

NEEDHAM PLANNING BOARD

Tuesday, January 2, 2024

7:00 p.m.

Charles River Room

Public Services Administration Building, 500 Dedham Avenue

AND

Virtual Meeting using Zoom

Meeting ID: **880 4672 5264**

(Instructions for accessing below)

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Direct Link to meeting: <https://us02web.zoom.us/j/88046725264>

1. Review of Needham Housing Authority Zoning Articles for May 2024 Town Meeting.
2. Review of Solar Energy Systems Zoning Article for May 2024 Town Meeting.
3. Minutes.
4. Report from Planning Director and Board members.
5. Correspondence.

(Items for which a specific time has not been assigned may be taken out of order.)

**MEMO FOR JANUARY 2, 2024, PLANNING BOARD MEETING
NHA ZONING AND NON-ZONING WARRANT ARTICLES FOR MAY 2024 TOWN
MEETING**

Bob Smart 12/28/23

The Needham Housing Authority's Linden-Chambers redevelopment will involve consideration of several warrant articles at the May 2024 Town meeting. These include a zoning article, a map article, a non-zoning article, and a CPA article. This Memo addresses the first three articles, but not the CPA article.

Zoning Article

This article (see the draft attached as Exhibit A), proposes the establishment of a new approximately 11-acre Affordable Housing District. AHD projects, defined as multi-family housing developments of affordable housing units, will be allowed by right, subject to Site Plan Review. The article calls for a 40 foot front setback, 25 foot side and rear setbacks, .5 maximum FAR, 25 dwelling units per acre maximum, 58 foot maximum height, 4 story maximum, and a .5 parking ratio.

All the units will be "affordable housing units" as defined in Section 1.3 of the by-law. That section, copy attached as Exhibit B, limits occupants to those with incomes at or below 80% of area median income, and requires that the units be eligible for inclusion in the Chapter 40B Subsidized Housing Inventory.

NHA proposes that occupancy not be limited to elderly and handicapped persons, although the its current occupants at Linden Chambers are all elderly or handicapped. The reasons for this are set forth below.

First, current law authorizes housing authorities to provide housing for elderly persons of low income, handicapped persons of low income, and families of low income. See Mass. G.L. Chapter 121B, Section 26. By contrast, the Town Meeting votes, deeds, and variances generated between 1957 and 1970, concerning the Linden-Chambers development, limited the development to housing for the elderly, pursuant to since superseded laws - Chapter 667 of the Acts of 1954, and Mass. G.L. Chapter 121, Sections 26TT through 26VV.

Second, the current Needham Zoning Bylaw uses the Section 1.3 definition of "affordable housing units" repeatedly. See, for example, the affordable housing unit provisions in the various overlay districts for Needham Center, Lower Chestnut Street, Garden Street, Elder Services, and Mixed Use 128 all refer to Section 1.3. There is no compelling reason to vary this practice.

Third, the statewide trend is to disfavor zoning which contains age restrictions. The MBTA Communities Act, for example, does not allow for age restrictions. A Boston Globe editorial board article from October 1, 2023, is titled "The Boston suburbs' cynical ploy to keep poor families out: use seniors as a shield". The absence of an age restriction in the zoning would likely give the NHA a leg up in obtaining approval for financing through the Executive Office of Housing and Livable Communities.

Fourth, the imposition of an age restriction could prevent a Needham family currently living in a Cooks Bridge 2 bedroom or 3 bedroom unit, who is characterized as “overhoused” and has to move because one or more family members has vacated the unit, from being able to remain in Needham by moving to a smaller unit at Linden Chambers.

Fifth, a clean zoning article, while limiting the use to affordable housing, will give the NHA flexibility to manage occupancy of its affordable housing units in the face of changing circumstances and regulations, without the need to seek a zoning change to do so.

Map Article

This article (see the draft attached as Exhibit C), describes the 11-acre parcel which will be placed in the new Affordable Housing District.

Non-Zoning Article

This article (see the draft attached as Exhibit D), would authorize the Select Board to execute and record a clean-up document, which would remove or replace the restrictions on development of the Linden Chambers property, which were recorded at the Norfolk Registry of Deeds between 1957 and 1970, while protecting the pre-existing uses and buildings on the site. The exact language of the clean-up document can be worked out after the zoning is adopted.

Removal or substantial modification of the existing recorded restrictions is needed. A summary of those restrictions is attached as Exhibit E. The Town Meeting votes, Deeds from the Town to the NHA, and the Variances granted by the Board of Appeals, contain language limiting occupancy to elderly persons of low income, restricting the number of units which may be located on the land within the Linden-Chambers site, and limiting the buildings on site to 1 story in some areas, and 2 ½ stories in others.

Use and dimensional requirements would be set forth in the new zoning, and by a Planning Board decision after site plan review. A site plan review decision by the Planning Board could limit the grant of relief to the Needham Housing Authority or a successor organization established under state law with the charge of providing affordable housing.

Exhibit A: Zoning Article

Proposed Affordable Housing District Article 12/12/23

ARTICLE ____ : AMEND ZONING BY-LAW – AFFORDABLE HOUSING DISTRICT

To see if the Town will vote to amend the Zoning By-Law as follows:

- (a) In Section 2.1, Classes of Districts, by adding the following term and abbreviation under the subsection Residential:

“AHD – Affordable Housing District”

- (b) In Section 3, Use Regulations, by inserting a new Subsection 3.16, Affordable Housing District, to read as follows:

“3.16 Affordable Housing District

3.16.1 Purpose of District

The purpose of the Affordable Housing District (hereinafter referred to as AHD) is to promote the health, safety, and general welfare of the community by encouraging the establishment of affordable housing units, while minimizing potential adverse impacts upon nearby residential and other properties.

3.16.2 Scope of Authority

The regulations of the Affordable Housing District shall govern all new construction, reconstruction, or expansion of new or existing buildings, and new or expanded uses, regardless of whether the requirements of Section 3.16 are more or less restrictive than those of the underlying District or Districts of which the Affordable Housing District was formerly a part. Provisions of Section 3.16 shall supersede those of Section 3.2 (Schedule of Use Regulations), Sections 4.2 through 4.10 (Dimensional Regulations) and Section 5.1.2 (Required Parking), except as otherwise specifically provided herein. The Planning Board shall be the permitting authority for any multi-family development in the AHD.

3.16.3 Definitions

For the purposes of this section and the Needham Zoning By-Law, the following words and phrases shall have the following meanings:

- a. AHD Project – a multi-family housing development of affordable housing units, as defined in Section 1.3 of this By-Law.
- b. Multi-family dwellings – buildings containing three or more dwelling units.

- c. Site Plan Review – the Site Plan Review process as provided in Section 7.4 that an applicant must obtain for any AHD project.

3.16.4 Allowed Uses

The following uses may be constructed, maintained, and operated by right:

- a. AHD Projects, after completion of Site Plan Review as provided in Section 7.4.
- b. Accessory buildings and uses to the use allowed by right.

3.16.5 Multiple Buildings in the Affordable Housing District

More than one building may be located on a lot in the AHD as a matter of right, provided that each building and its uses complies with the requirements of Section 3.16 of this By-Law.

3.16.6 Dimensional Regulations for AHD Projects in the Affordable Housing District

- a. Minimum Lot Area (Sq. Ft.): 20,000 SF
- b. Minimum Lot Frontage (Ft.): 150 FT
- c. Minimum Front Setback¹ (Ft.): 40 FT
- d. Minimum Side Setback² (Ft.): 25 FT
- e. Minimum Rear Setback³ (Ft.): 25 FT
- f. Maximum Floor Area Ratio: .5
- g. Maximum Dwelling Units Per Acre: 25
- h. Maximum Lot Coverage: 20%
- i. Maximum Height⁴: 58 FT

¹ The front setback shall be a landscaped, vegetative buffer area, except that driveway openings, sidewalks, walkways and screened mechanical equipment may be located in the buffer area. Additionally, parking areas may be located in the buffer area, but must be set back at least 10 feet from the front lot line.

² Parking areas must be set back at least 5 feet from a side lot line.

³ Parking areas must be set back at least 5 feet from a rear lot line.

⁴ Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilation or air conditioning equipment, solar or photovoltaic panels, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all such structures on the building does not exceed 25 percent, and all such structures are set back from the roof edge by a distance no less than their height. The Planning Board may require screening for such structures as it deems necessary. Notwithstanding the above height

- j. Maximum Number of Stories: 4

3.16.7 Parking Requirements

- a. Notwithstanding anything in the By-Law to the contrary, for AHD Projects in the Affordable Housing District, the off-street parking requirement shall be .5 parking spaces per dwelling unit.
- b. For AHD Projects in the Affordable Housing District, the requirements of By-Law Section 5.1.3, Parking Plan and Design Requirements, shall apply.

3.16.8 Site plan review

- a. Site plan review under Section 7.4 of the By-Law shall be completed by the Planning Board for any AHD Project prior to the filing of an application for a building permit.
- b. For AHD Projects the site plan review filing requirements shall be those set forth in the By-Law for Major Projects as defined in Section 7.4.2.
- c. The procedure for the conduct of site plan review for an AHD project shall be as set forth in Section 7.4.4 of the By-Law.
- d. In conducting site plan review of an AHD project, the Planning Board shall consider the review criteria set forth in Section 7.4.6 of the By-Law.

(c) Amend Section 7.4 Site Plan Review

Make the following changes to Section 7.4.2 Definitions:

Under MAJOR PROJECT: Add a new paragraph after the paragraph defining MAJOR PROJECT:

“In the Affordable Housing District, a MAJOR PROJECT shall be defined as any construction project which involves the construction of 10,000 or more square feet of gross floor area; or increase in gross floor area by 5,000 or more square feet; or any project which results in the creation of 25 or more off-street parking spaces; or any project that results in any new curb- or driveway-cut.”

Under MINOR PROJECT, Add a new paragraph after the paragraph defining MINOR PROJECT:

limitations, cornices and parapets may exceed the maximum building height provided they do not extend more than 5 feet above the highest point of the roof.

“In the Affordable Housing District, a MINOR PROJECT shall be defined as any construction project which involves the construction of more than 5,000 but less than 10,000 square feet gross floor area; or an increase in gross floor area such that the total gross floor area after the increase is 5,000 or more square feet – and the project cannot be defined as a MAJOR PROJECT.”

Or take any other action relative thereto.

INSERTED BY: Planning Board
FINANCE COMMITTEE RECOMMENDS THAT:

Exhibit B: Definition of “Affordable Housing Units”
under Zoning Bylaw Section 1.3

Affordable Housing Unit - A dwelling unit that is affordable to and occupied by a household with income at or below eighty (80) percent of the area median income that applies to subsidized housing in the Town of Needham, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD), and meets all applicable requirements for inclusion on the Chapter 40B Subsidized Housing Inventory. Except as may be provided elsewhere in this bylaw, each affordable housing unit shall be eligible for inclusion in the Chapter 40B Subsidized Housing Inventory, in accordance with regulations or policies of the Massachusetts Department of Housing and Community Development (DHCD). As used in this bylaw, “affordable housing unit” and “affordable unit” shall have the same meaning.

Exhibit C: Map Article

DRAFT Map Article 12/12/23

ARTICLE ____ : AMEND ZONING BY-LAW – MAP CHANGE FOR AFFORDABLE HOUSING DISTRICT

To see if the Town will vote to amend the Zoning By-Law by amending the Zoning Map as follows:

Place in the Affordable Housing District all the land described under Article ____, Section 3.16.2 of the May, 2024 Annual Town Meeting Warrant, said description being as follows:

A certain parcel of land situated on the easterly side of Linden Street in the Town of Needham, County of Norfolk and Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a point at the northwesterly corner of the property, on the easterly side of Linden Street;

Thence, S 83° 26' 20" E for a distance of 107.02 feet to a point;

Thence, S 82° 15' 50" E for a distance of 87.89 feet to a point;

Thence, S 08° 56' 10" W for a distance of 328.80 feet to a point;

Thence, S 42° 44' 39" E for a distance of 159.58 feet to a point;

Thence, S 23° 10' 59" W for a distance of 275.87 feet to a point;

Thence, S 14° 57' 44" W for a distance of 199.47 feet to a point;

Thence, S 86° 04' 45" E for a distance of 59.86 feet to a point;

Thence, S 88° 37' 00" E for a distance of 37.49 feet to a point;

Thence, S 86° 19' 44" E for a distance of 140.96 feet to a point;

Thence, S 86° 19' 44" E for a distance of 26.25 feet to a point;

Thence, along a curve turning to the right, having a radius of 2817.93 feet, a distance of 714.31 feet to a point;

Thence, S 37° 38' 40" W for a distance of 530.86 feet to a point;

Thence, N 52° 24' 02" W for a distance of 175.47 feet to a point;

Thence, N 74° 08' 46" W for a distance of 39.95 feet to a point;

Thence, N 21° 18' 16" E for a distance of 70.00 feet to a point;

Thence, N 72° 56' 42" E for a distance of 165.00 feet to a point;

Thence, N 59° 35' 49" E for a distance of 116.66 feet to a point;

Thence, N 40° 49' 40" E for a distance of 118.66 feet to a point;

Thence, N 21° 56' 07" E for a distance of 118.66 feet to a point;
Thence, N 02° 41' 10" E for a distance of 122.65 feet to a point;
Thence, N 09° 25' 32" W for a distance of 98.72 feet to a point;
Thence, N 09° 25' 32" W for a distance of 81.77 feet to a point;
Thence, N 09° 25' 32" W for a distance of 90.73 feet to a point;
Thence, N 43° 37' 54" E for a distance of 103.44 feet to a point;
Thence, N 20° 01' 10" E for a distance of 112.06 feet to a point;
Thence, N 86° 04' 45" W for a distance of 22.72 feet to a point;
Thence, N 78° 30' 10" W for a distance of 108.86 feet to a point;
Thence, N 10° 27' 39" E for a distance of 823.78 feet to a point;
Thence N 08° 57' 39" E a distance of 71.55 feet to the point of beginning.

Said parcel contains four hundred seventy-nine thousand two hundred fifty-six square feet more or less
(479,256± S.F.)

DESCRIPTION

Or take any other action relative thereto.

INSERTED BY: Planning Board
FINANCE COMMITTEE RECOMMENDS THAT:



ASSESSORS PLAN
NO. 45
SCALE: 1 IN. = 40 FT.

SEE PLAN 42

SEE PLAN 46

CHESTNUT STREET
(TOWN 2006)

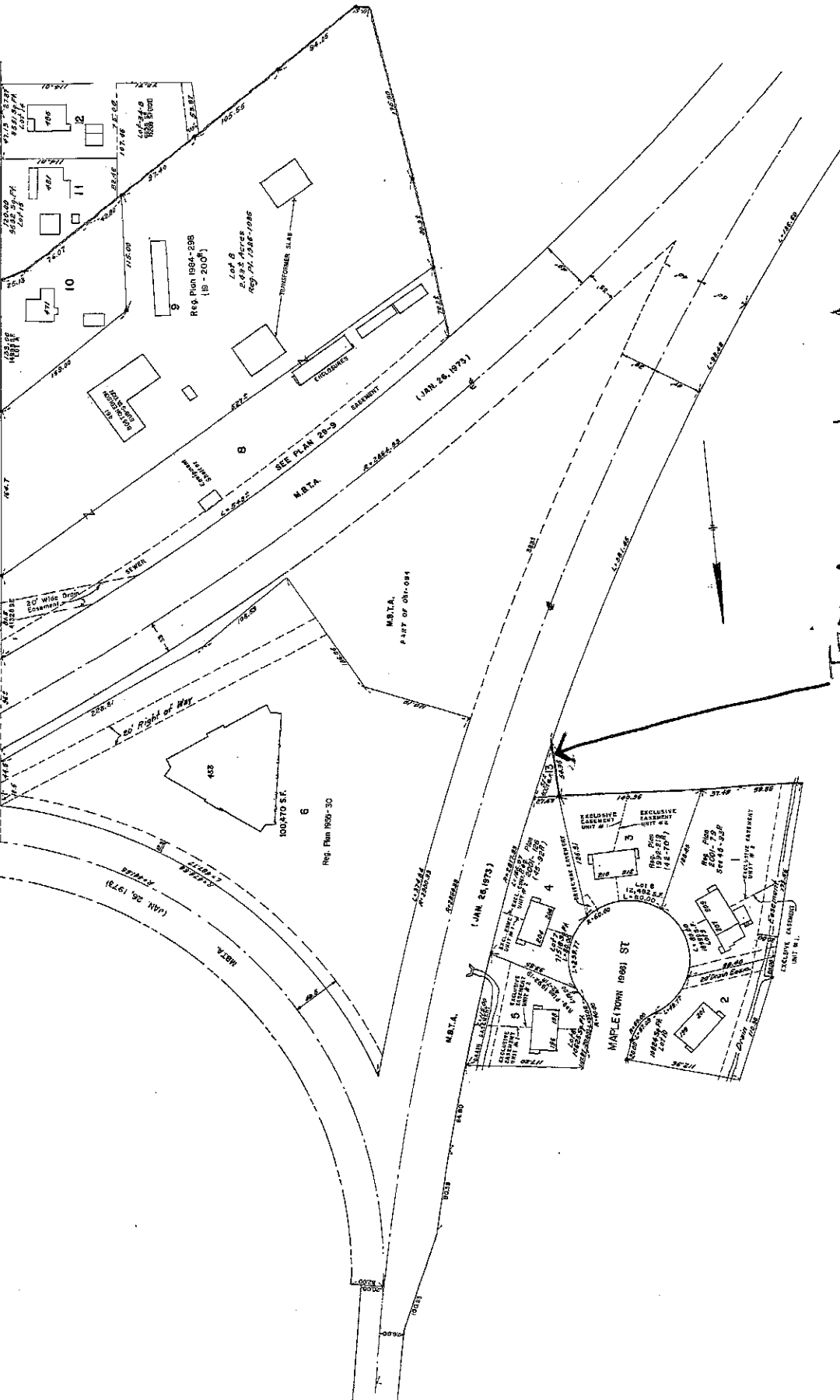
100' R.T.O. ST.

100' R.T.O. ST.

100' R.T.O. ST.

100' R.T.O. ST.

100' R.T.O. ST.



Triangular parcel owned
by Town

N.T.A.

SEE PLAN 134

SEE PLAN 133

SEE PLAN 135

Exhibit D: Non-Zoning Article

Non-Zoning Article 12/12/23 DRAFT

ARTICLE ____: AUTHORIZE SELECT BOARD TO REMOVE RESTRICTIONS

To see if the Town will vote to authorize the Select Board to execute and record such corrective deeds, instruments, releases or other documents as it deems necessary to clear the title to the land in the Affordable Housing District, as described in Article ____ of the 2024 Annual Town Meeting Warrant, of ancient or outdated restrictions and limitations on use, density, and dimension which could limit future development of affordable multi-family projects in that District; to update statutory references applicable to affordable housing units in that District, to protect pre-existing uses and structures on said land, and to take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Exhibit E: Summary of Recorded Restrictions on Development at Linden-Chambers

Summary of Recorded Limitations on Development at Linden-Chambers

Bob Smart 12/27/23

The Linden and Chambers Street properties owned by the Needham Housing Authority (NHA) were acquired by deed or taking between 1957 and 1967. The development took place in three stages: 1957, 1960-61, and 1967. The limitations of concern (which include elderly only, number of units, height of units, and number of stories,) are in *italics*, below.

1957: Eight apartment buildings with the addresses of 166, 168, 170, 172, 180, 182, 186 and 188 Linden Street were built on land abutting Linden Street conveyed by the Town to NHA in 1957, after Town Meeting votes authorizing same. The Town Meeting authorization, and deed, specified the use as a "site for the location of housing *for the elderly*", under Mass. G.L. Chapter 121, Sections 26TT through 26VV as amended, which law was likely enacted under Chapter 667 of the Massachusetts Acts of 1954. Chapter 121, Sections 26TT through 26VV, were repealed in 1969, and replaced by Mass. G.L. Chapter 121B, Sections 39-41. A variance was granted by the Board of Appeals in 1958 to permit multiple dwelling units *for 32 elderly families*. The variance was "to permit placing *8 one floor 4-unit apartments*" on the land.

1960-61: Ten apartment buildings with the addresses of 138, 140, 144, 146, 150, 152, 156, 158, 174, and 184, and a community building with the address of 164, were built on land abutting Linden Street which was conveyed by the Town to NHA (there were also takings by the NHA, and confirmatory deeds and releases from Louise Haskell and William Perlin) in 1960 and 1961, after Town Meeting votes authorizing same. The authorizations, takings, and deeds were to erect a housing project *for elderly persons*, pursuant to Chapter 667 of the Acts of 1954, or under the provisions of Mass. G.L. Chapter 121, Sections 26TT through 26VV. At a variance hearing by the Board of Appeals in 1961, NHA presented plans "to build *36-38 units* and a community house." By unanimous vote the ZBA granted a variance "to permit placing housing units on land as shown on the plan submitted to Board titled 'Plan of Land in Needham, Mass. Cheney Engineering Co. Needham Mass Feb. 6, 1961' ", and also referenced a Town Meeting vote permitting erection of additional units of housing *for the elderly*.

1967: Buildings 5, 15, 17, 25, 27, 28, 30, 39, 40, 41 and 42 are on land abutting Chambers Street which appears to have been conveyed by the Town to the NHA in 1967, after Town Meeting votes authorizing same. The authorizations and deeds were for the purpose of erecting additional housing *for elderly persons*, pursuant to Chapter 121, Sections 26TT to 26VV, and under Chapter 667 of the Acts of 1954. The Town Meeting votes authorize conveyance of the site for location of housing *for the elderly, consisting of not less than 70 units nor more than 128 dwelling units*. The Board of Appeals issued a 1967 variance, which was amended by a 1970 variance. In the minutes of the hearing, the Chairman read into the record a letter from the Planning Board stating support as long as "the variance *limited the specified number of stories to 2 or 2 1/2, rather than permit multi-story buildings without specifying the number of stories or height*". The building inspector further stated "that *the 35' 2 1/2 story specification [of the zoning district] would be automatically enforced*." The ZBA ultimately voted to grant a variance "to permit the construction of *housing for the elderly of multi-story buildings, of substantially the same type of construction as those previously built in the area by said*

Authority, containing the amount of units as said Authority deems appropriate, and with height limitations consistent with Building By-Laws and Zoning By-Laws of the Town”.

ARTICLE 1: AMEND ZONING BY-LAW – SOLAR ENERGY SYSTEMS

To see if the Town will vote to amend the Zoning By-Law as follows:

1. In Section 1.3 Definitions, by adding the following term and definition in the appropriate alphabetical location as follows:

“Solar Energy System - a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating. Solar Energy Systems include the following system types:

1. A Solar Energy System, Active: A solar energy system whose primary purpose is to harvest solar energy into another form of energy or to transfer heat from a collector to another medium using mechanical, electrical, or chemical means. Active Solar Energy Systems include, but are not limited to, the following installation types:
 - a) Solar Energy System, Building-mounted: An Active Solar Energy System that is structurally mounted to a building or structure.
 - b) Solar Energy System, Roof-mounted: A special application of a Building-mounted Solar Energy System that is structurally mounted to the roof of a building or structure.
 - c) Solar Energy System, Building-mounted Canopy: A special application of a Building-mounted Solar Energy System that is installed on top of a building with a flat roof that maintains the function of the area beneath the canopy.
 - d) Solar Energy System, Ground-mounted: An Active Solar Energy System that is structurally mounted to the ground.
 - e) Solar Energy System, Small-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies 1,500 square feet of surface area or less.
 - f) Solar Energy System, Medium-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies more than 1,500 square feet, but less than 40,000 square feet of surface area.
 - g) Solar Parking Canopy: A special application of a Ground-mounted Solar Energy System that is installed on top of a parking surface or paved surface that maintains the function of the area beneath the canopy.
 - h) Solar Energy System, Building-integrated Photovoltaic (BIPV): An Active Solar Energy System that consists of integrating solar photovoltaic (PV) modules into the surface of a building or structure, where the solar panels themselves function as, or are integrated into, a building material (i.e., roof shingles, siding, windows, skylights) or structural element (i.e., façade). The generation of solar energy is secondary to the function of the building material or structural element.
 - i) Solar Energy System, Surface-integrated: An Active Solar Energy System that is not building-mounted and is integrated into a ground level surface, such as a driveway, walkway, patio surface, path, or parking area, where the solar panels themselves function

as, or are integrated into, the surface material. The generation of solar energy is secondary to the function of the surface element.

2. Solar Energy System, Passive: A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.”
2. Amend Section 6, Special Regulations, by redesignating Subsection 6.2 Boats, Motor Homes and Trailers as Subsection 6.3, by redesignating Subsection 6.3 Filling Stations and Commercial Garages as Subsection 6.4, by redesignating Subsection 6.4 Outdoor Parking of Vehicles as Subsection 6.5, by redesignating Subsection 6.5 Limited Heliports as Subsection 6.6, and by redesignating Subsection 6.6 Complex Developments as Subsection 6.7.
3. Amend Section 6, Special Regulations, by adding a new Subsection 6.2 Accessory Uses – Solar Energy Systems, to read as follows:

“6.2 Accessory Uses – Solar Energy System

6.2.1 Basic Requirements

- a) Roof-mounted Solar Energy Systems shall be permitted in all use districts. The installation of Roof-mounted Solar Energy Systems that: (i) comply with the regulations provided in this section; (ii) are located on properties with nonconforming uses or structures; and (iii) do not increase the nonconformity of such nonconforming uses or structures except with respect to the dimensions of the Roof-mounted Solar Energy System in question shall not be considered a change, extension or alteration that requires a finding by the Zoning Board of Appeals per M.G.L. c.40A s.6.
- b) In residential districts: Small-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies shall be permitted in rear and side yards. Small-scale Ground-mounted Solar Energy Systems may be permitted in the front yard by a Special Permit from the Special Permit Granting Authority. Screening or landscaping of such systems from view from abutting lots or from a street, by plantings, walls, fences or other devices shall be provided for the reduced front yard setback option. Medium-scale Ground-mounted Solar Energy Systems shall be permitted subject to site plan review by the Special Permit Granting Authority.
- c) In nonresidential districts: Small-scale Ground-mounted Solar Energy Systems shall be permitted in rear and side yards. Medium-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies are permitted subject to site plan review by the Special Permit Granting Authority. The same regulations shall apply in residential districts for exempted uses as defined by M.G.L. c.40A s.3, or other state and federal statutes, and by the Needham Zoning By-Laws.
- d) In the New England Business Center, Mixed Use 128, and Highland Commercial-128 Districts: Solar Energy Building-mounted Canopy Systems are permitted subject to site plan review by the Special Permit Granting Authority.
- e) Where Solar Energy Systems would be installed in a Historic District, the system shall require approval by the Historic District Commission.

6.2.2 Dimensional Requirement

a) Maximum Percentage (%) Lot Coverage

- 1) Active Solar Energy Systems are not buildings as defined in the Needham Zoning By-Law and should not be treated as such. However, for the purpose of regulating lot coverage, the area of Active Solar Energy Systems shall count toward the Maximum Percentage (%) Lot Coverage as defined and regulated in the Dimensional Regulations provided in Section 4 of the Needham Zoning By-Laws.
- 2) An Active Solar Energy System's contribution toward Maximum Percentage (%) Lot Coverage shall be calculated as the total area of the system's panels. For example, if a system includes ten (10) panels that are each three (3) feet by five (5) feet, the system's contribution to Maximum Percentage (%) Lot Coverage would equal 150 square feet.
- 3) Such part of a Building-mounted Solar Energy System or Solar Parking Canopy that extends beyond the impervious area over which it is placed shall count toward Maximum Percentage (%) Lot Coverage.
- 4) For Ground-mounted Solar Energy Systems, the total surface area of the Solar Energy System shall count toward Maximum Percentage (%) Building Coverage.
- 5) To avoid double counting, the surface area of any Active Solar Energy System that is above an existing impervious surface shall not be included in the calculation of Maximum Percentage (%) Lot Coverage (i.e. the addition of a Roof-mounted Solar Energy System shall not increase the calculated Maximum Percentage Building Coverage on a lot because it will be located within a surface area - the building's footprint - that is already counted).

b) Height

1) Building-mounted Solar Energy Systems:

System Type	Roof Pitch	Siting	Maximum Height
Roof mounted Solar Energy System	Pitch is greater than or equal to 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to one (1) foot above the roof surface on which the system is installed beyond applicable building height limits. Systems shall be surface-mounted and installed parallel to the roof surface.

Roof-mounted Solar Energy System	Pitch is less than 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to three (3) feet above the roof surface on which the system is installed beyond applicable building height limits. If the surface on which the system is to be mounted is below maximum building height, the Roof-mounted Solar Energy System may extend up to six (6) feet above the roof surface on which the system is installed, provided it does not exceed building height limits by more than three (3) feet; and provided further that any Roof-mounted Solar Energy System that extends more than three (3) feet above the roof surface on which the system is installed must be installed at least three (3) feet from the roof's edge.
Other Building-mounted Solar Energy System (e.g., awnings)	Not Applicable	All districts	No greater than the highest point of the roof.

2) Ground-mounted Solar Energy Systems:

System Type	Siting	Maximum Height
Small-Scale Ground-mounted Solar Energy System	SRB & GR districts	Eight (8) vertical feet from grade
	All other districts	Ten (10) vertical feet from grade.
Medium-Scale Ground-mounted Solar Energy System	SRB & GR districts	Eight (8) vertical feet from grade
	All other districts	Ten (10) vertical feet from grade.
Solar Parking Canopy	All districts	Seventeen (17) vertical feet from grade.

c) Setbacks

- 1) Ground-mounted Solar Energy Systems that move along an axis, unfold, or open shall be located so that the entirety of the equipment's reach at all angles falls within the setback requirements.
- 2) Solar Parking Canopies in residential districts shall meet setback requirements for Accessory Structures.
- 3) Solar Parking Canopies and Surface-integrated Solar Energy Systems in non-residential zones shall be allowed where parking is permitted in accordance with the requirements defined in Section 5.1.3, Parking Plan and Design Requirements. The requirements for the planting of trees in landscaped strips within the parking area as defined in Section 5.1.3, Paragraphs (k) Landscape Areas and Paragraph (l) Trees shall be met elsewhere on the lot.
- 4) All other Ground-mounted Solar Energy Systems shall meet requirements for Setbacks as defined in Section 1.3 of the Needham Zoning By-Laws, as regulated for each use district in Section 4 ("District-level setback") Notwithstanding the above, Small-Scale Ground-mounted Energy Systems having a 5-foot rear or side yard setback are permitted, in the Rural Residence-Conservation, Single Residence A, Single Residence B, and General Residence Districts, subject to site plan review by the Special Permit Granting Authority. Screening or landscaping of such systems from view from abutting lots or from a street, by plantings, walls, fences or other devices shall be provided for the reduced setback option.
- 5) Any reach of a Building-Mounted Solar Energy System shall comply with the setback requirements for that building.

6.2.3 Supplemental Regulations

- a) BIPV Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to the material or structural element into which the system is integrated or functions as. For example, solar roofing would be subject to regulations for roofing; solar pavement would be subject to regulations for pavement.
- b) The impervious portion of Ground-mounted Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to paving, including impervious lot coverage requirements within the Aquifer Protection District. The systems shall also comply with regulations identified in the Town of Needham's Stormwater By-Law, Article 7 of the General By-Laws.

6.2.4 Site Plan Review

- a) Site Plan Review: Medium-scale Ground-mounted Solar Energy Systems in all districts, Solar Parking Canopies in non-residential districts, Solar Energy Building-mounted Canopy Systems in the New England Business Center, Mixed Use 128, and Highland Comercial-128 districts, and Small Scale Ground-mounted Solar Energy Systems not meeting District-level setbacks as detailed in Section 6.2.2.c.4, or in front yards in residential districts as detailed in Section 6.2.1 b), are subject to site plan review by the Special Permit Granting Authority prior to construction, installation or modification as provided in this section and in accordance with Section 7.4 Site Plan

Review. The Planning Board will serve as the Special Permit Granting Authority for these systems.

- b) Site Plan Document Requirements: The project proponent shall provide a Final Site Plan to the Special Permit Granting Authority in compliance with Section 7.4 Site Plan Review, Subsection 7.4.4.Procedure. In addition, applicants shall submit the following:
 - 1) Name, address, and contact information for proposed system installer.
 - 2) Name, address, contact information and signature of the project proponent, as well as all co-proponents or property owners, if any.
 - 3) The name, contact information and signature of any agents representing the project proponent.
 - 4) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
 - 5) Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the Solar Energy System.
 - 6) Documentation of the major system components to be used, including the panels, mounting system, and inverter.
 - 7) Operation and Maintenance Plan including measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
 - 8) Locations of active farmland, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and “Important Wildlife Habitat” mapped by the Massachusetts Department of Environmental Protection (MassDEP) in relation to the site.
 - 9) Locations of local or National Historic Districts in relation to the site.
- c) Site Plan Review Design Standards: The Special Permit Granting Authority shall consider the following criteria and standards, in addition to those listed in Section 7.4.6, Review Criteria for Site Plan Review when reviewing site plan submittals made under this section:
 - 1) Utility Notification: No solar photovoltaic system shall be installed until evidence has been given to the Special Permit Granting Authority that the owner has submitted notification to the utility company of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
 - 2) Utility Connections: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

- 3) Safety: The owner or operator shall provide a copy of the Site Plan Review application to the Needham Fire Department and shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- 4) Height and Layout: The Special Permit Granting Authority shall also review the height and physical layout of the Solar Energy Systems, utility connections, and appurtenant infrastructure as it relates to the convenience and safety of emergency vehicles, private vehicles and pedestrian movement on the site.
- 5) Visual Impact: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures.
- 6) Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and By-Laws.
- 7) Lighting: The Special Permit Granting Authority shall review the physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts of neighboring properties and excessive light pollution. Where feasible, lighting of the Solar Energy System shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.”

Or take any other action relative thereto.

To Planning Board:

After a hiatus to observe the progress of the Planning Board, I am following up from our July meeting to see if additional thought has been given towards a review of dimensional regulations for new construction in residential areas (specifically Single Residence B (SRB)).

I have done more research on this topic, including a review of the May 2017 Town Meeting, the materials of the Large House Committee, the minutes of the Large House Committee, and available real estate records and data. I believe there would be strong support to change the by-law language regarding FAR regulation in SRB to reduce the limit the size of new construction.

An appropriate course of action would be to do two things:

- 1) Modify the definition of FAR for new construction in SRB. This would include a change to count the qualifying area on all floors above grade and the below-grade floor.
- 2) Confirm the definition of the area on each floor which is counted as part of the FAR calculation. There are multiple ways to do this, with one being all floors with headroom of 4' (or other height) or above or using a term such as "conditioned space" or "finished space". Essentially, to count all space designed for human occupancy.

These changes would require simple by-law changes. For example:

Existing:

In Section 4.2 - Dimensional Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts:

"The term "Floor Area Ratio" means the floor area divided by the lot area. Floor area shall be the sum of the horizontal areas of the several floors of each building on a lot, as measured from the exterior faces of the exterior walls, but excluding basements, attics, half-stories located directly above the second floor, unenclosed porches, and up to 600 square feet of floor area intended and designed for the parking of automobiles whether in accessory buildings or structures, or in main buildings or structures."

Proposed change:

"The term "Floor Area Ratio" means the floor area divided by the lot area. Floor area shall be the sum of the horizontal areas of the several floors of each building, including areas in basements, attics, and penthouses, as measured from the exterior faces of the walls, but excluding spaces with headroom of less than four feet, unenclosed porches and balconies, and up to 600 square feet of floor area intended and designed for the parking of automobiles whether in accessory buildings or structures, or in main buildings or structures."

It would not require significant work to back-test these policies to recent new construction in SRB, as the Planning Department must have confirmed floor area/plans for these houses. As I suspect was done with the recent specialized energy code, the Planning Board and Planning Department could see what the impact would have been to recent new construction in SRB had the by-law been written in the proposed manner.

The Large House Committee had a slide deck which included the following slide. The first thing which is immediately apparent is how far prices have come in less than a decade (against less than 30% inflation over the same period). Additionally, you can consider the ratio between price of the standard house being purchased for teardowns and the ultimate sales price. Finally, you will notice the original analysis includes finished space. I take this slide and the associated analysis as implying that FAR of 44% for all finished space was viewed as problematic. However, if you simply don't count all finished space not located on the first or second floors, then it is likely many of these FARs go below 38%. This, I believe, is one of the reasons why the reforms from 2017 fell short.

Teardown Activity

- Smaller homes with median size of 1,536 square feet and median value of \$600,000.*
- Replacement homes had a median size of 4,830 square feet and prices well above \$1 million.*
- Two-Family rental units that are reconstructed typically are converted to high-end condominiums and do not remain rental properties.
- Teardown properties had a median FAR of 15% compared to 44% for replacement homes.*
- * Analysis includes all finished space minus the garage for 30 teardowns and replacement properties built during about the first 5 months of 2014.

The town may have more recent data than the below, which I believe is the size of SRB lots in Needham. While much thought was given to lots 10,000 square feet or smaller, many of the lots are larger than this. By the time you get to 12,000 square feet, the current dimensional restrictions are close to meaningless. The zoning by-laws need to be written with all sizes of lots in SRB in mind.

Lot Size	Lot Count	Percentage Allocation
Under 5,000	32	.4
5,000 thru 7,500	597	8.3
7,500 thru 10,000	1,121	15.6
10,000 thru 12,500	3,261	45.3
12,500 thru 15,000	1,053	14.6
Over 15,000	1,136	15.8
Total	7,200	

A watching of the May 3 2017 meeting of Town Meeting clearly shows that the Planning Board, Select Board, and Town Meeting intended for the size of new construction in SRB to be reduced. Since that time, new construction size has only trended higher. Other issues highlighted during the meeting, which I would strongly encourage the Planning Board to watch

(<https://www.needhamchannel.org/2017/05/needham-annual-town-meeting-5-3-17/>) have also gotten worse. When the town government invests significant time in crafting policy in line with stated goals of the citizens and Town Meeting, there is an expectation that some objectives will be met. When they are

not, members of town government and Town Meeting have a duty to go back and fix any oversight or errors which were made.

Existing language

Additionally, I think absent any change, the wording of the by-law is flawed. Currently, the by-law states:

“(g) The maximum floor area ratio shall be as follows: for lots containing less than 12,000 square feet – .38; and for lots containing 12,000 or more square feet – .36.

From: 4.2.3 Table of Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, and General Residence Districts, for Buildings and Structures Created Through New Construction on any Lot

Would this not mean that floor area for a lot of 11,999 ft² is 4559.62 ft², but the permitted floor area for a lot of 12,000 ft² is 4,320 ft²? If the lot size is 11,369 ft², the permitted floor area is 4,320 ft². If the lot size is 12,000 ft², the permitted floor area is also 4,320 ft². It is not clear to me that this was the original intent.

Best,

Joe Matthews

Precinct I

P.S. Some nice photos of what our zoning by-laws has resulted in:









- This charming and inviting home has been in the heart of one family for over 30 years and is ready for new owners to begin creating their own memories and traditions. Appreciate the hardwood floors, large living room, screened-in porch and beautifully maintained private yard. This home is conveniently located across from Thorpe park which provides ample green space and just a short distance from Trader Joe's and the Needham Heights shopping, restaurants and Train Station. Only one mile from Needham Center and easy access to all commuting routes. Bring your own ideas to this 3 bedroom and 1.5 bathroom home that has so much potential and is ready for its next chapter.



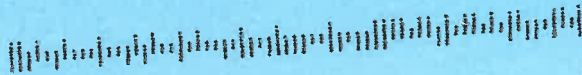


CITY OF NEWTON
ZONING BOARD OF APPEALS
1000 COMMONWEALTH AVENUE
NEWTON, MA 02459-1449

US POSTAGE PAID PITNEY BOWES

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PLANNING BOARD OF NEEDHAM
NEEDHAM TOWN HALL
1471 HIGHLAND AVE
NEEDHAM, MA 02192



A public hearing of the Newton Zoning Board of Appeals will be held virtually via Zoom on Wednesday, January 10, 2024, at 7:30 p.m. on the following petitions: 1. #11-23 78 Crafts Street Newton LLC, requesting a Comprehensive Permit, pursuant to M.G.L. Chapter 40B, to construct a 307-unit residential development on a 4.76 square acre lot located at 78-84 Crafts Street, 68-70 Crafts Street, 9 Maguire Court, 17-19 Maguire Court, 67R Court Street, 63 Court Street, 13-15 Maguire Court, 24 Maguire Court, 31 Maguire Court, and 31R Maguire Court within the Multi-Residence 1 (MR-1) and Manufacturing (M) zoning districts. The proposal includes 62 affordable units and 263 parking spaces.

To view and participate in this meeting using Zoom, click this link: <https://newtonma.gov.zoom.us/j/85611997424> or dial +16465588656,, 85611997424#

Boston Herald – December 27, 2023 & January 3, 2024
Brenda Belsanti, Board Clerk