NEEDHAM PLANNING BOARD MINUTES

July14, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Wednesday, July 14, 2021, at 8:00 a.m. with Messrs. Jacobs and Block and Ms. McKnight, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Alpert took a roll call attendance of the Board members and staff. 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 conference. He reviewed the rules of conduct for Zoom meetings. He noted this meeting does not include any public hearings and there will not be any public comment allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials are posted on the town's website.

Review of zoning initiatives for the upcoming fiscal year.

Mr. Alpert noted this is to amend the By-Law for outdoor seating. The proposal is in the packet, and he noted an amendment arrived late yesterday afternoon. Ms. Newman reviewed the changes. She noted the changes are just word tinkering and Ms. McKnight's suggestions. She missed a reference to the Board of Selectmen and changed it to the Select Board and just cleaned up language of the zoning text to make the intent of the Board clear. Mr. Block asked if the Select Board had reviewed the revisions. Ms. Newman showed the revised draft to Katie King, who shared it with the Select Board. She did not hear of any issues. She noted this is to amend the zoning to codify the outdoor seating allowed during Covid. Outdoor seating on parking spaces is through the Planning Board and through the Select Board on public property. This will also allow an extended timeline beyond April through November and extend beyond the total seats of 30%.

Mr. Block noted in Section 6.9.2 (a) 3, it says "prohibited in parking lots." Ms. Newman noted there are two~~2~~ processes – as of right the Planning Board cannot do outdoor seating in parking lots but in another section, it can be done through a special permit. This creates parity across the boards. The Select Board would hold a hearing and give a license to occupy a public space. Mr. Alpert stated any proposed By-Law amendment goes first to the Select Board so they can review it. Then it is sent to the Planning Board with comments, the Planning Board reviews it and has a public hearing. If the Select Board has issues, they can bring the issues up then. The Planning Board then finalizes and brings to Town Meeting.

Mr. Jacobs stated the process in front of the Select Board used the word "license." He asked what it is they are issuing. Ms. Newman stated it is a license with permission to occupy public space. Mr. Jacobs noted his concern is a license is revocable and the Select Board could revoke it whenever they want. Ms. Newman stated the license would be for a specific period of time, but if something comes up the Select Board could revoke it. Mr. Jacobs feels the applicant would want some certainty of what they are getting. Mr. Alpert noted this is a procedure that is already in place and has been done. He feels it should be approved as it reads, and the Board should take Mr. Jacobs concern under advisement and discuss the concern during the hearing process. Mr. Jacobs stated he is not opposed to that but feels there is a lack of clarity here. Ms. McKnight noted subsection I (b), first paragraph, says unless the Select Board "authorizes." The mechanism the Select Board would use to authorize is a license. That is what the Select Board issues to applicants.

Mr. Alpert noted in Section 6.9.2 (a) seasonal temporary is April through October. What if the applicant wants to use parking spaces and we want May through September? Also, in 6.92 (b) IV, what is good cause? Does the Select Board really want that phrase in there. He is willing to take it out. It opens an avenue for the public to contest the license. He would like the Planning Director to point that out to the Select Board to see what they think and if they want it left in.

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

VOTED: to refer the most recent draft to the Select Board for the purposes of the Planning Board holding a public hearing under the statute on this proposed zoning amendment.

Mr. Alpert noted a citizen's request that the Planning Board consider doing something similar to Newton to limit gun shops and sales of firearms. Gun shops now are retail establishments and can be anywhere retail is allowed. Newton limited locations that gun shops can be. Needham has been in existence for 300 years and never had an issue. He noted regulating gun shops is a politically charged issue. He feels they should consult with the Select Board if they want to regulate. There is a Chair/Vice-Chair meeting on 7/29/21. He would like to bring it up then if all agree. Mr. Jacobs is in favor of running it by the Select Board. He would be in favor of something along the lines of what Newton has done. It should be limited to particular zones with appropriate buffers. Mr. Block agreed.

Mr. Alpert stated he heard loud and clear the abutters down by the Needham Gateway who feel they are second class citizens and feel the town keeps putting undesirable zoning down there. He will keep that in mind. Ms. McKnight stated that area is zoned for multi-family housing. The Board needs to be sensitive to that. She would be distressed to find a gun shop in town, and she agrees it is a politically charged issue. She noted the Supreme Court is protective of gun rights. Mr. Alpert understands they are having the debate in Newton. He would not be surprised if guns could not be banned altogether. Mr. Block noted that is an argument to be proactive. Mr. Alpert asked Ms. Newman to add this agenda item to the Chair/Vice-Chair meeting.

Mr. Alpert noted this is a Citizen's Petition to restrict treatment of child-care facilities in Needham. The proposal would affect a client of his who sits on the Board of Trustees of the Needham Children's Center. He will recuse himself and turned the discussion over the Mr. Block. Mr. Block noted there are 3 options: 1) the Board could examine this at another time because of substantial agenda items the Chair has already set out; 2) propose for October Town Meeting or May Town Meeting something along the lines of what has been represented to us by the Citizen; or 3) pursue it now. Do we want to undergo a thorough and comprehensive study? He noted this originated in Wellesley and Norwood and limits the size of daycare/childcare facilities to 2,500 square feet. That figure may be arbitrary. He would like to understand the impact of what 2,500 square feet would be. He asked if it was known to what extent Wellesley and Norwood's By-Laws have been upheld. The deficiency in our By-Law is how we treat child-care, and it would be reasonable to modify the By-Law. He proposes they engage in a public hearing and community meetings that would be well publicized. He would also like comments from all Town boards and would like to speak with child-care operators. He would also like to speak to other Planning Board Directors.

Ms. McKnight commented the Board should consider what changes are needed to the By-Law. There are deficiencies in our By-Law. It should be made consistent with state law. She does not want to simply copy other towns. She feels it is a good idea to put it on the schedule for study in the next year for possibly the Spring Town Meeting. Mr. Jacobs stated he feels the same way as Ms. McKnight. Mr. Block agreed the Board should modify the By-Law for the May Town Meeting at the earliest.

Upon a motion made by Mr. Jacobs, and seconded by Ms. McKnight, it was by a roll call vote of the four members present unanimously:
VOTED: to pursue a By-Law change for treatment of childcare facilities in town.

Mr. Block asked what process the Planning Director would recommend to pursue this. Ms. Newman will have conversations with some towns that have adopted this change and put together a schedule of what it would look like. She feels the citizens have a right to put forth a By-Law change. Mr. Block stated he would also speak with the public information office to see the best way to get the information out. Mr. Jacobs stated the fact that citizens have the right should not delay the Planning Board's study. Mr. Alpert returned to the meeting.

Correspondence

Mr. Alpert noted an email from Jeff Friedman regarding the Farmer's Market. Ms. Newman stated she wanted to get some direction. Mr. Friedman wants to increase the artists from 2 to 4. He asked if the Planning Board would be amenable to the change. She would put it on the agenda for the next meeting if amenable. Mr. Alpert stated the reason it was limited was due to Covid concerns by the Board of Health. Ms. Newman noted a further email from the Board of Health notes no issues. After discussion it was decided to put on the agenda for 7/20/21 and begin the meeting at 7:00 p.m. Mr. Jacobs stated he has no issue taking this up as a de-minimus matter. Ms. McKnight agreed.

Minutes

Ms. McKnight noted the minutes of 3/16/21, the Highway Commercial 1 hearing, regarding takings, where it says, "and would not push the setbacks into the site." She does not know what that means. Mr. Alpert stated there was speculation there would be an easement required on Gould Street but the only taking would be on the site itself. The minutes should reflect a taking on this site "would push the setbacks further into the site." The word "not" will be removed. On the 3/23/21 minutes, Ms. McKnight noted "the CEA looked at individual zoning districts across all zoning districts." Mr. Block noted it should be "all industrial districts" and not "individual districts" and the word "looked" should be replaced with "studied."

Upon a motion made by Ms. McKnight, and seconded by Mr. Block, it was by a roll call vote of the four members present unanimously:
VOTED: to accept the minutes of 3/16/21 with the changes discussed and the red line changes.

Ms. McKnight noted on the minutes of 3/23/21, top of the second page, she thinks it means that a 50-foot setback is required but actually the present setback is 20 to 23 feet and 35 feet where the cars are. Ms. Newman noted it should say "actual 23-foot setback where the cars are."

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by a roll call vote of the four members present unanimously:
VOTED: to accept the minutes of 3/23/21 with the changes discussed and the red line changes.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by a roll call vote of the four members present unanimously:
VOTED: to accept the minutes of 4/6/21 with the red line changes.

Upon a motion made by Ms. McKnight, and seconded by Mr. Block, it was by a roll call vote of the four members present unanimously:
VOTED: to accept the minutes of 4/21/21 with the red line changes.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by a roll call vote of the four members present unanimously:
VOTED: to accept the minutes of 4/27/21 with the red line changes.

Report from Planning Director and Board members

Ms. McKnight noted the review of zoning initiatives for the upcoming year. She wants it made clear to the public there will be a focus on sustainable development and inclusionary zoning. Mr. Alpert noted affordable housing is on the agenda for the Chair/Vice-Chair meeting. Ms. Newman is working with Karen Sunnarborg on the housing plan. Mr. Alpert asked if the Environmental By-Law change was on the Chair/Vice-Chair agenda and was informed it was not. He feels it may be a simple change to include in the By-Law across the town.

Mr. Block recommended bringing in the Building Inspector to see how the By-Law is applied. The Council of Economic Advisors (CEA) has not had any discussions on sustainable development. They have focused on 3 major priorities – cluster based economic development, improving small business in town and a review of some zone districts. It would be impossible to take that up. Mr. Alpert stated the town did adopt a statutory provision, that the Commonwealth passed, that towns could adopt the Stretch Code. Mr. Stephen Frail, a Town Meeting Member, proposed further requirements that go beyond the Stretch Code as of right. There is no vision to considering that. He does not see how that change can be made for as-of-right uses.

Ms. McKnight commented that she is active with Equal Justice Needham. There are no plans for the Planning Board to restudy accessory dwellings in this coming year but will be in the next few years. She requested, when meeting with the Chair/Vice-Chairs, they see if this is something the Select Board would like to see studied sooner rather than later. Mr. Alpert asked the legal status of Equal Justice Needham. Ms. McKnight noted it is an unincorporated association and not a non-profit corporation. It is an ad hoc group. Mr. Alpert stated he is thinking of putting together a study group for housing changes. It could include a member of Equal Justice Needham, but he is reluctant to put a representative of a committee that does not legally exist.

Ms. Newman stated she is working with Greenman Peterson Inc. (GPI). There is a draft peer review traffic study for 1688 Central Avenue. They are meeting with the applicant tomorrow and will finalize the report. It will be in an agenda packet, and she will share the final copy with all.

Upon a motion made by Mr. Block, and seconded by Mr. Jacobs, it was by a roll call vote of the four members present unanimously:
VOTED: to adjourn the meeting at 9:25 a.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

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Adam Block, Vice-Chairman and Clerk