

NEEDHAM PLANNING BOARD MINUTES

October 18, 2022

The Needham Planning Board meeting, held virtually using Zoom, was called to order by Adam Block, Chairman, on Tuesday, October 18, 2022, at 7:00 p.m., with Messrs. Alpert and Crocker and Mmes. McKnight and Espada, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Block took a roll call attendance of the Board members and staff. He noted this is an open meeting that is being held remotely per state guidelines. He noted there will be one public hearing that will be continued. He reviewed the rules of conduct for all meetings. All supporting materials, including the agenda, are posted on the town's website.

Public Hearings:

7:05 p.m. – Major Project Site Plan Special Permit No. 2002-03: WELL Balfour Needham Landlord LLC, 4500 Dorr Street, Toledo, Ohio 43615, Petitioner. (Property located at 100-110 West Street, Needham, MA). Regarding proposal to redevelop the property to include 155 units of senior housing, consisting of 127 Assisted Living apartments and 28 Alzheimer's/Memory Care units. Please note: this hearing has been continued from the August 16, 2022 and September 20, 2022 meetings of the Planning Board. The Petitioner has requested that his hearing be further continued.

Mr. Block noted there has been a request from the applicant to continue the hearing.

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

VOTED: to continue the hearing to 11/15/22 at 7:00 p.m.

Ms. McKnight feels this is a positive development that the applicant is looking at revising the project.

Decision: Special Permit Amendment No. 2017-01: Sira Naturals, Inc., d/b/a Ayr, of 300 Trade Center, Suite 7750, Woburn, MA 01801, Petitioner. (Property located at 29-37 Franklin Street, Needham, MA). Regarding proposal to make certain changes to the approved permit, including a request to eliminate the "appointment-only" operational requirement for the facility.

Mr. Crocker stated he has reservations as to why it is necessary for the applicant to come back for a full hearing. Ms. McKnight noted on page 2, Section 1.3, 1st line, "the following" should be deleted. In Sections 1.7 and Section 1.9, a reference to the prior decisions Section 3.7 should be inserted, the same as Section 1.6, that says "Section 1.4 stated, and Section 3.7 requires." Ms. Newman is concerned if there is a condition in the base permit that gets modified and she has not called it out, she can delete it and remove any ambiguity. Ms. McKnight would not say the seventh in the vote and say "with the changes discussed tonight."

Mr. Alpert clarified the seventh stays on the first page and comes out everywhere else. Attorney Smart's letter requests the applicant be allowed to purchase marijuana products other than what they process. He would like to add in the 3rd paragraph on page 1, 6th line, "medical" marijuana products. The other issue is they are adopting the amendment in 2 areas – some are perpetual and some are for only 8 months. The purpose of the temporary requirement was to monitor traffic, parking and possibly customers hanging around and using products on site. They are also monitoring if it is bothering neighbors. Ms. Newman stated both parties have jurisdiction – the Needham Board of Health and the Cannabis Control Commission. Mr. Alpert noted it should say "require the Petitioner to comply with the Cannabis Control Commission in addition to the Mass Department of Health." That

will be in Section 3.2. Mr. Block added “in addition to the requirement of the Mass Department of Health, as applicable.”

Mr. Alpert feels the police were asking to only review parking and traffic. Mr. Block disagreed. He feels there were other concerns by the police. Mr. Crocker stated it does not seem necessary to hold them to a standard well beyond others. It is unnecessary for everything to come under review again. They want the opportunity to purchase product other than what they process. Mr. Alpert asked what revised conditions should be moved from 8 months to permanent. There is a question of whether the requirement to house the vans in Needham rather than Milford should be reviewed in 8 months. The increase in the number of sales stations and not allowing sales that are not appointment only are traffic and parking issues and will be reviewed. Also, where the marijuana products are purchased from could be a permanent change.

Ms. Espada noted the 9/14/22 email from the police said there was a major concern with an increase of customers. Then in a 9/19/22 email it stated they are amenable to review in 6 months. Ms. McKnight stated that is correct. There was a 9/14/22 email from Chief John Schlittler with some concerns, then a response from Attorney Robert Smart on 9/16/22. Chief Schlittler spoke with Mr. Smart and is now amenable to review in 6 months. Ms. McKnight agrees with Mr. Alpert She also feels the delivery vans should be moved up to permanent. Mr. Alpert stated the issue of vans being moved may impact traffic in the area. If the vans are there it saves the Petitioner time and gas. It does not affect parking or anything else, except maybe traffic. He is willing to move it to a permanent change and also where they acquire their product. That is not an issue of public safety. Mr. Crocker feels there is no reason to be concerned with where the applicant gets their product, and it makes no sense to make them move the vans. Mr. Block asked if he was willing to limit the authority of the Planning Board. Mr. Crocker does not see it that way.

Mr. Block noted on the 1st page, after Cannabis Control Commission add “hereafter CCC.” On page 3, in Section 1.6, add “unable to be subsequently scheduled”; in Section 1.8, last sentence add “since the existing Planning Board permit”; in Section 1.9, add “the Petitioner claims” this causes significant issues; and clarify “maintain” the 2 vans. Also, rather than “within” say “6 months.” Ms. McKnight suggested “no sooner than 4 months.” Mr. Block suggested 5 months, and all agreed. Mr. Block stated he wants police comments at the 6-month mark. He summarized the change of name, change of authority, vans and expanded product supply will all be permanent and the temporary will be the 5-7 sales stations and the removal of the appointment provision. All members agreed.

Mr. Block understands but feels the Planning Board’s authority is being reduced. Mr. Alpert disagreed. The Board still has the authority to modify the permit at any time if a problem has been created. A motion was made to grant the following requested amendments to the 2017 special permit permanently by authorizing the activities permitted at 29-37 Franklin Street, Needham, to be conducted by Sira Naturals, Inc. d/b/a Ayr; by requiring the Petitioner to comply with the requirements of the Massachusetts Cannabis Control Commission, in addition to the Massachusetts Department of Public Health, as applicable; by allowing sales of marijuana products other than those cultivated and processed at the Petitioner’s Milford facility; by eliminating the requirement that the delivery van(s) for home deliveries be housed at the Petitioner’s main facility in Milford, and by allowing two vans to be kept in the garage at the facility; and to GRANT the following requested amendments to the 2017 special permit for a limited time of 8 months (until June 18, 2023) with an application to be submitted no sooner than 5 months (by March 18, 2023) of this Decision; by eliminating the “appointment-only” operational requirement for the facility; and by allowing an increase in the maximum number of sales stations from five to seven.

Ms. McKnight noted on page 4 the changes are limited to insert in addition to the Mass Department of Public Health as applicable, insert “medical” in the 4th item and delete the 7th item.

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

VOTED: to grant the following requested amendments to the 2017 special permit permanently by authorizing the activities permitted at 29-37 Franklin Street, Needham, to be conducted by Sira Naturals, Inc. d/b/a Ayr; by requiring the Petitioner to comply with the requirements of the Massachusetts Cannabis Control Commission, in addition to the Massachusetts Department of Public Health, as applicable; by allowing sales of marijuana products other than those cultivated and processed at the Petitioner's Milford facility; by eliminating the requirement that the delivery van(s) for home deliveries be housed at the Petitioner's main facility in Milford, and by allowing two vans to be kept in the garage at the facility; and to GRANT the following requested amendments to the 2017 special permit for a limited time of 8 months (until June 18, 2023) with an application to be submitted no sooner than 5 months (by March 18, 2023) of this Decision; by eliminating the "appointment-only" operational requirement for the facility; and by allowing an increase in the maximum number of sales stations from five to seven.

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 accept the decision dated today with the revisions discussed.

The Board took a 5-minute recess.

Long-Range Planning Goals and Priorities

Mr. Block stated he spoke with the Chair of the Climate Action Committee. He would like the Planning Director to send an invite to Hank Haff with a copy to Steven Frail and Nicholas Hill to have a discussion. He would like them to come in in the next 4 weeks and would like a presentation of 20-25 minutes of where they are at with their action plan and what initiatives they would like to advance or have the Planning Board help them advance. They would need to draft changes by the end of the year. Ms. McKnight asked Mr. Block to give an example of the changes. Mr. Block noted adding some definitions for specific greenhouse gas reduction technologies. He would like to see a definition added and modify the dimensional requirements so they do not include mechanicals. Ms. Espada stated she is the Planning Board member of the Climate Action Committee in charge of greenhouse gases. She has a working group with the Building Inspector, Assistant Town Engineer, Planning Director and Oscar Mertz. They will have 3 meetings in the next 3 months to discuss this and will make 3 to 5 recommendations to move forward. This is already in the works. She asked if they could recommend something in January. Ms. Newman noted it would be very tight to get it done in the Spring. It is more practical to target for the Fall.

Ms. Espada stated getting information is critical to making informed decisions. Mr. Block stated it seemed there were some items such as solar that could be done as an additional criteria of the project. Ms. McKnight asked how likely it would be for the state to have a new Stretch Code. Ms. Espada thought it was going to happen in the beginning of the year but thinks it will be pushed to the third quarter. The first meeting in November is big. They will see if there is anything that is low hanging fruit. She will give an update at each Planning Board meeting. Mr. Block stated one item might be a By-Law amendment to allow photovoltaic panels by right and not by special permit. Ms. Espada commented it would help in general if they do get adopted. The Board needs to look at the town holistically and create avenues for sustainability.

Mr. Crocker stated he would like to see something so homeowners can have solar. Mr. Alpert noted there is a question of the legal ability of the town, in a zoning amendment, to limit the authority and discretion of the homeowner's association. Ms. McKnight and Mr. Block agreed. Ms. McKnight noted the long-range planning meeting last week. They would like quick action in the 2023 Annual Town Meeting. They are working with the Zoning Board of Appeals (ZBA) to change the By-Law regarding 3 car garages. Should the Board invite the Chair of the ZBA or just make recommendations and send them to the ZBA? Ms. Newman suggested she and a couple of members work with Jon Schneider and Daphne Collins on this. Ms. McKnight and Mr. Block volunteered to work on that with her.

Mr. Block asked if the members approve of a 3-car garage in the Single Residence B District by right. Ms. McKnight stated she is not recommending by right with no controls. There may be circumstances when it would still be a special permit. Mr. Crocker asked if this was more important than some other things. Ms. McKnight commented the Planning Board told the ZBA 2 or 3 years ago they would work on this. Mr. Alpert stated his recollection was after some really good discussions they went back to Jon Schneider and he never got back to them. The Board has done a lot of work on this already. He feels they can do this in addition to more pressing items. Mr. Block stated he would like the Planning Board to discuss items to move forward every three weeks. He encourages the public to send emails to let them know if there are certain reforms they would like to see in the By-Laws. He encourages participation.

Minutes

There were no minutes.

Correspondence

Mr. Block noted a letter, dated 10/12/22, from Town Counsel Christopher Heep to the Finance Committee regarding brew pubs and microbrewery zoning and if it was in keeping with the uniformity requirement and a copy of the City of Newton ZBA notices.

Report from Planning Director and Board members

Ms. Newman stated she is meeting with the Select Board on the Housing Plan. The Housing Plan Working Group is scheduled to meet next week. They will review the comments and prepare for the community workshop. The department budget is due next week, and she has been working on that. Within the department budget is the Small Repair Grant Program and she is working on how to fund the Housing Specialist. She noted Town Meeting is coming up next week and historically the Board has met prior to Town Meeting. Mr. Crocker feels the Board should discuss pros and cons and not only pros. The public should be informed of everything. He feels they need to address what some of the objections may be. Mr. Block stated people can ask questions and there are frequently asked questions and answers posted. The Board's job is to lay out what the changes are, which is core information. Mr. Alpert noted there are time constraints and there is a presentation in accordance with the Moderator's rules. He noted the Board is presenting what they have determined after having public meetings. Mr. Crocker stated he supports the Article. The presentation is fairly short. He believes it is always good practice to talk about objections and answer them. He feels it is standard practice to hide objections.

After discussion, it was decided to meet Monday, November 24 at 12:15 p.m. prior to Town Meeting. The meeting will be opened and kept open. Mr. Alpert noted the Foster property is an Article on Town Meeting and is spiraling. He asked if, as a Planning Board, they want to take a position for Town Meeting. He stated there are 2 elements – funding the potential purchase of open space but the neighbors seem to feel the 70-unit complex is what is in front of Town Meeting. They are trying to encourage smaller and affordable units so seniors or young families can afford to buy in town. He noted there is a concept plan on the website. He stated there was a flyer in his mailbox, not signed, from a neighborhood group that does not want the condos there. They clearly do not know the process. He asked if, as a Board, they want to speak in favor of encouraging development of condo complexes especially with an affordable component and age-appropriate component or does the Board want to stay silent.

Ms. McKnight noted she went on the tour this week. She is surprised Mr. Alpert said the Board should take a position on a private sale. She would like to take a position in favor of the town buying open space. She was disappointed with the Heather Lane and Heather Lane Extension subdivision and not being able to get an easement down to the river on the conservation land. Here there would be land the townspeople could walk on forever. Ms. Espada commented there could be a different use in the future since it is not specified that the Town will acquire

the land for conservation. Mr. Alpert stated, as an individual, his intent is to make 2 motions to amend. One to add language they currently have for 2 and 3 acre lots that the 24-28 acres be conservation land and not be used for municipal use and the second to make clear control is given to the Conservation Commission and reference the Conservation Commission Statute. He will talk about the condo units. Ms. McKnight thinks there is good reason to support the acquisition.

Mr. Block understands the amendments and would not stand in the way. He fears if Town Meeting opposes this, the By-Right development solution is the consequence. Mr. Crocker noted when developments are going in, the town looks for a certain percentage of affordable units. There are only 7% here and not the 12.5% usually looked for. The current owners appear to have a high regard for conservation land. He noted developers are buying land that cannot be developed and taking it out of the tax base. Mr. Block asked if the Board should take a position on this and, if so, what form does it take. Mr. Crocker stated he wants conservation land and does not think the town needs to spend money.

Ms. Espada feels the Board should support it but think about what is coming next. Ms. McKnight agreed. She wants to understand better the applicability of the friendly 40B process. Ms. Newman stated the affordability percentage can be below the 25% level. This is outside the zoning rules. Town Counsel spoke with the person who administers the rules at the Department of Housing and Community Development (DHCD). Ms. Newman will contact Town Counsel Heep and set a time for her, Ms. McKnight and Ms. Espada to meet to discuss the issue.

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

VOTED: to adjourn the meeting at 9:45 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk