

NEEDHAM PLANNING BOARD MINUTES

August 27, 2024

The Needham Planning Board meeting, held in the Charles River Room of the Public Services Administration Building, and virtually using Zoom, was called to order by Natasha Espada, Chairman, on Tuesday, August 27, 2024, at 7:00 p.m. with Messrs. Crocker, Block and McCullen, Planner, Ms. Newman and Assistant Planner, Ms. Clee. Mr. Alpert arrived at 7:05 p.m.

Ms. Espada noted this is an open meeting that is being held in a remote manner per state guidelines. She 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.

Request to extend action deadline: Major Project Site Plan Special Permit No. 2022-02: 557 Highland, LLC, an affiliate of The Bulfinch Companies, Inc., 116 Huntington Avenue, Suite 600, Boston, MA, Petitioner (Property located at 557 Highland Avenue, Needham, Massachusetts).

Ms. Newman noted there was a request to extend commencement of construction because of market conditions. The request is for 2 years with an extension from 12/22/24 to 12/22/26. She feels it is reasonable.

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

VOTED: to approve the request for an extension as requested.

Mr. Alpert arrived.

Public Hearing:

7:00 p.m. – Amendment to Major Project Site Plan Special Permit No. 2011-04: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at the Center at the Heights, 300 Hillside Avenue, Needham, MA). Regarding request for the installation of a permanent emergency generator to serve the Center at the Heights as well as a reduction of 3 parking spaces.

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

VOTED: to waive the reading of the public hearing notice.

Town Counsel Christopher Heep, representative for the Town, noted the emergency generator was not included when the project was built. The uses have changed, and it now requires an emergency generator. The generator will operate in cases of power outages or testing. The location will be along the east property line that abuts the MBTA rail line. There is no residential as it is all commercial to the east and north. The biggest concern was the nearby residential properties across the street but the building will serve as a barrier to block a lot of the noise when the generator is in use. A preconstruction sound study was done and submitted. All residences will be within acceptable noise limits. The policy is not more than 10 decibels above ambient. The applicant would be amenable to a post construction study. There will be a temporary reduction of 3 parking spaces from the current 65 spaces to 62 spaces. The Town is working with the MBTA to lease back 12 spaces for the site. There are 65 spaces for the Senior Center and 85 for the commuter lot. This will add back 12 spaces. He hopes the state will finalize that soon.

Mr. Heep noted the temporary generator is in place but was never permitted. Engineering has suggested sound attenuation. An attenuation fixture is part of the generator. Mr. Block noted Engineering was recommending fencing around the perimeter. Mr. Heep stated there may be some bollards or screening to prevent parking. Some fencing would be fine if the Planning Board wants it. The Board discussed fencing or a vegetative buffer which Mr. Block feels may look better and

act better than a fence. Mr. Heep wants to be mindful of not taking up too much space. He stated the generator could be screened consistent with other town buildings. Mr. Alpert asked if there would be testing in accordance with the manufacturer's specifications. Mr. McCullen stated he sits on the emergency planning committee. This is needed and he fully supports it. Mr. Alpert asked if there are other buildings in town that need emergency transformers. Mr. McCullen stated Newman has emergency generation. He is not sure if they are listed on the shelter plan. The Health Department is reevaluating the shelter plan after the storms of last year that caused last mile failure. It took a lot of time to restore. This was one of the items for mitigation. Mr. Crocker noted the buildings right behind used to be housing. He asked if it was all commercial now. Mr. Heep noted it is not residential. There were no public comments.

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

VOTED: to close the hearing.

Ms. Newman noted a decision will be issued at the 9/17/24 meeting.

ANR Plan – Majorie A. Pine, Petitioner, (Property located at 321 Cartwright Road, Needham, MA).

Mr. Block asked Ms. Newman to remind the Board of the scope for this ANR Plan. Ms. Newman noted the scope is to make a determination the lots that are being created have the minimum frontage that is required under the Zoning By-Law for the District and that there is suitable and adequate access to reach these lots. She is satisfied the lots meet the requirements given the history in that area. There is one lot with a single house on it. It is now being divided into 2 lots. Cartwright Road is a private way. Beyond Cartwright Road there were 2 house lots approved under a subdivision approval by this Board. There are numerous other lots on that street endorsed under ANR provisions.

Ms. Espada asked if there were any comments from other Board's. Ms. Newman noted this has been reviewed by Engineering and herself and the plan is in appropriate shape. Mr. Crocker commented one concern was that it is a narrow road. He asked if the Fire Department needs to comment. Ms. Newman noted the way provides adequate and suitable access to the lots. The Board has already historically approved lots along this way. There are 2 lots past this that the Fire Department has access to.

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

VOTED: to endorse the ANR Plan.

Discussion of & Vote to Adopt Code of Conduct.

Mr. McCullen noted Mr. Block asked the question of civility that has been clarified by Town Counsel Heep. The Supreme Court ruling regarding the definition of civility and whether the Board could codify it in 3.16. The members have to let a member of the public be as rude as long as they want. Mr. Alpert stated the public has a right to be rude to anyone even someone in the audience. It is unfortunate they need to discuss something like this. Ms. Espada stated she and Mr. Block discussed stopping the hearing and requiring the person stop. Mr. Block said they will maintain civility at all times effectively. Mr. McCullen noted it is nonbinding.

Mr. Block stated the procedure as he prescribed should be able to spell out specifics such as gaveling to order, inviting the speaker to refrain from demeaning or otherwise inappropriate language, informing the speaker of time limits and recessing the meeting if necessary. He understands from the case that none of those are counter to the judges' decision. Mr. Alpert clarified it would be a temporary recess and not an adjournment. The Board members would be violating the Code of Conduct if they are rude. It would behoove the Chair to call out the member. The members discussed the language Mr. Block suggested. Mr. Alpert noted it should say "the Chair may, in the Chair's discretion" and then continue with Mr. Block's language. He would add "temporary" in front of "recess."

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

VOTED: to move adoption of the Planning Board's Code of Conduct as further adjusted tonight.

Public Hearing:

Definitive Subdivision: 40 Highland Ave, LLC, 435E Dedham Street, Newton, MA 02459, Petitioner (Property located at 40 Highland Avenue and 14-16 Riverside Street, Needham, MA). Regarding request to subdivide the Premises into three building lots, two of which will be used for residential purposes, having frontage on the new road, and the third of which will continue to be used for commercial purposes.

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

VOTED: to waive the reading of the public hearing notice.

George Giunta Jr., representative for the applicant, stated this is 2 properties – one on Highland Avenue and one on Riverside Street. The property on Highland Avenue is a commercial building where Midas Muffler used to be and is currently automotive repair. That property is long and extends back from Highland Avenue. The other property on Riverside has an existing 2-family house and a garage. Both properties will be combined. The commercial property will be one conforming lot and the use remains the same. A stub road will be put in. A new lot will be created and 2 2-family homes will be built in a small development. He showed the lots on the plan. Most of the commercial lot is in the General Residence Zone and could not be used for commercial. This plan shows that a by right plan can be done. He showed a 50-foot-wide roadway and a 60-foot circle. He noted that can be done and the applicant could get 2 lots. He noted that is almost 11,000 square feet of pavement for one additional house.

Mr. Giunta Jr. stated instead there will be a 40-foot-wide road with a hammerhead or T turnaround. This has been vetted with the new Fire Chief and he was ok with it. This is allowed for smaller subdivisions. This will have almost 7,500 square feet of pavement with a 3,400 square foot reduction from the By-Right. He feels it is a better design and more attractive than a circle. Mr. Block asked if the frontage on Lot 102 is frontage vertically or horizontally. Mr. Giunta Jr. stated this needs to comply both ways on corner lots. There is adequate frontage on both. The proposal is 2 2-family houses. The interior of the lot will have access off the new road. The existing will have access off Riverside. He noted the road is only access for one house. Mr. Alpert stated the road is for Lot 103 only. The new state law for ADUs would allow detached ADUs. He sees plenty of room behind Lot 102 for a detached ADU. That would have access on the new road. Ms. Clea stated she went to a seminar regarding the new law. It is the opinion of the attorney presenting that ADUs would not be by right with regard to duplexes, only single-family homes. Mr. Giunta Jr. is not sure there will be enough lot left for anything else.

Mr. Giunta Jr. stated there will be 2 condominium associations. Mr. Crocker noted this is well within the 200-foot limit of the riverfront. He asked if the Conservation Commission had made any comments. Ms. Newman noted the Conservation Commission had no comments. Mr. Giunta Jr. stated he had been before the Conservation Commission for delineation determination as a good chunk is in the outer riparian. It is within 200 feet of the river but more than 100 feet and does not really go right up to the river. The applicant would have to go to the Conservation Commission to get an order of conditions. Mr. Crocker stated the owner of the Midas property went to the Conservation Commission years ago to say the lot had been previously disturbed and he should be able to build there. He thought the building was 25 feet from the river but it is actually 125 feet from the river. Mr. Crocker commented it was something to think about.

Mr. Block asked what the livable square footage would be in each duplex. The applicant does not know yet but he feels it would be around 2,500 square feet. Mr. Block has concern for compliance with the By-Law but to what extent will new construction affect drainage and storm water management for the street. Ms. Espada noted the Board is not approving development today. Mr. Alpert asked if the Board has learned from the South Street experience and will put conditions in regarding removal of trees and grading. He feels the Board may want to tighten the language up regarding grading during construction. He also feels the Tree Warden should be involved at this point. Mr. Giunta Jr. stated that has been done for single-family homes but has not been done before for larger lots. He is asking if the process is going to change. Mr. Alpert noted times change. The Board talked about a tree by-law 9 years ago but the Select Board shut them down saying it was in their purview. There is still no tree by-law. The Planning Board can control reasonable conditions on a subdivision. He feels it is reasonable to look at this for conditions before issuing a subdivision. He does understand Mr. Giunta Jr.'s point

for a 2-lot subdivision. Mr. McCullen asked, if approved, does it come back to the Planning Board again. Ms. Newman stated it would come back for construction of the street and installation of utilities but not construction of the houses.

Mr. McCullen is concerned with the reliance on the FEMA flood maps. People in this neighborhood have flooded. The Board needs to be cognizant of this going forward. Ms. Espada asked what the Board's purview is. Ms. Newman stated it is looking at approving a subdivision plan compliant with the town's subdivision rules and regulations, that utilities are provided, that storm water is managed according to the town's regulations and the infrastructure is being developed to support the lots. She noted the Fire and Police were ok with it. Ms. Espada stated Engineering had 2 comments and the Board of Health had comments on the bond. Mr. Block noted the hearing for South Street was almost reopened. They cannot go outside the legal framework. Mr. Alpert noted the legal framework includes storm water management. Mr. Block stated the Town has started a storm water management subcommittee for new requirements. He does not want to cause a delay, but he is hearing storm water management is a problem in the area. That does not mean the current standards are adequately reflecting conditions.

Mr. Crocker stated trees is part of the Planning Board's purview with subdivisions. There is no plan before the Board, but the members need to remember part of their purview is trees. Mr. Block stated one of the condo associations is conducting a civil engineering study. Mr. Giunta Jr. is not aware of that. Mr. Block suggested pausing to give Mr. Giunta Jr. an opportunity to understand what the conditions are and what the engineer has found. He would like engineering to look at this and if it is within the Board's legal purview, they should look at it. Mr. Giunta Jr. feels it is not a bad idea generally. The two issues are trees and storm water. Ms. Newman stated it is the Board's job to support regulations at the time the application comes in. Storm water management is part of that. Engineering has looked at it and is satisfied based on current rules and regulations. Mr. Alpert noted they are elected officials. They received 4 or 5 emails regarding flooding in this area. If allowed as it stands, and the developer goes in and does what he is legally allowed to do and the flooding gets worse, the constituents will be unhappy justifiably. Mr. Block feels this should be continued so the town Engineer can review the study. That may inform certain conditions that may be imposed.

Ms. Espada opened the hearing to the public. Leandra MacLennan, of 4 Pershing Road, made an observation that a new private road is going in and the dimensions are suitably made for fire engines. There will be a tendency for residents to have guests park in the T. She feels parking should not be allowed on the street. Ms. Newman noted that is a standard condition on private ways. Stephen VonStetina, of 37 Riverside Street, stated he is a member of the Association conducting the water study. They have indicated they feel each unit needs to have underdrains to drain the water away. The bedrock keeps the water high. Several people have sump pumps that run constantly. He will share the details when the study is completed. Mr. McCullen asked the timeframe for completion of the study. Mr. VonStetina stated it has been completed. They are getting the information together and have talked to the Town Engineer about what is being proposed. Mr. Crocker asked what addresses the association encompasses. Mr. VonStetina noted 10 units, 31-57 Riverside Street.

Patricia Baker, of 30 Highland Terrace, stated there needs to be common sense. It is great that it is not 11,000 square feet of pavement but she questioned why it cannot be a driveway. Why does it need to be a road? Both streets flood with the worst drainage in these streets. Building a couple of homes is fine but she does not know why the road is there. Drainage plans are not enough. With more asphalt there is more water. It is ludicrous that a road is being built near the river. She asked the Board not to approve the plan until they have all the information. Derek Wade, of 41 Riverside Street, thanked Mr. Block for reaching out to solicit information. There are severe water issues on the street. He appreciates it is being given consideration. He agrees with developing that property, but water needs to be taken into consideration. Mr. Block feels it would be good to get Engineering's comments on the study.

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

VOTED: to continue the hearing to the meeting on 9/17/24 at 7:30 p.m. at Powers Hall.

Mr. Giunta Jr. commented he does not disagree with a road for one house. He would like members to think about lines of waiving construction for small subdivisions. Mr. Alpert feels they should be considering the size of driveways and calling it a road. Mr. Giunta Jr. noted some houses have 350-foot driveways and that is acceptable. Ms. Newman stated the Board has waived down to 16 to 18 feet in the past.

MBTA Communities (Section 3A of MGL c. 40A) Zoning Initiative

- **Presentation of Traffic Study, GPI.**

Ms. Newman gave a brief introduction. HONE did a lot of work and there are 2 scenarios. They have been able to do a fiscal impact study, have been able to identify a traffic study was warranted and engaged GPI, who additionally looked at a proposal for a zoning initiative and traffic impacts in addition to what has been done. The Town is required to create an MBTA District that allows multi-family by right, with no age requirements, 15 units per acre and within ½ mile from transit. This will need 50 acres for 1,784 units and 90% of the land has to be near transit. The 2 plans HONE came up with are the Base Housing Plan, which creates 1,868 units, and the Neighborhood Housing Plan, with increased heights and FAR and creates a density of 3,294 units. Ms. Espada clarified it does not create but allows for it. This is not development but rules and allowing it by right.

Ms. Newman reviewed the 4 zoning articles – the Base Housing Plan and map change and the Neighborhood Housing Plan and map change. She showed the areas GPI was asked to look at along Needham's commercial spine. RKG determined the probability of units being built over time, the propensity for change model with areas most likely to turn over and a financial feasibility model. The utilized change in value greater than 50% were properties most likely to turn over a 10-year time horizon. The Base Plan has 222 units across varying districts and the Neighborhood Housing Plan has 1,099 units across varying districts. Mr. Block stated Avery Square has zero and asked if this is based on nothing happening on that site. John Diaz, of GPI, stated he worked with what RKG had. Mr. Block noted there is a proposal for roughly 200 units at that site with roughly one car per unit. Ms. Newman stated GPI was engaged back in June and working off HONE's recommendation. HONE had 187 units at that property and did not have that the property would flip. Mr. Block stated this is not an unknown issue. This is an anomaly that may have a significant impact.

Assistant Town Manager Katie King noted people should go through all the slides. They did not include the 100 West Street units. There is still validity in the analysis as it is still good data, directionally, and townwide planning wise. Ms. Espada feels they should have the current numbers if redone at some time. Mr. Diaz stated this was a general overview. It is not a traffic study but a planning study. He went through the study. Ben Gomes, Transportation Designer at GPI, noted the comprehensive traffic assessment for potential traffic impacts for zoning areas. He focused on 3 key areas – current traffic conditions, proposed traffic volumes and impact on local infrastructure. He reviewed the analysis of existing conditions, future conditions, trip generations utilizing ITE and trip generation methodology. He noted mode share (bikes, walk, transit) accounts for 19% of all trips and trip distribution, estimated based on US Census. He adopted a conservative approach. He described the analysis area which included 15 intersections. He reviewed the Level of Service results. Levels C and D are reasonable. He noted Level of Service E has traffic approaching capacity and needs monitoring. Level of Service F has significant delays, has more traffic flow and requires further analysis. The Level of Service presented is peak traffic conditions.

Mr. Gomes noted, at no build, there are currently 2 intersections that are Level of Service F – Hunnewell at Highland and West at Hillside. He projects 4 will degrade in the morning to have a Level of Service of F – Highland at May, Highland at Dedham, May at Webster and Highland at Webster. In the evening the 4 intersections will degrade with one extra at Highland at Chapel and May degrading to a Level of Service E. With build, Scenario A will have no change. Scenario B will have significant impacts at some intersections. At the evening peak there are additional implications with 2 more Level of Service F. He discussed proposed mitigations. Scenario A has little to no impact. Scenario B has localized impacts with most impacts a result of background growth. Mitigations could include signal timing, restriping, adjustment to pedestrian timings and new signalization.

Mr. Crocker asked for an example of restriping. Mr. Gomes stated on West Street it could be moving the parking lane and adding a turning lane. With mitigation there are improvements in all areas except one. In the morning, Great Plain at Highland and Dedham have a Level of Service E, Highland at Chapel and May has a Level of Service F in Scenario B and Highland at Webster has a Level of Service E. In the evening, all improve to a Level of Service E. His conclusion is an acceptable Level of Service will be maintained under Scenarios A and B. Ms. Espada asked who is performing mitigations and when. Carys Lustig, Director of Public Works, noted the DPW has, in the capital plan, proposed plans for the Great Plain Avenue Corridor from Linden Street to Warren Street. In the interim there is a small grant program to upgrade to smart signals at Chapel at Chestnut and Great Plain, Dedham at Great Plain and Highland and Highland at Chapel and May. She predicts by 2028 a buildable project in the Highland Avenue corridor area, with multiple modals to improve traffic flow

and promote accessibility to downtown. This is 25% designed. She is also looking at the Highland Avenue corridor toward the Webster Street addresses. Several intersections are included in this study.

Mr. Block asked who would pay for the mitigation. Ms. Lustig stated this is not predicated on development. This is being done for the town's needs and funded by a whole host of sources. The Town will apply for grants also. Mr. Crocker noted he is concerned with restriping and taking away parking spaces for the businesses. He asked if there is any scenario for no parking during this time of day. Ms. Espada noted that was just an example. Mr. Diaz stated they are talking high level concepts that may never fly. Ms. Espada noted Mr. Crocker is saying parking needs to be taken into account when making decisions. Ms. King stated 15 intersections were studied and of these, 9 were recommended for mitigation to get to a better Level of Service. The town was already planning to address 7 of the 9. This information was affirmative, and they are addressing appropriate areas. Mr. McCullen noted the DPW is working regardless of the zoning passing.

Ms. Newman asked Ms. King for an update of where they are with Town Meeting coming up. Ms. King noted she is working with Ms. Newman and the Planning Board is updating the zoning. She is working on updated materials for the 9/5/24 public hearing. The unit capacity is being updated and she has RKG re-running the propensity for change model. That changes 100 West Street to likely to be built. The student generation rates are being updated with a more conservative assumption for students in 2-bed apartments and she is keeping up coordination with the School Department. They started talking with them this time last year. They update the School Committee every Fall with enrollment projections, so she is using their information to update the numbers. The numbers can be expected to go up. The fiscal impact analysis will be re-run. They are working on it now and it will be available for the Planning Board next week.

Request to review and approve Landscaping Plan and Subdivision documents: 920 South Street Definitive Subdivision: Brian Connaughton, 920 South Street, Needham, MA, Petitioner (Property located at 920 South Street, Needham, MA).

George Giunta Jr., representative for the applicant, noted the Board approved a general treatment for the landscape plan. All plans have been revised and everything is complete and ready for sign off. Mr. Block asked if there is water. Brian Connaughton, applicant, stated he should have a tie in to the water in November. Mr. Block noted the neighbor to the north had some complaints. Mr. Giunta Jr. stated Mr. Connaughton had a conversation with the abutter and his attorney, Evans Huber. Attorney Huber sent over some documents. He has some critiques of those comments, but he is still working through them. The basics are the same and they are working on the fine details. Ms. Newman stated the next step is to execute the plan. Mr. Giunta Jr. stated, if the Board approves the revised plan, a mylar will be generated by the surveyor, he will get it signed by the Board and then it can go to land court for approval. Ms. Espada noted the one side with trees is in the plan and the documents drafted. The other side is being done separately and is not part of this decision. Mr. McCullen clarified it is being done privately. Mr. Giunta Jr. noted, originally, there was talk of 25 trees along that side, 6 feet on center. The surveyor laid them out and there are 26 trees so there is one extra. Mr. Block stated he did not see plantings on the east side. Ms. Espada stated that is not part of the decision but there is an agreement. Mr. Block asked the status of the dust. Mr. Connaughton stated there really is not any. The Board of Health has been out, everything is stabilized and all the dirt is covered with grass. No work has been done over there is 3 weeks.

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

VOTED: to, outside of a meeting, endorse the mylar version of the subdivision plan as represented in the plan as part of the applicant's packet.

Planning Board appointment to Downtown Redesign Working Group.

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

VOTED: to nominate Mr. Crocker to be on the Downtown Redesign Working Group.

Planning Board appointment to Mobility Planning and Coordination Committee.

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

VOTED: to nominate Mr. McCullen to be on the Mobility Planning and Coordination Committee.

Report from Planning Director and Board members

Ms. Newman noted Ms. Espada, Mr. Crocker and herself will be meeting with the Select Board for a Chair/Vice-Chair meeting to see how the zoning articles should be presented at Town Meeting. She noted the Housing Authority has filed an application. There will be a hearing on 9/5/24.

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

VOTED: to adjourn the meeting at 9:30 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Artie Crocker, Vice-Chairman and Clerk

