NEEDHAM PLANNING BOARD MINUTES

February 7, 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, February 7, 2023, at 7:00 p.m. with Messrs. Crocker and Alpert 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 includes two public hearings that will be continued, and public comment will not 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.

Board of Appeals – February 16, 2023

50 Morningside Road – Michael and Siobhan O'Connell, owners

Mr. Block noted this is a 640 square foot ADU in the house for the parents.

Upon a motion made by Mr. Crocker, and seconded by Mr. Alpert, it was by a roll call vote of the five members present unanimously:
VOTED: "No comment."

28 Tudor Road – Jeanne Schwalbach, owner

Mr. Block noted this is an 849 square foot ADU for the owner.

Upon a motion made by Mr. Crocker, and seconded by Mr. Alpert, it was by a roll call vote of the five members present unanimously:
VOTED: "No comment."

Vote to Extend Housing Plan Working Group Appointments to December 31, 2022.

Upon a motion made by Ms. McKnight, and seconded by Mr. Crocker, it was by a roll call vote of the five members present unanimously:
VOTED: to extend the Housing Plan Working Group Appointments to December 31, 2022.

Minutes

Ms. McKnight noted on the minutes of 11/15/2022, page 1, last paragraph, add "additional" to "two stories below ground", on page 3, second paragraph, "ration" should be "ratio" and remove "unclear" from the third sentence and on page 4, the "Committee" is "The Smart Zoning and Permitting Subcommittee of the CAPC."

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

VOTED: to approve the minutes of 11/15/2022 as amended.

<u>Correspondence</u>

Mr. Block stated the Board has received a number of items of correspondence -- 4 emails regarding 888 Great Plain Avenue; 2 residents requesting ADU reform; a notice from the League of Women Voters to save the date of 4/24/23 for a 7:30 p.m. event; and documentation that the Housing Plan was approved by the Select Board and was submitted to the MA Executive Office of Housing and Community Development (DHCD) 1/26/23 by our Planning Director.

<u>Public Hearing:</u>

<u>7:15 p.m. – Major Project Site Plan Special Permit No. 2022-03: WELL Balfour Needham Landlord LLC, 4500 Dorr Street, Toledo, Ohio 43615, Petitioner. (Property located at 100-110 West Street, Needham, MA). Regarding proposal to redevelop the property to include 155 units of senior housing, consisting of 127 Assisted Living apartments and 28 Alzheimer's/Memory Care units. *Please note: this hearing has been continued from the August 16, 2022, September 20, 2022, October 18, 2022, November 15, 2022, and December 19, 2022, meetings of the Planning Board. Please note: The applicant has requested to withdraw this application and has stated they will file another application at this property.*</u>

Mr. Block noted the following correspondence for the record: an email from Council of Aging Chairperson Colleen Schaller, dated 1/25/23, declaring opposition to the removal of independent living units and a letter, dated 1/24/23, from Attorney Evans Huber requesting to withdraw the application without prejudice. Ms. McKnight stated she wants to understand the reasons for the withdrawal and resubmittal. What is the strategy? Attorney Evans Huber, representative for the applicant, noted there are some proposed modifications not formally submitted yet, and there is a concern with the eligibility of one member of the Planning Board to vote on the pending special permits application. The election is coming up and a second member may not be with the Board. The applicant wants to wait until after the election so all members can vote. He anticipates bringing this matter back to the Planning Board, possibly 4/4/23 but he would like it after the election. Mr. Crocker questioned which member may not be eligible to vote and was informed it was Ms. Espada who had missed more than one hearing session.

Upon a motion made by Mr. Alpert, and seconded by Ms. McKnight, it was by a roll call vote of the five members present unanimously:
VOTED: to allow the applicant to withdraw the application without prejudice.

<u>Review of Zoning Articles for the May 2023 Annual and Special Town Meeting.</u>

Mr. Block gave an introduction of the Accessory Dwelling Unit (ADU) Zoning Article. He noted Zoning Board of Appeals Chairman Jon Schneider was not able to be at this meeting. Article 6.1.2 is to amend the 3-car garage section of the Zoning By-law. He and Mr. Schneider do not think the Board needs to regulate the design of the garage space and location of the garage door and how it is oriented. Ms. McKnight noted the proposed by-law amendment would allow a 3-car garage by right. It only requires a special permit when the applicant wants a 3-garage space in front without any setback. If one garage is setback 5 feet, it would be allowed by right. Some people may ask if this is a proper issue for zoning. She is concerned with the look of the property and design. Zoning will take care of the look of the property. She feels three garages in front takes away from the beauty of the property. Mr. Block noted he does not like architectural censorship. The Zoning Board of Appeals (ZBA) does not see the need for this.

Mr. Crocker stated the Large House Study Committee set the garage back 5 feet from the front of the house and that is directly related to architecture. The Board deals with architecture all the time. It is within their realm to say no to a 3-car garage in front of the house, that it has to be pushed back. This is in the purview of the Planning Board. Mr. Alpert stated he disagrees with Ms. McKnight regarding aesthetics in general but understands her point of view on this issue. He would allow a 3-car garage in front if one has a 5-foot setback. The Board does have setbacks for single family homes with long walls. He does not have a problem with the concept of a developer setting it back 5 feet, or if not, going to the ZBA. He is in favor of keeping the article the way it is drafted. He does not feel it would be that onerous on the ZBA.

Ms. Espada feels architectural censorship is about a style, but this is a setback issue. She would keep it the way it has been drafted. She feels similarly to Ms. McKnight and Mr. Crocker. This is not censoring anything. The Board has no say in the design.

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

VOTED: to send the Zoning Amendment labeled Article 1: Amend Zoning By-Law – Accessory 3-Car Garage Use in Single Residence B, General Residence, Business and Industrial Districts, to the Select Board for review and referral back to the Planning Board as presently drafted.

Mr. Block introduced Article 3.15 – Accessory Dwelling Units (ADUs). There are 2 drafts. He wants to allow ADUs by right. That is the most impactful change and allows it to be rented for a term of 12 months or more. It could be for an existing structure or by special permit in a detached structure. Mr. Alpert stated, currently, ADUs are not allowed at all in detached structures. Mr. Block noted that garage accessory structures are allowed within 5 feet of the sideline setback and if the Board wanted to allow this. It could be presented to Town Meeting in the broadest approach, i.e., to allow a 5-foot setback. Then after listening to the residents, the Board would make a determination as to whether the setback should be increased. He did not agree at first but, having looked at it, he has had a change of opinion. One version would allow it and the other version would not allow within the 5-foot setback.

Mr. Alpert stated the purpose of the vote is to send the Warrant Article to the Select Board, who send it back to the Planning Board for public hearing. Then the Planning Board could make changes before sending to Town Meeting. The Zoning Article sent to the Select Board tonight is published in the newspaper for a public hearing. Because it is published, the changes by the Planning Board can be more restrictive but not more expansive. He is in favor of sending the Warrant Article to the Select Board to allow a setback that has 5 feet so they can hear from the public. Then if the Board chooses to restrict it to 5 feet or more it can be made more restrictive. He wants to decide after hearing from the public. Ms. McKnight likes Mr. Alpert's explanation and agrees. Ms. Newman noted, by deleting paragraph 3.15 (b), it would make the structure comply with the underlying setback standards for the district. Ms. McKnight stated, under the current zoning, if the height is expanded to 15 feet, the applicant needs to have the same setback as the principal structure. She is satisfied to delete (b). Mr. Crocker stated fairness is a big part of what should be in town. It should be brought to the town but not only apply to existing structures - that would eliminate some people who would want to do this. He asked if someone could build a new garage 5 feet from the property line. Ms. Newman stated a new ADU could be built within 5 feet of the property line as long as it is under 15 feet in height and meets all other requirements.

Mr. Crocker stated the Board has to allow for future structures to be built. There should be something in the By-Law. Mr. Alpert stated they did not go with that option. It had been in the draft, but it was decided not to do that. He agrees with Mr. Crocker that it should be all in or all out. Ms. Espada asked for clarity. Ms. Newman noted, by deleting this paragraph [3.15 (b)], an accessory structure can be built 5 feet from the property line if less than 15 feet in height. If higher than 15 feet, it must be sited with the dimensional requirements of the By-Law for the principal structure. These are the current rules. Mr. Alpert stated off-street parking was raised by Stephen Frail. The current By-Law requires at least one space for each residence, and Needham has no overnight street parking. Ms. McKnight feels one space for each unit is not too much.

