

NEEDHAM PLANNING BOARD MINUTES

April 4, 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 4, 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 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.

Request to extend the Action Deadline of Decision: Major Project Site Plan Special Permit No. 2021-01: WELL LCB Needham Landlord LLC, c/o LCB Senior Living, 3 Edgewater Drive, Suite 101, Norwood, MA 02062, Petitioner (Property located at 100-110 West Street, Needham, MA). Regarding redevelopment of the property to include an 82 unit Assisted Living and Alzheimer's/Memory Care facility and 72 Independent Living Apartments.

Attorney Tim Sullivan, of Goulston & Storrs, stated he is requesting an extension of the special permit for 12 months. His client has been working to put forward the project and recently submitted a new application. The applicant heard a lot of comments and time is needed to come back with a thoughtful and responsive project. He feels there is good cause. Mr. Block asked if there is a new proposal. Mr. Sullivan stated they are asking for a 12-month extension for what was approved.

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 request for an extension of the existing permit for 100-110 West Street for one year until 6/14/2024.

Correspondence

Mr. Block noted a letter, dated 3/24/23, from the Commonwealth of Massachusetts Department of Housing & Community Development to Town Manager Kate Fitzpatrick, noting the Town has achieved Interim Compliance with regard to the MBTA Communities law (G.L. c.40, sec. 3A). He stated thanks to Ms. Espada and Ms. McKnight it has been approved. The deadline is 12/31/24 for final action approval. He also noted an email, dated 3/30/23, from the League of Women Voters with a reminder of the Warrant meetings. The Board discussed the room assignments.

Public Hearings:

7:10 pm. 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, February 7, 2023 and March 28, 2023 meetings.

Scenic Road Act and Public Shade 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, February 7, 2023 and March 28, 2023 meetings.

Mr. Block stated this had been held open to receive satisfactory comments from the Fire Department, Police Department and the Tree Warden. Comments have been received from the Fire and Police. He noted Tree Warden Ed Olson was at a hearing and supported the removal of 2 trees and requested a donation to the tree fund of \$400. Ms. Newman noted the hearing was held in front of the Planning Board on 12/19/22. Mr. Alpert would like to review the request for waivers for roadway width and pavement. Attorney George Giunta Jr., representative for the applicant, noted this will be a private way

and only serve 2 houses. There will never be a request to make it a public way. Mr. Alpert noted there is a waiver request for the radius of the turn around and a waiver of curbing. He does not recall discussing that. Mr. Giunta Jr. stated the design is the same, just dropped down 3 feet. The rules and regulations call for granite curbing around the circle. This only serves one house at the end after the circle. The applicant wants a cape cod berm around the circle. Mr. Alpert asked the applicant to explain the sidewalk, road layout and general waiver of construction. Mr. Giunta Jr. stated this goes to the fact this is a glorified driveway. This is a catchall in case anything is missed. He noted all is shown on the plan.

Ms. Newman stated the Board does not historically grant a general waiver. The waivers that are requested need to be called out. Ms. McKnight noted there is no sidewalk. Mr. Giunta Jr. stated there are no sidewalks on South Street. It does not make sense for a sidewalk to a road with no sidewalk.

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 for 1) Request for Approved Subdivision, 920 South Street and 2) close the hearing for Request for Scenic Road and Public Tree Removal of 2 trees.

Ms. Newman will draft a decision for the 4/25/23 meeting. She will prepare the standard kind of decision to grant waivers and require the way be private and the owners keep it maintained in perpetuity and include all traditional requirements relative to construction including submittal of a landscape plan for the cul de sac which they do not have yet and a landscape plan with the abutter. She will reference all documents that will go on record and include covenants and any associated easements.

Revise temporary outdoor seating/outdoor display policy to extend applicability date to April 1, 2024 or another later date deemed appropriate by the Board.

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 extend to 4/1/24 pursuant to the Governor's updated orders.

Discussion with CAPC Chair Stephen Frail on climate smart zoning reform.

Stephen Frail, of 29 Power Street and Chair of the Climate Smart Zoning and Permitting Committee (CAPC), stated Ms. Espada Mr. Crocker participated in the CAPC. He noted a meeting has been posted in case 4 or more members of CAPC show up at this Planning Board meeting. There are 7 standing members and 40 or so volunteer participants. Mr. Frail gave the background of the CAPC. It was chartered by the Select Board in early 2022 to come up with a climate action plan. They report to the Select Board and are an advisory group. The CAPC was tasked to look at the state law around greenhouse gas mandates and chart a path forward for all municipal sectors. The Committee has been meeting for a year and came up with a project plan. The Committee met with volunteers in the Fall to come up with priorities.

Mr. Frail noted there are actions in 6 areas. One area was zoning and permitting. The state wants net zero by 2050. Only 2.4% of greenhouse gases come from the municipal sector. Ms. McKnight asked what construction represents. Mr. Frail noted it could be reconstruction, house construction, roadways being paved. It is a hodge podge but usually large diesel tractors and trucks. Ms. McKnight asked if it is related to construction activity during a certain year. Mr. Frail stated yes, and he showed charts with percentages of use for fossil fuel heat, gasoline and diesel, electricity and others. Most homes are heated by natural gas and oil. For this group the focus was on decarbonization of buildings, how to remove barriers to adoptions of solar, heat pumps and such in residential and commercial buildings and how to improve building codes.

Mr. Block noted the town adopted the Stretch Code. He asked if the Board needs to go to Town Meeting or is it an automatic update. Mr. Frail stated it is automatic. There is a third level at the state for an Opt-In Stretch Code, which is mainly applicable to new construction. He noted 2 key actions came out of 2 of the 6 working groups. The Smart Zoning and Permitting Group suggested removing zoning barriers where they exist. Ms. Espada noted she was the Chair of that group and it included the Building Commissioner, Oscar Mertz and Justin Savignano from Engineering. Mr. Frail noted areas have been identified. The Net Zero Building Group's key action is to adopt the specialized stretch code at Town Meeting. The group discussed what should be by right and what should be special permit, what should be included in the definitions

and what the site plan process should be. The current zoning has a large-scale ground mounted photovoltaic installation overlay district. He pulled some information/language from the Department of Energy Resources (DOER).

Mr. Alpert stated, if having it in other areas of town, it may be easiest to extend the overlay district to the other areas. Mr. Frail stated very few areas could have this. He noted existing solar and commercial district roof top solar. He discussed the restriction of height, horizontal coverage, setback and screening of equipment. The larger the project the more flexibility. Mr. Block noted the original goal was recommendations for municipalities to loosen up regulations as they are seen as barriers. Mr. Frail stated this was for the aesthetics. There are no restrictions on residential. He noted there are 500 residential solar installations in Needham and most are single family. Ms. Espada noted the Building Commissioner said it would impact architectural designs moving forward. She asked if the Board was looking at the Tree By-Law simultaneously as it would impact solar. Mr. Frail noted they are not really looking at residential. The Metropolitan Area Planning Council (MAPC) recommended expediting solar installations, permitting check lists, narrow inspection time windows to lower costs, developing a solar permitting website, offer online permitting and reduce or eliminate permitting fees for solar projects.

Mr. Block asked if there is a way to fast track, so it is weeks rather than months. Mr. Frail gave a summary of the CAPC discussion. He noted items not blocked by the current zoning are residential heat pumps, residential roof top solar and large-scale ground mounted solar. The highest priorities are solar canopies over parking lot/structures, commercial roof top solar and small and medium sized ground based solar, which has not been defined but could be by right or special permit. Mr. Alpert noted they are basically accessory structures. Ms. McKnight understands that solar is not necessarily just bringing electricity into the house solely for that house but going into the grid so they can get credit for it. Mr. Frail noted it is allowed as opposed to just being another accessory structure. They recommend it be allowed as of right with site plan approval. It removes barriers to quickly add green energy products. Site plan approval is being recommended because they need to handle stormwater, minimum height to allow plans and emergency vehicles and impacts on parking and paving. This would allow canopies on parking garage roofs that help with snow melt, safety and protects cars parked on roofs.

Mr. Alpert noted they could define how many parking spaces are being taken. Mr. Block stated that will add time to the process and would need a traffic study. Mr. Alpert noted a study is not needed but figuring out how it would be managed. It would be a public hearing and site plan review. The neighbors would have input. Mr. Frail noted the Building Commissioner suggested looking at solar on parking structures as well as roofs for height restrictions and such. Another suggestion is adding zoning for small to medium ground based solar. That is not defined in the By-Law. The permitting process needs to be clarified. It is being recommended that small systems be as of right subject to lot coverage limits and medium systems be as of right with site plan review. Mr. Block asked to what extent could they exempt municipalities from the longer processes. Mr. Alpert commented there could be more problems dealing with the town than regular homeowners.

Mr. Frail noted Hank Haff was there and not interested in carving that out. They pulled together resources for climate smart zoning. He also took the DOER wording and prepared draft Climate Smart Zoning language for Needham. Mr. Block noted, on zoning and permitting, there is a list of 3 specific actions the Board could take. He asked if Mr. Frail was looking to take action with 3 separate By-Law actions in October. Mr. Frail noted these are recommended by the CAPC. Mr. Block asked when the Board would need the language for By-Law changes for October and was informed August. Mr. Alpert feels they are looking at next year's annual. Mr. Frail noted this is an advisory body and not experts at language. If there is interest from the Board he would prioritize and be a resource.

Mr. Block noted it should take 2 or 3 months to create legislation for 2 or 3 actions to have them ready for August. Others may take longer and be more complicated. He would like to utilize the existing site plan criteria and special permit criteria. He would like to modify FAR in some areas and, if they meet specific standards, there could be a type of bonus. He wants to establish and understand what the impact of the additional inducements would be and wants to have the conversation. He noted the state decided the Stretch Code would not get them there for decarbonization and a new code needs to be drafted. Mr. Alpert stated the Council of Economic Advisors (CEA) needs to have that conversation. A discussion ensued.

Mr. Frail stated there is an updated Stretch Code and an Opt-In for Specialized Code. The town already adopted the Stretch Code. The Opt-In for Specialized Code is an above-code appendix. He reviewed the key changes to the Stretch Code. There are stricter standards for new construction and alterations. New construction requires ventilation and heat capture, requires homes to include EV wiring and high ventilation buildings such as labs and hospitals get exemptions. The new

Opt-In Specialized Code was written to encourage net zero building construction. This would need an affirmative Town Meeting vote to pass. The town needs to opt in, and it goes into effect 6 months after passing. This is for new construction only. Ms. Espada feels this is something to think about along with the MBTA Communities. This all needs to be looked at holistically.

Mr. Frail noted he sat in on Wellesley's public forum on the new Specialized Code. They basically said building construction is about 1% more. There is a learning curve but over time they have learned and are now at a very competitive price. Ms. McKnight noted this is not under zoning but under the state building codes. Mr. Frail stated yes, there is a pre-emption. The public process is over the next couple of months and there is a recommendation to the Select Board. They are aiming for September/October for the final. Ms. McKnight asked if the Climate Action Committee is ongoing. Mr. Frail noted through 2024. He described the upcoming process.

Report from Planning Director and Board members.

Ms. Newman noted she and Mr. Block met with the Finance Committee to discuss the Articles including funding for the Small Repair Grant Program. The Finance Committee was affirmative on all Articles except the Accessory Dwelling Unit (ADU) Article. Mr. Block noted the Finance Committee is voting no comment on some of the Articles. With an absence of a quantifiable number of units in other communities they voted not to recommend the Article on ADUs. He noted a few have been trying to gather information from other towns. Ms. Espada asked what the concern was. Mr. Block noted the Board allows an ADU to be rented out and allows 5 unrelated people to live there, between both structures. Ms. McKnight noted that this is the same limit as for a single-family house. Ms. Newman stated the Finance Committee grabbed the idea that the ADU was going to get created, the couple was going to move into the ADU and rent to a family of 4 kids which would then impact the schools. She feels they focused on school related costs.

Mr. Block noted the Finance Committee questioned the impact on town services and the schools. Mr. Alpert commented it does not make sense. If the elderly couple sells the house and moves away, you can have a large family move in. Ms. Espada noted the ADU would be for one or 2 people. Mr. Block explained that but that is still the Finance Committees position. He would like all members to collect information to quantify as much as they can to provide to the Finance Committee. All the municipalities reported there are so few ADU's there is no impact. The Board needs to show that information. He would like all members to make some calls to municipalities. He noted the MAPC study was 6 years ago.

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

VOTED: to adjourn the meeting at 9:15 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk