NEEDHAM PLANNING BOARD MINUTES

April 25, 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, April 25, 2023, at 7:00 p.m. with Messrs. Crocker and Alpert and Mmes. McKnight and Espada 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 and 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.

Public Hearings:

7:00 p.m. – 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 request to permit adding a third floor to the building, which would add an additional 22 IL units, for a total of 72 IL units, of which 12.5%, or 9 units, will be affordable. *Please note: this hearing is continued from the March 7, 2023 meeting of the Planning Board.*

Mr. Block noted the following correspondence for the record: a letter from Attorney Evans Huber, dated 4/5/23, with revised plans; 2 letters from David Feldman, dated 3/21/23, with specification information and responses to questions that have been raised, a letter, dated 4/10/23, from the Design Review Board (DRB) with comments; an email, dated 4/19/23, from Tara Gurge of the Health Department, with comments; an email, dated 4/6/23, from Police Chief John Schlittler, noting no issues; a letter, dated 4/18/23, from Town Engineer Thomas Ryder, with comments; an email, dated 3/11/23, from Teresa Combs, with comments and a separate email from Ms. Combs regarding ADUs; and an email, dated 4/24/23, from Terence Ryan, with comments.

Attorney Evans Huber, representative for the applicant, stated a few questions had been raised by the public and the Planning Board. The applicant revised the plan and generated new renderings. Mr. Crocker stated the traffic study was based on ½ car per unit. He is concerned this is Independent Living with no public transportation. He feels ½ per unit is too small for the traffic study and should be upgraded to something more than ½ car per unit. Kirsten Braun, Traffic Engineer with Ron Muller & Associates, noted the traffic study is on page 2 of Mr. Huber's letter and is based on nationally accepted land usages around the country. She noted this was conservative. She applied the rates to the number of units at peak times based on actual data usage at similar land uses.

Mr. Crocker commented he did not understand why there is no renewable energy on this building. David Feldman, Sr. Vice-President, stated the energy source is now 80% natural gas and 20% electric. They are moving to 95% electric and the condensers have to go on the roof. There are less than .2 megawatts of solar on the roof. He is looking at a 10-year payback on a commercial system and that is something they cannot afford now. Mr. Crocker has not seen a 10-year payback on a commercial system. Mr. Feldman noted their participation in community solar. Ms. Espada asked if the project could bring power to the roof in case it can be done in the future and was informed yes. Mr. Crocker stated he has a huge problem with no solar on this building. He feels it would be useful to see the 10-year payback calculations. He would like something done now and would like to include solar as a condition. He stated it would be nice if there is more than 12.5% affordable but he likes the project very much.

Mr. Alpert stated the project is Independent Living. There is going to be a large population in this building that will be retired. He is very familiar with visiting people in Independent Living facilities. People are going out at various times throughout the day. It does not generate traffic at peak hours so he does not feel it will generate traffic problems. Mr. Crocker asked if there is enough parking on site for all the units. Mr. Huber stated there is more than enough parking for more than one space per unit. Ms. McKnight stated Teresa Combs objects to the third floor and talked about being satisfied with parking. Mr. Alpert noted the third floor is as of right and cannot be denied. Ms. McKnight noted ½ space per unit is the Planning Board requirement in the Elder Services District. She discussed participating in the community solar. Mr. Huber stated Ms. Espada asked if the building could be wired for solar in the future. Ms. Espada clarified it should be solar ready.

Mr. Block opened the hearing for public comment. Gary Ryan, of 79 Evelyn Road, is in support of the project. He is concerned about traffic more on the construction side. Mr. Feldman stated the project has plenty of room on site for the construction equipment. Rob Dangel, of 28 Hewitt Circle, stated he is generally in support of Independent Living in Needham. He noted the affordability and stated, in the past, units have been pretty pricey. He asked if the applicants have said how much the units would be rented for. He encouraged the Planning Board to go for more than 12.5% affordable units. He feels they should insist on solar if granting a special permit. He feels a 10-year payback is not bad. He asked if there would be any kind of shuttle to reduce traffic and would it be electric. Mr. Feldman noted the base rates are between \$3,500 and \$6,000 per month depending upon unit location. He has not finalized the rates, but they would be in that range. There will be buses and transportation provided when groups are going out but not one offs. There is no electric bus supplied with the facility. That will be provided by a third party. The By-Law says 10% affordable and the project has gone to 12.5%. He does not see it going any higher than that. Mr. Block noted the 128 Shuttle could be a help. He suggested the applicant touch base with Bulfinch to see if some type of an agreement could be reached as to shuttle transportation.

Colleen Schaller, of Avon Circle and Chair of the Board of Directors of the Council of Aging, stated the Board voted unanimously to support wholeheartedly and will help in any way needed. Mr. Alpert suggested Mr. Feldman coordinate with the Senior Center. Ms. Schaller noted they have buses free of charge to and from the Senior Center. There is a desperate need in town, and he feels this is an excellent project. There is nothing in the review criteria now that requires solar, but the Board could amend the review criteria to encourage solar. Mr. Crocker asked what other facilities the applicant owns. Mr. Feldman stated there are 2 others in Needham, one in Pittsfield, one in Haverhill, one in Kingston, MA and 2 in Rhode Island. Mr. Crocker asked if there were any renewables on any of the buildings and was informed no.

Upon a motion made by Mr. Alpert, and seconded by Ms. McKnight, it was by a vote of the five members present unanimously:
VOTED: to close the hearing.

Mr. Crocker would like to consider a solar aspect to it. Mr. Alpert would like to ask Town Counsel if adding solar under a site plan special permit was permissible. He would like Town Counsel to decide if the Planning Board has the authority.

7:30 p.m. – Amendment to Major Project Site Plan Special Permit No. 1991-01: Ceed Corp., d/b/a Cook Restaurant, 15 Neil Road, Revere, MA, 02151, Petitioner (Property located at 101-109 Chapel Street, Needham, MA). Regarding request for further parking waiver to allow for additional seating (outdoor seats, which will subsequently be reviewed by Select Board).

Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the five members present unanimously:
VOTED: to waive the reading of the public hearing notice.

Diana Sepulveda, applicant, noted they will be adding a patio this spring. They went to the Design Review Board (DRB) for review of materials. She noted there will be 10 tables. Eight tables will hold 6 people and 2 tables will be 2 tops. It will be wheelchair accessible. They want to seat more outside. Mr. Block noted the following correspondence for the record: a plan set dated 2/21/23; a letter, dated 4/24/23, from Edison Gutierrez, President Ceed Corp., requesting to revise his prior request; DRB approval, dated 4/10/23; an email, dated 4/19/23, from Tara Gurge with comments; an email from the Building Commissioner, dated 4/5/23, with comments; another email from the Building Commissioner, dated 4/25/23, noting he is satisfied; an email, dated 4/5/23, from the Police Chief with comments; an email, dated 4/24/23, from Ronnie Gavel of the Fire Department, noting no concerns; an email, dated 4/18/23, from the Town Engineer with no objections and an email from Timothy Bulger, dated 4/24/23, in support.

Ms. Clee clarified what is before them is a parking waiver. The project requires an additional parking waiver. If over 30% of seats are outside an additional parking waiver is required. If under 30% no additional waiver is needed. The outdoor dining component will go to the Select Board. The indoor seats will be reduced from 132 to 96 and meet all the requirements of the building codes. Ms. McKnight asked if the applicant would still need a parking waiver with a decrease in the number of indoor seats. Mr. Alpert noted the special permit should be amended to reflect 96 seats to take away any issue with an additional bathroom. Ms. McKnight stated the applicant wants 52 outdoor seats. She asked how many parking spaces they are deficient. Mr. Alpert noted there is no parking. The applicant wants a waiver of 3 more spaces. Ms. Espada feels 3 accessible tables seem fine. The entry and exit are at the entrance to Bagel's Best. She asked if Bagel's Best have seen this. Ms. Sepulveda has spoken with them, and they are on the same page.

Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the five members present unanimously:
VOTED: to close the hearing.

Mr. Alpert suggested the Board direct the staff to prepare a decision based on the discussion tonight. The Board took a 5-minute recess.

Decision: 920 South Street Definitive Subdivision: Brian Connaughton, 920 South Street, Needham, MA, Petitioner (Property located at 920 South Street, Needham, MA).

Mr. Alpert stated there were quite a few typos in the 2nd paragraph, on the first page. He suggested taking out the 2nd paragraph altogether as they only need the 3rd paragraph. This was agreed. He noted paragraph 20 with the hours of construction allows work from 7:30 a.m. to 6:00 p.m. He asked if 6:00 p.m. was allowed. Ms. Clee stated the agreement was 7:30 a.m. to 6:00 p.m. Monday through Saturday. Ms. McKnight noted on page 4, list item 1e, to waive the sidewalk requirement. It says the Board considered. She noted the Board discussed the lack of sidewalk and it should say that. It should say it is a private way and note the lack of a sidewalk on South Street. On page 7, in 20b, the reference to the Building Inspector should be Building Commissioner. On page 8, paragraph 32, after "power to serve these" it should be a small "a", as applicable. Mr. Giunta Jr. has no comments or questions. He agrees with the proposed revisions. Dr. Serguei Aliev, of 31 Marant Drive, is concerned with the start and end time of construction but will go along if the Town allows it. Ms. Clee noted the Town By-Law allows construction until 8:00 p.m.

Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the five members present unanimously:
VOTED: to approve the subdivision based upon the plans that have been submitted and approved and approve the subdivision decision with the changes discussed.

Agreement: Scenic Road Act and Public Shade Tree Act: Brian Connaughton, 920 South Street, Needham, MA, Petitioner (Property located at 920 South Street, Needham, MA).

Ms. Clee stated the builder will be required to provide money in escrow. It is not presently drafted so it is not being dealt with now.

Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the five members present unanimously:
VOTED: to grant the relief requested under the Scenic Road Act and Public Shade Tree Act.

Board of Appeals – April 27, 2023

1000 Olin Lane – ENGIE Distributed Renewables Development, LLC

Mr. Block noted this was dealt with recently at Babson or Olin. The Board had concerns with drainage.

Upon a motion made by Mr. Block, and seconded by Mr. Crocker, it was by a vote of the five members present unanimously:
VOTED: to raise the question of compliance with stormwater management.

Zoning Article Assignments for the Annual Town Meeting and further Board discussion on Warrant Articles.

Mr. Block stated he has built a presentation deck for all 4 Articles. He credits Town Engineer Thomas Ryder and his staff with developing some drawings he can use. For the 3-car garages, the Select Board voted not to support with a vote of 4 to 1. Ms. McKnight commented she was sorry John Schneider was not at the Select Board hearing as he could speak better on the topic. Ms. Espada understands if you do not have a special permit the neighbors cannot comment. A person can still have a large house with the bulk of a third garage if they have the FAR. A garage door does not create a wider driveway. The vast majority coming in still get approved. Mr. Crocker stated it is a valid concern that neighbors have no input but there have only been 18 over the last 3 years.

Mr. Alpert asked how many requests there are per year. Ms. Espada stated a special permit does discourage a little bit. She thinks the issue is more the size of FAR as related to the lot. Ms. McKnight noted one member of the Select Board said it is too pro car and there should be a reduction of cars. She felt the Town should not allow 3-car garages at all. Ms. Clee stated in 2018 there were 5 requests, in 2019 there were 5 requests, in 2020 there were 3 requests, in 2021 there were 2 requests and in 2022 there were 3 requests. Mr. Alpert noted Mr. Schneider claimed it took up too much time, but it is 5 or less per year. Mr. Crocker stated if the special-permit requirement is taken away there will be more requests. The Board should try to relieve the ZBA's workload. Mr. Alpert, Ms. Espada, and Mr. Crocker were all ok with withdrawing. Mr. Block stated there is a misunderstanding as to the role of a special permit for 3-car garages. The only item to consider is an adverse impact and diminished value of land to the abutter. No one has come with these complaints. Mr. Alpert stated it is the effect on the amenities. It is very subjective. A discussion ensued. Mr. Alpert stated the Board voted for allowing it, but the Select Board disagrees. He feels Town Meeting should vote on it. Ms. McKnight agreed. Ms. Espada feels the Board could always come back to it next year.

Upon a motion made by Mr. Crocker, and seconded by Ms. Espada, it was by a vote of the five members present unanimously:
VOTED: to withdraw Article 3 for 3-car garages.

Mr. Block noted there is a well-informed Town Counsel and Moderator. He noted there have been countless hours of discussion on Accessory Dwelling Units (ADUs), both positive and negative. He noted what the Board is trying to accomplish for the Town, which is to do the most good for the most people. He thinks their policy is spot on. Some people will object to setbacks, attached/detached and other aspects but that speaks to them. The Board should be able to allow reasonable access to affordable housing. Oscar Mertz has done an excellent job of studying ADUs. All are in the Single Residence B (SRB) District. He recommends moving forward with the existing By-Law.

Mr. Alpert stated they were originally trying to provide a mechanism for people to stay in their homes. People on Beacon Hill disagree. We need to increase the housing stock and should allow ADUs. He asked, as a Board, what are we trying to do? His sense is there is little disagreement about allowing this except for detached ADUs. If we do not make a motion to remove detached, someone else will. The Board needs to decide what its recommendation will be. He is willing to throw it open to Town Meeting. Ms. McKnight stated the focus has still been on enabling older folks to stay in their homes and rent out the ADU, to enable them to afford their single-family homes. The Council on Aging is in favor of this. Mr. Alpert feels the Housing Plan Working Group Ms. McKnight served on is in favor of using ADUs to increase housing. Ms. McKnight confirmed that. It is not just to help the elderly but to enable grown children to stay in town.

Ms. Espada stated the issue is the detached ADUs. She asked if the Board members feel strongly it would hurt other parts or should they leave it in and let someone bring it up, or will it hurt the entire By-Law. Mr. Alpert noted, under the new state law, this is all majority vote and is not a two thirds vote. He would like to see this raised as a motion to amend to remove detached so it could be voted separately. If it survives discussion, the whole thing could pass. He is pretty confident, even if amended, it would pass. Mr. Crocker acknowledged more people want public comment on this. If an amendment to remove detached passes, and if the main motion passes, he would work to review detached and to get more public comment. Then let Town Meeting decide. Mr. Alpert feels the discussion should be had at Town Meeting based on the timing.

Mr. Crocker stated they are putting it to the ZBA to decide whether to grant a special permit for a detached ADU but have not given any guidance. He does believe this really is rezoning the whole town into a multi-family. The detached could be rented. This should be vetted before it gets to Town Meeting to see if it is the right thing to do. He feels it should be separated at Town Meeting. He can see some builders now building 2 houses under this. He feels this went too quickly but he supports the rental basis. Ms. McKnight is very much opposed to offering an amendment to their own Article. Nothing has come up that would make them think something is terribly wrong. She feels the Board should never offer an amendment themselves but would expect someone to offer an amendment. Then the Moderator would ask the Planning Board if they support the amendment. This should be discussed more. If offered, should the Board support it and why? She thinks the Planning Board should say there are some concerns with setbacks, they would reconsider, address certain aspects, and bring it back to Town Meeting. She feels the members should support the amendment and let people know they will study and bring it back. Mr. Crocker and Ms. Espada agreed. Mr. Block reluctantly agreed. Mr. Alpert stated he would have a neutral position. If Town Meeting chooses to approve the amendment, the members are willing to study it, so they are not opposing it. All agreed.

Ms. McKnight stated she heard back from the Planning Director in Sudbury about their experiences with ADUs. There is no difference other than new people moving in. Sudbury only allows detached to be put in buildings that were in existence 5 years ago. The impact is negligible. Mr. Block asked if someone makes a motion to remove rentals, would the Board oppose that? The members agreed they would oppose that. Mr. Alpert reminded the Board that the original purpose was to allow people to stay in their homes. A discussion ensued. It was agreed that if there is a motion to refer the Board would oppose it. Mr. Block will do the presentation.

<u>Minutes</u>

Ms. McKnight noted on the minutes of 2/7/23, page 2, Colleen Schaller opposed the removal of Independent Living from the 100-110 West Street project. Attorney Huber anticipates bringing this matter back after the election and would like it withdrawn without prejudice. On page 3, Mr. Crocker said the Board has to allow for future structures to be built. Mr. Block stated Mr. Crocker said detached ADUs will be allowed for existing and new structures to be built. Ms. McKnight suggested taking out the highlighting and deleting the sentence "This requirement may require people to violate another By-Law." On page 5, it says 'Mr. Block wanted it clear this is Mr. Crocker's opinion and may not be the legal definition." Mr. Block stated he made that comment.

Upon a motion made by Ms. McKnight, and seconded by Mr. Alpert, it was by a vote of the five members present unanimously:
VOTED: to approve the 2/7/23 minutes as red-lined with the changes discussed tonight.

<u>Set Summer and Fall Schedule</u>

Ms. Clee stated the meetings for June are 6/6/23 and 6/20/23. Normally the Board meets once in July and once in August. She requested the members send her dates they are not available. She will schedule the meetings and the meeting can be by Zoom.

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

Mr. Block noted he and Ms. McKnight had a Chair/Vice-Chair meeting with the Select Board to discuss the MBTA Communities law. They need to have MA Department of Housing and Community Development (DHDC) approval of the plan. Once Zoning By-law amendments are advertised, they can only reduce the scope of the By-Law. The timing is a challenge. It would need to go to Town Meeting, have it approved, then get DHDC approval, which has 90 days to approve it. This would be pushing a year. Ms. McKnight stated the Town needs to hire a consultant for any Geographic Information System (GIS) analysis involved. It is very complicated. Mr. Block stated there is $50,000 in the budget that should cover those studies. Ms. McKnight discussed the process for this. The thought was to take it to next year's Annual Town Meeting. If it does not pass it could be taken up again in the Fall. If it is only taken up in the Fall, there would only be one chance to get it right.

Mr. Block stated there should be a Steering Committee including a developer, renter, Finance Committee member, long-time Needham resident, architect, Planning Board member and Select Board member. The Chairs will be members of the Planning Board and the Select Board. In the next month, the appointments should be made to start up the committee. Ms. Clee noted the parking study presentation from Stan Tec is 5/12/23 at 9:00 a.m. Ms. Clee will get a room at Town Hall at 7:00 p.m., Monday and Wednesday so the Planning Board can meet prior to each Town Meeting session.

Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the five members present unanimously:
VOTED: to adjourn the meeting at 10:00 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

____
Jeanne S. McKnight, Vice-Chairman and Clerk