Stephen Frail, of 29 Powers Street, wanted to point out an ADU may be requested by someone beyond driving age or not able to drive. It may be a moot point of overregulating. Mr. Block stated all cars should be parked off-street on the lot. Ms. McKnight commented there is a discrepancy in 3.15.2 (b) and (d) as to the words "primary" vs. "principal" residence. Principal is the word used currently. She proposes using "primary" in (d) in the second line to define the owner. Regarding the limit size to 850 square feet, she noted that the standard commonly used seems to be 900 square feet. Wellesley used 900 square feet. She does not see the difference and was not sure why the Board chose 850 square feet. She would like to go to 900 square feet. It could always be lowered to 850 square feet after the hearing. Mr. Alpert stated if Town Meeting says no to 900 square feet it would be a simple amendment on the Town Meeting floor. All agreed to 900 square feet.

Bill Zoppo, of Nehoiden Street, stated he wants an ADU in his own home. He feels 850 square feet is too small especially for active seniors. People need a little space like a den. He would like the Planning Board to consider a minimum of 1,000 square feet. Mr. Crocker noted a bedroom is defined as a room with a closet and a kitchen is defined as a room with a stove. Ms. McKnight stated there could be a den even if the limit were 850 square feet. Mr. Alpert supports Ms. McKnight's suggested change to increase the ADU to 900 square feet and send that to the Select Board. Mr. Crocker is not concerned with 900 square feet but whether the proposed ADU amendment would pass with allowing separate structures and a 5-foot setback. Mr. Block noted the requirement in the proposed By-Law defers to the Building Commissioner, who may seek Design Review Board (DRB) review if he intends to deny on the grounds it does not have the appearance of a single residence. He thinks this is an unnecessary addition. Ms. McKnight stated the Building Commissioner is not required to consult with the DRB if he is comfortable granting the permit. If he is solely concerned about appearance, he can consult with the DRB.

Ms. Newman spoke with the Building Commissioner who appreciates this as written. Mr. Alpert suggested putting in language that, if denied, the applicant's sole recourse is to appeal to the ZBA. He made a motion to submit to the Select Board the ADU amendment as presented in the packet with the 2 changes suggested by Ms. McKnight tonight changing the word "principal" to "primary" in one place and increasing the permissible size from 850 square feet to 900 square feet. All agreed.

Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a roll call vote of the five members present unanimously:
VOTED: to submit Article 1 to the Select Board the ADU amendment as presented in the packet with the 2 changes suggested by Ms. McKnight tonight changing the word "principal" to "primary" in one place and increasing the permissible size from 850 square feet to 900 square feet.

Mr. Block noted in Article 3, Building Inspector was changed to Building Commissioner, renumbering of 3.14 and thereafter and amend 5.12 by deleting the "2nd edition" and inserting the words "the most recent edition of" after the words "recommendations based on."

Upon a motion made by Mr. Alpert, and seconded by Ms. McKnight, it was by a roll call vote of the five members present unanimously:
VOTED: to send Article 3 as presented in the packet to the Select Board.

Mr. Block noted Article 4 regarding Single Residence B and General Residence side setback. Ms. Newman noted one recommendation of the Large House Committee was to remove large massing on the side wall and to require the side be broken up every 32 feet with a 2-foot step in. The Building Inspector has some circumstance where the developers are building the entire side wall at the 2-foot step in from the side-yard setback and argue that they do not have to break up the massing. The Building Inspector has been requesting the language be cleaned up. Ms. McKnight noted typos in 1, 6th line, after "construction" the reference to footnote 3, take out the redundant footnote (e). Mr. Alpert stated the footnote is being amended in paragraph 2. Ms. McKnight noted "foot note" should be one word. Ms. Clee noted the parenthesis needs to be closed at the end.

Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a roll call vote of the five members present unanimously:
VOTED: to send Article 4 Amend Zoning By0Law – Single Residence B and General Residence Side Setback to the Select Board for their referral back to the Planning Board with the 3 changes discussed tonight: change footnote in paragraph 1 to one word, in paragraph 2 add "amend" and in paragraph 3, add a closed parenthesis at the end.

Public Hearing:

<u>8:15 p.m. – 920 South Street Definitive Subdivision: Brian Connaughton, 920 South Street, Needham, MA, Petitioner (Property located at 920 South Street, Needham, MA). *Please note: this hearing has been continued from the December 19, 2022 meeting and will be further continued.*</u>

<u>Scenic Road Act and Public Tree Act: Brian Connaughton, 920 South Street, Needham, MA, Petitioner (Property located at 920 South Street, Needham, MA). *Please note: this hearing has been continued from the December 19, 2022 meeting and will be further continued.*</u>

Mr. Block noted the Board received a letter from Attorney George Giunta Jr., dated 2/7/23, requesting a continuance to 3/7/23 or 3/28/23 and extend the action deadline to 5/19/23.

Upon a motion made by Mr. Crocker, and seconded by Mr. Alpert, it was by a roll call vote of the five members present unanimously:
VOTED: to continue this hearing to 3/28/23 at 7:05 p.m. and extend the action deadline to 5/19/23.

Mr. Block noted Mr. Crocker gave a legal definition of a bedroom earlier and he wants it clear that is Mr. Crocker's opinion and may not be the legal definition. Mr. Alpert stated that is a definition used for purposes of defining "bedroom" if there is a septic system. Mr. Block disagreed. Different municipalities define a bedroom differently as relates to different codes. He does not want the public relying on this. The public should consult the Building Commissioner or a Real Estate Attorney if they want the official definition of a bedroom.

<u>Report from Planning Director and Board members.</u>

Ms. Newman stated she filed the Action Plan with the state for compliance with the MBTA guidelines so the 1/31/23 deadline was met. Embedded in the document is a schedule of how the Board will move forward. She has begun the process with use of Geographic Information System (GIS) to look at actual modeling to see how the recommendations in the Housing Plan lead into the housing production model, who they need to bring on board, community meetings and tech and fiscal analyses for all this work. The goal is 12/31/24 which is a tight timeline.

Mr. Block stated he sent the file with the Climate Smart Zoning Initiatives that have been undertaken by other municipalities.

Ms. Espada stated she and Ms. McKnight will be on the Needham Channel to talk about the Housing Plan. They will be discussing some questions that were proposed to them. She is not sure when that will come out. She is part of the Climate Action Committee which will be meeting this Thursday. They have done some research on solar zoning examples on mass solar energy systems to get them started on understanding what is already there. They wanted to kick start it. Ms. Newman stated rezoning for solar should be done in the Fall. The Board needs to figure out what the policy objectives will be. They need to look at what the Board wants and develop policies. This cannot be done in 3 weeks. It should be done in the Fall.

Ms. McKnight stated she is a member of the Community Preservation Committee. There is a meeting tomorrow to consider some applications. One is to support the Needham Housing Authority request for support for changes to Linden Chambers. The Housing Authority put in an amount of one million dollars for investigation and action on zoning that would allow the development. She has no idea why they put in this amount. The zoning was changed to General Residence years ago. They talked about using a friendly 40B but could also to go Town Meeting for rezoning. She asked why the Housing Authority would need that amount of money for that task. Mr. Block commented he would need to read through everything to see what they are doing. He suggested Ms. McKnight ask the Housing Authority. Mr. Alpert stated it is a legitimate question. That is a large chunk of the CPC's money.

Ms. McKnight made a motion to adjourn the meeting in memory of, and in honor of, Sam Bass Warner who was a member of this Board for one term 10 or 15 years ago. She stated he was a wonderful member of this Board, and she wants to honor him for his service to this Town. He died a week and a half ago and his memorial service will be at the Town Library. He was an urban historian and wrote many books. He brought his skill set and deep background in urban history. Mr. Alpert stated he succeeded Sam Bass Warner. Mr. Bass Warner was the only member at the time who was not a lawyer. She was greatly impressed by his perspective, being the sole non-lawyer on the Board. He brought great wisdom to the Board. Mr. Crocker added he brought social awareness to the Board. His only intent was the community. Ms. Newman had the pleasure of working with Mr. Bass Warner. She appreciated his perspective and seeing things at an angle she had not thought of. He had her reframe things and reevaluate things. Ms. Espada commented she never met him but feels sad that she never had the chance to meet him.

Upon a motion made by Ms. McKnight, and seconded by Mr. Alpert, it was by a roll call vote of the five members present unanimously:
VOTED: to adjourn the meeting at 8:47 p.m. in memory of, and in honor of, Sam Bass Warner.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

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Jeanne S. McKnight, Vice-Chairman and Clerk