

NEEDHAM PLANNING BOARD MINUTES

June 2, 2020

The Planning Board Virtual Meeting using Zoom was remotely called to order by Martin Jacobs, Chairman, on Tuesday, June 2, 2020, at 7:15 p.m. with Messrs. Alpert, Owens and Block and Ms. McKnight, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Jacobs took a roll call attendance of people expected to be on the agenda. He noted this is an open meeting that is being held remotely because of Governor Baker's executive order on March 12, 2020 due to the COVID Virus. All attendees are present by video. He reviewed the rules of conduct for zoom meetings. This meeting will allow public comment. He noted if any votes are taken at the meeting the vote will be conducted by roll call.

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

VOTED: to automatically continue the meeting to 6/16/20 at 7:00 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting.

Discussion of Annual Town Meeting zoning articles.

Mr. Jacobs noted the Board is not sponsoring any articles at this Town Meeting. There is a single zoning article. That is the Citizen's Petition by Children's Hospital. Ms. Newman stated the Board needs to make a recommendation on the Article and vote on it. She noted Mr. Block should not participate because he was not on the Board at the hearing.

Upon a motion made by Ms. McKnight, and seconded by Mr. Alpert, it was by a roll call vote of four of the five members present (Mr. Block did not vote):

VOTED: to recommend adoption of Article 19 to amend the Zoning By-Law to provide for pediatric medical facilities in the New England Business Center District.

Discussion of proposed new use at 100 West Street. Redevelopment and zoning change of the property to enable an 83 unit Assisted Living and Alzheimer's/Memory Care facility and 71 Independent Living Apartments.

Mr. Jacobs noted there are minor changes to the request. The Board heard an extensive presentation at the last meeting. This is only an update tonight. Evans Huber, of Frieze Cramer Rosen & Huber, LLP, noting the project is changing from 71 to 72 independent living apartments to make it 12½% affordable rather than 10% affordable. The additional unit will be on the 3rd floor in a space that was designated for another purpose. There are no changes to the roof or FAR calculation. This will require one additional parking space and the parking layout has been modified to include that space. He provided a revised warrant article.

Mr. Huber noted the other changes in response to the comments made. In 3.15.3.1, the language has been modified to make clear that the only mixed uses being proposed as of right are the uses in this building. In 3.15.4.1, the setback language has been modified to make clear where the setback is required on the north side of the building. In 3.15.4.2, has been clarified to make clear the calculation of the FAR is the entire square footage of the entire property and not just the portion in the Avery Square District. In 3.15.5, there is a change to the off-street parking language. He took out the language regarding assisted living or residential care. If in the future the number changes it would not change in the Avery Square Overlay District (ASOD). In 3.13.5(b), there are changes to the language to clarify the intent.

Mr. Huber noted one concern raised was traffic at Hillside Avenue and West Street. He submitted an email to Ms. Newman with data pulled out of the traffic study. While not specifically studied, if the impact data study is looked at it shows actual numbers of current trips compared to anticipated trips of this project. This would add about 1% traffic volume to West Street headed in both directions. He thinks the impact on Hillside Avenue and

West Street would be minimal. The applicants have proposed this be allowed as of right. The purpose of the warrant article is to facilitate the LCB Senior Living Project for these uses. It does not make sense to propose and then not have the uses allowed. There will be site plan review and the Board could set conditions and will still have control. Mr. Block noted the previous use with 202 units ceased in 2017. Last year the property was vacant when the traffic counts were taken. There are 47 fewer units. Are there traffic counts conducted in 2017 or thereabouts? Erin Fredette, of McMahon Associates, stated she does not have counts from then. She looked at 2019 and added trips on top of it. Mr. Block asked if the town had any traffic counts from 2017 or when Avery Square was active. Ms. Newman will check.

Roy Cramer, of Frieze Cramer Rosen & Huber, LLP, stated for the 25 year period when the building was operational it was assisted living and nursing home. The proposal is for assisted living and independent apartments. There will be no nursing home. Substantially less traffic will be generated. Mr. Alpert stated he was grateful that his comments were taken seriously and changes made. He is pleased with how it now reads except having the use by right and not special permit. He came in with an open mind, gave it a lot of thought and research. He has decided he prefers the uses continue under a special permit, as it is currently in the Avery Square District. He explained his reasoning citing the case of Prudential vs. the Zoning Board of Appeals of Westwood. He laid out special permit vs. site plan review. There is much more authority under the special permit use. He looked at what the Board has done in the past with North Hill, Avery Crossing/Avery Manor, Wingate and the Elder Services Districts. All of these were uses of the general districts they were in and were not changed. All had a special permit element and some had an as of right element.

Mr. Alpert stated he is in favor of this By-Law change if the provision of as of right was removed and the use kept the way it is now as special permit. Mr. Huber noted the case Mr. Alpert alluded to held that if the use is allowed as of right in the district it cannot be turned down altogether by the permit granting authority. The project needs the 4th floor or the project would be allowed by right. The Planning Board would still have the authority to impose condition through site plan review. Mr. Alpert stated the Prudential case is an important element. If the Planning Board imposes restrictions that are appealed on special permit process an appeal court has to give deference to the Board. There is a very important distinction in that case. All applicants and petitioners should be treated equally.

Mr. Huber noted each similar use in town cannot be compared. Each needs to be looked at on its own merit. This use has been in this location. He feels the Board wants to see this use in this location. The Board will impose conditions. Mr. Alpert commented there are many uses in Town where the same use is allowed by special permit and they have not been made as of right because the use has been there. Basically this is an apartment building which is allowed by special permit in a business district and this is a business district. He is in favor of the project and in favor of the 4th floor. He feels it is a great addition to Town but he wants to keep the special permit and as of right uses as they are now.

Ms. McKnight agreed with all Mr. Alpert's comments. She would also rather see a special permit than by right. She has reviewed the written materials shown and the landscaping along Highland Avenue. She is satisfied now. She saw there will still be trees and bushes in front along with patios. David Kelly, of Kelly Engineering Group, noted they have taken down the overgrown trees that were there and are putting in new. Ms. McKnight stated she is still concerned with the intersection at West Street and Hillside Avenue. Sketches have been provided of other intersections. She would like to see a revised site study that shows the information in the memo in sketch form for that particular intersection. Ms. Fredette stated she can do it graphically but would not have any information going to or from the intersection. Other intersections have information on how many cars are turning and going through but she would not have that information for this intersection.

Ms. McKnight asked what is missing from the data that would not allow that information. Ms. Fredette noted they count individual vehicles such as how many turn left and such. They did not do that because of the negligible amount. Since they did not do counts they do not know how many cars turn left out of Hillside Avenue. Lee Bloom, of LCB Senior Living, noted the intersection is of interest to LCB also. Ms. Fredette stated she has reached out to the Town Engineer to see if he had any previous information. He did not have anything to pass along but thought there was a study being conducted elsewhere. Ms. McKnight informed her she has copies

of those reports and would discuss them with Ms. Fredette. Mr. Bloom feels traffic improvements may be difficult at that intersection but is willing to look at it and make improvements.

Ms. McKnight had some drafting questions regarding the article. It was clarified that the definitions for assisted living units and Alzheimer/memory care units were defined in the By-Law. Ms. Newman stated the definitions should be looked at. There may need to be some adjustments to those definitions to capture this district. Mr. Huber noted that is why at the beginning of the article he amended the definition of Independent Living apartments because it only applies to the Elder Services District. Mr. Jacobs noted he is concerned about the intersection of West Street and Hillside Avenue and not so much an increase in traffic. Foot traffic will increase substantially. A selling point will be it is close to the Heights. There will be a lot of traffic back and forth to the Center at the Heights. This is a concern to him but he does not think that needs to be dealt with now. Mr. Cramer agreed this would come up in the permitting stage. They will look at the pedestrian issue. Ted Doyle, of LCB Senior Living, stated that is an issue they are concerned with as well.

Mr. Cramer stated he would like to secure approval by the Planning Board and have them sponsor it. He would like to get some type of resolution. The Board may want to take a vote on the Special Permit vs. the as of right issue. Ms. Newman noted, timing wise, Town Meeting is in October. She thought the Board would have a public meeting before the summer but now all the meetings are remote with the pandemic. If the Board takes it up at the next meeting that is fine. There could be a hearing in the summer or at the beginning of September. Mr. Cramer would prefer early summer rather than the Fall. Mr. Jacobs noted the vote will be taken at the 6/16 meeting. No time has been determined yet.

Board of Appeals – June 18, 2020.

18 Highland Circle – Spiga, LLC

Ms. Newman noted this is a repeat of a project that was in front of the Board but was never implemented. It is for 32 outdoor seats with a tent. It was previously approved but not implemented within the Board's 2 year timeline. This will be in front of the Planning Board for a waiver in setback. Mr. Alpert stated this is the first time he has seen a tent. This gives a whole new look and he would like to discuss it. He does not want to see tent structures around town. Ms. McKnight is concerned with the safety of a tent but that would be a matter for the Building Inspector. This is a unique location set back from the road. She is inclined to say no comment.

Mr. Block asked if there is anything in the geography that has changed from the last time it was approved where no action was taken to now. Ms. Newman noted nothing has changed. This is a less permanent structure than before. The applicant is looking to put portable heaters out there for use for a longer period of time. Mr. Block asked if the area has been developed or changed since previously approved. Ms. Newman stated there has been very little change. Ms. McKnight made a motion to request the Zoning Board of Appeals (ZBA) to consider, in review of the outdoor dining tent, the effect it may have to inhibit multi-family development in this district that is a goal of this Board. Mr. Jacobs noted there was no second to the motion. He suggested the Board express sentiments to the ZBA that erection of a permanent tent is novel to us and ask they be sensitive to laying out specific and relative details that may make a tent appropriate in that space. Mr. Block and Mr. Alpert agreed.

Mr. Owens stated the issue is that not enough is known about the tent concept to take a position on it. He has some concerns about how novel an ideal this tent is. Can the Board ask the ZBA to think carefully about the tent concept? Mr. Owens made a motion that the Board urge the ZBA to give careful consideration to the idea of the tent and the precedent it might set. Ms. McKnight suggested, in their decision, they should explain the unique circumstances this site presents. Mr. Owens was ok with the amendment.

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

VOTED: to urge the ZBA to give careful consideration to the idea of the tent and the precedent it might set and explain in their decision the unique circumstances this site presents.

52 Coulton Park – Mary and Jasper Bogogian

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

VOTED: “No comment.”

Minutes.

Ms. McKnight noted in the minutes of 3/19 /20 she had 2 changes. In the 1st paragraph delete “held in the Charles River Public Services Building” and on the 2nd page, last paragraph, “proposed” appears twice. The first “proposed” needs to be deleted.

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

VOTED: to accept the minutes of 3/19/20 with the 2 changes.

Correspondence.

There is no correspondence.

Report from Planning Director and Board members.

Ms. Newman noted Town Meeting is on Monday. She briefly ran through what to expect. It will be outside with chairs on the parking lot spaced for social distancing. All are required to wear masks. There will be 16 microphones set up throughout in case questions come up. Only the Select Board and the Finance Committee will be allowed up front. She suggests the Planning Board members should locate close to a microphone in case there are questions. The presentation will be put on You Tube. Ms. Newman and Mr. Jacobs will not be there. Town Meeting will be live streamed through cable and it can be connected through Zoom. She feels the Board should have a traditional meeting earlier in the day, then vote to recess the meeting and turn off the broadcasting capability of the meeting. They can reconnect on zoom if necessary.

Mr. Block asked if it was possible for the Planning Board to be called to speak on the \$60,000 appropriation for the Highland Commercial 1 Study. Ms. Newman stated the Select Board are planning that so it may come up. Mr. Block asked about the Map Change Article. That will be withdrawn. Mr. Owens suggested scheduling a zoom call at 3:00 p.m. Monday. Town Meeting starts at 5:00 p.m. Ms. Newman will do an agenda, post the meeting and send invites. She noted the outdoor dining was voted at the last meeting. She has prepared an implementation plan. She would like the Board to take a vote for the policy that was reflected.

Mr. Block noted Section 2 of the guidelines (d) regarding alcohol is effectively being suspended. He would strike or modify that language. Ms. McKnight stated drinking in public places is a town By-Law and a police matter. She would simply state take out wine or beer from a restaurant to be taken to table in park where outdoor dining has been permitted.

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

VOTED: to confirm the policy.

Ms. McKnight commented on the Report to Town Meeting by the Town Manager regarding the appropriation for the planning study for consulting assistance for Needham 2025. She asked if Ms. Newman has been involved in this. Mr. Jacobs stated he has been on the committee since the beginning. Ms. Newman will prepare a recommendation on the zoning article for the Town Clerk. She will send it out tomorrow and members should scan it back with their signatures.

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

VOTED: to adjourn the meeting at 9:00 p.m.

Respectfully submitted,

Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk