

NEEDHAM PLANNING BOARD MINUTES

March 8, 2018

The regular meeting of the Planning Board held in the Selectmen's Chambers, Needham Town Hall, was called to order by Ted Owens, Chairman, on Tuesday, March 8, 2018, at 7:00 p.m. with Messrs. Alpert and Jacobs and Ms. McKnight, as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski.

Discussion of Accessory Apartments.

Karen Sunnarborg, Housing Specialist, stated she prepared a follow-up report at the request of the Planning Board focusing on an analysis of the Town of Lexington's Zoning By-Law with comparative information regarding Newton's Ordinance as well as the state model bylaw. She noted that the Lexington bylaw is very simple and straight-forward with by-right provisions for standard conditions –including one accessory dwelling unit (ADU) per lot, owner-occupancy for one of the units, and an exterior that maintains the appearance of a single-family home. While Lexington's zoning removed special parking requirements, the Massachusetts model by-Law requires one off-street parking space as do most such bylaws. Lexington's bylaw also requires that the gross floor area shall not exceed 1,000 square feet and there shall be no more than 2 bedrooms. The ADU must be in the principal dwelling. Those zoning applications that fall outside of these basic provisions are processed through a Special Permit.

Ms. Sunnarborg summarized some concerns that have been raised with respect to ADUs, the top being their impact on neighborhood character. Communities that were surveyed as part of an effort conducted by Needham's Department of Public Health generally indicated that such units had not created t negative impacts. Ms. Sunnarborg added that provisions can be inserted into the bylaw to protect neighborhood character such as size limitations, owner-occupancy, restrictions to the existing footprint, off-street parking requirements, and ingress or egress locations for example. She further suggested that it is often difficult to distinguish a house with an ADU versus one without and any additions to a principal unit that included an ADU would have There needs to be a separate stove and separate bathroom and it needs to comply with existing zoning already in place. Another issue involves occupancy by temporary residents. Ms. Sunnarborg stated that Newton has a "no lodgers" provision but language could be inserted to regulate temporary residents including lease requirements. Another issue related to occupancy involves student residency although the DPH survey indicated that it had not been t an issue in other comparable communities with ADU bylaws. Ms. Sunnarborg also suggested the inclusion of amnesty for currently illegal ADUs in the community to address potential health and safety problems. . She concluded that ADUs will address some unmet housing needs in Needham through a low profile, free market approach to help diversify the housing stock without changing the character of single-family neighborhoods.

Mr. Owens stated he would like to push it forward. He thought the Board members could discuss it at the meeting scheduled for 3/13/18. He feels ADUs should be smaller at maybe 1 bedroom and 800 square feet with a 12 month lease. Mr. Alpert asked if it was Special Permit by the Zoning Board of Appeals (ZBA) and by right to the Building Inspector. Ms. Sunnarborg stated that was correct. Mr. Alpert asked if it is forever or renewable each year. Ms. Sunnarborg stated different towns had different requirements about this. Mr. Jacobs stated he was in favor of ADUs but would wait to discuss it in more detail at future meetings.

Vote and Decision: 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).

Mr. Owens asked the Planning Director if the Board had received comments from the Memorial Park Trustees (Trustees) and the Permanent Public Building Committee (PPBC). Ms. Newman noted comments were received and some changes were made to documents. One was made to Section 3.11, the building use policy and parking

plan. Another clarification was on trash removal and deliveries. The applicant would like a broader time schedule for deliveries. There were other minor changes.

Mr. Owens stated the Trustees have concern with the language "mutually agreed upon." Mr. Alpert stated the wording "and approval" should be added after "comment." He noted the Town Manager and Selectmen Matt Borrelli would not like that in but he is ambivalent. In Section 3.10, it should say "when school is in session." Mr. Jacobs asked, in Section 3.27, does the applicant really need deliveries to be permitted between the hours of 7:00 a.m. to 9:00 p.m. Ms. Newman stated she imposed the same as the High School property. Mr. Jacobs would like to know what hours the applicant really needs and use that.

Mr. Jacobs stated that when the High School project began the High School students started parking in the Library lot. He asked if that has been resolved. He feels the Board should inform Town Manager Fitzpatrick or the High School Principal of this issue. Ms. Newman is not aware if it has been resolved. Ms. McKnight stated she does not see an issue with the hours. Mr. Owens asked the Planning Director to reach out and see if those are necessary hours or if they could live with less. If they can deal with reduced hours, Ms. Newman will revise the hours accordingly.

With regard to Section 3.11, Ms. McKnight stated she feels Ms. Grimes would be disappointed if this Board does not have an opportunity to review and comment prior to the building use policy and parking management plan being finalized and signed. She does not feel it will hold up the process and believes that Ms. Grimes would want that opportunity. Mr. Owens asked if this language was acceptable and was informed it was. Ms. McKnight noted Section 1.21 has a sentence about refuse and waste but Section 3.27 is more specific. Mr. Alpert noted Section 1.21 is under findings and conclusions and is just a statement of the facts as demonstrated by the Petitioner. The Conditions Section states the Board's requirements and therefore needs to be more specific. Ms. McKnight noted Section 3.28 and stated the field house lights are removed. Ms. Newman noted there are no parking lot lights. She added delivery hours are to be verified and the vote will be changed to a vote of 4 not 5. The word school will be changed to the High School.

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

VOTED: to approve the decision subject to the changes discussed tonight.

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

VOTED: to grant (1) the requested Major Project Site Plan Special Permit under Section 7.4 of the By-Law; (2) the requested Special Permit under Section 1.4.6 of the By-Law to alter, enlarge, extend or reconstruct the preexisting nonconforming parking spaces on the property to make them less nonconforming; (3) the requested Special Permit under Section 4.2.14.4 of the By-Law to waive strict adherence with the requirements of Section 4.2.14.1 and 4.2.14.2 so as to allow a reduction in the width of a required Transition Area from 25 feet to 8 feet to accommodate an access driveway along the property line that borders the south side of the property located at 76-78 Rosemary Street; (4) the requested Special Permit under 4.2.14.1 and 4.2.14.2 so as to allow a reduction in the width of a required Transition Area from 25 feet to 22 feet to accommodate existing parking spaces located at the south end of the property line at the west side of the property located at 76-78 Rosemary Street; (5) the requested Special Permit under Section 4.2.14.4 to waive strict adherence with the requirements of Section 4.2.14.2 so as to allow placement of the above-noted access driveway and parking spaces within the required 25-foot Transition Area; and (6) the requested Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Parking Requirements) and Section 5.1.3 (Parking Plan and Design Requirements) of the Zoning By-Law.

Request to alter landscape buffer on Lot 7, 25 Hutter Ridge Road, originally Definitive Subdivision at 1135 Webster Street.

Mr. Owens noted the following correspondence for the record: a letter from the Town Arborist with no objections and in support and a letter from the Conservation Commission noting no jurisdiction. Ms. Newman stated the original decision required a landscape buffer. This alteration will be done within the buffer. Ms. McKnight asked if a vote of the Board of Selectmen would also be required as the holders of the "Grant of Restriction." The Restriction is a separate document. Ms. Newman stated this was a requirement of the Planning Board permit. Mr. Alpert agreed with Ms. McKnight. This needs permission from both Boards. He feels the Board should grant the request to alter the landscape buffer with the understanding there needs to be approval by the Board of Selectmen also.

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

VOTED: to accept the landscape plan as presented, and approved by the Town Arborist, so as to alter the landscaping buffer on Lot 7, 25 Hutter Ridge.

Public Hearing:

7:45 p.m. – Neighborhood Business District Zoning

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

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

There was no one from the public who wished to be heard.

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

VOTED: to close the public hearing.

Recommendation on Street Acceptance – Pandolf Lane, from Sachem Road to the end of Pandolf Lane.

Ms. Newman noted there were no plans to sign tonight. There are issues with the retaining walls.

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

VOTED: to recommend acceptance of Pandolf Lane from Sachem Road to the end of Pandolf Lane as a public way.

Discussion of Zoning for the May Annual and Special Town Meeting.

Mr. Owens noted there are 4 Articles and the Board had public hearings for 3 of the 4. He asked what the deadline would be. Ms. Newman noted the public hearing deadline would be the next meeting on 3/28/18. The Board discussed the Annual Town Meeting first. Ms. McKnight noted Article 2 (f) has an affordable unit marketing plan approved by the Planning Board. She asked if that was customary. Ms. Newman stated there is similar language in the Overlay District.

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

VOTED: to accept Article 2 as written for the Warrant.

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

VOTED: to accept Article 3 as written for the Warrant with the change that changes “offset” to “distance.”

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

VOTED: to accept Article 1 as written to be placed on the Warrant.

Mr. Owens noted tonight is the deadline to get a spot on the Special Town Meeting. There are 2 Articles – to amend Wireless Communication Facilities and Height Limitation Exceptions. He noted an email from Christopher Heep, of Miyares and Harrington LLP, with suggestions on wording changes. Ms. Newman noted Mr. Heep’s suggestions allow the town at the Recycling Transfer Station (RTS) to not follow some rules regarding town towers versus private towers.

Mr. Heep stated the town wants to permit 4 towers around town. The original draft created a new use category. It would be preferable to have all 4 under the same new use category. Section 6.7.3.3(h) is already in the By-Laws and this adds a new use (i). This has created a clear distinction between a municipal tower and others. He would like municipal towers to not be subject to overlay districts. Mr. Alpert stated he is concerned Section 6.7.2 is for cell towers. Section 6.7.1, “Purpose of District” and Section 6.7.2 are in conflict. He stated if the Board allows an exemption it goes against Section 6.7.1. The purpose is to protect the public. He would like the town towers to be more restrictive. The town towers should be held to the same requirements as cell towers.

Mr. Heep stated, in Section 6.7.2, the last sentence is clear. These town towers are not personal wireless services. Section 6.7 applies to personal wireless service and regulates a wide range of other uses. Ms. McKnight asked why the sentence in Section 6.7.2 is not good enough for the Board’s purposes. Why change Section 6.7.2 at all? Mr. Heep stated there needs to be a new use category in Section 6.7.3.3 for municipal uses. Sections (h) and (i) conflict. It is ambiguous and there is room for interpretation.

Mr. Jacobs stated (i) starts with towers and he asked what towers. They should be defined under (i) that they are freestanding monopoles and lattice. He noted it says “erected by the Town of Needham.” He asked why say “erected?” Mr. Alpert noted it should say “owned and operated by”. This was agreed. Mr. Jacobs noted 199 feet is allowed and he would like to reduce this. Mr. Heep noted the largest of the 4 will be at the RTS site and would go to 199 feet. He stated, under Section 6.75, each of the 4 Special Permits would need to demonstrate the tower is at the lowest practical height for that location. Mr. Alpert stated it should be 199 feet in the Overlay District and a maximum height of 120 feet in other districts. All agreed.

Mr. Alpert commented he agrees Mr. Heep’s ambiguity needs to be cleaned up. He would rather amend Section 6.7.2 to take out the last sentence and not limit it to personal wireless services. Mr. Owens asked the Planning Director what is the most expansive language and what would she recommend. Ms. Newman stated Mr. Heep’s language is the most far reaching. She would use his language with Mr. Jacobs’ suggested language and keep it at 199 feet. It can be brought down later. Language should be added in (i) that towers will be owned and operated “exclusively” by the Town of Needham. Mr. Owens summarized the Board would use Mr. Heep’s language and discuss later whether to cut back. He noted the Board was doing this because that is the way the amendment process works.

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

VOTED: to send Article 5 as drafted, with the suggested changes by Mr. Heep, and further changes suggested by Mr. Jacobs, to the Selectmen for their review and to be sent back.

Mr. Alpert stated there is an issue in Article 6, Section 4.7.2. The height limitations do not apply to towers. Anyone can put a 79 foot tower in any Business District as of right. Radio and TV antennae should be by Special Permit only. Mr. Jacobs commented he liked that but the Board should say that even with a Special Permit the

tower can only go so high. Mr. Alpert noted the current language is that over 80 feet a Special Permit needs to be requested. Mr. Owens noted he is ok with that. Mr. Alpert stated he wanted a cross reference to the special permit decision criteria in Section 6.7.5. Ms. Newman stated it could be advertised narrower, and later broadened for the warrant.

Mr. Alpert stated, after the sentence that has Section 4.4.3 and 4.6.4, a sentence should be added that says “in granting such Special Permit the Zoning Board of Appeals shall apply the decision criteria of Section 6.7.5 in addition to the review criteria of Section 6.7.6.” Mr. Jacobs had a process question. Should the language that is being deleted be highlighted. Ms. Newman stated it should be and she will put in an explanation.

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

VOTED: to send Article 6 as drafted with the changes discussed tonight to the Selectmen for review and to send back.

Mr. Owens stated he would like to move ahead with the redevelopment of Chestnut Street. He feels an Article could be put on the Special within the Annual regarding Chestnut Street. It will give an opportunity to have a public hearing. He would like to put it before the Selectmen and see what they would like to do. He wants to plant the seed for discussion.

Board of Appeals – March 15, 2018.

30 School Street, Needham, MA

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

VOTED: “No comment.”

7 Trout Pond Lane, Needham, MA

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

VOTED: “No comment.”

Minutes

Ms. McKnight noted she made changes and made copies for members to review.

Correspondence

Mr. Owens noted the following correspondence for the record: a Board of Selectmen Agenda Fact Sheet on the Proposed Stormwater By-Law; a notice from the Office of the Town Clerk with By-Laws approved by the Attorney General; various correspondence regarding the Rockwood Lane Subdivision and trees to be removed; notices from the Westwood Planning Board with a zoning map amendment and an open space residential development; a notice from the Town of Dover; a Needham Times article, dated 3/1/18, regarding Needham Housing Authority; a notice regarding the Needham Community Councils’ annual celebration and a revised meeting schedule.

Report from Planning Director and Board members.

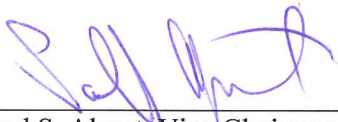
Ms. Newman noted the Farmer’s Market representative, Jeff Friedman, contacted her. A vendor wants to sell meat products from a truck. The permit did not anticipate trucks. She could have them come in with a

deminimus change. Mr. Jacobs stated he feels they should come in. All agreed. Mr. Jacobs noted he and Mr. Owens are members of the Council of Economic Advisors (CEA). They all want to talk about streamlining issues and some things regarding the Planning Board. He sat with Devra Bailin and tried to narrow the issues. One is insignificant modifications post construction. Another is that Ms. Bailin feels the Board is mingling Site Plan Review Special Permits with other site plan requests. Ms. Bailin will speak on this. The CEA is pushing them to raise this issue with the Planning Board. He will ask Ms. Bailin to write one paragraph on each issue for discussion. Ms. Newman will speak with Ms. Bailin. Ms. McKnight stated she would like to go to the Second Annual Cannabis Symposium and will submit for payment for the processing fee from the Town.

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

VOTED: to adjourn the meeting at 9:40 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Paul S. Alpert, Vice-Chairman and Clerk