



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

500 Dedham Ave
Needham, MA 02492
781-455-7500

PLANNING

NEEDHAM PLANNING BOARD

Charles River Room, Public Services Administration Building
500 Dedham Avenue, Needham, Massachusetts

Friday March 6, 2020

8:30 a.m.

1. ANR Plan – Rami Assaad and Rania Assaad, 348 West Street, Needham, MA, Petitioner, (Property located at 348 West Street, Needham, MA).
2. Minutes.
3. Correspondence.
4. Report from Planning Director and Board members.

(Items for which a specific time has not been assigned may be taken out of order.)

FUTURE DATES: Planning Board Meetings: March 17, 2020, April 7, 2020, April 21, 2020, May 19, 2020,
June 2, 2020, June 16, 2020.



TOWN OF NEEDHAM CLERK
MASSACHUSETTS, MA 02492

2020 FEB 27 PM 2:38

PLANNING BOARD

500 Dedham Avenue
Needham, MA 02492
781-455-7550

**APPLICATION FOR ENDORSEMENT OF PLAN
BELIEVED NOT TO REQUIRE APPROVAL**

Submit three (3) copies. One copy to be filed with the Planning Board and one with the Town Clerk as required by Section 81-P, Chapter 41 of the General Laws. This application must be accompanied by the **Original Tracing and three (3) copies of the plan.**

To the Planning Board:

The undersigned, believing that the accompanying plan of land in the Town of Needham does not constitute a subdivision within the meaning of the Subdivision Control Law, for the reasons outlined below, herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

1. Name of Applicant RAMI ASSAAD & RANIA ASSAAD
Address 348 WEST ST NEEDHAM MA 02494
2. Name of Engineer or Surveyor VTP ASSOCIATES
Address 132 ADAMS ST 2ND FLOOR NEWTON MA 02458
3. Deed of property recorded in NORFOLK COUNTY Registry,
Book 36915, Page 107
4. Location and description of property LOTS D1 & D2 AT 0 WEST ST
and 348 WEST ST NEEDHAM MA
5. Reasons approval is not required (check as applicable):
 - a) Every lot shown has the area and frontage required by the Zoning By-Law on a way, as defined by Section 81-L, Chapter 41 of the General Laws.
 - b) Land designated D2B shall not be used as separate building lot(s) but only together with adjacent lots having the required area and frontage.
 - c) Lot(s) having less than required frontage or area resulted from a taking for public purpose or have been recorded prior to 3/26/1925, no land is available to make up the deficiency and the frontage and land area of such lots are not being reduced by the plan.
 - d) _____

(If the applicant is not the owner, written authorization to act as agent must be attached)

Signature of Applicant RAMI ASSAAD

Address 348 WEST ST NEEDHAM MA 02494

By _____ (agent)

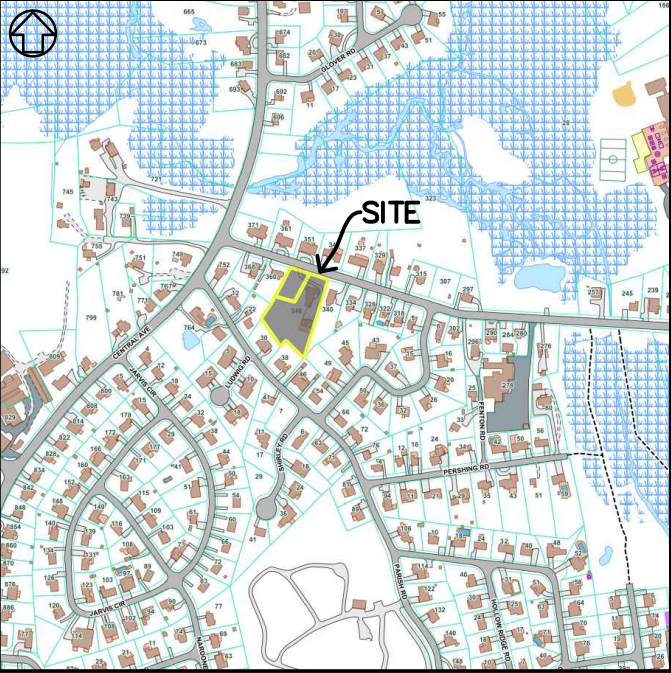
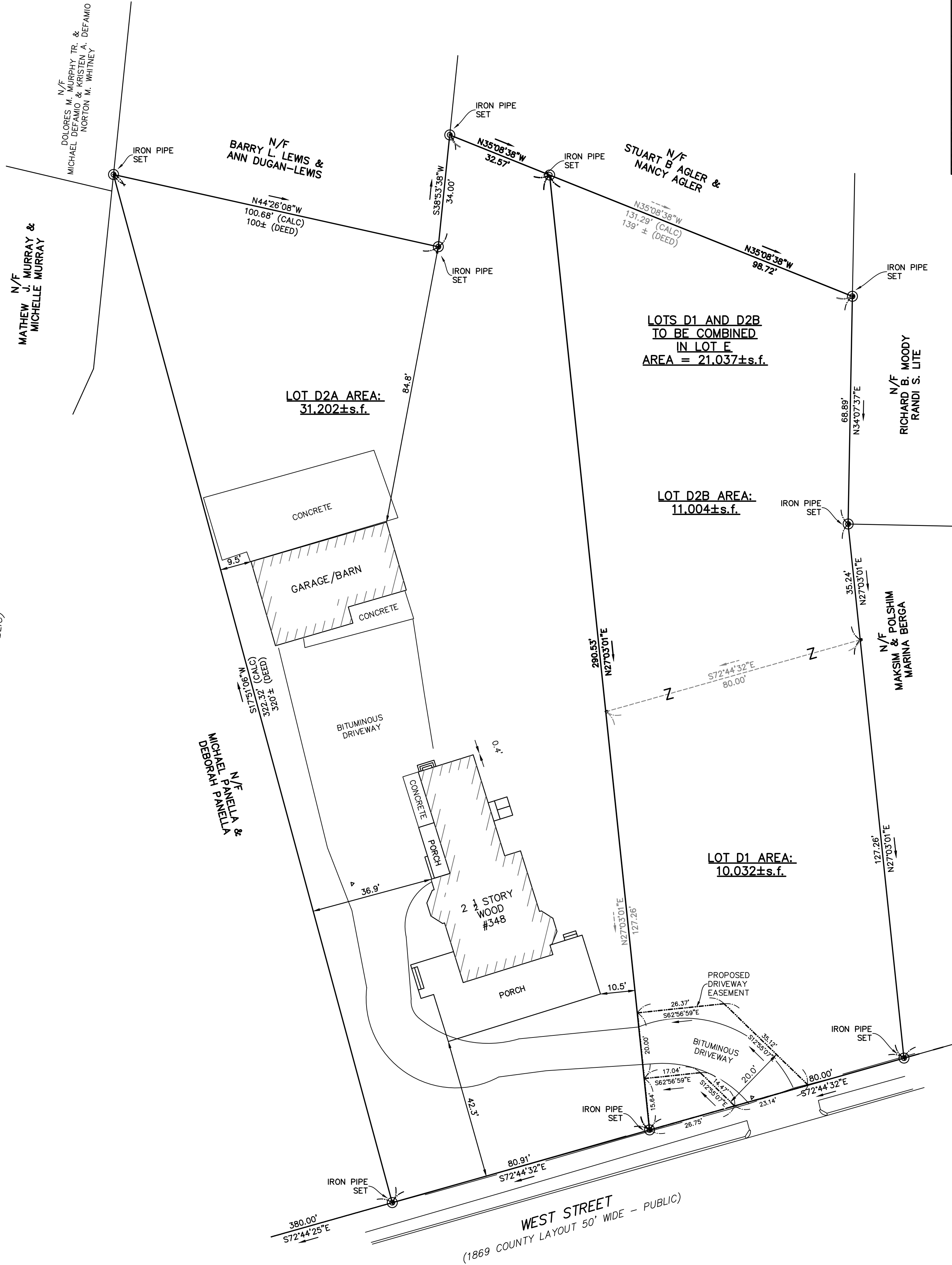
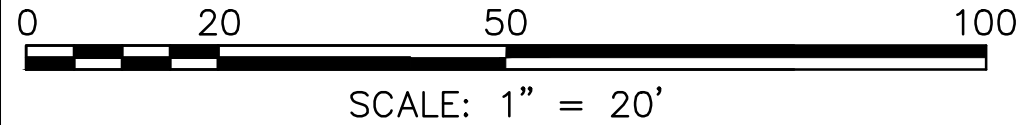
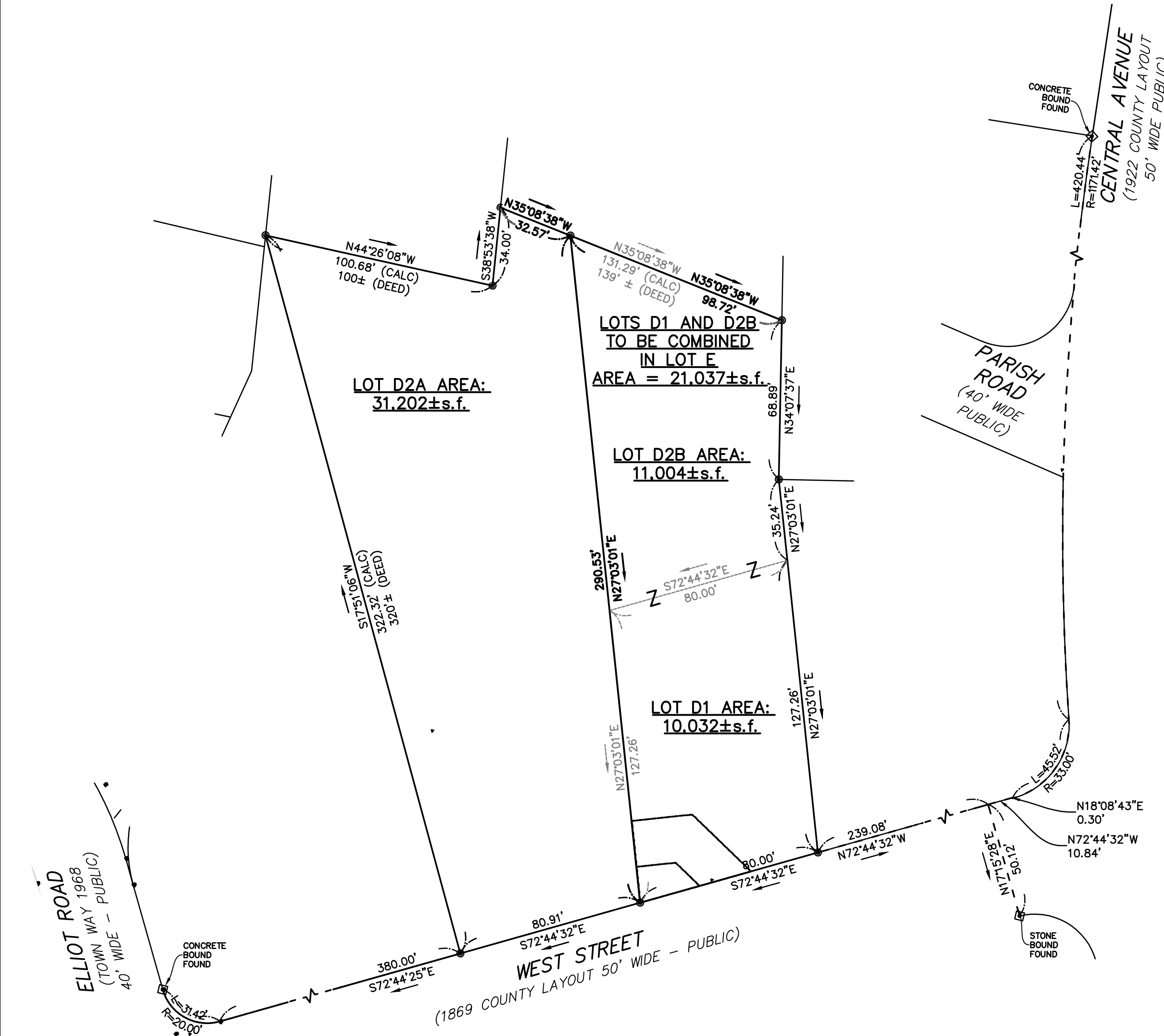
Application accepted this 27 day of February 2020
as duly submitted under the rules and regulations of the Planning Board.

By Chandra

PLAN REFERENCE
BOOK 4173 PAGE 246
BOOK 1880 PAGE 211
BOOK 3467 PAGE 270
BOOK 3032 PAGE 195
BOOK 3572 PAGE 450
PLAN BOOK 204 PLAN NO. 995 OF 1957

DEED REFERENCE
BOOK 36915 PAGE 107

OWNER OF RECORD
RAMI ASSAAD &
RANIA ASSAAD



LOCUS MAP FOR REGISTRY USE ONLY

APPROVAL OF THIS PLAN UNDER THE
SUBDIVISION CONTROL LAW IS NOT
REQUIRED.

DATE: _____

THE ABOVE ENDORSEMENT IS NOT A DETERMINATION AS
TO CONFORMANCE WITH ZONING REGULATIONS.

I CERTIFY THAT THIS PLAN HAS BEEN
PREPARED IN ACCORDANCE WITH THE RULES
AND REGULATIONS OF THE REGISTERS OF
DEEDS OF THE COMMONWEALTH OF
MASSACHUSETTS.

DATE: _____

JOSEPH R. PORTER, PLS

Build Factor				
Lot D2A	[861.01]²	÷	31202	• 7.6
	31,202		10,000	
Lot E	[700.64]²	÷	21037	• 11.1
	21,037		10,000	

AVERAGE GRADE (HOUSE):
(105.40+105.58+105.12+105.88
+105.35+105.78)/6=105.52

AVERAGE GRADE (GARAGE):
(104.57+96.38+103.42
+105.28+104.69)/5=102.87

ZONING CHART		
NEEDHAM, MASSACHUSETTS		
ZONE: SR-B	SUBMISSION: EXISTING	
REGULATION	REQUIRED	EXISTING
LOT AREA	10,000s.f.	42,206±s.f.
LOT FRONTAGE	80.0'	80.91'
FRONT SETBACK	20.0'	42.3'
SIDE SETBACK	14.0'	10.5'*
REAR SETBACK	10.0'	154.1'
LOT COVERAGE	25%-30%	11.6%
MAX. STORIES	2.5	2.5
MAX. HEIGHT	35.0'	37.14'*
GARAGE HEIGHT	35.0'	28.14'
*NON-CONFORMING		

PLAN OF LAND
NEEDHAM, MASSACHUSETTS

SHOWING EXISTING CONDITIONS AT
#348 WEST STREET

SCALE: 1in.=20ft. DATE: AUGUST 30, 2019
REVISED: SEPTEMBER 10, 2019;
FEBRUARY 26, 2020

PROJECT: 219144

VTP
ASSOCIATES
INC.

LAND SURVEYORS - CIVIL ENGINEERS. 132
ADAMS STREET 2ND FLOOR SUITE 3
NEWTON, MA 02458
(617) 332-8271

TOBIN & GRUNEBAUM
ATTORNEYS AT LAW
60 DEDHAM AVENUE
NEEDHAM, MASSACHUSETTS 02492
TELEPHONE (781) 444-5051
FACSIMILE (781) 444-5028

DAVID S. TOBIN, P.C.
DAVID F. GRUNEBAUM

January 3, 2020

Ms. Lee Newman
Planning Director
Town of Needham
550 Dedham Ave.
Needham, MA 02492

Re: 12 & 18 Brookside Road

Dear Lee,

You have asked me for a letter opinion regarding the proposed ANR endorsement applied for the above property and the application to it of Section 1.4.8 of our zoning bylaws.

It is my understanding that the lot meets the zoning requirements based on size, shape and area. It is non-conforming because a structure on the lot is within the front setback area. The owner wants to sever a portion of the land and make the severed portion a part of an adjoining lot. I have not seen the proposed ANR plan but it is my understanding that the frontage of the lot with the non-conforming structure will not be affected by the ARN plan. Further it is my understanding that the area of the lot will still meet or exceed the minimum area requirements of the zoning by-laws. On the basis of those assumptions I am of the opinion that the property will retain its non-conforming status. I base this on the Massachusetts Appeals Court decision of Glidden, Tr. et al v. ZBA of Nantucket 77 Mass. App. Ct. 403 (2010). In that decision the Appeals Court ruled in part:

“Under the terms of [G.L. c. 40A, § 6](#), a structure or use is no longer shielded from the requirements of a zoning by-law if a change, extension, or alteration is deemed to be substantially more detrimental to the neighborhood than the pre-existing, nonconforming use or structure. See [Willard v. Board of Appeals of Orleans, 25 Mass.App.Ct. 15, 21, 514 N.E.2d 369 \(1987\)](#). No extension or alteration occurred in this case. The lot line reconfiguration that resulted from the 1995 variance caused no change in the over-all size of the lot. No existing nonconformities were extended, and no new nonconformities were created. Because the conveyance caused no change in any of those aspects of the lot, there could be no intensification of the nonconformities present.”

*EACH ATTORNEY IN THIS OFFICE IS AN INDEPENDENT PRACTITIONER WHO IS NOT RESPONSIBLE FOR THE PRACTICE OR THE LIABILITY OF ANY OTHER ATTORNEY IN THE OFFICE

TOBIN & GRUNEBAUM

1/3/20

Page 2.

Section 1.4.8 of the Needham Zoning Bylaws makes no mention of a situation where a lot is reduced in size but still contains enough area to satisfy the area requirements of the zoning. For that reason it is not applicable in this case.

Yours truly

A handwritten signature in cursive script, reading "David S. Tobin". The signature is written in dark ink and is positioned above the printed name.

David S. Tobin

TOBIN & GRUNEBAUM
ATTORNEYS AT LAW
60 DEDHAM AVENUE
NEEDHAM, MASSACHUSETTS 02492
TELEPHONE (781) 444-5051
FACSIMILE (781) 444-5028

DAVID S. TOBIN, P.C.
DAVID F. GRUNEBAUM

February 28, 2020

Ms. Lee Newman
Planning Director
Town of Needham
550 Dedham Ave.
Needham, MA 02492

Re: 348 West Street.

Dear Lee,

You have asked me for a letter opinion regarding the proposed ANR endorsement applied for the above property.

It is my understanding that the lot meets the zoning requirements based on size, shape and area. It is a preexisting non-conforming use because of its use as a two family dwelling that goes back to before the area was rezoned for single-family use. Also the porch of the house is setback 10.5 feet of the westerly property line and the southeasterly corner of the freestanding garage is only 9.5 feet from the easterly property line. These side setbacks are not changing. The owner wants to sever a portion of the land and make the severed portion a part of an adjoining lot. It is my understanding that the area of the lot with the non-conforming structure will still be in excess of the 10,000 square feet, the minimum area required by the zoning. Further it is my understanding that the area of the lot will still meet or exceed the frontage and setback requirements of the zoning by-laws where it is located except as stated above, which are not changing.

On the basis of those assumptions I am of the opinion that the property will retain its non-conforming status. I base this on the Massachusetts Appeals Court decision of Glidden, Tr. et al v. ZBA of Nantucket 77 Mass. App. Ct. 403 (2010). In that decision the Appeals Court ruled in part:

“Under the terms of [G.L. c. 40A, § 6](#), a structure or use is no longer shielded from the requirements of a zoning by-law if a change, extension, or alteration is deemed to be substantially more detrimental to the neighborhood than the pre-existing, nonconforming use or structure. See [Willard v. Board of Appeals of Orleans, 25 Mass.App.Ct. 15, 21, 514 N.E.2d 369 \(1987\)](#). No extension or alteration occurred in this case. The lot line reconfiguration that resulted from the 1995 variance caused a change in the over-all size of the lot, but the lot will still meet

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TOBIN & GRUNEBAUM

2/28/20

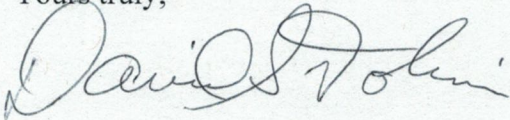
Page 2.

the minimum lot area required by the zoning. No existing nonconformities were extended, and no new nonconformities were created. Because the conveyance caused no change in any of those aspects of the lot, there could be no intensification of the nonconformities present.”

Section 1.4.8 of the Needham Zoning Bylaws makes no mention of a situation where a lot is reduced in size but still contains enough area to satisfy the minimum area requirements of the zoning. For that reason the lot retains its preexisting non-conforming status.

The issue has been raised that the front porch is within the 14 foot side yard set back required in by zoning and as a result the lots have merged. If that were correct, the owner could cut back the porch so it has a 14 foot setback from the side lot line and since the permit to build the structure was issued prior to 2017 the owner could apply for a permit to build the same porch and as of right get a building permit to extend the porch to within 10 feet of the side lot line. Under section 4.2.1, foot note (f), the side lot setback requirement is only 10 feet on lots where the structure was built under a permit issued prior to June 1, 2017.

Yours truly,

A handwritten signature in cursive script, appearing to read "David S. Tobin".

David S. Tobin

NEEDHAM PLANNING BOARD MINUTES

December 17, 2019

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building, was called to order by Martin Jacobs, Chairman, on Tuesday, December 17, 2019, at 7:00 p.m. with Messrs. Owens and Alpert and Ms. McKnight, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

ANR Plan – 766 Chestnut Street, LLC, Petitioner (Property located at 766 Chestnut Street, Needham, MA).

Mr. Jacobs noted this has been withdrawn at the request of Attorney Robert Smart.

Upon a motion made by Mr. Alpert, and seconded by Mr. Owens, it was by the four members present unanimously:
VOTED: to approve the request to withdraw the plan.

Discussion of possible redevelopment of 1 First Avenue (former Acapulco's Restaurant).

Mr. Jacobs noted the following correspondence for the record: a memo from Feldman Development Partners, dated 12/10/19, regarding the submission for a Special Permit and the conceptual site plan. Rick Feldman, representative, stated this is a redevelopment of the site of the current Acapulco Restaurant, which is closed. He wants to talk to the Board about perspective uses. He showed an aerial view of the property at the intersection of First Avenue and Highland Avenue and the surrounding area. This is a uniquely shaped site. There are 2 curb cuts off First Avenue and on-street parking. This is the 128 Commercial Business District.

Mr. Feldman noted the proposal is for the construction of 2 new buildings. There will be a smaller one-story retail bank. Century Bank feels this would be a good location for them and the applicant is working with them on the design. The other building will be larger and house I Fly, an interactive national company with 80 operations around the world. It is a flight simulator for weightlessness. They are open to teach classes, individuals and parties. People spend one hour learning skydiving and then get into the chamber for one minute of flying time. There is always an instructor in with them. This would be the first location for I Fly in Massachusetts. There are other operations around the area with flying.

Mr. Feldman stated the building will be 65 feet high because of the duct work and exhaust. He feels this is a good location for a welcome to Needham. There will be a combination of office, class and meeting areas. There will be a shaft in the middle of the building. He noted retail use is permitted. I Fly is a combination of education, simulation and retail operations. The applicant is trying to figure out how it will fit in the block. There will be a 6,700 square foot building with a greenway through the site between the 2 buildings. He noted there is not much greenery there now.

Mr. Jacobs asked where the applicant thinks this use falls. Mr. Feldman stated education. The customers have to take a class and need to be educated. This is not a high volume operation. There is only one person in the chamber at a time. He feels this is quirky and wants the Board's input. Ms. McKnight stated under the Section 3.2.5.1 uses a bank is fine. She does not see anything that describes the I Fly use. She looked at Section 3.2.5.2 for private school and at athletic or exercise use. She does not see this as retail as this is accessory. She noted the plan makes it look like a big drop off from Highland Avenue to this site. Mr. Feldman noted there is a green buffer from the state of Massachusetts.

Mr. McKnight noted there are 2 handicap spaces to one side at the rear of the I Fly building but none near the bank. Mr. Feldman stated there are 3 handicap spaces near the bank. The plan is not easy to read and is not labeled properly. There is an ATM there also. Mr. Jacobs asked what the capacity of the I Fly building is anticipated to be. Jamie McManus, owner of One First Avenue Realty Trust, noted there are classes and school events. There is water put in the chamber so the students can see the droplets and what happens. There are maybe 35 students. Everything is scheduled. Mr. Feldman stated there are online reservations prior to so everything is scheduled. The

site is tight so the parking has been maximized. Mr. McManus stated there is room for staff and 2 rest rooms. He noted he was impressed by I Fly's staff. They are quality personnel. Mr. Feldman stated customers are put in a flight suit and head gear.

Mr. Alpert asked if the proposal meets all requirements and just needs the use and was informed that was correct. Mr. McManus stated he sees this as an attraction to the surrounding towns. Mr. Alpert noted the plan states 2 handicap parking spaces. He feels the applicant may need to work with the Planning Director and Building Inspector for the parking requirement. Ms. Newman noted a fitness use is 1:150. She will confirm with the Building Inspector he agrees with that use. Mr. Feldman feels it is a good use and better than what is there now.

George Giunta Jr.: Discussion of possible zoning map change along easterly side of Hunting Road from SRA to SRB.

Mr. Jacobs noted a 12/12/19 letter from George Giunta Jr. with exhibits. Mr. Alpert stated he is curious why SRA. Mr. Giunta Jr. stated several lots are 20,000 square feet. Needham had a 20,000 square foot zone a long time ago. He gave a brief background. He noted 20-23 properties do not meet the acre zoning today. There is no logical reason it should be the acre and not 10,000 square feet. These properties have been limited in what they can do. All have been affected by it and have signed a statement in favor of rezoning. Mr. Alpert asked if there were any lots below 10,000 square feet. Mr. Giunta Jr. noted there was one lot that was 9,000 plus.

Mr. McKnight asked if these houses were built in the post war era. Mr. Giunta Jr. believes so but is not sure. He estimates 2 new lots and maybe 3 could be picked up. He stated any redevelopment to create new lots would probably require taking down a house or 2. Mr. Alpert stated, in looking at the map, there may be an issue with frontage. Mr. Giunta Jr. stated the abutters would need to get together to reconfigure. He does not feel there would be a serious redevelopment that would add a lot of houses. Mr. Jacobs asked if Mr. Giunta Jr. would like the Planning Board to sponsor this. Mr. Giunta Jr. feels that would be appropriate.

Ms. McKnight feels the houses are detrimentally affected by the road noise and the proximity to 128. Anything the town can do to stabilize the value of the houses and lots would be a good thing. Mr. Owens stated he is not sure this could be ready for the Spring Town Meeting. He is also not sure this would be an appropriate addition to the agenda with all the other things going on such as Muzi's and Children's Hospital. There is a cumulative effect of trying to do too much too fast in the same one mile area. He feels the timing is bad. It makes sense, particularly where they are, but he feels the timing for the Planning Board is off.

Mr. Alpert feels if Mr. Giunta Jr. brings this in May he may be better off with a Citizen's Petition with everything the Planning Board has to bring forward. He feels there is a better chance at being accepted at Town Meeting if it is a Citizen's Petition. Mr. Jacobs agreed some thought should be given to a Citizen's Petition. He feels there should be signatures from the abutters.

Review of Section 1.4.8 of the Needham Zoning By-Law.

Ms. Newman stated she needs direction from the Board given the correspondence from Town Counsel David Tobin and the slightly different opinion from the Special Town Counsel. She asked if the Board wants a formal interpretation from Town Counsel Tobin. Ms. McKnight feels the Board should seek a formal opinion as the basis for the opinion is not spelled out. Mr. Alpert stated, given the history of denying ANRs, the Board needs either an opinion of Counsel or an amended By-Law. He is reluctant to present a By-Law change in the form of Town Counsel opinion. Mr. Owens agreed.

Mr. Jacobs stated he would not seek a formal opinion. He could live with a note on the plan. Mr. Giunta Jr. disagreed. He feels changing the lot does not affect the non-conformance. A note would say there is a violation. He would be concerned with marketability issues. Mr. Alpert noted if there is an existing non-conforming structure the By-Law says if you increase the size or frontage the pre-existing, non-conformity stays. If the lot size or frontage is reduced the non-conformity is lost. Mr. Jacobs stated that is the historical position of the Planning Board. A discussion ensued.

Mr. Owens asked if Mr. Jacobs was opposed to asking Town Counsel for a legal opinion. He feels they need to ask for a formal opinion and follow the advice. Mr. Jacobs is not sure Town Counsel is correct and feels Special Town Counsel's opinion is equally valid. He would like not to have to be presented with a formal opinion saying Special Town Counsel is wrong. Ms. McKnight feels if there is a case the Planning Board needs the advice. Mr. Alpert wants the opinion. He does not feel current policy is the policy he wants to go forward with. He thinks the Board should change the policy but wants a more formal legal basis to change the policy. Ms. McKnight agrees. Mr. Owens also agrees. He wants the opinion formalized.

Planning and Community Development Spending Request.

Ms. Newman gave copies of the budget that has gone to the Finance Committee. In 2015 the Board received money for planning studies and have depleted that. She wants \$60,000 to plan for the required planning studies. Otherwise it is a level funded budget. She is looking for design funds for trail signage. This is the first step but this is CPA eligible funding so she is seeking the funds.

Board of Appeals – December 19, 2019.

Design Concepts Pro Contractors, Inc. -- 19 Riverside Street

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

VOTED: "No comment."

Correspondence

Mr. Jacobs noted a letter from Town Clerk Theodora Eaton, dated 12/10/19, noting Ms. Grimes resignation and the Board's vacancy. At Selectman Moe Handel's suggestion she reached out to Natasha Espada. She is interested but not now. She knows Adam Block is interested. Adam Block stated he would consider running for the vacant seat in the election. He has not thought about an appointment in the interim. Mr. Jacobs stated he would talk with Mr. Block more. Ms. Espada suggested contacting Bruce Eisenhut or Ronald Ruth about coming back until the election. Mr. Owens stated he is concerned, with the election so close, he does not want to be seen as interfering in the election if there are more than one interested person. He would agree with Mr. Eisenhut or Mr. Ruth. After discussion, Ms. Newman stated she will clarify with Town Clerk Eaton the exact process.

Ms. Newman asked if the Board wants to elect a Vice-Chairman to take over on 1/2/20. Both Ms. McKnight and Mr. Owens are interested. It was decided to wait until the 1/7/20 meeting.

Report from Planning Director and Board members.

Ms. Newman noted there will be a 1/27/20 community meeting. The Board has to have the zoning in final form to go to the Selectmen on 2/4/20. She will need to have consultants work on the material in January but coming back before the community meeting. There is usually input from community meetings to reflect in the zoning. Does the Board feel comfortable there is enough time to get this strategy done? What should she direct the consultants to prepare? Mr. Alpert noted he was not going to be at the 1/21/20 meeting. Mr. Owens thinks the community meeting will not bring anything new. He asked if the community meeting is to answer questions or if it was going to reshape the article. Ms. Newman stated it would not reshape but they are talking about changes to FAR and dropping the as of right. She has not talked to Town Manager Kate Fitzpatrick yet. Mr. Owens would be interested in what the Town Manager thinks. A discussion ensued.

Ms. McKnight stated the concerns she heard surrounded the visuals that were presented. Also the traffic impact and where the money would come from for traffic mitigations. Mr. Alpert noted people have an issue with the 20 foot setback. He feels the Board needs to get together with the Finance Committee. He feels the Planning Board Chair should contact the Finance Committee Chair to suggest a joint meeting. Mr. Owens noted Ms. Grimes was

going to reach out to the Finance Committee Vice-Chair. The Board needs additional input from the Town Manager and the Finance Committee. If the Finance Committee is not willing to meet with the Planning Board he does not think this should go forward. Mr. Jacobs stated he would keep it on the schedule for now. There will be more discussion on 1/7/20 when there is more information.

The Board signed documents already acted on for Rockwood Lane for the reduction of the bond that closes out the Tripartite Agreement and the Tripartite Agreement extension for Belle Lane.

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

VOTED: to adjourn the meeting at 9:15 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Elizabeth Grimes, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

January 7, 2020

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building, was called to order by Martin Jacobs, Chairman, on Tuesday, January 7, 2020, at 7:04 p.m. with Mr. Owens and Ms. McKnight, as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski. Mr. Alpert arrived at 7:10 p.m.

Mr. Jacobs informed the Board members he has asked former member Bruce Eisenhut to seek the appointment to fill the spot for the short term that has been left vacant by Ms. Grimes' resignation. Mr. Eisenhut has agreed and will go through the necessary process.

Highway Commercial 1 rezoning: discussion of next steps.

Mr. Jacobs noted a couple of members of the Finance Committee were at the meeting. He explained that the article failed at Town Meeting. He understands the Finance Committee was split. Mr. Alpert arrived at 7:10 p.m. Mr. Jacobs stated he wants to see what can be done for the Finance Committee to support this. He noted the Board is on a path to bring it back in the Spring but may decide not to after speaking with the Finance Committee. He noted the Planning Board had a meeting and explained they had the Planning Director put together a list of concerns that had been brought up. They include too much height, density, traffic, too many cars, access only off Gould Street, no residential, there should be a park, the uses were not thought out, there was no proposal at the Special Town Meeting, the study came too late, the visuals were ineffective and it should have been said what is allowed now by right. He noted that whole area of town is under pressure and gave the rationale and the forthcoming development projects.

Tom Jacob, of the Finance Committee, stated the big issue is the traffic study and its brevity. He was surprised it was not done in May. The traffic presentation did not go well. His concern with the Finance Committee was it was not clear what the financial impact would be. It appeared incomplete. Dick Reilly, of the Finance Committee, stated it was primarily a process issue and not substantive. They received the necessary information too late. Mr. Jacob stated information comes too late and there is no time to update and question. Hopefully with additional funds they will get the information in a timely manner. He is also concerned there is no plan to address traffic if the study shows failures.

Ms. McKnight stated the traffic study recommended certain improvements. Is the concern the study did not say how much it would cost? Mr. Jacob did not think the study was thorough enough. He hopes the new study will clarify those. Ms. McKnight asked if it would have helped if the Board had described that they would require contribution to the cost of traffic improvements. Mr. Jacob stated he feels some Town Meeting members would want guarantees, which the Planning Board could not give. Mr. Reilly stated there was less skepticism on the Finance Committee level than the Town Meeting level.

Mr. Jacob stated he appreciates the Planning Board inviting them. He thinks having the studies done and giving the Finance Committee time to chew on it would be good. He thinks this meeting is a good first step. He feels something that was lost was if nothing was done it puts the town at a disadvantage. The Board should describe what happens if nothing is done and that the town would have less control. He feels the trust gap may be bridged a bit if there was an estimate of what the cost is put out there.

Mr. Owens stated it was interesting hearing where the breakdown was with the Finance Committee so he can understand the process and information. The Board cannot guarantee anything. They need to balance the project versus the economics. He appreciates Mr. Jacob and Mr. Reilly coming to the meeting. Mr. Jacobs reviewed the schedule. Adam Block, President of the Needham Heights Neighborhood Association, stated the community meeting is an opportunity for the Finance Committee to participate and partner. He invited the Finance Committee members to attend. Mr. Jacob asked if the Planning Board could put together a schedule of when the reports would get to the Finance Committee. Ms. Newman anticipates having the reports available at the public hearing in March.

Mr. Block stated the Needham Heights Neighborhood Association will email their membership. He called both papers for notification of the meeting. He will also get other suggestions of where to post it. He drafted a letter to Town Meeting members and others in the neighborhood. Ms. Newman informed him the Town Clerk emails all Town Meeting members. Mr. Owens feels it would be better for the Heights Association to have the meeting and invite the Planning Board. Ms. McKnight agreed. She can send a notice to the League of Women Voters. She noted if there are wetlands at the immediate corner of Highland Avenue and Gould Street could it be developed. The Board needs to know if the Conservation Commission would deem it wetlands.

Minutes

The changes were given to Assistant Planner Alex Clee.

Correspondence

Mr. Jacobs noted the following correspondence for the record: a notice sent to the Select Board regarding the vacancy; a copy of a 12/2/19 Needham Times article regarding Children's Hospital; a Wicked Local article, dated 1/2/20, regarding the Indoor Skydiving facility and an article on the Planning Board to send the zoning proposal back by Trevor Ballantyne.

Report from Planning Director and Board members.

Ms. Newman noted there are 2 projects pending. She met with Attorney Roy Cramer. He has a developer that wants to do assisted living, memory care and independent living at Carters. He will be looking for some zoning changes. The developer would like to add a 4th floor to a portion of the building in the back for 10 independent living units. She feels it is a nice, sensible project. There will be minimal changes to the building itself.

She noted the other project has a developer looking to demolish a one story building across from the Temple next to the condos and build a 3 story medical office building with underground parking. Mr. Jacobs stated he received communication from a Town Meeting member urging the Planning Board to expand the traffic study area all the way down to Central Avenue and down Central Avenue. Mr. Alpert stated he is in favor of that. Traffic is bad on Central Avenue going over the river into Newton. Mr. Owens asked how far the traffic study went for the Sunita Williams School.

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to nominate Jeanne McKnight as Vice-Chairman.

Upon a motion made by Mr. Alpert, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to adjourn the meeting at 8:30 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

January 21, 2020

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building, was called to order by Martin Jacobs, Chairman, on Tuesday, January 21, 2020, at 7:05 p.m. with Messrs. Owens and Eisenhut and Ms. McKnight, as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee and Recording Secretary, Ms. Kalinowski. Mr. Alpert arrived at 7:10 p.m.

Boston Development Group: 629-661 Highland Avenue, proposed development.

Ms. Newman noted this is being postponed due to illness.

Discussion: Boston Children's Hospital.

Mr. Jacobs noted a letter from Attorney Robert Smart requesting the discussion be postponed to the 2/4/20 meeting.

Minutes

Ms. McKnight noted on the 11/6/19 minutes, page 4, 3rd paragraph, 3rd line, change to "her understanding is the Select Board would like the Planning Board to do so."

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

VOTED: to accept the minutes of 11/6/19 with the one change discussed.

Ms. McKnight noted on the 11/19/19 minutes, page 2, 1st paragraph, 5th line, after "request for sidewalks" remove the comma and it should say "both sides only for the smaller..."

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

VOTED: to accept the minutes of 11/19/19 with the changes discussed.

Correspondence

Mr. Jacobs noted a legal notice from Dedham regarding a Planned Residential Development and a copy of an article in Wicked Local regarding Bruce Eisenhut's appointment.

Preparation for Needham Heights Neighborhood Association community meeting.

Ms. Newman noted she received information from Natasha Espada looking at putting a warehouse on the Muzi property. This came in late today. This would need to be a 130,000 square foot warehouse use from an aerial perspective. Mr. Owens stated this is an allowed use by right under the current zoning. Ms. McKnight noted it is not clear where the access would be. This information should show the paved area. Ms. Newman noted pavement will be shown. This is just an aerial view. Ms. McKnight stated there was criticism of a look like boxes. She asked if there would there be windows and doors and what would it look like? Ms. Newman did not have Ms. Espada do that rendition.

Ms. Newman stated people thought the deficiency was what could be put there right now and we did not do that. Mr. Eisenhut does not feel the Board should present this as the only as of right thing that could be built there. Adam Block suggested what could be done by Special Permit should be shown as well. Ms. Newman stated the Board talked about doing an as of right proposal. Mr. Eisenhut noted the Board could present one example and

say this is only one example of what could be done. Ms. Newman noted retail above 5,750 square feet needs a special permit.

Mr. Owens commented he would not spend time on a special permit. He feels they need to illustrate the area where the Board has no control and what could go in as of right right now. They could say this is the type of thing that is allowed by special permit. Ms. Newman gave an update. She and Mr. Owens had a working meeting with Select Board member Marianne Cooley, Town Manager Kate Fitzpatrick and Town Engineer Anthony DelGaizo regarding a traffic study. There needs to be updated counts done. Counters have been put up at Central Avenue and Gould Street. They may be able to pull key intersections but not all. The report Beta did called for a light at Central and Gould. This cannot be done without taking 2 houses at the intersection. There could be no right on Gould Street coming out of the Muzi site but they would need to look at add a lane on Highland Avenue to see if that could be accommodated. The Board needs to set an FAR. The traffic study informs the decision on the FAR number. Mr. Jacobs noted the old counts are almost 5 years old.

Ms. McKnight noted there will be the same visuals at the neighborhood meeting that were presented at Town Meeting. Mr. Owens stated the visuals will not be updated after the meeting on Monday. Mr. Jacobs suggested saying the FAR was 1.7 but the Board is thinking in the range of 1.35. This is not definite. Mr. Owens suggested the Board could say there is an expected meaningful decrease in FAR based on feedback. Mr. Eisenhut stated he heard the concern is too broad a range for as of right and not a large enough range for a special permit. Ms. Newman agreed with that. Mr. Eisenhut also heard concerns with the side setback at the intersection and concern expressed on heights. The presentation visuals did not really depict that.

Report from Planning Director and Board members.

Ms. McKnight stated she has been approached by a Maple Street woman. Along the first block of Maple Street there is a General Resident District. What is being built are huge single family homes with one in front and one behind and connected with a portico. Mr. Eisenhut noted that is 2 buildings on a single lot. Ms. McKnight noted there is one under construction at present with a portico and hallway connecting the two. She would like to ask the Building Inspector what is going on. Mr. Jacobs requested the Planning Director ask the Building Inspector about this.

Ms. McKnight stated she was contacted by 2 women about the feasibility of having a By-Law in Needham regarding gas lines in Needham. They suggest no new homes can have gas lines. Mr. Eisenhut talked with the woman also and he thought she wanted to set a committee to look into this. Mr. Owens stated that would drive up the cost of housing. He thinks a study committee is a fine idea.

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

VOTED: to adjourn the meeting at 7:50 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

500 Dedham Ave
Needham, MA 02492
781-455-7550

PLANNING

March 4, 2020

Mr. Dave Davison
Assistant Town Manager
Town Hall
Needham, MA 02492

Re: Gift from Children's Hospital

Dear Mr. Davison:

Please find the attached letter from Robert T. Smart, Jr., Attorney representing Children's Hospital as well as a gift in the amount of \$15,200.00 in the form of Bank of America check No. 1019422057, dated March 2, 2020. Said gift is for the purpose of covering the cost of a Parking and Trip Generation Evolution for Children's Hospital, Founder's Park, as set forth in the February 27, 2020 Scope of Services. Please deposit the funds in the appropriate Town account and provide me with the assigned account number.

As you know, the Select Board will need to accept the gift before the work can begin. Please have the Select Board act on the acceptance of the gift at their next meeting of Tuesday, March 10, 2020.

Should you have any questions regarding this matter, please feel free to contact me directly.

Very truly yours,

NEEDHAM PLANNING BOARD

Lee Newman
Director of Planning and Community Development

cc: Kate Fitzpatrick, Town Manager
Planning Board
Robert Smart, Jr.

Enclosure

ROBERT T. SMART, JR., ESQ.

ATTORNEY AT LAW

399 CHESTNUT STREET

NEEDHAM, MASSACHUSETTS 02492

TEL (781) 444-9344 FAX (781) 449-0242

E-MAIL bob@robertsmart.net WEBSITE www.robertsmart.net

E-Mail and By Hand
March 4, 2020

Lee Newman
Needham Planning Board
500 Dedham Avenue
Needham, MA 02492

Re: Children's Hospital

Dear Lee:

Enclosed herewith is a cashier's check in the amount of \$15,200.00, payable to "Town of Needham".

By this letter, Children's Hospital offers said check as a gift to the Town of Needham, for the purpose of covering the cost to the Town of a Parking and Trip Generation Evaluation For Children's Hospital, Founder's Park, as set forth in a February 27, 2020 Scope of Services, a copy of which is attached.

Please make appropriate arrangements with the Needham Select Board, so they will accept the gift. I understand that upon receipt of this letter and check, you will direct the consultant to begin the requested evaluation.

Very truly yours,



Robert T. Smart, Jr.

Cc: Children's Hospital

**Town of Needham, Massachusetts
Economic Development/Planning Department**

**Scope of Services
February 27, 2020**

**Parking and Trip Generation Evaluation and Fee for Boston Children's Hospital
Founders Park
Contract No. XXX
Attachment A**

A. PROJECT DESCRIPTION

Traffic engineering services to perform a Parking and Trip Generation Evaluation for the proposed Boston Children's Hospital (BCH) Pediatric Medical Facility at Founders Park (Center 128 West) in Needham. The proposed project consists of the following components totaling 452,000 square feet (SF):

- 380 1st Avenue – Pediatric Ambulatory Center (215,000 SF) & Office (20,000 SF)
- 37 A Street - Pediatric Ambulatory Center (36,000 SF) & Office (54,000 SF)
- 2 B Street - Office (127,000 SF)
- Total = 452,000 SF

Access to the three new buildings would be from 1st Avenue, A Street and B Street. An existing parking garage (Garage B) with 2,072 spaces has been constructed on the property. An addition of 528 spaces to Garage B and a new parking garage (Garage A) with 925 spaces have been approved for the site. 117 surface spaces have been approved. In total, 3,642 parking spaces have been approved for the Center 128 West property of which 857 are allocated to Center 128 East.

BCH is proposing to modify the current approved land use to a combination of pediatric medical facility and general office and accommodate all parking on-site.

B. SCOPE OF SERVICES

The CONSULTANT will provide the following services for the Parking and Trip and Generation Evaluation.

PARKING EVALUATION

Task 1 – Review Parking Demand Analysis. Review the parking demand analysis provided in the January 24, 2020 Memorandum by VHB. Identify parking demand rates for medical and office land use published in industry sources including Institute of Transportation Engineer's, Parking Generation. Compare industry parking rates to the those provided in the VHB January 24th Memorandum and SDEIR and FDEIR documents. Determine if general office land use is appropriate to use for a portion of the project to calculate parking demand, or if medical office use is more appropriate.

Compare parking rates to those provided in the Proposed Zoning Amendment for a Pediatric Medical Facility and the existing Medical Overlay District.

Task 2 – Memorandum. Summarize the results of the parking evaluation in a Memorandum and provide a conclusion as to the adequacy of the proposed parking supply to meet the parking demand of the proposed project.

Task 3 – Meeting. Attend one meeting to discuss the findings of the parking evaluation with the Planning Board.

Cost = \$5,500

TRIP GENERATION EVALUATION

Task 1- Trip Generation Update. Review the trip generation analysis provided in the January 24, 2020 Memorandum by VHB, which include trip generation for the proposed project based on the latest Institute of Transportation Engineers (ITE) Trip Generation Manual. Review utilized project land uses for medical office versus general office space for estimating trip generation. Evaluate the impact of these anticipated changes in traffic generation on actual existing traffic conditions attributable to the Founders Park development (based on information received as of February 26, 2020). Compare calculated trip generation to that provided in the VHB January 24th Memorandum and SDEIR and FEIR documents. Provide an opinion as to the appropriateness of the comparison of the proposed trip generation to currently existing traffic flows versus those identified in the EIR.

Cost = \$6,000

Task 2—Study Report. Summarize the results of the traffic generation evaluation in a Memorandum and provide a conclusion as to the adequacy of the analysis for purposes of determining, in connection with the proposed change in use, the impact of these anticipated changes in traffic generation on actual existing traffic conditions attributable to the Founders Park development (based on information received as of February 26, 2020).

Cost: \$2,200

Task 3—Meeting. Attend one meeting to discuss the findings of the parking evaluation with the Planning Board.

Cost: \$1,500

FEE

The fee for the above services is \$15,200. The draft memoranda will be completed and delivered to the Planning Board and to Children's Hospital no later than March 9, 2020.

TOWN OF NEEDHAM

Office of the Town Clerk

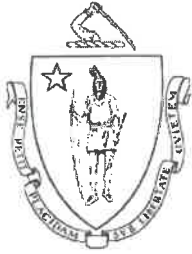


BY-LAWS

Approved By the Attorney General

**Special Town Meeting
October 28, 2019**

February 4, 2020



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MAURA HEALEY
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

February 4, 2020

Theodora K. Eaton, Town Clerk
Town of Needham
1471 Highland Avenue
Needham, MA 02492

**Re: Needham Special Town Meeting of October 28, 2019 – Case # 9700
Warrant Article # 7 (Zoning)**

Dear Ms. Eaton:

Article 7 - We approve Article 7 from the October 28, 2019, Needham Special Town Meeting.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
MAURA HEALEY
ATTORNEY GENERAL

Kelli E. Gunagan

by: Kelli E. Gunagan, Assistant Attorney General
Municipal Law Unit, Office of the Attorney General
Ten Mechanic Street, Suite 301
Worcester, MA 01608
508-792-7600

cc: Town Counsel David S. Tobin

Received
2020

TOWN CLERK
February 4, 2020

NEEDHAM
4:08 P.M.

RECEIVED TOWN CLERK
NEEDHAM, MA 02492
2020 FEB -4 PM 4:08



Theodora K. Eaton, MMC
Town Clerk

TOWN OF NEEDHAM

Office of the Town Clerk

1471 Highland Avenue, Needham, MA 02492-0909

Telephone (781) 455-7500 x216

Fax (781) 449-1246

Email: Teaton@needhamma.gov

AT THE SPECIAL TOWN MEETING

HELD ON MONDAY, OCTOBER 28, 2019

UNDER ARTICLE 7

It was

VOTED: That the Town vote to amend the Needham Zoning By-Law as follows:

1. Amend Section 1.3, Definitions, by adding the following term and definition in the appropriate alphabetical order:

“Accessory Dwelling Unit (ADU) – An apartment in a single-family detached dwelling that is a second, self-contained dwelling unit and a complete, separate housekeeping unit containing provisions for living, sleeping, cooking and eating. This unit shall be subordinate in size to the principal dwelling unit on a lot and shall be constructed to maintain the appearance and essential character of the single-family dwelling.”

2. Amend Section 3.2, Schedule of Use Regulations, Subsection 3.2.1, Uses in the Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, Apartment A-2, Apartment A-3, Institutional, Industrial and Industrial-1 Districts, by inserting immediately above the row that reads “Café or lecture room associated with a private school” a new entry, which shall read as follows:

“ <u>USE</u>	<u>RRC</u>	<u>SRB</u>	<u>GR</u>	<u>A-1,2</u>	<u>I</u>		<u>IND</u>	<u>IND-1</u>
	SRA			& 3				

Accessory Dwelling Unit (See 3.15)	SP	SP	SP	SP	SP
SP	SP”				

3. Amend Section 3.2, Schedule of Use Regulations, Subsection 3.2.2, Uses in the Business, Chestnut Street Business, Center Business, Avery Square Business and Hillside Avenue Business Districts, by inserting immediately above the row that reads “Café or lecture room associated with a private school” a new entry, which shall read as follows:

“USE B CSB CB ASB HAB

Accessory Dwelling Unit (See 3.15) SP N N SP SP”

4. Amend Section 3.2.3, Uses in the Neighborhood Business District, Subsection 3.2.3.2, Uses Permitted by Special Permit, by inserting a new paragraph (c) that reads “Accessory Dwelling Unit under Section See 3.15” and by renumbering former paragraphs (c) thru (o) as (d) thru (p) respectively.

5. Amend Section 3, Use Regulations, by adding a new Section 3.15, Accessory Dwelling Units (ADUs), to read as follows:

“3.15 Accessory Dwelling Units (ADUs)

3.15.1 Intent

The intent and purpose of this section is to permit accessory dwelling units (ADUs) in single-family homes for occupancy by (a) an Owner (as defined in this section 3.15.2) or (b) Family of an Owner of the property (as so defined) or (c) Caregivers to an Owner of the property or a Family member of an Owner (as so defined) who resides in the property as his or her primary residence, all subject to the standards and procedures hereinafter set forth. It is also the intent to assure that the single-family character of the neighborhood will be maintained and that the accessory unit remains subordinate to the principal use of the living quarters.

3.15.2 Definition

(a) Accessory dwelling unit (ADU) is an apartment in a single-family detached dwelling that is a second, self-contained dwelling unit and a complete, separate housekeeping unit containing provisions for living, sleeping, cooking and eating. This unit shall be subordinate in size to the principal dwelling unit on a lot and shall be constructed to maintain the appearance and essential character of the single-family dwelling.

(b) “Caregiver” shall mean an adult who regularly looks after an elderly, chronically ill or disabled Owner who needs assistance with activities of daily living or a Family member who needs such assistance and for whom the property is such person’s primary residence.

(c) “Family” shall mean other persons who are related to an Owner or Caregiver by blood, adoption or marriage and who are related to such Owner or Caregiver as follows: spouse, parent, sibling, child, grandchild, or a spouse or child of any such resident person.

(d) “Owner” shall mean a person who holds record title to the property directly or indirectly and for whom the property is such Owner’s principal residence. Indirect ownership includes but is not limited to a beneficiary of a trust holding record title to the property and a majority owner of the voting stock of a corporation or the membership units of a limited liability company holding record title to the property.

3.15.3. Use Regulations

Such accessory dwelling unit (ADU) shall be permitted upon the issuance of a Special Permit by the Board of Appeals under the following use regulations:

- (a) There shall be no more than one ADU on a lot, which ADU shall be located in the single-family detached dwelling and not in an accessory building.
- (b) At least one of the units, the principal unit or the ADU, shall be Owner-occupied, except for a temporary absence of the Owner for a period of nine months or less if written notice thereof is made to the Building Commissioner on a form prescribed by the Commissioner within 60 days of the commencement of the absence.
- (b) Occupancy of the unit that is not Owner-occupied shall be limited to a member of the Owner’s Family or a Caregiver and such Caregiver’s Family; provided that occupancy of the principal dwelling unit and the ADU combined shall be limited to five persons who are not Family of the Owner.
- (c) The size of the ADU shall be limited to 850 square feet of living space and shall have no more than one bedroom.
- (e) Off-street parking shall be provided for residents of both units with a minimum of one parking space per dwelling unit.
- (f) Adequate provisions for the proper disposal of sewage, waste, and drainage generated by the ADU shall be in accordance with Board of Health requirements.
- (g) Compliance with the ingress and egress provisions of the Massachusetts State Building Code, applicable to dwelling units, shall be required. To the extent possible, exterior entrances and access ways shall not detract from the single-family appearance of the dwelling. Where there are two or more existing entrances on the front façade of a dwelling and modifications are made to any entrance, the result shall be that one appears to be the principal entrance and the other appears to be secondary. An interior door way shall be provided between each living unit as a means of access for purposes of emergency response. All stairways to additional floors shall be enclosed within the exterior walls of the structure.
- (h) The owner of record shall be responsible for submitting an ADU application to the Building Commissioner. Floor plans of the accessory unit and principal residence, along with a certified site plan, shall also be submitted with the application to the Building Commissioner. Appropriate

fees as established and recorded shall be assessed for the initial application and each renewal of the occupancy permit as determined by the Building Commissioner.

(i) The installation of the ADU shall require the issuance of a building permit by the Building Commissioner.

(j) Occupancy of the ADU shall not take place without proof of the recorded Special Permit and an occupancy permit issued by the Building Commissioner. The initial occupancy permit shall remain in force for a period of three (3) years from the date of issue provided that ownership of the premises is not changed. Thereafter, permits may be issued by the Building Commissioner for succeeding three-year periods provided that the structure and use continue to comply with the relevant provisions of the State Building Code and Needham By-laws. Occupancy permits shall not be transferable upon a change in ownership or occupancy.

(k) In the case that the ADU has violated the terms of the Special Permit or the lawful use of such unit has expired or been terminated, the Building Commissioner may, in addition to other remedies, order the removal of any one or more of the provisions that create a separate dwelling unit, such as living, sleeping, cooking and eating.”

PASSED BY THE REQUIRED TWO THIRDS VOTE
DECLARED BY THE MODERATOR ON A VOICE VOTE

A true copy
ATTEST:


Theodora K. Eaton, MMC, Town Clerk