

**LEGAL NOTICE**  
**Planning Board,**  
**TOWN OF NEEDHAM**  
**NOTICE OF HEARING**

In accordance with the provisions of M.G.L., Chapter 40A, S.5, the Needham Planning Board will hold a public hearing on Tuesday, August 11, 2020 at 7:30 p.m. regarding certain proposed amendments to the Needham Zoning By-Law to be considered by the Fall 2020 Special Town Meeting.

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, Section 18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this public hearing of the Needham Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but the public can view and participate in this meeting while in progress by remote access following the instructions detailed below.

**To view and participate in this virtual hearing on your phone, download the “Zoom Cloud Meetings” app in any app store or at [www.zoom.us](http://www.zoom.us). At the above date and time, click on “Join a Meeting” and enter the following Meeting ID: 826-5899-3198**

**To view and participate in this virtual hearing on your computer, at the above date and time, go to [www.zoom.us](http://www.zoom.us) click “Join a Meeting” and enter the following ID: 826-5899-3198**

Members of the public attending this meeting virtually will be allowed to make comments if they wish to do so, during the portion of the hearing designated for public comment through the zoom app.

Persons interested are encouraged to call the Planning Board office (781-455-7550) for more information. A copy of the complete text of the proposed article is detailed below. The article designation given has been assigned by the Planning Board for identification purposes only. An article number will subsequently be established by the Select Board for the Warrant.

**ARTICLE 1:      AMEND ZONING BY-LAW – AVERY SQUARE OVERLAY DISTRICT**

To see if the Town will vote to amend the Needham Zoning By-Law, as follows:

- (a) Amend the definition of “Independent Living Apartments” in Section 1.3, Definitions, by (i) adding the words “or Avery Square Overlay District” after the words “Elder Services Zoning District”; (ii) deleting the word “only” before the words “residential uses”; and (iii) adding to the end of the definition the sentence “; provided, however, that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities but need not be part of a Continuing Care Retirement Community.”, so that it reads as follows:

“A building in the Elder Services Zoning District or Avery Square Overlay District containing three or more dwelling units, which building houses residential uses and support services accessory thereto, intended primarily as independent living units for individuals aged 55 years or older, and/or families with at least one family member aged 55 years or older, within a Continuing Care Retirement Community; provided, however that within the Avery Square

Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer's/Memory Loss Facilities, but need not be part of a Continuing Care Retirement Community.”

- (b) Amend Section 2.1 Classes of Districts by adding the following term and abbreviation under the subsection Overlay:

“ASOD-- Avery Square Overlay District”

- (c) Amend Section 3, Use Regulations, by adding a new Subsection 3.15, Avery Square Overlay District, to read as follows:

“3.15 Avery Square Overlay District

3.15.1 Purposes of District

The purposes of the Avery Square Overlay District (“ASOD”) are to promote the health, safety, and general welfare of the community by creating opportunities for housing primarily serving individuals 55 years old or older, who wish to live in independent apartments and/or who may need to live in Assisted Living and/or Alzheimer’s/Memory Loss facilities, within walking distance of goods and services, public transportation, and the civic life of the town; to promote a vibrant, walkable area within the ASOD, and to encourage and allow redevelopment of the existing property within the ASOD in a manner that will further these purposes. Toward these ends, development in the Avery Square Overlay District shall, as set forth in this Section 3.15, be permitted to exceed the density and dimensional requirements that normally apply in the underlying zoning district provided that such development complies with all other requirements of this Section 3.15.

3.15.2 Scope of Authority

In the Avery Square Overlay District, all requirements of the underlying district shall remain in effect except where this Section 3.15 provides an alternative to such requirements, in which case the requirements of this Section 3.15 shall prevail. If the provisions of the Avery Square Overlay District are silent on a requirement that applies in the underlying district, the requirements of the underlying district shall apply.

By filing an application for a Special Permit, site plan review or building permit under this Section 3.15, an applicant shall be deemed to accept and agree to the provisions and requirements of this Section 3.15. If an applicant elects to proceed pursuant to zoning provisions of the underlying district, the provisions and requirements of this bylaw applicable in the underlying district shall control and the provision of the Avery Square Overlay District shall not apply.

3.15.3 Use Regulations

3.15.3.1 Permitted Uses

The following uses are permitted in the Avery Square Overlay District as a matter of right:

- (a) Uses exempt from local zoning control under M.G.L. c.40A, s. 3.
- (b) Public, semi-public and institutional uses permitted as of right in the underlying district.
- (c) Business uses permitted as of right in the underlying district.
- (d) accessory uses permitted as of right in the underlying district.

### 3.15.3.2 Special Permit Uses

The following uses are allowed in the Avery Square Overlay District by Special Permit issued by the Planning Board:

- (a) All uses allowed by special permit in the Avery Square Business District as set forth in Section 3.2.2 of this Bylaw, except those uses permitted as a matter of right as set forth in Section 3.15.3.1, above.
- (b) Assisted Living and/or Alzheimer's/Memory Loss Facilities
- (c) Independent Living Apartments.
- (d) Mixed-use buildings containing, as primary uses, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses.

### 3.15.4 Dimensional Regulations

#### 3.15.4.1 Building Height and Related Requirements

The maximum building height (including mechanical structures such as HVAC equipment) in the Avery Square Overlay District shall be 44 feet. This height limitation shall not apply to elevator shaft overruns, which shall not exceed a maximum height of 49 feet.

A building or structure which is located on property in the Avery Square Overlay District may include, but not exceed, four (4) stories, all of which may be occupied.

For the fourth story, minimum setback requirements, measured from the façade(s) of the building on which such fourth story is located, shall be as follows: from the eastern façade of the building (facing Highland Ave), fifteen (15) feet; from the northern façade of the building (closest to and facing West Street), one hundred and ten (110) feet; from the western façade of the building, zero (0) feet; from the southern façade of the building, thirty-five (35) feet. No fourth story setback from the north-facing building façade is required with respect to any portion of any building that is set back from West Street at least two hundred (200) feet.

The total floor area of any fourth floor addition to the existing building may not exceed thirty-five percent (35%) of the total roof area of the existing building. Mechanical equipment, including but not limited to HVAC equipment, whether or not enclosed, shall not be included in the calculation of maximum allowable floor area hereunder.

Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other height limitations nor any other limitations contained in Section 4.4.3.

#### 3.15.4.2 Building Bulk and Other Requirements

The maximum floor area ratio in the Avery Square Overlay District shall be 1.1. Property contiguous with and in common ownership with property in the Avery Square Overlay District shall be included in the lot for purposes of calculating floor area ratio. The enclosed area of a building devoted to off-street parking shall not be counted as floor area for purposes of determining the maximum floor area ratio. Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other limitations on floor area ratio, lot coverage, or building bulk such as are contained in Sections 4.4.2, 4.4.7 and 4.4.9.

#### 3.15.5 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 and the regulations for enclosed parking in Section 4.4.6 shall apply in the Avery Square Overlay District.

(a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:

(1) For Independent Living Apartments, there shall be one space per Apartment.

(2) For Assisted Living units and Alzheimer's/Memory Loss units, the parking requirement shall be one space for every two beds, plus one space for each two employees on the largest shift.

Notwithstanding anything to the contrary elsewhere in this Bylaw, including but not limited to Section 4.4.8.4, in the event that land located in the Single Residence B Zoning District

(3) is adjacent to the Avery Square Overlay District;

(4) is in common ownership with adjacent land located in the Avery Square Overlay District; and

(5) prior to approval of this Section 3.15, was improved as a parking area associated with a building located in the Avery Square Overlay District;

then, provided that said land extends into the Single residence B Zoning District not more than one hundred (100') feet from the boundary line between the Single Residence B Zoning District and the Avery Square Business District, said land may, as a matter of right, be used as a parking area accessory to uses permitted in the Avery Square Overlay District by right or by special permit.

### 3.15.6 Affordable Housing

Any mixed-use building with ten or more Independent Living Apartments shall include affordable housing units as defined in Section 1.3 of this By-Law. The following requirements shall apply to a development that includes affordable units:

(a) If the Applicant provides at least one-half of the affordable Independent Living Apartments for households with incomes at or below 50% of area median income, the remaining affordable Independent Living Apartments may be rented to households with incomes up to 100% of area median income even if the latter units are not eligible for the Subsidized Housing Inventory, regardless of any requirements to the contrary set forth in Section 1.3.

(b) For a development with ten or more Independent Living Apartments, twelve and one-half percent (12.5%) of the Independent Living Apartments shall be affordable units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number. There shall be no affordable housing requirement for nursing homes, convalescent homes, Assisted Living and Alzheimer's/Memory Loss Facilities, or residential care institutions or facilities.

(c) Affordable units shall be dispersed within the building and not concentrated in one area or on one floor. They shall generally be comparable in size, energy efficiency, quality, convenience, and unit-specific real estate-related amenities to the development's market-rate units. Services and other amenities that may be purchased by residents on a voluntary basis are not to be considered unit-specific real estate-related amenities and are excluded from such comparability requirements.

(d) The selection of eligible homebuyers or renters for the affordable units shall be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the development.

(e) The affordable units shall be subject to an affordable housing restriction as defined in Section 1.3 of this By-Law with limitations on use, occupancy, resale prices or rents, as applicable, and which provides for periodic monitoring for compliance with the requirements of said restriction.”

(d) Amend Section 4.4.4 Front Setback, by adding the following paragraph after the fourth paragraph of that section:

“In the Avery Square Overlay District, the setback, if any, shall be kept open and landscaped with grass, plants, and other non-paving materials such as mulch, and shall be unpaved except for patios, walks, and driveways as defined in section 4.4.5. Walls (including walls serving in part as retaining walls) no higher than 36 inches above the grade of the patios, as well as fencing and privacy screening, along the front and side edges of the patios, shall be allowed in the Avery Square Overlay District.”

(e) Amend Section 4.4.6 Enclosed Parking, by adding the phrase “for each square foot” before the words “of parking space (excluding driveways and aisles)” on the fourth line of the first paragraph of that section so that it reads as follows:

“Whenever off-street parking is provided underground and/or within a building itself, the maximum area coverage of the building may be increased up to the limits of the required setback as provided herein. The lot coverage of the building may be increased up to 2 ½ % points above the maximum allowed percentage, by one square foot for each square foot of parking space (excluding driveways and aisles) that is underground and/or within the building itself.”

Parking which is under a building or partially underground shall, except for driveways, be separated from the street line by building space occupied by the principal use, not by parking.

In the Center Business District, enclosed parking shall be entirely below the grade of adjoining streets measured at their respective center lines. Access to enclosed parking shall be from the rear of the building. If provided, enclosed parking shall not be visible from the street. The placement of parking underground shall not raise the first non-parking floor of a structure above grade. Municipal parking facilities in the Center Business District shall be exempt from this provision.”

(f) Amend Section 7.6.1 Special Permit Granting Authority, by adding the number “3.15” after the number “3.14” on the second line of that Section so that it reads as follows:

“The Planning Board shall act as a Special Permit Granting Authority only where so designated in Sections 3.4, 3.8, 3.9, 3.10, 3.14, 3.15, 4.2.10, 4.2.11, 4.2.12, 4.4.5, 4.4.9, 4.4.10, 5.1.1.6, 6.6, 6.8, and 7.4 of this Bylaw. In all other cases the Board of Appeals shall act as the Special Permit Granting Authority. Procedures and decision criteria for the Planning Board shall be the same as specified in Section 7.5.2 and Section 7.5.3 (second and fourth paragraphs) for special permits acted on by the Board of Appeals, except where alternative or supplemental criteria are specified, such as at Sections 3.4 and 6.6.”

**ARTICLE 2: AMEND ZONING BY-LAW – MAP CHANGE TO AVERY SQUARE OVERLAY DISTRICT**

To see if the Town will vote to amend the Needham Zoning By-Law by amending the Zoning Map as follows:

- (a) Place in the Avery Square Overlay District all that land described as follows, and superimposing that District over the existing Avery Square Business District:

Beginning at the point of intersection of the westerly sideline of Highland Avenue and the northerly sideline of what was formerly known as Hildreth Place (said former Hildreth Place as shown on Needham Town Assessors Map 63); thence running northerly by the westerly sideline of Highland Avenue to the point of curvature of a curve having a radius of 20 feet and an arc length of 29.27 feet; said curve being a property rounding of the intersection of the westerly sideline of Highland Avenue and the southerly sideline of West Street; thence running northerly, northwesterly, and westerly by said curve to the point of tangency of said curve located on the southerly sideline of West Street; thence running westerly by the southerly sideline of West Street to the point of intersection of the southerly sideline of West Street and the easterly right of way line of MBTA property; thence running southerly by said easterly right of way line of MBTA property to the intersection of the easterly right of way line of MBTA property and the northerly sideline of what was formerly known as Hildreth Place; thence running easterly by the northern boundary of what was formerly known as Hildreth Place, to the point of beginning.

The land is also shown on Needham Town Assessors Map 63, Parcel 37, but excluding any land to the south of the northerly sideline of what was formerly known as Hildreth Place.

Interested persons are encouraged to attend the public hearing and make their views known to the Planning Board. This legal notice is also posted on the Massachusetts Newspaper Publishers Association's (MNPA) website at (<http://masspublicnotices.org/>).

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Needham Times, July 23, 2020 and July 30, 2020.