and the applicant is saying the unit sizes went down. Mr. Giunta Jr. stated the commercial space was 9,000 square feet under the last plan and is now 5,000 square feet. Some of the increase in residential is because the commercial was reduced. Mr. Crocker noted this is quite different from what was presented a year ago. He feels maybe 3 stories with one story pushed back would be ok. Mr. Block stated he needs to give this some thought. It would be a tight timeframe for May Town Meeting.

Discussion of Zoning Articles for Spring Town Meeting.

Mr. Block stated 2 articles originated through the ZBA – the 3-car garage in Single Residence B (SRB) and liberalizing the Accessory Dwelling Units (ADU) requirements. Ms. McKnight is proposing to allow 3-car garages in SRB but does not want to see 3-car garages facing the street. Three car garages on the side of the building generally have a good appearance and sometimes in the basement level of the house with a driveway that goes down, which does not seem bad either. If it is a separate structure in the back yard, it is ok. She does not want 3 garages in front. She is proposing, on 3-car garages that face the front setback from the façade of the house, if the

garage is set back at least 5 feet from the front of the house it is allowed. An applicant would need to go to the ZBA if the 3 garages are together in front to get a special permit. She welcomes Jon Schneider's response.

Mr. Block stated he supports this, but he worries that by regulating the design the Board is micromanaging. There is a Design Review Board (DRB) to approve this. It is disadvantageous to properties that cannot have a side garage. Ms. McKnight stated there will still be front facing garages allowed but with a third garage it would be required to be setback 5 feet from the house. If it is a special permit, the DRB has a function to review and send recommendations. Mr. Crocker asked, in the current zoning, do garages have to be set back from the house. Ms. Newman noted they do for new construction. Mr. Alpert asked if the same rules for SRB third garage would be set for SRA fourth garage. Ms. Espada noted it should be reviewed as a special permit.

Jon Schneider, Chairman of the ZBA, stated he came to the Planning Board about 3 years ago and requested 3-car garages be allowed by right in the SRB District. He stated he has had a lot of requests and all the requests were approved. Currently the process is burdensome to the owners and the town. Three car garages are normal to have. He does not see how they can deny the requests. A lot of time is spent having special permit hearings on these. There is a 25-foot setback for front facing garages on new construction. He feels it is an unnecessary complication to require the garages be around the side. These garages are not necessarily unattractive. This should be simplified and let people do it. He thinks it is a good thing and will get cars and boats off the streets. Mr. Block agrees these should be by right and the Board should not micromanage.

Mr. Alpert stated he disagrees with Ms. McKnight and Mr. Crocker. He thinks they are managing the design and not what can be done by right. He appreciates that when dealing with something like the Muzi site but not on individual issues. He took a drive around and did not have an issue. He agrees with Mr. Block and Mr. Schneider that 3 car garages should be made as of right. Ms. Espada understands what Mr. Alpert is saying to simplify it but the Planning Board does not have a lot of say with the houses. There are incidents in SRB where lots and houses are smaller and garages tend to be bigger. Ms. McKnight stated people are not being restricted from building by right. A discussion ensued.

Mr. Crocker, Ms. Espada and Ms. McKnight feel if there are 3 garage doors in front and on the same plane it should be a special permit. Mr. Schneider and the ZBA will likely give them a special permit as it is always granted. Ms. McKnight wants it respected that she took this very seriously, did a study and produced a report. If an applicant wants 3 doors on the same plane, and must go through the special permit process, they may change what they want. Mr. Alpert agrees with that part of what Ms. McKnight says. Mr. Schneider will work with Ms. McKnight to come up with an appropriate amendment. Louis Wolfson, of 29 Cimino Road, disagrees 100% with Mr. Schneider. He believes abutters should have input on the design if it affects their homes. Mr. Schneider is there to listen to the abutters. There were 16 requests over 3 years.

Mr. Block asked Mr. Schneider his thoughts on ADUs. Mr. Schneider is in favor of allowing ADUs to be occupied by anyone. This is the simplest thing to promote housing in town. He would consider requiring the owner to live in one unit. One problem with the current By-Law is it requires people to come back in 3 years with their special permits. Another issue is, if someone understood the By-Law, they could build an in-law apartment of any size without getting a special permit as long as there is no kitchen. He feels the Board should eliminate the requirement of people having to come back every 3 years. Mr. Block would like the minimum rental to be 12 months, and no less than, and require the applicant to submit a lease to the town. Ms. McKnight stated the Board has required leases to be 6 months. She asked Mr. Block to clarify whether he wants to change that to 12 months and was informed yes. Ms. McKnight agrees with Mr. Schneider that one unit should be owner occupied.

Mr. Schneider stated he does not find it offensive if someone wants an apartment over a garage. He feels the special permit should be eliminated even for an accessory structure as it is burdensome. Mr. Block noted the criteria has to be objective. Mr. Schneider stated currently an accessory garage only needs to be 5 feet from the side yard. They could say if there is an ADU it would need a larger setback. Mr. Block noted an email that was received today from Reginald Foster, of the Needham Housing Authority, regarding broadening ADU requirements. He wants to

continue to advance, by right, the maximum number of bedrooms from one to two and an FAR from 850 square feet to no larger than one half the FAR of the principal dwelling or 900 square feet. Mr. Schneider stated if there is no kitchen an applicant could build any size within lot coverage limitations. The Zoning By-Law allows them to do that. The only thing an ADU allows is a kitchen. Fifty square feet makes no difference. He feels the Board could say an applicant needs to go on town sewage if adding an ADU. Mr. Alpert stated that is a very expensive proposition. There also may not be sewer in the street.

Mr. Crocker stated it could be the number of beds based on septic or sewage. Ms. Newman stated the applicant would need to meet Title 5 sewage requirements. Mr. Block feels they could keep one bedroom by right and expand it to two bedrooms by special permit. Mr. Alpert stated, pointing to page 52 of the Needham Housing Plan, he disagrees a detached ADU needs to be in an existing accessory building. If the new building meets the By-Law requirements, why not include it? There still needs to be some criteria such as owner occupancy of one unit and the other for a caretaker, family member or a lease for a specific period of time. He agrees with Mr. Block it should be 12 months. He would like to see no special permit and just the Building Commissioner approving the plans. He is all in favor of allowing ADU's in the Single Residence A (SRA) District and also the Rural Residential Conservation District. There should be a similar requirement to SRA and get rid of the special permit process all together.

Mr. Schneider wants it to still maintain the look of a single-family house. Mr. Alpert suggested saying it is in the hands of the Building Commissioner but if in doubt go to the DRB or ZBA. Ms. Newman is concerned with accessory structures and if there are people in the neighborhood who would want to speak to that. She feels it should start with that being a special permit. Mr. Schneider is ok with that if a separate-building dwelling unit. In a year there have been less than one dozen ADU permits. The current ADU zoning says the permit expires on the transfer of the property. It does not make sense if the new owner is continuing in the same way. Mr. Alpert noted the new owner could just go to the Building Commissioner. If the new owner is not complying the Building Commissioner should know. It should not be assumed the new owner is continuing the use. Ms. Newman asked if accessory structures used for ADU's should be by special permit. Mr. Block stated they should be.

Oscar Mertz, of 67 Rybury Hillway, stated this was a great conversation. He agrees with all. He thinks he would like to ask the Board to consider by right for detached as well. He is hopeful there will be a good education campaign to get out ahead of this. It is a great opportunity to create small residential units for people. He feels it should be by right for both. A special permit for 2-bedroom ADU's would be great. He likes the 900 square foot increase but 850 square feet is an easy 2-bedroom size. He is fine with both.

Board of Appeals – January 19, 2023

145 Rosemary Street – EIP Rosemary, LLC

Mr. Block noted this is a commercial use going from office to medical office. Ms. McKnight recused herself as she believes she will get a notice as an abutter.

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

VOTED: "No comment."

The Board took a short recess.

Discussion of Planning Board Climate Action Priorities.

Mr. Block noted the Natural Resource Working Group is meeting 1/12/23 and the Climate Action Committee (CAC) is meeting 1/11/23. Ms. Espada noted she is part of the zoning working group of the CAC meeting this Friday from 1:00 to 2:00. There are some zoning recommendations that will be reviewed. Ms. Newman stated the zoning

changes coming out of this will not be for May but for the October Town Meeting. She would not be able to put it together in 2 weeks. She will forward to the Board an action plan on specific re-zoning actions. Mr. Block stated he would like to come up with a list of items and match it to a timeline so he is clear. He would like to get comments from other departments on specific items and would like to work on cleaning up some areas of the Zoning By-Law. Mr. Crocker asked if there is anything in the By-Law that could be changed to make things easier. Ms. Newman suggested the Building Commissioner be invited in to provide a list of things he sees that should be changed.

Ms. McKnight stated houses are being built behind houses. There are 2 examples on Linden Street. The Building Commissioner says he could not deny a permit. He feels a house and a house connected with a breezeway is fine to approve as a two-family dwelling. She asked if this was something quick the Board could address. Ms. Newman stated it was not quick. A definition of multi-family would need to be added. Mr. Alpert noted the ZBA agrees with the Building Commissioners interpretation of the By-Law. Mr. Crocker has seen just a roof connecting 2 houses so a car can drive through it to get to the garage. Mr. Block would like to bring in attorneys commonly in front of them to get ideas. He asked if there are any thoughts to bring back the strip on Greendale venue to change from SRA to SRB. Ms. McKnight stated it is in the Housing Plan but does not need immediate attention. There are other similar strips in Needham as well.

Minutes

There were no minutes to review.

Report from Planning Director and Board members.

Ms. Newman stated Ms. McKnight is working hard to finish making the final changes to the Housing Plan that were approved by the Housing Plan Committee on December 22nd. She will put it on the next agenda for a Planning Board vote and the Select Board will be the same. The Action Plan is due to DCHD by the end of January.

Correspondence

Mr. Block noted an email from resident Joseph Matthews and Building Commissioner David Roche, dated 12/27/22, regarding clarification on SRB dimensional regulations.

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

VOTED: to adjourn the meeting at 10:25 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk