

NEEDHAM PLANNING BOARD MINUTES

February 13, 2018

The regular meeting of the Planning Board held in Powers Hall, Needham Town Hall, was called to order by Ted Owens, Chairman, on Tuesday, February 13, 2018, at 6:45 p.m. with Messrs. Alpert and Jacobs and Mmes. Grimes and McKnight, as well as Planning Director, Ms. Newman.

6:45 p.m. – Review of Neighborhood Business District Zoning for Annual Town Meeting.

Mr. Owens noted the Neighborhood Business District zoning has been discussed at a number of previous meetings. Ms. Newman stated this Article represents what the Board talked about. This allows housing on the second and third floors in the Neighborhood Business District that abuts the highway at Reservoir Street and Central Avenue within the existing dimensional rules with 2 exceptions. FAR is being increased up to .7 by Special Permit and height to 3 stories and 40 feet. It reduces the minimum side and/or rear setbacks that abut a residence down to 20 feet. It also provides detail on affordable housing and would allow an in-lieu payment in place of providing the affordable unit.

Karen Sunnarborg, Community Housing Specialist, stated the town is going in the right direction. It makes sense to include the affordable provision with reasonable standards. Terrence Morris, Attorney, thanked the Planning Director and staff for help in getting to this point. He noted he is pleased to participate. Ms. McKnight asked if there was any concern with enforceability over time of the rental of the affordable unit to households at 100% of median income. Ms. Sunnarborg stated it would be enforced over time.

Ms. Newman stated the map change includes the entire 2 parcels at Central Avenue and Reservoir Street. The rear of the parcel now in the Industrial Zone will be converted to Neighborhood Business District. Mr. Jacobs noted this is not a public hearing and asked, procedurally, is this the form the Board will refer to the Selectmen to be referred back for public hearing. Mr. Owens stated it is. Mr. Jacobs asked if there was any input from the Selectmen on the affordable portion. Ms. Newman noted there was none yet but she anticipates there will be input at the hearing.

Mr. Alpert stated he was under the impression the rezoning included all parcels along Central Avenue from Reservoir Street to the river. He was surprised only 2 parcels are being talked about. He asked why not all. Ms. Newman noted the other parcels are zoned Single Residence B. This would extend only the Neighborhood Business District. Mr. Alpert asked why not rezone all parcels that are split. Ms. Newman stated that would require more study beyond the scope here. Mr. Alpert commented he understands the 2 lots are owned by the same person. He would like the Planning Director to ask Town Counsel if this constitutes spot zoning, which is not allowed. Mr. Jacobs stated the Article could be advertised and the Board could tinker with the language at the public hearing.

Upon a motion made by Ms. Grimes, and seconded by Mr. Jacobs, it was by the five members present unanimously:

VOTED: to approve Article 2 and forward to the Selectmen for inclusion in the Warrant.

7:00 p.m. – Discussion of Zoning Strategies to Accommodate Public Safety Communication Requirements.

Town Manager Kate Fitzpatrick noted a Communication Study was commissioned during the public safety building design. She described the issues with the existing system and the recommended solutions. She noted the existing Verizon copper wiring is subject to outages. The project will replace the existing antennae and computer system with a microwave system. It is possible to use an all fiber system but it is not recommended; there is a reliability issue and a significant cost. She noted the proposal is for a 100 foot monopole with a whip antennae at Station 1, Birds Hill water tank and Dunster water tank, and a 200 foot structure at the Recycling Transfer Station (RTS). She is seeking advice and thoughts on how to move forward.

Town Manager Fitzpatrick noted 3 locations do not allow the proposed communications structures as shown on the locus map she left. She noted the poles the town is looking at are 3 feet wide at the base of the monopole structures and 20 inches at the top. Mr. Owens noted a letter, dated 2/6/18, from Christopher Heep with 2 options. Mr. Jacobs asked if Mr. Heep would argue a monopole is a tower and was informed he would. He asked what Mr. Heep meant by adjacent. Mr. Heep stated there is a question if the monopole would be on the roof or next to it. He believes it would be next to. Mr. Jacobs noted in Section 4.7.2, there are a couple of conditions. He noted, if the applicant wants to use Section 4.7.2 and say a monopole is a tower, it has to go on the building. Mr. Heep noted the next sentence says the Zoning Board of Appeals (ZBA) could allow beyond 80 feet. The project could be revised. Mr. Jacobs noted Section c of Mr. Heep's letter says the Town's By-Law does not address towers but the Planning Board could suggest an amendment. He noted the Board of Selectmen could also suggest an amendment.

Ms. Grimes stated she would not be in favor of reading the By-Law as suggested. The Board needs to create zoning. Mr. Alpert noted Section 4.7.2 is clearly ambiguous. He does not know if antennae would be allowed by Special Permit or not. There needs to be some zoning amendment. He commented he has a problem with the RTS tower. He is not convinced it could be put there without rezoning. Sections 6.7.2 and 6.7.3 are personal use towers and refer to personal use cell phones and such. He feels the solution presented at the end of Mr. Heep's letter is what the Planning Board should do.

Ms. McKnight noted she sees the ambiguity. The second sentence says no radio or television antenna or antennae tower shall be higher than 80 feet, but the ZBA could allow a higher height. Mr. Owens stated he agrees with Mr. Alpert. It is preferable to bring forward a By-Law change and specifically allow at all 4 locations. He would not agree the By-Law allows these up to 80 feet.

The Board took a 10 minute recess.

Mr. Owens commented Needham has had tragic days the last couple of days. He requested a moment of silence for the loss of the 2 children.

Public Hearing:

7:30 p.m. – Article1PB: Amend Zoning By-Law – Marijuana Establishments.

Upon a motion made by Ms. Grimes, and seconded by Mr. Jacobs, it was by the five members present unanimously:

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

Selectman Marianne Cooley gave the background. She noted it has been a long and confusing path. In 2016 the Town of Needham voted no on a statewide ballot question to legalize recreational marijuana. In 2017 the Town passed a moratorium through December 2018. The Board of Selectmen proposal would bring before the Annual Town Meeting a Zoning By-Law amendment drafted by the Planning Board and a General By-Law amendment drafted by Town Counsel. The Selectmen are asking the Planning Board to proceed with the By-Law that would put the prohibition in place. The Selectmen feel it is prudent to go forward with the By-Laws. Mr. Owens reviewed the public hearing process.

Selectman Dan Matthews noted by implementing the ban at this point would provide a level of protection for the community and give some options for a future time. Selectman Cooley stated the Planning Board and Selectmen received numerous emails today. Most wanted this ban in place but there was one that did not want it. Mr. Owens noted the email correspondence would be part of the record. Ms. Grimes stated the Boards would be accepting comments or feedback for the next few weeks.

Elizabeth Kaponya, Precinct J, stated she wants no legalization of pot shops in any district. She is in favor of the proposals. She stated 55% voted against the legalization of recreational marijuana. It is clear it is not wanted. The Town just opened a medical dispensary so she feels the Town has fulfilled the requirements of the people who need really need the substance.

Upon a motion made by Ms. Grimes, and seconded by Mr. Jacobs, it was by the five members present unanimously:

VOTED: to close the hearing.

Review of Draft Zoning for Side and Rear Setbacks Adjoining Residential Districts.

Mr. Owens stated eliminating zoning for the area within the highway was discussed at previous meetings. He noted a suggestion came forward that seems to make sense. It adds a new sentence at the end of Section 4.4.8.1 and Section 4.4.8.4 that reads "Notwithstanding the foregoing, the provisions of this section shall not be applicable with respect to the portion of any residential district within the layout of Route 128/95." This eliminates the 50 foot setback requirement. He feels it accomplishes the same thing in a different way. Ms. Newman commented it is a very insightful solution to what was becoming complicated. It does what the Board wants. She feels it would be prudent to do a review of the By-Law to make sure it is not embedded in the By-Law somewhere else.

Mr. Owens asked if the wording was ok to send to the Selectmen for inclusion in the Warrant. Ms. Newman stated that was fine with the caveat she is going to look at the By-Law. Mr. Jacobs stated he is in favor. It avoids the issue the Board had last time. Ms. McKnight stated she needs to review the language.

Upon a motion made by Ms. Grimes, and seconded by Mr. Jacobs, it was by the five members present unanimously:

VOTED: to approve and send to the Selectmen for inclusion in the Warrant.

Board of Appeals – February 15, 2018.

15 Pershing Road

Mr. Jacobs stated he presumes the plan at the end is the proposed plan but it is not clear. Ms. Newman stated it should be identified as such. Mr. Jacobs noted the plan does not give a clear indication of where the access will be to the garage. If the driveway is on the side, it could be offensive to the neighbor. Ms. Grimes noted it is not labeled but it is there. Mr. Jacobs would like it labeled. He noted the last plan – front elevation – does not match the plan. It is a mirror image. This needs to be cleaned up.

Upon a motion made by Mr. Jacobs, and seconded by Ms. Grimes, it was by the five members present unanimously:

VOTED: to request clarification on where the driveway is and which way the house faces.

10 Riverside Street

Mr. Jacobs noted the public notice does not give the public true notice of what is being sought. The relief being sought is from the front yard setback requirement. There is no mention that the applicant will be enlarging and rebuilding. He thinks there should be.

Upon a motion made by Mr. Jacobs, and seconded by Ms. Grimes, it was by the five members present unanimously:

VOTED: to clarify the public notice.

745 Central Avenue

Mr. Jacobs noted this had the same problem. It does not give true notice to the public of what is being sought. Ms. McKnight stated the Board was told there was no frontage. The building was built in 1920. Then the Planning Board was told there was a plan in 1982. If the 1982 plan created a nonconformity, how can it be prior nonconforming? There should be an explanation.

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

VOTED: to make the 2 comments.

Minutes

Ms. McKnight noted on the 11/28/17 minutes, page 2, the paragraph that starts with Ms. Cooley in the first sentence, she is talking about 3 areas. It should be clarified that Ms. Cooley is talking about 3 areas. Where it says "she feels Reservoir should be put off" "the Reservoir area" should be added. She noted Mr. Jacobs' comments should be in the same paragraph as the others. Mr. Matthews' comments will start a new paragraph.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the five members present unanimously:

VOTED: to accept the minutes of 11/28/17 with the changes discussed.

Ms. McKnight noted on the 12/7/18 minutes, page 1, 3rd line "the" should be removed. On page 2, last paragraph, remove "there" after "Ms. Sunnarborg noted." On page 3, first sentence under the Discussion of Industrial Zoning, remove the first word "zoning" and on the bottom of the page, Koppelman has only one "p." On page 4, after "Mr. Owens asked" it should be "Legislators."

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the five members present unanimously:

VOTED: to approve the minutes of 12/7/17 with the minor changes.

8:00 p.m. – Major Project Site Plan Special Permit No. 2018-01: Town of Needham Permanent Public Building Committee, 500 Dedham Avenue, Needham, MA, Petitioner (Property located at 1154 Highland Avenue and 92 Rosemary Street, Needham, Massachusetts). Please note: This hearing has been continued from the January 23, 2018 meeting of the Planning Board.

Mr. Owens noted a letter, dated 2/9/18, from Town Manager Kate Fitzpatrick with responses to questions that were left over from the last meeting and a memo from Michael Retzky, PFD-Construction, dated 2/9/18 with responses. Town Manager Fitzpatrick noted she has to be at the Selectmen's meeting and would like to make a statement. She has provided the Planning Board with a memo regarding parking at Memorial Field. The parking demand analysis shows the maximum number if all happens at the same time. She is committed to not letting that happen. The assembly use will not be permitted when there is a major event. This will be carefully managed. She noted the Memorial Park Trustees are volunteers. There is no staff housed within the fieldhouse. She will take responsibility for parking and will work closely with the Trustees.

Mr. Jacobs noted the assembly space and asked if there was any issue if the Planning Board put a condition that the space cannot be used during school hours. Town Manager Fitzpatrick stated it cannot be used during school hours because of the 116 parking spaces that are reserved. There could be a small use of facilities. Ms. Grimes stated the biggest issue is parking. The building is needed. She is bothered it cannot fully be used because of parking. The parking does not make sense to her. The applicant is looking to spend a lot of money and she thinks it is a great idea but the use is being limited so much. She asked if there is a way to come up with more parking so the town is able to use the building as a meeting area. She feels it would be such a benefit to the town.

Town Manager Fitzpatrick stated she feels the only time the 120 space meeting room is going to be needed or people will gather is after school or on weekends. The Planning Board will put a condition on that this building cannot be used during the school day. It makes sense. That building and parking plan have an integral role with the High School. Other facilities can be used during the day such as the Library, the new Rosemary building, the Senior Center. The Rosemary and Memorial buildings are very complimentary uses. She feels the groups that would want to use it are not groups that would use it between 7:00 a.m. and 3:00 p.m.

Jim Healy, Trustee of Memorial Park, stated the building will accommodate sports groups, High School and other groups that have ancillary use to the school day. He feels this is the best use to service the residents of Massachusetts. He stated it is a complimentary use. This is a great opportunity to take care of these groups. Ms. Grimes reiterated she is concerned with parking. The parking lot is always full and the parking counts do not address parking for events. She does not believe the numbers are accurate. She stated everyone needs to be realistic. She feels it is possible to reconfigure the parking lot and add parking. She asked if there are areas where more parking could be put in. Mr. Healy stated there is no perfect answer for parking. He understands her point. The lot has not changed since the 1950s. He noted the applicant is not transforming the use so dramatically it will be changing the lot. He understands, but hopes she can see her way beyond this.

Mr. Owens noted the 2/9/18 memo with the outstanding questions from the last meeting. Mark Meche, of Winter Street Architects, stated he worked on the issue of abutter protections. Mr. Retzky noted the police responded to the memo and have no safety concerns; the Fire Department reviewed and responded; the DPW reviewed, revised and had a memo with no comments and the Board of Health had comments by Tara Gurge with written comments.

Mr. Meche showed the roof plan and noted there are 7 sound makers. The total sound went down. He showed the numbers – 47 DBAs total and it was 60. The closest machine is 51 feet and the farthest is 76 feet from the property line. There are trees and bushes that will dampen the noise. He noted the calculations are as if the trees and bushes are not there. It will be better than current. Mr. Retzky stated he consulted an acoustical engineer and he concurs with all the information by the architect.

Mr. Retzky stated the Recycling and Transfer Station trash pick-up hours have changed to 9:00 a.m. to 2:00 p.m. Monday through Friday. There will be no early morning. He looked at other dumpster locations but behind the building is the best option. The project has added a wooden fence along the property line to shield the abutter. The dumpster is in its own enclosure. Ms. McKnight asked if the plaza location was looked at. Mr. Retzky stated it was. It is inaccessible for trucks and is a gathering location. Mr. Jacobs asked how high the fence is and was informed 6 feet.

Mr. Meche reviewed the site logistics. He noted there are 2 main areas. Four parallel spaces are being lost due to logistics. There will be 41 spaces through the duration of the projects; 40 spaces go away through September 1; 65 spaces will be available for the public through the start of school, then there will be 105 spaces. The project will require trucks to come in via Rosemary Street and go out Rosemary only. There will be parking for public and students only. The existing path to the High School will be closed and the contractor will be required to build a temporary path and put a temporary fence.

Mr. Retzky stated he met with Park and Recreation and they came to a consensus. Park and Recreation will allow them to use the upper parking lot at Rosemary Street with 35 spaces after school starts up until Memorial Day. The lot will be used for personal vehicles of employees and trades personnel on site for the construction duration only. Mr. Meche reviewed the parking numbers. He noted parking will require management when at saturation for events. He noted he got letters as requested from the school administration and Town Manager Fitzpatrick. Ms. McKnight asked if the public and students would be able to access Rosemary Street at all times and was informed yes.

Mr. Jacobs spoke of the proposed route access. He noted there will be no construction vehicles directly off Highland Avenue; that vehicles would come in from Rosemary Street and out to Rosemary Street then to

Highland Avenue. He asked what happens before vehicles get to Rosemary Street. Where are the vehicles coming from? He noted presumably vehicles would come via Webster Street. He asked if it would create a problem if a condition was put in that vehicles cannot use any side streets on the other side of Webster Street. Mr. Retzky stated the Board would need to define side street. Vehicles would come in off Route 128 or Dedham Avenue to Webster Street.

Ms. McKnight stated vehicles could come Kendrick Street to High Street. The Board could preclude that but it seems like a likely path. Mr. Alpert clarified it would be Greendale Avenue to High Street. Mr. Jacobs stated he wants to keep construction traffic off the side streets. Mr. Alpert wants to avoid Manning Street and Burnside Road and keep vehicles on the main roads. Mr. Jacobs noted it was tricky because Rosemary Street is one way. He wants to minimize other effects.

Mr. Retzky stated, as requested, there is a letter from the High School Principal in the packet regarding parking and how it will be monitored. He spoke with the abutters after the last meeting. The project is putting in a fence at the abutters request and has addressed the noise issue with the HVAC unit. Mr. Alpert asked if there will be no parking on Rosemary Street during construction hours. Mr. Meche stated it is generally a regular road. Mr. Retzky stated he is not sure it will be an issue. Ted Rolante, of 80 Rosemary Street, stated there may be an issue with kids at the church program. Mr. Retzky will look at that and address it if it is an issue. Steven Popper, of the Permanent Public Building Committee, stated there is restricted parking currently due to the High School project. He assumes it will continue for this project. He will address any issues with the police. There is 2 hour parking signage right now in front of the church and limited parking beyond the church.

Mr. Owens reviewed the summarized memo and asked Ms. Grimes if she wanted to revisit the parking issue. Ms. Grimes feels her parking issue has been partly addressed. However, the applicant is not taking into account outside events. This was omitted from the parking calculations. She feels there is a big portion of the parking counts that is missing. Mr. Jacobs noted a lot of cars belonging to High School kids are still in the parking lot after school. Mr. Healy stated there will be no event use at that time. The High School use may end at 4:30 p.m. or 5:00 p.m. New cars will come in for the evening use. Kids will have access to the fields until 6:00 p.m. This is not a building that will be used on a regular basis during the school day. It will mostly be afternoon, evening and weekends when the majority of the use will occur.

Mr. Jacobs stated this lot is mostly used in an unenforced way. He wants to make sure the parking is not going to be worse than it is. Mr. Healy stated he has only had 2 complaints over the years. The Trustees take the job seriously. This use is so different from any other building or use in Town. Ms. Grimes stated the use is changing and new meeting space is being created. If this was not a Town project the applicant would be told to go somewhere else and find parking spaces or to create new spaces. With a change in use the applicant needs to account for parking. The applicant has not accounted for parking yet.

Mr. Healy commented that Ms. Grimes was wrong. There is no change in use. Only one aspect is different and that is the assembly room. Everything else is the same and the people using it are the same. Ms. McKnight stated a lot of things are going on at this site and she believes the Board is being asked to grant a waiver from required parking. She is used to seeing how many spaces are needed for what is being presented. There is no particular requirement for athletic fields. Usually an engineer determines how many spaces are required. That is what is missing. It would help the Board but she feels it would be a dead end to request that because there is no practical way to increase parking spaces.

Mr. Owens stated all open questions have been addressed. Parking may be an issue. The quality and quantity of information received is far short of what the Planning Board would demand for commercial uses. The information on the chart is inadequate as Ms. Grimes stated. He asked if the Board members would accept the parking information that has been submitted. Most agreed but Ms. Grimes stated she would abstain at this point.

Upon a motion made by Mr. Alpert, and seconded by Ms. McKnight, it was by the five members present unanimously:

VOTED: to close the public hearing.

The Board discussed what should be in the decision. Mr. Jacobs noted there should be no use of the assembly area during school hours from 7:00 a.m. to 5:00 p.m., Monday through Friday on school days. Mr. Alpert suggested 6:00 p.m. Mr. Jacobs agreed. Ms. Grimes noted the Town Manager is responsible for assisting in regulating the parking spaces. Ms. McKnight noted there should be fencing and pick-up times for the dumpster. Mr. Owens would like all information that was discussed in the decision. The Board will review the draft decision and vote at the next meeting.

Correspondence

Mr. Owens noted the following correspondence for the record: a letter from the Norfolk County Registry of Deeds regarding the Community Preservation Act; a legal notice from the City of Newton; an article from the Needham Times regarding the medical marijuana shop opening; a revised Planning Board schedule; a letter from the Attorney General regarding the Special Town Meeting of October 2, 2017 approving Warrant Articles 8 and 9 and a letter from the Mass Department of Public Health approving Sira Naturals, Inc. (formerly Sage) at 29 Franklin Street.

Ms. McKnight stated a letter from Town Counsel asked if the Planning Board wants to address agricultural growing of marijuana in town. She noted the Board has addressed that with its proposed prohibition on cultivation and growing.

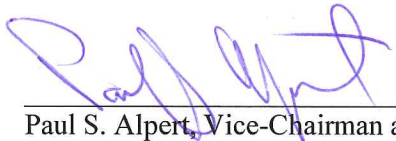
Report from Planning Director and Board members.

Ms. Newman noted she put off accessory apartments. It is scheduled for the next meeting. Karen Sunnarborg will be there. She stated she needs a volunteer for the Streetscape Committee. There will probably only be a single meeting and that is scheduled for 3/28/18 at 8:00 a.m. Ms. McKnight volunteered.

Upon a motion made by Mr. Jacobs, and seconded by Ms. Grimes, it was by the five members present unanimously:

VOTED: to adjourn the meeting at 9:05 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker


Paul S. Alpert, Vice-Chairman and Clerk