

NEEDHAM PLANNING BOARD MINUTES

May 16, 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, May 16, 2023, at 7:00 p.m. with Messrs. Crocker and Alpert and Ms. McKnight and Assistant Planner, Ms. Clee. Ms. Espada arrived at 7:10 p.m.

Mr. Block took a roll call attendance of the Board members and staff. He noted this is an open meeting that is being held remotely per state guidelines. He reviewed the rules of conduct for all meetings. This meeting includes three 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.

Minutes

Ms. McKnight noted, on the minutes of 2/28/23, on page 1, in the middle at the bottom, it should be "the sidewalk and parklet need to be ADA compliant" and it should be "slats" and not "slate." Ms. McKnight noted on page 3, add "Ms. McKnight noted that the CPA funding application..." after "adding approximately 150 units" and on page 5, after "He encouraged the Town" the word "Staff" should be added.

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

VOTED: with the red lining changes noted, and the highlighted words clarified, to accept the minutes of 2/28/23.

Ms. Espada arrived at 7:10 p.m.

Reorganization

A motion was made to nominate Ms. Espada as the Vice-Chairman and Mr. Block as the Chairman to serve for this coming year. Mr. Crocker stated the Planning Board is a Board of the Town of Needham and is the people's Board. The way members need to phrase things is important and that has not been happening. All members should have an equal say in what is going on. People need to respect everyone on the Board. He feels things need to be done differently. Mr. Block said he would like to get clarity from Mr. Crocker at another time.

Upon a motion made by Ms. McKnight, and seconded by Mr. Alpert, it was by a vote of four of the five members present (Mr. Crocker voted in the negative):

VOTED: to elect Ms. Espada as the Vice-Chairman and Mr. Block as the Chairman to serve for this coming year.

Public Hearings:

7:00 p.m. – Special Permit Amendment No. 2017-01: Sira Naturals, Inc., d/b/a Ayr, of 300 Trade Center, Suite 7750, Woburn, MA 01801, Petitioner (Property located at 29-37 Franklin Street, Needham, MA). Regarding proposal to eliminate the "appointment-only" operational requirement for the facility.

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 waive the reading of the public hearing notice.

Robert Smart, attorney for the applicant, noted the Special Permit was amended in October 2022 and the applicant is seeking further amendment. In the Fall of 2022, the applicant was granted relief for 4 permanent items and 2 temporary items. The Board gave the applicant the ability to come back to make the temporary items permanent. The applicant does not need an increase in sales positions, but they would like to make the elimination of the appointment requirement permanent. There

have been no problems. There has been an increase in the number of patients, but it is a modest increase and is lower than the 2000 high point. There is plenty of onsite parking. Sira has addressed issues raised by neighbors, swept daily, has surveillance outside and the spaces next door have been available.

Mr. Smart stated the staff and patients have been told no cannabis use outside. The other Town Boards had no comments. Sira has reached out to each neighbor that came and spoke with most of them. Derek Roach, traffic consultant with Vanasse & Associates, Inc., noted the parking counts 3/30/23 and the full month of March. There were 82 transactions a day and 81 on 3/30/23. One transaction is one trip entering and one trip exiting. At mid-day peak there were 10 transactions or 20 trips. In the evening there were 9 or 18 trips. All are less than prior. There are 18 parking spaces on site, 18 spaces off-site and 6 others assigned to the other adjacent company. There were 11 spaces on site available at the worst and 5 spaces offsite. He feels there is no further need for monitoring at this point and supports the request to grant the relief.

Mr. Block noted the following correspondence for the record: a letter from Attorney Robert Smart, dated 4/13/23, including the operations description; an updated traffic monitoring study dated 4/11/23; an email, dated 4/28/23, from Police Chief John Schlittler noting the police are ok with this and comments regarding responsiveness to issues. Mr. Block stated the applicant should publish on site who to contact for issues. He went to the site and felt it was well maintained. There was also an email, dated 5/10/23, from Assistant Public Health Director Tara Gurge with no comments; an email, dated 5/16/23, from Building Commissioner David Roche, noting no issues and an email, dated 5/10/23, from Town Engineer Thomas Ryder, with no comment or objections.

