

NEEDHAM PLANNING BOARD MINUTES

September 17, 2024

The Needham Planning Board meeting, held in Powers Hall at Needham Town Hall, and virtually using Zoom, was called to order by Natasha Espada, Chairman, on Tuesday, September 17, 2024, at 7:00 p.m. with Messrs. Crocker, Block, Alpert and McCullen, Planner, Ms. Newman and Assistant Planner, Ms. Clee.

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 one public hearing and public comment will be allowed. If any votes are taken at the meeting the vote will be conducted by roll call.

Discussion and vote of Planning Board Recommendations: Zoning Articles for the October 21, 2024 Special Town Meeting:

- **Article 1: Amend Zoning By-law – Multi-Family Overlay District (Base Plan)**
- **Article 2: Amend Zoning By-law – Map change for Multi-Family Overlay District (Base Plan)**
- **Article 3: Amend Zoning By-law – Multi-Family Overlay District (Neighborhood Housing Plan)**
- **Article 4: Amend Zoning By-law – Map change for Multi-Family Overlay District (Neighborhood Housing Plan)**

Ms. Espada commented people have mentioned they are confused with the process. She reviewed the timeline. The process began in September 2023 with HONE tasked to make a recommendation to the Planning Board to prepare for the Article for Town Meeting. In April 2024 HONE gave their report, and the Planning Board spent August discussing what HONE recommended and what more information was needed for a public meeting. There was a meeting, more information was received, and we are here today to get more information. Today is a discussion but it could extend to next week. The Planning Board will finalize the Article by September 24 for the Warrant. She noted this has been a transparent process. The Planning Board has not tried to hide anything.

Town Counsel Christopher Heep ran through the changes to the draft. There have been several additions to the site plan review criteria. Specifically, a section was added to provide for a review of garbage and refuse collection, a section added to require adequate water, sewer and utility services, language was added to the section regarding traffic, on site and off site, and impacts and construction management during the project. These were not included in prior site plan review criteria. These were added due to some comments that were heard. There are a handful of corrections but none of substance. Mr. Block noted the concept of the Board's authority and the town's authority regarding site plan review has come up extensively. He was told the authority was only on the site but are now being told it is off site also. What is the limit of the authority offsite? Mr. Heep stated the Board can only apply reasonable conditions. There is no clear answer in the abstract. It will be clear when reviewing specific projects and applications before them. Site conditions are easy such as circulation and egress in and out which can be addressed through site plan approval. Some things can be done for traffic mitigation such as signage. Further than that is not easy without evaluating the impacts through our experts. He feels the important thing in this draft is including, in the criteria, a hook that allows the Board to look at these things and impose conditions if reasonable.

Mr. Block stated he supports improvements relating to the MBTA compliance. He asked if it would be beneficial to include in site plan review outside of the MBTA Districts more broadly. Mr. Heep feels the tools are in Sections 7.4 and 7.5 to review all other projects. He sees no need to amend this right now. Ms. Espada noted the multi-family overlay has no special requirement with the underlying district. Mr. Heep stated it needs to only comply with this overlay and not the underlying. Ms. Espada wants to make sure the Board is covered. Mr. McCullen noted Section 3.17.9.2 (o) projected traffic volumes should be submitted by a licensed engineer. The authority of the Board is to not affect too much external to the site. He asked what the Board's authority was for mitigation.

Mr. Heep noted that was another addition to the draft. The language in the draft requires the applicant to identify any traffic issues their engineers think may be appropriate.

Mr. Alpert noted he was reviewing the comments from Holly Clarke and Robert Smart with a recommendation to refer to Article 7 of the By-Law. He disagrees. It is better to have a separate listing. He has taken a look at 7.4.6 and 7.5.2.2 and he thinks it is fine to incorporate in site plan review if they wish. It may be a good idea to see if this Board wants to amend 7.4.6 to make it tighter for what the Board wants to do. In 7.4.6 (e) he is raising an issue. He thinks the requirement to go through the Design Review Board (DRB) may cover that. It would leave to the DRB to determine if plans meet open space and layout plans. He asked if the Board wants to leave it to the DRB or add in 7.5.2.2(a) screening and landscaping. It may be ok with the DRB but he wanted to raise it. In (e) he would like to add a provision if there is a greater number of parking spaces with estimates based on the ITE Parking Generation Manual or an alternative source determined by the Zoning Board of Appeals (ZBA). If the Board finds there is not sufficient parking based on the Board's requirements this gives the Board the opportunity in site plan review to require it. He would like to consider putting that in. The Board has received feedback from some residents who feel that the parking requirements are not sufficient. He is raising these issues to see if the Board wants to include those in 3.1.7.7. Mr. Crocker is fine with that. He does not want to weaken what the Board has. We are setting out site plan review in the MBTA multi-housing and missing something from the other one. He wants to strengthen plus bring in whatever is coming in from the other site plan review. They could say inclusive of the other site plan review. He does not want to lose something they have because there is now separate site plan review from the normal site plan. Mr. Alpert stated the current site plan review needs to be spruced up. There would need to be a site plan amendment and there is not time for that.

Mr. Heep noted the comments on a whole were 7.4 and 7.5 should be applied to MBTA zoning projects. A choice was made to not go that route but it may not have been adequately explained. In the early stages of drafting the zoning proposal it was discussed what criteria should be applied. In Section 3A, the Planning Board cannot require a special permit of an MBTA zoning project. They must allow multi-family housing by right and all it can do with a use by right is site plan review and not a special permit. Sections 7.4 and 7.5 have some criteria typically applied together in one process, that is very much a special permit process and special permit criteria. That would not work. He noted there are 2 options – pick and choose what they could out of 7.4 and 7.5 or draft a new free-standing set of criteria that could be applied to the MBTA zoning projects which evolved from multiple sources including 7.4 and 7.5 where we could. Ultimately it led to this draft. He wanted to flag the real danger in trying to apply 7.4 and 7.5 as a whole to these projects. He has thought it through and feels this is best. Only one use is being allowed and that is multi-family use.

Ms. Espada noted it is by right, but the Board still needs to know what the site plan review allows right now. Mr. Alpert noted there were comments from residents saying they felt one parking space per unit is not sufficient. There will be units amenable to families and there will be people coming in with 2 cars. Ms. Espada noted one is the minimum. Mr. Alpert stated if a developer comes in and only has one space per unit the Board cannot require him to have more than that. Mr. Heep stated an applicant could propose or request more but if one is the minimum, the Board could not require more than that. Mr. Alpert noted they recently got a parking study that was not a formal study. It recommended changes to the requirements. One space per unit should do it for the MBTA Communities. The purpose is to rely on transit, so he is comfortable with one space. He is just raising the question if they could put this potential change into the site plan.

Mr. Alpert noted in the Neighborhood Plan, Article 3, Mixed-Use is going to be allowed. If retail is on the ground floor he does not know if there is a different parking requirement. There would need to be more parking for the retail uses. Ms. Espada understands there is still one parking space minimum for the Neighborhood Plan as well. She asked if there is a requirement to add parking when you have mixed-use. Mr. Heep noted they would need to provide the parking count required by both commercial and residential components of the mixed-use building. It would depend on the actual use going in the space. Ms. Newman noted that is the intent. There needs to be a reference added back to Section 5.2 that specifies what the parking requirements are for general and apply that to the commercial uses in the building.

Mr. Block stated he would not support including (a), screening, from the special permit criteria. They need to establish an objective screening criteria. He does not believe the Board had done that in the special permit authority and has not done it now. They want to enable the production of housing with fewer regulations. Either the Board responds to that or not. Adding more restrictions is counterintuitive. Mr. Alpert feels that is a subject that is permissible for the DRB to consider. Mr. Heep noted the DRB would review the project and come up with a set of recommendations to provide to the Planning Board like it does with all projects. Their process is not much different in this concept. The By-Law provides for the Planning Board to create design guidelines. If the Planning Board has a minimum amount of landscaping they want to see it can be put in the design standards as a criteria. Mr. Alpert commented they have the opportunity to work with the DRB on design guidelines.

Mr. Heep stated he has reviewed the comments received and he explained why he did not adopt Section 7.4 and 7.5 wholesale. Ms. Espada asked if there were any conditions he would like to include that he did not think are related to Section 7.4 or 7.5. Mr. Heep noted this includes review criteria. The existing draft makes a concerted effort for the Planning Board to review projects and have input into what they would look like. Josh Levy and Jeanne McKnight's comments were helpful and should be included. Of the comments he reviewed they were encouraging the Board to move over 7.4 and 7.5 to this process. He does not feel that is the best option. These applications will go to the DRB, the DRB will review them and will have 35 days to get back to them. Mr. Crocker stated a lot of comments are protecting the town and the neighbors. He asked where, in writing, does it say there has to be a 35 day turn around time frame. Mr. Heep stated it was the HLCs guidance. In most cases, site plan review should be done within 6 months. He thought it was important the DRB review should be received back quickly. Mr. Crocker asked what happens at the end of 6 months if there is no decision. Mr. Heep stated nothing. It could be deemed to have been approved but there is no language. The Board can deny the application if all the required information is not submitted. That would be a supportable denial. Once the application is filed there are 6 months to make a decision.

Ms. Espada noted 100 West Street with the abutters comments and the changes. The zoning, as it related to this, does not establish a maximum number of units per acre but the FAR estimate for the district. Then established state guidelines of an amount of multi-family units of 1,000 gross square feet and uses hallways and mechanicals. The HONE proposal for both plans by right is an FAR of 1.0. With 187,200 square feet divided by 1,000 square feet, that is 187 units. With a special permit the FAR could be 1.4 and 262 units is possible when there is zero propensity on site. Deputy Town Manager Katie King noted there were a lot of comments from residents who want to know why zero propensity was used instead of one. Ms. Espada explained it takes the value of the parcel today and what the build out could be to get a future value. That was used as likely to be built. A 1.0 is not likely to create value. It was changed to 1.3 so there is a likelihood to build. There are a lot of unknowns at this site. There is no knowing what an applicant would come in and propose. They had an owner come in and he said he did a test, that the Board never saw, that said 1.3 would be viable. Once changed, the model was run again and at a 1.3 FAR, 243 units are possible based on 1,000 square feet per unit. When the applicant came in they did not need those additional units. Some members of the community were glad for the additional units while others were not happy with additional units. There was no issue with 187 units, but people had an issue going to 243. She asked if there could be a cap put on the number of units but keep the FAR so an applicant could put corridors and amenities. Her recommendation is to cap the units at 187 but allow an FAR of 1.3 and keep the special permit at 1.7 FAR.

Mr. Alpert stated they have history at this site and with this landlord. The Board needs to be very careful they are not creating a hole that someone at this site could drive a mack truck through. He is comfortable with capping the as of right to 187 units with an FAR of 1.3. This gives them enough building with the units and corridors and infrastructure. He would like the special permit to come down from 1.7 to 1.5. Mr. McCullen stated all agreed on this and there should not be a surprise. He is ok with 187 units but feels it should go forward with a special permit of 1.7. Mr. Block thinks they have gone through a very extensive process. Some people have only recently looked at this. He understands the temptation to re-look at the whole thing. We should go back to what we are dealing with which is that the states are struggling with housing production. They are clearly stymied by regulations. A good public policy has been established. The site is unique and there is a property owner who has expressed interest

in creating something on this site. They have established a by right criteria that may or may not work and are now choosing to enact greater restrictions. He noted 325 units do not take into account community space and one or 2 bed distributions. It just creates fear. The Board has created a good, strong policy. All agreed on 1.7 FAR. That gives the town the discretion to review against impacts and make informed decisions on what is in the best interests of the town. He supports the cap as written. It is very straightforward.

Mr. Alpert is comfortable with 187 units, which is the project in front of the Board now. It is possible they could pass this, and a developer could come back requesting a special permit to go up to 225 units. That is scary to him. There is a traffic problem there now. This is a combination of retail and residential area. There is a lot of traffic including foot traffic. His upper limit is 187 and giving the developer the opportunity to increase through a special permit. Mr. Crocker agrees with Mr. Alpert's general thoughts in principle. They did not have a lot of time and neither did the public. A 1.7 FAR does not scare him. It is the number of units he is not comfortable with. They need to decide a maximum number of units. He asked if there should be a maximum number of units or maximum number of units per acre. Ms. Espada noted 187 units for a 1.3 FAR and with a special permit it should be 262 at a 1.7 FAR, which is what HONE recommended. Mr. Block feels that is creating arbitrary standards without knowing how it would be for the market. They are proposing a change on the special permit without knowing the impact. Mr. Crocker reminded the members there is no project in front of them at this time. Mr. Block noted the Board would have the authority to limit it in the future with the special permit. A discussion ensued.

Ms. Espada noted, for context, Chestnut Street has a 2.0 FAR for as of right in the Neighborhood Housing Plan, although the lots are much smaller, and also the Business District. She asked the members what they would be comfortable with for an as of right maximum and all agreed they are comfortable with an as of right FAR at 1.3 with a maximum of 190 units. She then asked what the members felt the maximum should be for the special permit. Mr. Alpert is comfortable with a 1.7 FAR and a maximum of 262 units. Mr. McCullen and Mr. Block agreed with a 1.7 FAR but no maximum. Mr. Crocker agreed with 1.7 FAR but a maximum of 245 units. Ms. Espada feels with a special permit they would have the right to reduce the units. Mr. Heep stated there would have to be a good reason for why such as traffic is intolerable or they do not have the infrastructure to support it.

Mr. Block feels it is absolutely terrible public policy to make public policy decisions on an arbitrary basis especially when they have already digested this issue. It is a solved issue based on an informed discussion with information presented to the Board. Mr. Alpert disagrees it is based on arbitrary rationale but is based on the knowledge of this parcel and of this neighborhood. They have heard from the neighbors. It is a great location and he would love to see 187 units. He hopes the developer goes forward with it. He is more comfortable having a cap for the special permit also given what they have heard from the neighborhood and the configuration of this parcel. All members agreed with an as of right vote of a 1.3 FAR with a cap of 190 units. All members are comfortable with a special permit FAR of 1.7 but 3 members want no cap versus 2 members who would like a cap. Mr. Crocker stated he does not want any possibility of a parking garage on the Highland Avenue side even if it is screened. He would not like anyone to know there is a parking garage there. A discussion ensued regarding the parking garage location. The Board will look at this. Mr. Heep suggested adding "such that no car parking in the structure can be seen from Highland Avenue." He will look at this.

Ms. Newman noted the MBTA zoning is based on as of right zoning. With the Neighborhood Housing Plan there could be 1,354 units with the added incentive to allow the height to increase by one half story in the Chestnut Street and Business Districts. Mixed-Use buildings or work force housing is included. Technically, 200 additional units are created. The actual number would not be close to 200 and it would probably be a wash. The MBTA model was done including as of right housing and allows mixed use development which was not modeled. There could be a maximum unit per acre put in or an allowance for work force housing. Ms. Espada noted Crescent Road. Ms. Newman stated when the zoning was adopted for the Industrial District on Crescent Road 2 properties were not included. A portion was residential and Industrial so HONE did not include them. The owner of one property would like his property included. The vehicle to do that would be a second Article done in the Spring. All members agreed to bring this up in the Spring.

Deputy Town Manager Katie King stated RKG updated the school enrollment assumptions. She reviewed the figures. The average number of students would be 109 generated from new developments, which is equivalent to 0.124. Affordable units generate more students than the market rate. RKG assumptions estimate 55% studio and one-bed units 35% 2-bed units and 10% 3-bed units. She noted students generate at different rates depending on bedrooms and affordability. This information gave them a comfort level with the accuracy. The Neighborhood Housing Plan's likely build out is 1,342 units. Of those units, 87.5% are market with the balance affordable. With 1,342 units, 171 students would be generated with a generation rate of 0.127. She discussed how school enrollment was applied to school capacity. RKG does not tell what grade level the students go into. It is estimated 46% are elementary, 23% Middle School and 30% High School. She walked through the McKibben and RKG information.

Mr. Block commented it was helpful to provide the update. It gave credibility with the modeling. Ms. Newman will put together the changes to the draft and the Board will vote on the final form on 9/24/24. Ms. Espada thanked all for all the comments since the last meeting. The comments were very respectful.

Public Hearing:

7:30 p.m. – 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. Please note that this hearing has been continued from the August 27, 2024 Planning Board meeting.

George Giunta Jr, representative for the applicant, noted there are 2 existing properties. One, with an existing repair shop, is long and narrow with frontage on Highland Avenue. The second lot is on Riverside Street. The 2 lots will be added together and divided into 3 lots. The repair shop will be on its own separate lot and does not change. The 2-family house on Riverside will come down and a new one built. A new lot will be created for one new 2-family house. A complete by right proposal could be done but it is not the best design for the neighborhood so the applicant is proposing less than by right. There will be less pavement and more open space for more flexibility on the lots. Several waivers are being requested for better conditions overall. He noted they worked with the neighbors and the Condo Trustees regarding drainage. At this point there is no written summary they could use. The Trustee, identified at the last meeting, stated the issues with water are related to bedrock under their foundations needing infiltration. They asked engineering what could be done on their side. After a storm there was no evidence of any drainage issues on their side of the street. There are some test pits that show there is 4 to 6 inches of fill material and then sand underneath in all but one pit.

Mr. Giunta Jr. stated he reached out to the immediate abutter. There have been no issues of water on their side of the street. There is a natural geographic condition on the other side of the street that does not affect their side of the street. Mr. Block asked if the elevation was higher or lower. Mr. Giunta Jr. is not sure. His applicant's side is a little higher at the street and there are good conditions on their site. He is confident with the drainage design done. Engineering has reviewed it and drainage is not a concern on this project. Mr. Block stated there was considerable neighbor concern at the last meeting with flooding in the area. He asked how many square feet each building would be and how many acres are in their property for each lot. Mr. Giunta Jr. noted the footprints are limited to 2,500 square feet per building and one lot is 21,000 square feet and the other is 18,000 square feet. Mr. Block commented he is conflicted over this. He stated if public safety is fine with a T design driveway, and it is a multi-family area, he is ok with that. It is not far from the river, but he has heard from people there are drainage issues. Ms. Espada noted there are storm water provisions. All departments have reviewed and are ok with it. Mr. Giunta Jr. noted if the applicant had done the by right design the Board would need to approve it as it meets all requirements. The request for waivers is for less pavement. He has reviewed the Subdivision By-Laws and there are no provisions that require trees. Every attempt should be taken to keep trees. The Board does have some authority. Mr. Crocker noted there was no landscape plan to review. Mr. Giunta Jr. stated a landscape plan is not required. Mr. McCullen asked Ms. Newman if she had reviewed all that was submitted and if it was submitted properly. Ms. Newman has reviewed and all departments are ok with this.

Elizabeth Kaponya, of 27 Highland Terrace and a Town Meeting member, noted her biggest concern is this is way too big a project for an area with drainage issues. Any bad rainstorm water comes straight down the street. The new duplex across from her flooded and she almost got water. There is a problem with flood water and drainage. There is a lovely pathway along the river where people walk their dogs. This is going to be right up against the river. Cutting down trees is another issue. All the trees were cut down recently with the new duplexes. This just created water that flows down the street. Ms. Espada stated the Storm Water Committee is working on it. She asked when that work would be completed. It is not known when it will be done. Mr. Alpert stated there is an extensive storm water management submission in the packet. He assumes Engineering has reviewed the Storm Water Management Report. He commented, if Engineering says it works, where does the Planning Board have authority to do anything. Engineering advises this Board. Mr. Block stated that is contrary to what the residents are saying. Mr. Alpert stated water going down the street is not an issue for this property.

Mr. Giunta Jr. stated the engineering report was for the subdivision design and not the individual houses. Naomi Ribner, of 40 Riverside Street, has been here for 21 years. Trees lined both sides. She thought the forested area was conservation land and was surprised to find out it was not. When development was done all the trees were taken down. Then some trees in the park were taken down in the park with the Town's approval. This is no longer a tree-lined street but there is still some green space. This project will be taking down all the trees. She vehemently opposes this project. When all the trees are removed it will irrevocably alter the character of the neighborhood. She would like to request a row of trees be kept between the old and new houses if approved. Arthur Deych, of 10 Riverside Street, stated he is the closest house to the development. He has not had floods or any drainage issues since he has owned the house.

Michael Scott, professional engineer for the applicant, clarified the storm water report was filed. It shows a full build out and not only the roadway which was designed to have its own system. Analysis did look at typical 2-, 10- and 100-year events. It is prepared to be filed as an order of condition to meet town and state storm water standards. He assessed the entirety of the property at full build out. He did do a site visit in December of 2023 shortly after a heavy rainfall and did not see any issues. Mr. McCullen noted a significant number of trees to be cut and asked if the report accounts for those trees gone. Mr. Scott stated the report does account for that. Near the last page in the report shows the full build out with lawn area. It was analyzed as lawn or yard area and areas per conservation. He looked at the site paved with road and driveway and tree removal.

Ms. Newman stated there is a note that the applicant needs to have a landscape plan. She noted it is a 3:1 slope down to the neighboring properties. Mr. Giunta Jr. noted Engineering had responded to that in a letter in August and noted a few yard drains. Mr. Scott stated it looks like the Board is looking for a landscape plan for some perimeter planting along the south side. His response was related to the potential for flooding along the neighbor's property. They are discussing landscaping along the south side of the residential lots on the south side of Riverside with an increased number of inlets into the property to help reduce flooding. He did not provide a landscape plan. Mr. Block noted the Planning Board is saying the response is not sufficient. There needs to be a landscape plan. The hearing will be kept open until provided. Ms. Newman stated the applicant should revise the plan and get a letter from Engineering approving.

Mr. Crocker stated there needs to be a tree buffering zone between the properties and the pathway. That is what the abutters are asking for. Mr. Giunta Jr. noted that the whole side would need to be reviewed by the Conservation Commission. Paul Prohodski, on behalf of his mother, an abutter, stated the land had been totally filled in. He has no problem with a number of trees coming down. A lot of the trees are rotten and dying. Several have fallen and a fence was broken. That land is dry. The other side was built on ledge. He is not concerned with water but a lot of trees are diseased and should be replaced.

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 continue the hearing to 10/15/24 at 8:00 p.m.

Mr. Alpert would like a letter requiring infiltration and also showing the 200-foot river frontage. He would like to see this in relation to the proposed house.

Minutes

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 approve the minutes of 7/25/24.

Board of Appeals – September 19, 2024

37 Mosely Avenue – Saybrook Construction, LLC

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

VOTED: “No comment.”

Report from Planning Director and Board members

Ms. Newman is trying to set up meetings for the beginning of October with the Select Board and the Finance Committee to present the zoning to them and get any questions.

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 adjourn the meeting at 9:50 p.m.

Respectfully submitted,

Donna J. Kalinowski, Notetaker

Artie Crocker, Vice-Chairman and Clerk