NEEDHAM PLANNING BOARD MINUTES

November 17, 2023

The Needham Planning Board special meeting, held virtually using Zoom, was called to order by Adam Block, Chairman, on Friday, November 17, 2023, at 11:00 a.m. with Messrs. Crocker and Alpert and Mmes. McKnight and Espada, Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Block 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 does not include any public hearing and public comment will not be allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

Discussion of Zoning Strategies for Solar Energy Systems.

Mr. Block stated the purpose of this meeting is to discuss zoning strategies for solar, climate action, and conditions for the medical office project on Highland Avenue. He noted, for solar, there has been extensive research done. A lot of neighboring towns have not expanded their basic solar By-Laws. He asked if Mr. Crocker has to recuse himself on the Zoning By-Law discussion as he earns a living selling solar. Mr. Crocker has spoken with Town Counsel about what he does in Needham. If a project came before the Board, he would not be the company installing on the project. Mr. Block thinks it is valid to have Mr. Crocker participate as it is good to have the expertise. Mr. Alpert thinks Mr. Crocker's expertise in the field will be beneficial.

Mr. Block noted the Board will go through the memorandum regarding zoning for solar. Mr. Crocker made a general comment that somewhere it needs to require vegetation and fence screening within 12 feet of the neighbor's property line. On page 1, there should be a section 1 a) 1 – solar energy system building mounted canopy. Mr. Block stated he spoke with Steven Frail about a canopy over a building as opposed to a canopy over parking. Not in the memorandum is the inclusion of a newer form of a solar canopy, which would be a structure over the building. Mr. Alpert stated in the memorandum the only discussion of canopy is over the parking. The possibility of over-the-building canopies needs to be included. Mr. Crocker noted it could be written so it does not go over the limit of the building's roof. If there is ever any rooftop type of activity a canopy would be a benefit and it should be a solar canopy. There could be a condition, so it is pulled back from the edge of the roof.

Ms. Espada stated it would be worth doing a big picture of understanding. Lexington is the least stringent and Westwood and Woburn were helpful. She asked what the Board's stance was. Mr. Block did not see building-mounted solar canopies in other towns. Mr. Crocker wants to include that. Ms. Espada noted Lexington allows it. She feels Lexington would be a good place to start. Mr. Block did not see that Lexington has a provision for building-mounted solar canopy. Ms. Espada noted it was under land use. It is the most lenient of all of them. There is site plan review, and a large system is subject to a special permit site plan review.

Mr. Block asked when the draft would need to go to the Select Board for the May Town Meeting. Ms. Clee stated the earliest schedule would be 1/2/24 to finalize and the latest would be 1/16/24 to finalize, both for the annual Town Meeting. Ms. Newman stated it could be included now, advertised, and depending upon what is heard it could be pulled out. Mr. Block noted there are 6 weeks to give further thought as to whether to allow building mounted. Mr. Crocker noted it should be included now and then fine tune the language. Ms. Newman would like to follow up with the Planner in Lexington. Mr. Crocker noted a) 1 should be added with building mounted and it could be dealt with later. He noted section 1 e) needs to be changed as it is out of date. Roof mounted systems in Needham are around 17-18 kW DC systems. It should be changed from 10 kW AC to 25 kW AC. A 39 kW DC system would need about 2,500 square feet. Section 1 e) changes from 1,500 square feet to 2,500 square feet and from 10 – 250 kW DC to 40 – 250 kW DC.

Mr. Block noted the newest systems generate more power in less area. Mr. Crocker agrees the systems are more efficient than years ago. The numbers are changing because they were wrong. Mr. Alpert stated small scale should be 2,500 square feet. In e), it should be 2,500 square feet but less than 40,000 square feet. Mr. Block would like Engineering to look at it. Ms. Espada asked why a cap of 40,000 square feet is needed. Ms. Newman responded that larger systems in the Overlay District are being regulated. Mr. Crocker stated it is more than needed but there is no reason to change it. He thinks about if there is a domicile on the land. Ms. Newman noted these are accessory uses.

Mr. Crocker noted sometimes there are pole mounted systems. The poles are 10 inches in diameter and sometimes there are more than one. The system is on top of that. This should be effective by lot coverage and setbacks. Ms. McKnight stated, in the Zoning By-Law, residential districts include multi-family, Apartment A-1 and A-2 (North Hill) Districts. They need to be careful using the phrase "residential districts." She feels the Board should use Single Residence A (SRA), Single Residence B (SRB) and General Residence to be careful. It needs to be specific. Ms. Espada noted some other towns do Single Family Residence versus Multi-Family and do commercial separately. All the towns do it a little differently.

Mr. Block stated they are talking about adding building- mounted canopies and pole-mounted canopies. How other towns define small scale and medium scale can be looked at. He feels they should get Justin Lee to validate that - output capacity, size and form. He is struggling with the concept that with new technology more capacity with a smaller footprint can be generated. Mr. Crocker clarified it is not based on new technology. It is based on regulation changes with the state. The net metering policy needs to be raised to meet Climate goals. Mr. Block asked if it is true the newest technology panels can generate more capacity with a smaller footprint and was informed that is true. Ms. Espada stated technology is changing. She would not base this on a system but on a strategy. She feels Lexington should be looked at. Ms. Newman stated Lexington sets small scale as less than 1,500 square feet. Then large scale is done through site plan review.

Mr. Crocker stated a 10 kW DC system is about 440 square feet. Ms. McKnight asked why Mr. Crocker is so concerned about kW. The Board should be looking at ground coverage and the look of the area. It says in the definition square footage is used, then equivalent in parenthesis. Small, medium and large are not being defined based on kW but square footage they cover. Ms. Newman noted that section could be deleted and just go with square foot area. Mr. Block stated Lexington does not include capacity, but it could speak to the footage of it. He reviewed how the other towns deal with this. He would recommend under d) increase 1,500 to 2,500 and 10 kW DC to 39 kW DC and under e) 2,500 to 40,000 and change 10 to 40.

Ms. McKnight stated the word "about" is not setting a standard. The only standard is square footage. Mr. Alpert agreed with Ms. McKnight. The Board should be concerned with the Zoning By-Law and how things look at various properties. In the definition, he is not sure they want to have parenthesis. That would cause confusion in the future as the standards change. Mr. Block agreed the Board should not be regulating capacity but regulating size. He would not start at 2,500 square feet for small mounted but have it at 1,750 like other towns. He asked why change this if these can produce more with a smaller footprint. Ms. Newman feels the Board needs to look at why these thresholds are set so small and if 1,750 or less can happen by right and medium can be with site plan review. Up to 40,000 triggers site plan approval. Mr. Alpert asked what size the Board would be comfortable with without site plan review. Mr. Crocker noted, depending on the distance from the property line, there has to be screening. There are not many properties in town that could have a solar system of 2,500 square feet. Mr. Block commented that was a reason to keep it at 1,750. Mr. Crocker noted it does not need to change. The logical standpoint is 2,500 square feet and it correlates with the Climate Action Plan.

Mr. Alpert noted Mr. Crocker stated there should be a requirement of screening. He asked if the Board could do that with as-of-right situations. He feels the Board needs to get back to, and decide, how things are going to look on various properties, including regulating the look, feel and architectural integrity of the Town and how people in Town want to present it. Ms. McKnight noted a discrepancy between d) and e). Ms. Newman will correct the typo. It should be 1,750. Mr. Crocker stated there are going to be setbacks from the house and the property line. There are a lot of restrictions. Solar systems on SRB-zoned lots will not approach anywhere near 1,750 square feet so they are really only talking about larger lots. Mr. Block sees no need to allow a larger footprint in SRB by right because of the impact with larger systems. Ms. Espada feels it needs to be tweaked and everyone should do more research.

Ms. McKnight does not think there should be a landscape requirement without a site plan review. The Board should focus on setbacks. There needs to be a carefully worded amendment to the setback for accessory structures. It may need to be the same as principal structures. Ms. Newman stated the parking canopy was at the accessory structure setback. All others were the principal district setback. Ground mounted is an accessory use and not an accessory structure. The setback will be the same as required for the dwelling. The setback for a parking canopy will be treated like an accessory structure like a garage. Mr. Block noted it goes back to size and how screening is managed. The size matters and has an impact. He feels it should be added with site plan review for structures over 1,750 square feet. That is where the screening would be regulated. Mr. Crocker commented maybe every ground-mounted solar facility should be site plan review. The Board is getting hung up with 1,750 or 2,500 when very few will ever be that size.

Mr. Alpert noted this could be classified as a minor site plan review. That requires the Building Commissioner to send to the Planning Board for review and recommendation. He asked if that does the trick. Mr. Block noted they have not defined the distinction between major and minor. Ms. Espada feels the members need to talk about land use before setbacks. Every town has a different land use. She feels the Board members need to agree on a strategy for each section and a general idea of what they want. Ms. Newman explained what she has done and how she had set it up. Mr. Block noted a 4th category for pole mounted solar and a 5th category for roof mounted solar canopy. Ms. McKnight stated if ground mounted has the same setback as the garage, she is fine with it. Mr. Alpert feels residential should be limited to SRA, SRB and General Residence Districts. All other residential districts should be classified as non-residential districts for all the requirements. Ms. Espada agreed. Mr. Alpert stated roof mounted canopies and building canopies should be limited to non-residential districts. Mr. Crocker agreed. Mr. Alpert noted the total building canopy should be limited to the New England Business Center and maybe the Mixed Use 128 Districts. He asked Mr. Crocker if there should be pole mounted in the SR Districts. Mr. Crocker stated pole mounted should be the same as ground mounted, limited to 10 feet in height. Maybe allow pole mounted 5 feet from the property line but with the same restriction of utilities underground.

Mr. Block stated he personally would prefer to deal with pole mounted and roof mounted canopies afterward. He does not feel they should go after everything at one time. Mr. Alpert noted roof mounted canopies in the New England Business Center and Mixed Use 128 District would not be objected to at Town Meeting. Mr. Block asked if there were going to be regulations for roof mounted and building canopies. Mr. Alpert feels there should be another special meeting in early to mid-December to continue this discussion. Mr. Block agreed. It will be done in the Chair/Vice-Chair meeting. They will talk offline about this after discussion. Ms. Newman will work with Ms. Espada to frame the communication in a conceptual way. The Board set a meeting for 11/28/23 at 7:00 p.m. via zoom.

<u>Discussion of Conditions for Decision: Major Project Site Plan Special Permit No. 2023-03: Neehigh LLC, 93 Union Street, Suite 315, Newton Center, Petitioner (Property located at 629-661 Highland Avenue, Needham, Massachusetts). Regarding request to demolish the five existing buildings on the property and build a single two-story 50,000 square feet Medical Office building (25,000 square feet footprint) with two levels of parking (one at-grade and one below grade) totaling two hundred and fifty (250) spaces.</u>

Ms. Espada noted on page 3, Section 9, it says accessible pedestrian building. She wants pedestrian universal building access. This lists 2 entrances but there is only one from Highland Avenue. People will go down the ramp and underneath the building to the second one. She clarified that to enter the building at the underground level it would be from the corner of Highland and Cross. She feels it should be universally because both require ramps. Ms. Newman wanted a condition to acknowledge it and make clear there is dual access. Mr. Block wants to be careful as he is not sure there can be a condition there are to be 2 universally accessible entrances. Ms. Newman is codifying what was proposed as a condition.

Ms. Espada noted in section 18, she has just been through a project where it was thought landscaping would minimize traffic noise, but a landscape architect told them that is not true. It just limits impact or views. She stated in the third section, in the past, there have been complaints about foundations when excavation was done. She is not sure if that is covered or is in the Planning Board's purview. Ms. Newman will check with the Building Commissioner and get back to the members. Mr. Alpert noted in paragraph 1 h), it says to the extent "approved and desired." He feels "and desired" should be changed to "to the extent allowed by Mass DOT." He noted at the Temple it was the Town that did the roadway striping.

Mr. Alpert noted in paragraph 1 l), snow accumulations, the last phrase, "where such accumulations would impede site lines" should be taken out. It should say "shall promptly remove within site triangles." Mr. Block feels in 1 h) it should say "required or approved by Mass DOT." Ms. McKnight noted even if Mass DOT is ok with it the Board wants it. It was agreed it should say "allowed by Mass DOT."

Ms. Espada left the meeting.

Ms. McKnight noted on page 3, Section 11, under Engineering Conditions, there is already a provision for Mass DOT approval required for any work in this section of Highland Avenue. Mr. Alpert noted on page 2, Section 2 c), the condition that the Route 128 Business Council Transportation Management Association (TMA) shall provide. He asked if the Board could tell the TMA what to do? Ms. Newman will remove that condition. Mr. Alpert noted d) and e) should be "to the extent available." Ms. Newman feels the applicant may need to provide but she will figure that out. Mr. Alpert noted in f) the landlord will not provide rides. It should be "tenants shall be required to provide…" In Section 4, he noted Cedar Street in Wellesley has certain right turns that are cut overs. They have signs for "no right turn" at certain hours. They should talk to the Police Chief about having traffic controls that legally prevent people from turning onto Mills Street at certain hours. Mr. Crocker suggested saying "local traffic only" but it should be Utica Road also. Mr. Alpert suggested the Police Department be consulted.

Ms. McKnight asked if it is a concern that people leaving would go the most direct route and go straight across Highland Avenue and cut through and was informed it was. Mr. Block noted there is no issue taking a left turn, but it would be extremely difficult to cross 4 lanes to go straight. He feels the police should be consulted on this. Mr. Alpert is recommending the developer consult with the Police Chief. It is not a condition. Ms. McKnight noted condition 4 would be deleted and this was agreed. Mr. Block noted on page 2, condition 5, he wants to clarify if the traffic engineer suggested patient drop off within the site. Ms. Newman stated it was. The applicant agreed, in writing, that patient drop off would only be within the site. Mr. Block would like this double checked. The Town has made them create an entrance on Highland Avenue and the Board required a second entrance be provided. There should be a condition that the applicant shall install signs for no drop off and pick up although he is not sure the Town has the authority to say that. Mr. Alpert commented that the Board should require signage but what other people do cannot be controlled. Mr. Crocker agreed. Ms. McKnight suggested removing the word "operations." Ms. Newman will remove it. Mr. Block suggested saying "developer is required to install a sign for no drop off or pick up on a location on Highland Avenue that meets the pedestrian entrance." Ms. McKnight stated it would need DOT approval to put up a sign. Mr. Block suggested adding "with DOT approval."

Mr. Alpert noted condition 8, at the end, it says "one possible change will be the elimination of the lower level...." He suggested "one possible change will be the elimination of access from the lower level of the parking garage to Cross Street." Ms. McKnight thinks that is weak. It should make clear the Planning Board reserves the right to make this condition. Mr. Alpert is not sure the Board can have post conditions. Mr. Block wants verification from Town Counsel the Board has the authority to allow subsequent conditions. He does not think they have the authority. He will check with Town Counsel on conditions 8 and 21 to get verification on what is permissible.

Ms. McKnight feels a specific problem should have a specific condition. Ms. Newman noted the Board should reserve the right if X happens to impose this condition. She will prepare a draft decision. Mr. Alpert feels someone should suggest to the neighbors, that if they put up no-trespass signs, any offenders would be committing a crime and could get ticketed. Ms. McKnight stated those are private driveways for the condos. Mr. Alpert suggested Ms. Newman call Attorney Howard Goldman and let him know about recommended signage. Ms. Newman will draft a decision for the 12/5/23 meeting.

Upon a motion made by Mr. Alpert, and seconded by Ms. McKnight, it was by a vote of the four members present unanimously:
VOTED: to adjourn the meeting at 1:32 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

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Natasha Espada, Vice-Chairman and Clerk