Mr. Alpert stated he is fine with the application with the caveat if anyone in the audience has a comment against, he would like to hear it. The Petitioner has agreed to continue to monitor parking, trash and smoking outside. If there are complaints that would be a violation of the permit and they can go back to the Planning Board. In addition to the police the Planning Board can deal with it. Ms. McKnight made a note of a reference in the letter of Mr. Parsons and Mr. Smart's letter. There was a meeting with Dan Socci and he did have some complaints. She has a process question about Exhibit A and what is being sought is to amend the decision. Will there be an actual document the Planning Board will sign and record? Mr. Block stated there would be.

Mr. Block noted Mr. Smart mentioned an increase to the number of sales stations. As that is no longer necessary will the stations be removed? Mr. Smart stated they would like to keep them as is. The request was 5 stations to 7 stations, but the increase is not needed. The relief was granted on a temporary basis and that will expire. Mr. Alpert noted the number 5 will be in the decision. Mr. Crocker asked if there is any reason to leave it at 7 stations. John Fernandez, owner, does not see a need to expand to 7 stations in the future. Mr. Alpert asked if the new recreational marijuana has cut into the business. Elecia DeAngelis noted 2020 had the peak numbers. They are now seeing a bit of a decline. There has been a drop in numbers as people move away from medical. Mr. Fernandez stated there is some evidence the medical market may be peaking as there is now home delivery.

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.

7:20 p.m. – Major Project Site Plan Special Permit No. 2023-01: Tristan Roveto, 16 Malbert Rd., Brighton, MA 02315, Petitioner (Property located at 1502 Highland Avenue, Needham, MA). Regarding request to occupy the Premises for a Personal Fitness Services Establishment.

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 waive the reading of the public hearing notice.

Tristan Roveto, applicant, wants to occupy the space for a personal fitness establishment. This use is allowed by right if there is enough parking. There is not enough parking, so he is looking for a waiver. Mr. Block noted a letter from Mr. Roveto with analysis; an email, dated 5/8/23, from Building Commissioner David Roche with no comments or objections; an email, dated 5/10/23, from Assistant Public Health Director Tara Gurge, with no additional comments; an email, dated 5/8/23, from Police Chief John Schlittler noting it is fine with the police. There is nothing from the Fire Department and there are no public comments.

Ms. McKnight noted there are 2 display windows. She is concerned about what it looks like from the street. She suggests in Section 3.8, adding “its operations and display within its 2 window space areas to ensure its goal is met.” Mr. Roveto stated he would like to advertise what he does and health and fitness. Also, what he does with his ties as a professional coach with the community and partnership. Ms. McKnight appreciates that. Ms. Espada stated signage is through the Design Review Board (DRB). Mr. Block asked about sound attenuation with tenants above and beside. Mr. Roveto stated there is nothing in the lease but there are things he could do. He will lay down a roll of turf over the rug and will only kick soccer balls against the alley wall. He will communicate directly with the local tenants.

Mr. Block would like some condition that if another tenant complains of noise, the applicant would agree to be responsive and take immediate measures to alleviate the issue. Mr. Alpert stated there is usually a clause in the lease. Tenants would complain to their landlord before the Planning Board. He does not think it is necessary. The use is allowed as of right, and this would not be in front of the Planning Board if not for parking.

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.

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 GRANT (1) a Special Permit under Section 3.2.2 of the By-Law for a personal fitness service establishment where all required parking is not located on site in the Center Business District; (2) a Special Permit under Section 3.2.2 of the By-Law for more than one non-residential use on a lot where such uses are not detrimental to each other and are in compliance with all other requirements of the By-Law; (3) a Special Permit under Section 5.1.2, Required Parking, and Section 5.1.3, Parking Plan and Design Requirements; subject to and with the benefit of the following Plan modifications, conditions and limitations as set forth in the decision.

Mr. Alpert noted there was a typo on page 2, in 1.6, second line, there should be a lower case “o” in the word “NO”. There are numbering mistakes at the bottom of page 3 and at the top and bottom of page 6.

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 approve the decision in the packet and as revised tonight.

7:40 p.m. – Major Project Site Plan Special Permit No. 2009-06: Shallots Needham, Inc., d/b/a Sweet Boba, Kakada Ly, President, Petitioner (Property located at 1032 Great Plain Avenue, Needham, MA). Regarding request to renovate approximately 644 SF of first floor space for use as a retail bakery with an accessory eat in-take-out counter and 6 seats.

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

Mr. Block noted the following correspondence for the record: a letter, dated 2/6/23, from the Petitioner with his operation plans; architectural drawings dated 1/12/23; an email, dated 5/10/23, from Town Engineer Thomas Ryder noting no objections with comments regarding the grease trap; and an email from Assistant Public Health Director Tara Gurge, dated 5/10/12, with comments regarding the food permit plan. Ms. Clee noted the use is allowed by right and the seats are already there. The applicant did some renovations. He is open but needs to legalize the seats. He has his permits through the Building Commissioner and the Health Department. This is just cleaning it up. Mr. Block noted an email, dated 5/1/23, from Building Commissioner David Roche with no issues. There are no Fire or Police comments.

Ms. Espada asked if there is a Certificate of Occupancy and was informed there is. She asked if the door to the bathroom has a closer on it. The bathroom can be seen from the outside. Mr. Block commented the door is always closed when he goes in. Kakada Ly, President, stated there is a closer on the door. Mr. Block noted there are no public comments.

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

VOTED: to close the hearing.

Mr. Block stated a decision will be prepared for the 6/6/23 meeting.

Mr. Block noted Dan Socci was in the audience and informed him the hearing for Sira Naturals was earlier in the meeting and has been closed. Ms. McKnight noted Mr. Socci's comments were reflected in the letter from the Attorney, and he mentioned them at the hearing. Mr. Socci stated someone was smoking on his wall the other day and then went back to work, but it seems a decision has already been made. Mr. Alpert noted, if people complain, the police will do something, or the Building Commissioner would. The applicant could be in violation of the Special Permit and the permit could be pulled. The applicant offered the neighbors to go to the person in charge. Mr. Block suggested Mr. Socci send a letter to the Building Commissioner with dates and times of any incident and copy the Planning Department. He should also call the police for a record of the complaint. Mr. Socci stated, after working 10 hours, he does not expect to go home and write a letter.

De Minimus Change: Major Project Site Plan Special Permit No. 2009-06: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 1471 Highland Avenue, Needham, MA). regarding proposed design change to the MBTA bus shelter at the Town Common.

Christopher Heep, representative for the applicant, sent a letter, dated 4/27/23, explaining the change with plan sets. He noted the bus shelter was going to be installed. In December 2021 a permit was issued and the detail for the bus stop was shown on the plan and in the decision. The plan set was modified in 2022 and did not show the bus shelter. There was additional thought given to the shelter and it was concluded it was not suited for New England weather conditions. The proposed new shelter is a conventional MBTA bus shelter. The new version has an aluminum roof, 3/8-inch tempered glass walls and a bench for seating. The MBTA will maintain it going forward. There is money earmarked from the state to purchase the shelter. This is far more practical.

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 deem the Town's proposed change a minor modification.

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 grant the relief requested.

Ms. McKnight noted there is a reference to approval from the Design Review Board, but she does not see it in the packet. The reference should be taken out. There is a missing date in Exhibit C. It should be 5/23/2022. Mr. Alpert noted on the next page, paragraph 2, 2nd line, insert "not" between "would" and "serve" and put a "," instead of a "." at the end.

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 approve the decision as drafted and modified tonight.

Decision: Amendment to Major Project Site Plan Special Permit No. 1991-01: Ceed Corp., d/b/a Cook Restaurant, 15 Nell 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).

Mr. Alpert noted on page 2 of the proposed decision, under Conclusions, 1st paragraph, "were" ratified should be "are" ratified. In Section 1.6, 2nd paragraph, 3rd line, after April 12, 2023 remove "." And keep the ",". Ms. McKnight noted in the email from Tara Gurge the last paragraph is in bold. She asked if that is the Planning Board condition or the Public Health's condition. Mr. Alpert clarified the Board asked that the applicant comply, but it will be the Select Board that will

give the permit with all the Public Health conditions. Ms. Clee noted the applicant is only here for a parking permit. The Select Board gives the outdoor dining permit.

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

VOTED: to GRANT: (1) an amendment to a Major Site Plan Review Special Permit No. 91-1, dated June 11, 1991, transferred on March 11, 1997, amended on December 13, 2005, transferred on June 13, 2017 and December 19, 2022, under Section 7.4 of the Needham Zoning By-Law and Special Permit 91-1, Section 4.2; and (2) a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking), subject to and with the benefit of the following Plan modifications, conditions and limitations.

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 approve the decision as drafted and further revised tonight.

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 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.

Mr. Block stated there had been discussion about whether the Board would require solar panels, or solar ready, and the proponent agreed to solar ready. Mr. Alpert requested that there be a discussion with Town Counsel to see if there is a mechanism that enables the Planning Board to make a requirement. The applicant has agreed to do it, but the Board has no authority to make them do it. Mr. Block responded that the Planning Board does not have that right and he is going to stop the practice. The way to do it is to include solar review as part of the By-Law criteria for site plan review. If the petitioner has agreed to do it there is a condition in the decision that says the Petitioner will be solar ready. There is no definition of what solar ready is. The only permissible way is to add a finding that says “during the hearing the Petitioner agreed to have the building solar ready.”

Mr. Crocker stated the most critical thing is to have it structurally sound for solar and not just the wiring. Ms. McKnight noted Section 3.9 of the draft decision should be reworded. David Feldman, applicant, noted it will be structurally sound as they are adding the third floor. Mr. Alpert suggested “The Petitioner has agreed that the roof shall be electrically wired, and the roof shall be made structurally sound so the roof will be considered solar ready and so photovoltaic panels may be added in the future.” He added this reads like a special permit. He is not sure of the proper format. Evans Huber, attorney for the applicant, stated the applicant is ok with this. The goal is to get it done.

Ms. McKnight stated the application is for a site plan special permit. She thinks this should reference an amendment. She noted on page 7, it says 50 independent living units. She asked if it should be 72 units. Mr. Alpert noted under the Conditions and Limitations at the bottom of page 7, the word “Decision” in the Therefore line should come out. All agreed. Ms. Clee noted Section 3.1 also references back to prior decisions. Mr. Alpert noted at the bottom of page 1, the meeting was called to order by Mr. Block not Mr. Alpert and it should be March 7, 2023, not 2022. On page 4, Exhibits, there is a numbering issue. Ms. Clee will check on it. In Section 1.7, it should be “Pursuant to” and not “Per section.”

Mr. Alpert noted in Section 3.4, there is a condition of at least 81 paved parking spaces. He did not think they were going to require that number. Ms. McKnight noted the applicant intends to have that number. Mr. Huber stated there are 98 spaces there now, and 17 will be converted to green space. The intent was not to require that number. That is what the project has. Mr. Huber noted Section 3.16, 3.17 and 3.34 (c). The Petitioner has already done the second half of 3.16. His position is he has no issue with 3.17 but does not want 3.16 or 3.34 (c). They could strike the second half of 3.16 and part of 3.34 (c). Section 3.17 is where the Board still has authority. The Board agreed to eliminate the second half of 3.16 and (c) altogether.

Mr. Huber noted the limitation in Section 4.5 compared to 3.21. Section 3.21 is appropriate and 4.5 is a holdover. It will be removed. He noted on page 1, third paragraph, it says “no other use is proposed to the site.” It should say “for the site.”

This was agreed. He noted there is a list of the original special permit and amendments. They are out of order. Ms. Clee will fix that in several places. Ms. Clee asked if there are any diesel fuel generators there. Mr. Feldman stated it is natural gas. Diesel will be taken out.

A motion was made to grant the requested special permit for 50 independent living units in the Elder Services Zoning District under Section 3.12.4 of the Zoning By-Law; and 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. Ms. McKnight stated this implies it would add the dates of amendments and it should be worded “amendment” with all the dates on the first page. Mr. Alpert accepts the amendment by Ms. McKnight. A new motion was made.

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 (1) the requested amendment to Major Project Site Plan Special Permit 1993-04, dated July 27, 1993, as amended August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, March 15, 2011 and March 15, 2022 and as further changed by insignificant change on April 18, 2013 and on December 17, 2013 and further move to GRANT: (1) the requested special permit for 50 independent living units in the Elder Services Zoning District under Section 3.12.4 of the Zoning By-Law; and (2) a special permit for a Major Project Site Plan Review Amendment under Section 7.4 of the By-Law; subject to the following plan modifications, conditions and limitations.

Upon a motion made by Mr. Alpert, and seconded by Ms. Espada, it was by a vote of the five members present unanimously:
VOTED: to approve the decision as presented and with the modifications 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).

Mr. Block noted there is an agreement in the packet with a modified version today. Ms. McKnight noted the second “Whereas” clause refers to a tree fund “at” the Town of Needham. It should be “of” the Town of Needham.

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 approve the agreement as included in the packet and revised by Attorney George Giunta Jr. and this evening.

Ms. McKnight noted a letter asking for the new road to be called River Run Road. She asked if the Board had dealt with that. George Giunta Jr., Attorney for the applicant, stated no action has been taken on that request. The naming is usually done when all the subdivision documents are done. He just wanted the request on the record. It has not been addressed yet.

Board of Appeals – May 18, 2023

145 Rosemary Street – EIP Rosemary, LLC

Ms. McKnight recused herself as she is an abutter. This is an expansion by Wellesley Family Care Practices. They are requesting parking waivers.

Upon a motion made by Mr. Alpert, and seconded by Ms. Espada, it was by a vote four of the five members present (Ms. McKnight abstained):
VOTED: “No comment.”

Report from Planning Director and Board members.

Mr. Block noted there was a Chair/Vice-Chair meeting with himself, Ms. McKnight, the Select Board Chair and Vice-Chair, Town Manager Kate Fitzpatrick and Assistant Town Manager Katie King. There will be a Housing Needham advisory committee set up of 9 members – 2 Planning Board, 2 Select Board and 1 Finance Committee. The Planning Board will

appoint a Real Estate Developer or architect and the Select Board will appoint a tenant and a community member at large. This will be a jointly run task force for compliance with the MBTA Communities Act. The Planning Board had wanted action at the May 2024 Town Meeting but the DHCD review period could take 90 days. If so, May does not work. Ms. McKnight noted the Town Manager and Assistant Town Manager want robust community discussions.

Mr. Block noted it would need to be on the Warrant for the October 2024 Town Meeting. Ms. King will prepare the documents and the Planning Board will review. The Planning Board will play an important role in helping to shape zoning and public policy. There will be substantial public engagement with 2 or 3 sessions before it gets to the Planning Board for final language. The Board will vote in June or July to appoint members to the Committee.

Mr. Crocker stated he would like to find a way to bring a Warrant Article to Town Meeting in October regarding climate action like solar or maybe a Tree By-Law. He would like to have something meaningful for climate action in October. Mr. Block stated it is up to the Planning Board to create language. There would need to be a public hearing over the summer. He would like Mr. Crocker to help. They could do solar canopies. Mr. Crocker feels something could be done in the criteria in the special permit. Mr. Block noted he will work with Mr. Crocker to come up with a task list.

Mr. Block noted a letter, dated 5/10/23, from Reg Foster. The Needham Housing Authority was in front of the Board 2/28/23 with a proposal. The thought was to go through a friendly 40B. DHCD needs to approve the proposal that would allow that, then to go through additional funding. If not in October, the project would need to go another year and would need to have funding in place. He wants the zoning revised at the October, 2023 Special Town Meeting. He will be coming in 6/6/23 to discuss the current proposal. A discussion ensued. Mr. Alpert stated Ms. McKnight's thought was to have Apartment 3 zoning for this property, but nothing is really drafted. Ms. Espada would recommend neighborhood meetings, so everyone is aware once the Board starts having public hearings.

Upon a motion made by Mr. Alpert, and seconded by Ms. Espada, it was by a vote of the five members present unanimously:
VOTED: to adjourn the meeting at 9:50 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk