

NEEDHAM PLANNING BOARD MINUTES

September 24, 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, September 24, 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.

Public Hearing:

7:00 p.m. – Major Project Site Plan Special Permit No. 2024-01: Needham Housing Authority (NHA), 21 Highland Circle, Suite 10, Needham, MA, Petitioner (Property located at 0 Linden Street and 5 Chambers Street, Needham, Massachusetts). Regarding request to redevelop the NHA Linden-Chambers property.

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

VOTED: to open the hearing.

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 waive the reading of the public hearing notice.

Ms. Espada noted comments from the following Town entities: an email from Building Commissioner Joseph Prondak, dated 8/30/24, with no concerns; a memo from Fire Chief Tom Conroy, dated 9/3/24, with no issues; a memo from Police Chief John Schlittler, dated 9/5/24, with comments; a memo from the Design Review Board (DRB) with comments; an email from Director of Conservation Debbie Anderson, dated 9/20/24, with comments and noting their hearing is under way; an email from Public Health Assistant Director Tara Gurge, dated 9/18/24, with comments and a letter from Town Engineer Thomas Ryder, dated 9/19/24, with comments and recommendations.

Mr. McCullen stated he spoke with Town Counsel Christopher Heep. His property is not an abutter and, legally, he did not get a notice. Due to the engineer's use of the phrase "the area", if there is an order of condition, his property could be considered in the area. He filed with the Town Clerk a perceived conflict of interest. Robert Smart, representative for the applicant, stated the Housing Authority sent out an RFP and evaluated several prospects. Affordable Housing and Services Collaborative (AHSC) Peabody Developer LLC was chosen. Arrangements are not complete yet. He noted the proposal is to replace 72 units in 18 buildings on Linden Street with 136 units. That is an increase of 64 units. There is no proposal to change the 5 Chambers Street buildings with 80 units. He noted that may be Phase 2 which will be some years down the road. There are currently 152 units on site, and this will increase to 216 units.

Mr. Smart noted Phase 1 is divided into Phase 1A and Phase 1B. Phase 1A is the demolition of 10 buildings. The 40 people who live there will be temporarily relocated at no cost to them. The north wing will be constructed with 76 units and common facilities. When the building is constructed the 40 residents will be moved in. In Phase 1B the remaining 8 buildings will be demolished and the 32 current residents will be moved into the new north wing. Then the southerly wing will be constructed. Town Meeting approved 4 zoning articles related to construction in May 2024. The Attorney General has not yet approved the Articles. Town Counsel Heep has signed an extension. The issue is the MBTA Communities Act has caused a backup in Affordable Housing Districts. Multi-family housing is by right with site plan review. The property meets all density, dimensional and parking requirements for the By-Law. There are a couple more parking spaces than required for Linden Street. The Chambers buildings have more parking than required under the By-Law. The decision is to approve the Site Plan Application. The applicant would like a decision rendered by the end of October.

Mr. Alpert asked if this could be recorded before the Attorney General approved the zoning. Mr. Smart will need to look into that. His inclination would be to do it. He would like to file the permit application the first week of November. It is a competitive process. This timeline would put them in a good position. He noted the By-Law does not require any unit mix. The applicant is proposing 128 1-bed units and 8 2-bed units. It is possible the applicant may want to build less 2-bed units. They would like the flexibility to change in the decision without having to come back to the Board. Mr. Block stated he checked with Town Counsel on this. He is familiar with a number of funding programs and feels this is not an unreasonable approach. Mr. Smart noted the Planning Board puts limits on how long the relief is for. The applicant still needs to go through a lengthy funding process. It may not be approved in 2025 but may be 2026 and that may only be Phase 1. He would like 3 years on Phase 1A and an additional 18 months for Phase 1B.

Dan Chen, of Bargmann Hendrie + Archetype, Inc. (BHA), gave a quick overview of the project. They met with the Conservation Commission 2 weeks ago. The Low-Income Tax Credit funding is in early November. He met with various Board's and abutters to solicit public input. He noted the 5 buildings were built between 1959 and 1962. There are 152 undersized units with poor physical condition of the units and the site. There are some wetland challenges. There are 18 single story buildings with 4 units in each. All are studio units. There is also a community building, maintenance building and storage units. This is the Linden development only. It is all in the Affordable Housing District. The 76 new units replace the 10 existing Linden units. There will be 41 parking spaces for 72 1-bed and 4 2-bed units. Phase 1B will be 4 stories with 60 units – 56 1-bed and 4 2-bed with 29 parking spaces. Mr. Block asked if the intent was to install parking for all of Phase 1 during Phase 1A. Mr. Chen stated Phase 1A parking will be done first.

Anthony Donato, of Hancock Associates, stated the project complies with the town's stormwater requirements and adds more than one inch of recharge for the total amount of impervious area for Phase 1. Calculations have been provided for a 2-, 10- and 100-year event. There will be a reduction of water when completed. It incorporates best management practices in the design and adds buffer zones. He showed the Demolition and Erosion Control Plan. It incorporates several measures to prevent run off during construction along the 25 foot no disturb line. There will be hay bales and crushed stone construction access for vehicles and sediment traps for existing catch basins. He showed the overall site plan with the proposed parking. He noted the 2 fire access roads will be porous pavement. There will be one large recharge system at the front of the main entrance of the site and one on the north side surrounded by crushed stone. The grading is relatively flat but there will be catch basins within the site. All utilities are from Linden Street and no gas is proposed.

Mr. Crocker stated this is an opportunity and asked what it would take to do more for storm water for this site. Ms. Espada noted they are going beyond the requirements. Mr. Crocker feels this would make it better but he would strongly look at a higher retention with a retention pond or basin on the right side of the property. Mr. Chen noted that was part of the open space amenity. Mr. Block stated he was told by Town Counsel they need to be careful. The Board cannot require the applicant to exceed the By-Law and state standard. Comments from the Town Engineer regarding drainage were looking to make further improvements. Ms. Espada stated the Town Engineer encouraged that but does not require it. Reginald Foster, of the Needham Housing Authority, stated if they can help solve the problem it would be a good thing. Funding is an issue and timing. He understands there is a townwide study and they are seeking no funding for that. The town needs to prioritize the areas in town if they are fortunate to get funding in the first round. This project cannot be held up to help the town.

Mr. Block feels some kind of conference should be held with the applicant and Town Engineer to see what could be done and what the applicant can do. The Board cannot require it, but he is encouraging the applicant to do this. The topography drops and slopes toward the neighbors. He would like time to study this more to see if hay bales would be enough to prevent run off to the neighbors. Ms. Espada noted the applicant would need to submit a construction plan. Mr. Donato stated there is a channel between and the property is rather level. Mr. Alpert noted the Conservation Commission will have jurisdiction that the stream would not impact neighbors. Mr. Donato stated the project will be increasing the buffer to the abutters. Mr. Smart is concerned with a potential delay in getting a decision from the Board. Mr. Foster has had a number of discussions with the DPW and will continue to work on drainage and solutions. The hearing should not be kept open until they meet again with the DPW. He would be happy with a condition that reads substantially like what the Town Engineer wrote.

Mr. Crocker understands there is an opportunity to deal with this now that will not happen again. Mr. Block feels the applicant can schedule a call with the Town Engineer. Mr. Smart is happy to schedule a call but would not like the hearing

held open for that. Curtis Puncher, of Ground Inc., showed the landscape plan. He noted they want to get the residents outside. There are 3 program areas; 1) the north garden which is a mini park with lawn and plantings, a seating area with a shade trellis and benches on concrete pads; 2) the back patio where, in the central hub, the main interior amenity space opens to an outdoor patio with permeable pavers, lots of flexible open space, seating and grill stations for community gatherings and 3) the south community gardens. The garden plots presently are about 600 square feet of plantable area and will be going to about 1,600 square feet. There will be water, composting and a shed there. There will be another small patio with a shade structure. All program areas are linked with walking paths that are interrupted at times by fire lanes. These link with the existing trails in the forested site. There is a generous landing pad at the roundabout with benches and stone walls between the building and parking to shelter the building from headlights.

Mr. Puncher noted a tree survey was done. An arborist came in and all trees were assessed on the site. He showed a plan of the 24 trees to be removed and 8 to be retained. Some of the trees to be removed are unhealthy, are in decline or invasive species. The rest are in conflict with the development. There will be 80 new trees planted. More than half of the new trees are shade canopy trees with the remainder understory ornamental or a collection of evergreen buffer trees. He reviewed the plantings. They are working from pallets. There will be the north garden, Linden Street, the building frontage and the buffer. There will be low maintenance plants for the frontage with a good mix of bloom times. The species are 100% native for the buffers and shade tolerant. The north garden is more ornamental with pops of color. There is a photometrics plan for the lighting. There are the requisite number of candles on the drives and foot paths. There will be no light exiting the site. The fixtures were chosen for their cut-off value and will not bleed out.

Mr. Crocker asked about the right side and the differences between the light and dark green on the plans. Mr. Chen stated the light green is lawn and the dark green is a mix of shrubs and perennials. The building height to the top is 53 feet. The building is 4 stories with 8-foot unit heights and 10 feet from floor to floor. The building's roof is a shed type roof and flat in conformance with the Affordable Housing District. The amenities are in the center with elevators, stairs and a lobby area. The units flank the corridors. Phase 1A includes 2 elevators and solar panels. Phase 1B will be the roof mechanicals. The building is served by 136 units, 4 stories and 3 exit stairs. The main mechanical cores are centered in the building to serve both sides of the building. He showed the elevations. The material will be fiber cement panels and the windows will be fiber glass or pvc, which were chosen for their high insulation values. There will be triple glazing and they are doing passive house.

Mr. Foster stated an application has been put in. If successful in the first round they would get the funding in Spring or Summer of 2025 and will close the financing in the Fall. Construction will start in 2026. At the same time they will put in an application for funds for Phase 1B in 2025 and the round starts again. Mr. Chen showed artists renderings from various angles. Mr. Crocker asked if the floors are 10 feet. Mr. Chen stated they are 8 feet but the floor to floor construction is 10 feet. He noted supplemental studies were done for wetlands, traffic/parking, geotechnical and passive house certification. The 25 foot no disturb zone is being reestablished and they are looking at a 50-foot buffer zone. The wetland delineation was done last year. He showed the wetland encroachment and the proposal out of the wetland. The Chamber Street encroachment stays the same.

Mr. Chen noted the Scope of Study for traffic. They modeled 275 units for development for a worst case scenario due to the High Rock School and the site constraints. There are 7 signalized intersections and 4 unsignalized intersections. The conclusions were the impact would be negligible at 3 signalized intersections. All others are not degrading to a B or better. There is no significant degrading to the neighborhood. Mr. McCullen looked at the study. High Rock as a middle school would be a future elementary school. He feels there will be more walkers and less traffic. It will be awful for 15 minutes twice a day consistently. There may be some push back on some speed studies, but he is ok with the traffic study that was done. Mr. Chen noted there are currently 86 parking spaces for 152 units. Half of that is assigned parking and there is a 35% utilization rate. There are 70 spaces as part of the proposal. He reviewed the geotechnical borings and noted the passive house is a very stringent standard. They are committed to that and solar on day 1.

Ms. Espada opened the hearing to public comment. Ross Donald, of 25 H Chambers Street, has lived in public housing for 14 years. He is president of the local tenant's organization that has been reestablished. His major concerns are 1) the redevelopment of the area and implications for tenants; 2) the condition of the property indoor and out and 3) he is committed to hearing and supporting individual tenants. They will act as a group and will make NHA a better place to live creating a stress free and healthy environment supporting energy efficiency, thermal energy, solar, passive systems and solar

daylighting. Sustainability is not being addressed. He recognized buildings should be maintained and not torn down. Demolition is not considered part of sustainability. He stated he had not seen these plans until tonight. Ms. Espada clarified everything goes into the packet on the Thursday before the meeting and she noted passive housing is the most stringent. Mr. Donald stated a lot of people are not computer literate.

Helen Garagozian, an 11-year resident of public housing, stated she was the president for 3 years. There was an opportunity to gain a wider perspective of resident's needs. An excellent company has been selected for this project. She feels the town is in a perfect storm for affordable housing. Approving this zoning gives residents an affordable new unit they can move into and live with dignity. It would also improve the curb appeal of Linden Street. Marlene Costa, resident and Linden/Chambers Treasurer for the tenant organization, stated she is concerned for fire safety, wetlands and catch basins. It was stated the original Fire Chief had concerns there was no adequate fire lane to reach the back of the building. That is a very serious issue. The windows will not open more than 4 inches. She noted most are seniors and disabled and she questioned how they will get out of the building safely. The project is going from 4 sets of stairs to 3 sets now. Cutting corners endangers the lives of the people living there. There is no air exchange from the windows. For wetlands and catch basins she asked if any feasibility was done for structural integrity. This is in the wetlands and it has a canal that runs through it. Water cannot be removed. She is glad the Conservation Commission has not signed off. She asked if the land would support the weight of the building. There are large amounts of trees being removed. The plan is to remove large, healthy, beautiful trees that are there now. Removing trees contributes to flooding. The street floods after 2½ inches of rain. How many gallons of water does the catch basin hold? She noted the catch basin is right under the parking lot and asked how safe that will be. She asked where people would park their cars if there are no spaces. Tony Donato, of Hancock Engineering, stated it is a general practice to have recharge under parking. High density polyethylene provides overflow into the municipal system. There will be no building in the wetlands but outside of them. He noted parking meets the zoning standard. Mr. Chen stated the Fire Chief had no comment on 9/3/24. There is no fire lane in the back but a fire hydrant on both sides of the building approved by the Fire Chief. There is hard lane access accessible if needed. This has been discussed extensively with the Fire Department. The windows have a delimiter opening of 4 inches which is a building code requirement in public housing. The fire safety strategy is to shelter in place. The buildings have totally sprinklered systems and fire walls in all units. They do not want people to go outside. There is a structural engineer on Board. There may be some ground improvements. He noted there will be air exchange through the Energy Recovery Ventilator (ERV).

Dorina Moriarty, of 174 Linden Street, noted there is no real fire escape in place. Sprinklers are not known to save lives from smoke and inhalation. She is in total agreement with the team members. She is a former medical administrator. Her biggest concern is the severe impact the demolition would have on the health of the residents. She fears for the next door neighbor dependent on oxygen and the school kids across the street will be affected as well as all in the area. There are chronic mold issues. Overdevelopment will increase flooding and mold. She noted a relocation plan is not in place and those who cannot speak English do not know what is going on. She feels a more suitable site to do this project on should be chosen.

Ms. Espada asked if a hazmat review has been done. Mr. Chen stated there was an Asbestos Containing Material Hazmat Report (ACM) done on the 18 Linden Street buildings as well as the 5 Chambers buildings as part of the demolition report. Any demolition will be approved through the DEP required hazmat abatement process. They know areas that are hot. This will be done with a hygienist on site to identify materials. There will be containment on site with licensed contractors. Tim Burke, of 188 C Linden Street, has been there since 2007. He is concerned that all the one-story bungalows were built on sand with no basements. He asked how a 4-story building can be built on sand. The parking lot slopes dramatically to Maple Street. With the trees being taken down it will create more water, so the trees need to be kept. On page 32 of the agreement regarding the High Rock School, during the school year, 2 times a day, there is a traffic jam. He is against this site. The buildings are usable now. The condition is bad due to lack of maintenance and the windows have never been washed. He admires the work of the Conservation Commission. He asked where the building starts in the buffer zone.

Ed Brailey, of 229 High Rock Street, goes up and down Linden Street regularly. It is not only a problem in the morning and afternoon but a 100% problem. Linden is too narrow, and it is hard for 2 cars to pass when a car is parked on the side of the road. The project is putting an egress where the playground is. They need at least another 4 feet of Linden Street in the area they are talking about. He noted there are tire busting curbs along that area. He is concerned with 4 stories but was mollified with the sketches. He likes Phase 1A but is concerned with the traffic. He sees residents out on benches but he did not hear anything about benches. Ms. Espada commented she saw benches on the plan. Mr. McCullen stated Linden

Street has come up with 2 other Committees should this project go forward. For this project, they know traffic is an issue and some things need to be done. The tire busting curbs are bad for tires but better for pedestrians. The town needs to look at the school's future use and if it will be a townwide grade 6 or an elementary school. He feels it is all manageable. He does not really have concerns, but he knows there are concerns with engineering. Ms. Espada asked if he had any concern about the number of units or the phasing. Mr. McCullen has no concerns with that.

Mr. Alpert stated he has no comments and is in favor. He feels it is a great boon to the community. He is not sure if the hearing will be closed tonight or left open for answers. He would like to hear from the Fire Chief about the fire safety issues and the residents' specific questions. He would also like to hear about storm water, the safety of the sprinkler system and fire walls. He would like specific answers to the specific questions from the Fire Chief. Mr. Crocker agrees. He asked Ms. Newman if there is any issue waiting to the next meeting. Would there still be a decision by the end of October if they waited? Ms. Newman understands the ultimate deadline is approval in January with a preliminary deadline at the end of October. Mr. Foster noted the ultimate drop-dead date is January, but they prefer to have the decision for the preliminary application date. That would put them in the ideal position. Ms. Newman noted the hearing could be kept open as there are meetings 10/15 and 10/29. The hearing could be continued to 10/15. She would have a decision on 10/29 at the earliest.

Mr. Crocker stated at the Muzi site there were walking paths. Then for the fire there were open landscape style specific pavers where grass could grow through. Coming from the street there is permeable asphalt. He asked if it could be the landscape style material used for fire trucks. That would allow a lot more infiltration of water. Mr. Block understands the urgency and funding the applicant's process. It is very competitive and could be jeopardized if they wait until the deadline. He would like to see the Board move hastily. He understands the Fire commented the patio in back was adequate for them. Mr. McCullen stated it was not originally but was increased due to the Fire comments. Mr. Block stated there is one open issue. He wants to have a little more understanding of the storm water management. He is ok with the phasing and the unit maximum. The Board could have a condition providing the flexibility the applicant is looking for with unit mix. The residents have concerns, but passive house addresses a lot of those. Ms. Espada agrees with her colleagues. The unit mix and phasing are ok. The Board needs more information on Fire, stormwater and sound. The Fire information should be in writing. Mr. Alpert stated the applicant is looking for a site plan decision and this is a site plan special permit. It is not expiring for 3 years and then another 18 months on top of that. There is a 2-year limit in the special permit section, and then a provision for extending it. He would like an opinion from Town Counsel if it could be waived because it is a site plan. Mr. Heep stated he has reviewed the By-Law and will let them know before the next meeting. Mr. Crocker would like something about the fire lanes and if there could be different material.

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 continue the hearing to 10/15/24 at 7:00 p.m.

The Board took a 5-minute recess.

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)**

Town Counsel Heep noted there is a new draft and he walked through the changes from the last meeting. On page 5, below the dimensional table in Section 3.17.5.1, there was a footnote that allowed for an additional curb cut by special permit. There is no prohibition in the rest of the draft. This was an exception to the rule but there is no rule. On page 9, a Special Development Standard Section was added that says "Multi-family housing shall employ existing curb cuts on Highland Avenue and West Street." This is saying the applicant would need to apply for a special permit if they want additional curb cuts. In the next section, on page 7, a new screening standard for garages was added in Section 3.17.6 (c) stating there

should be no view of parked cars from Highland Avenue. It needs to be indistinguishable from the rest of the front. There is a corresponding change on page 6. Mr. Block asked what is the Needham Commons? It was agreed to change Needham Commons to West Street.

Mr. Heep stated 44 units per acre are by right and a footnote was added that the number could go above that by special permit. Mr. Alpert noted the 44 units per acre gives the applicant the 187 units they want. Mr. Heep noted the submission requirement, Section 3.17.9.4 (a), on page 11, was corrected and in (b) an affordable housing development standard was included as part of the application as it was missing. Mr. Block asked why affordable was added. Mr. Heep noted that is what the applicant needs to comply with to get approval. He added a reference it is a component of the site plan review. On page 12, a new Section 3.17.11 was added that makes clear in specific cases where a special permit is required. It clarifies the Planning Board is the Special Permit Granting Authority. Mr. Alpert noted there are a lot of special permits in Article 3 if it passes. Mr. Heep noted Part 4 amends Section 7.6.1 and adds Section 3.17 to the list of Sections the Planning Board is Special Permitting Granting Authority for.

Mr. Heep noted in Article 3, page 23, there are a couple of minor changes. On page 25, it amends the 3.17 section that deals with parking requirements for mixed-use projects. It describes what is needed and refers back to Section 5.1. That is only applicable to mixed-use developments. Mr. Block stated that is generally waived in the Center Business District. He feels the standard should be revised next May. On page 192, in Section 5.1.1.5, parking can be waived except in the Center Business District. Ms. Newman noted the Zoning Board of Appeals (ZBA) has authority to grant waivers in all except the Center Business District. Mr. Alpert noted Section 5.1.1.6 says the Planning Board can grant waivers in that District. Ms. Newman stated they may need to revise for the Planning Board's ability to grant all waivers on page 25. Mr. Heep stated in Section 5.1 he will add the Planning Board will serve as the waiver granting authority. He circled back to page 9, where the change says 100 West Street will utilize the 2 existing curb cuts. They can modify the existing, but none can be added without a special permit. The Executive Office of Housing and Livable Communities (EOHLC) may not approve that standard. Everyone envisioned something equal to what is there but someone could subdivide into 4 lots and would need curb cuts for each of the 4 acres. He is concerned the EOHLC would not approve. The current zoning minimum is 10,000 square feet. He is concerned this would be held against us. He has posed the question but has not received a response. The Board could say the developer is limited to 2 curb cuts as feasible, eliminate the requirement entirely or do nothing and see what happens. Mr. Alpert suggested saying "subject to site plan review." Mr. Block feels that is a good solution. Mr. Heep agreed. Mr. Alpert stated "may be modified by site plan review and additional curb cuts may be added subject to site plan review." Mr. Block suggested changing special permit to site plan review.

Ms. Espada noted she reviewed Wellesley and Rockport's criteria. Wellesley said it was subject to site plan review as follows. It is done by the ZBA and they just added MBTA Communities. Rockport just put criteria and did the same thing. She asked why they are complicating it. Mr. Heeps rationale for the approach is to craft site plan review criteria that was suitable for a by right multi-family housing project consistent with obligations under 3A. Criteria varies from town to town. The existing Sections 7.4 and 7.5 of the By-Law are always applied together and are a special permit process. The Planning Board applying those criteria to a complete by right criteria is challenging. It is preferable to her to have a separate set of criteria appropriate 100% for a by right use. She asked if this should be for the Dover Amendment also. Mr. Heeps feels the Board does not need to tackle that now.

Mr. Alpert agreed with Mr. Heep. This Board should totally review and revise Section 7.4 and 7.5. A lot does not make sense. Mr. Heep has changed some of the wording for the better and has referenced Section 7.4. He could not reference Section 7.5 due to the special permit. He suggested keeping Section 3.17.7 and adding a new paragraph at the end to bring in whatever is in Sections 7.4 and 7.5 by reference. He agrees with Holly Clarke they should capture whatever is in Section 7.4 and 7.5 the Board may possibly want in the future. Mr. Block disagreed with Mr. Alpert. He feels they have captured the specific relevant special permit. Mr. Alpert stated his only objection when 3A was passed, was it was made as of right. He wanted a special permit. The special permit process gives the Board some opportunity to put some reins on developers. Mr. Block feels they captured what elements of municipal control are reasonable given the underlying. Ms. Espada commented she and Mr. Alpert do not feel that way. They feel there should be something else.

Mr. Heep understands Mr. Alpert's suggestions and does not recommend that approach here. Mr. Alpert stated his concern is a developer is left without any understanding of the criteria. Something similar moving over from Section 7.4 and 7.5 into Section 3.17 after a critical review would be ok. He does not feel the criteria should be moved wholesale. Mr. Heep

noted Ms. Clarke's letter suggests Section 7.4.6 criteria should be added. Mr. Crocker would add all of 7.4.6. Mr. Heep will parse through it. Natural landscape is not the best phrase, but he wants a hook in Section 3.17 for the ability to look at the area. It could be some section is brought in subject to a caveat allowing it as a base line. Mr. Block stated relationship of structures is an entirely subjective criteria. The Board has been told for years an arbitrary standard cannot be applied. Mr. Alpert stated it is not arbitrary but subjective. A discussion ensued.

Mr. Heep feels the most important things in this By-Law are the dimensional tables. If the Board wants a regulatory hook in exceptional cases based on facts on a particular site, they can identify the need. Identifying something like Ms. Clarke suggested is a good idea. The most important thing is to identify how big these buildings can be. As a by-right use a developer should be able to refer to the By-Law and put together a plan. The EOHLC guidance is the only site plan review allowed under 3A. They submitted draft zoning to the EOHLC in April and it was sent back with a handful of minor comments. The Board has been making a series of changes since August. The bigger changes may run afoul of the EOHLC. Site plan approval is a better venue. He noted the Design Review Board (DRB) is purely advisory. Mr. Alpert would like to see 7.4.6 (e) come in and take out "natural landscape" and "existing buildings and assets in the area." Mr. Heep will strike that and other compliance with this By-Law. Mr. Alpert agreed.

Mr. Heep wants to make Section 3.17 as self-contained as possible. Mr. Block stated if Mr. Heep feels these modifications expose the Board to vulnerabilities, or has the EOHLC send it back, the Board should maybe roll with what they have and go back at a later date to revise it. He does not want to risk exposure for a referral back. Mr. Heeps feels he can revise 7.4.6 (e) in a way that Mr. Alpert and Mr. McCullen requested for inclusion within the developmental standards included in 3.17. Mr. Alpert is not afraid of the EOHLC bouncing it back. The members did their job and will have passed a By-Law by 12/31/24. Changes will not be made later. Any changes need to be done now. Ms. Espada stated there is no issue with 99% of the developers. For the 1% that makes something so adverse the Board would need to make comments. Mr. Heep can add the language discussed, preserving the Board's ability to push back.

Mr. McCullen stated Board's across the state are realizing they may not have the power they want. This needs to be passed and, with the time limit, it needs to be finalized tonight. He wants to make sure they do not have a flag with the state. It has already been approved and now there are minor revisions. Mr. Crocker feels they are making it far easier for multi-family housing to occur. Minor changes are being made and the Board is not going to come back to this. He agrees with what Mr. Alpert said. The Board reviewed the changes discussed in Section 7.4.6 and 7.5.2.1. Mr. Alpert noted in Section 7.5.2.2 (a), he is not sure that can be done here as there is some criteria. Mr. Heep stated there is no required quantity of landscape along the property lines. Mr. Alpert noted in Section 3.1.7.7 (e) it says plantings shall be provided. Mr. Block noted it is not dictating how much. Mr. Crocker suggested saying "when permissible plantings need to be perimeter based." Mr. Alpert stated there are small setbacks to begin with and a 5-foot setback in some places. The Board should just say they have to have plantings. That allows the Board to request a landscape plan. Mr. Heep stated a landscape plan is one of the requirements in the submission. Ms. Espada asked, in (c), if mixed use is as of right and there is retail, does the Board have any say on hours. Mr. Heep stated if one of the types of mixed use requires a special permit that can be applied. If no special permit, it cannot be applied.

Ms. Espada stated Ms. Clarke brought up the timeframe for decision making. Mr. Heep stated a by right project cannot be unreasonably delayed. A project, in general, should be approved within 6 months. The draft says it shall be approved within 6 months. He will acknowledge the model EOHLC By-Law says the approval should be within 6 months. It starts when the application arrives on the desk. He is comfortable keeping 6 months as a non-binding deadline. He feels it should be kept as open ended but in general the Planning Board shall complete its review within 6 months. Mr. Heep noted there are 2 changes; add the modified version of 7.4.6 (e) to 3.17 and include general language to the 6-month timeline. Ms. Newman added the modifications discussed of changes on pages 6, 9 and 25.

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

VOTED: to approve the revisions to the Article as agreed upon this evening.

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 recommend adoption of Articles 1, 2, 3 and 4 as further revised this evening.

Minutes

The Board will review the minutes at the next meeting.

Report from Planning Director and Board members

Ms. Newman reviewed the dates on the calendar. Ms. Espada and Mr. Crocker will meet with the Moderator on 10/2/24, at 8:00 a.m., to go over the strategy for Town Meeting. She will confirm they are on the Finance Committee agenda for 9/30/24 and 10/9/24. She needs Ms. Espada's comments on the draft power point for the Finance Committee. Mr. Crocker noted the full Board will be meeting on 10/8/24 at the Select Board meeting at 6:00 p.m. Ms. Espada noted 10/8/24 and 10/9/24 she will be attending via zoom.

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 adjourn the meeting at 10:36 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Artie Crocker, Vice-Chairman and Clerk