

NEEDHAM PLANNING BOARD MINUTES

September 19, 2023

The Needham Planning Board meeting, held in the Charles River Room of the Public Services Administration Building and virtually using Zoom, was called to order by Adam Block, Chairman, on Tuesday, September 19, 2023, at 7:00 p.m. with Messrs. Crocker and Alpert and Mmes. McKnight and Espada, Planner, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Block noted this is an open meeting that is being held in a hybrid manner in public and remotely per state guidelines. He reviewed the rules of conduct for all meetings. This meeting does not include any public hearings and no public comment will be allowed. If any votes are taken at the meeting, the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

Transfer of Permit: Major Project Site Plan Review No. 2015-07: Latin-A Group, LLC d/b/a Latina Kitchen and Bar, to Metrowest Dining, LLC dba The Common Room, Petitioner (Property located at 30 Dedham Avenue, Needham, MA).

Mr. Block noted a letter from Scott McCourt, Manager of Metrowest Dining, LLC, acknowledging he has reviewed the previous special permit and would be bound by the terms and conditions. Mr. McCourt stated he, Ted Connolly and Tom Griffin all grew up in Needham. He graduated from Needham High School. They think the town does not have a place to go, watch games and meet with neighbors. This is a beautiful space, and it is a great opportunity to take over the space. There will be an American pub style menu and it will be an inclusive gathering spot. There will be 2 chefs, and they have a builder who will do the build out. Mr. Connolly and Mr. Griffin both have restaurant experience. Mr. Block asked how many seats are there currently. Mr. Connolly noted, with the patio, there are about 75 seats.

Mr. McCourt stated there are no real changes needed. There is no request for any more seats. A wall will be put up between the restaurant and the kitchen and there will be some décor changes. The bar will be upgraded a bit but there are no major changes planned. Mr. Block noted there are 71 interior seats and 28 exterior seats. Ms. Clee clarified there are only 99 seats allocated inside December 1 through March 31. Ms. McKnight noted there will be occasional functions. She feels that is needed in town. Mr. McCourt confirmed that there will be a separate function room and there will be a Needham flavor with a sports type bar. Ms. Espada asked if any exterior changes are proposed. Mr. McCourt noted only the design. The exterior is fine. There may be a change of the awning, but the project will stay within the footprint. Eventually he would like open windows.

Mr. Crocker suggested the applicants think about the noise with closing off the kitchen and creating a narrower portion of the dining area. Mr. McCourt stated that was talked about today. They are thinking of acoustic ceiling tiles. He noted the bar is off to the smaller side of the building. Ms. McKnight stated there is an emphasis on sports on TV. Will there be live music? Mr. McCourt stated there will be live music and noted Latina has live music now.

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

VOTED: to consent to the transfer by Latin-A Group, LLC, to Metro West Dining, LLC, of the Major Project Site Plan Special Permit No. 2015-07, with the decision amended as of record for premises at 30 Dedham Avenue.

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

VOTED: to approve the decision as drafted and included in the materials this evening.

Mr. Block asked when the anticipated opening would be. Mr. McCourt noted they will go before the Select Board on 9/26. Mr. Crocker asked about staff. Mr. McCourt would like to keep as many of the current staff as possible.

Appointments:

7:10 p.m. – George Giunta Jr.: Discussion of possible redevelopment and rezoning of property located at 888 Great Plain Avenue.

Mr. Alpert stated he had previously recused himself on this matter. No zoning had been discussed yet. He was the Attorney for the First Baptist Church, which is an abutter, and was in the audience. The church has merged with the First Baptist Church of Jamaica Plain, so The First Baptist Church of Needham no longer exists as an entity. He discussed this with Town Counsel who agreed he no longer has to recuse himself. Ms. McKnight asked if the church would continue as a place of worship. Mr. Alpert stated the church will be used as a satellite for the First Baptist Church of Jamaica Plain, but he does not represent them. The church will continue to be used for church community outreach.

Mr. Block gave a brief overview of how this discussion would proceed. The Board is not discussing specific zoning but concept, the rezoning approach and dimensional elements. This is not a public hearing but a discussion to make the Board aware of what the developer wants to do. George Giunta Jr., representative for the applicant, said he wants to bring the Board up to date. The applicant has done public outreach. This requires Town Meeting action for a zoning change. The proposed building is roughly the same as the last version. The upper floors are cut out for light and air. One change is it was 32 housing units and is now 26 units to make the building smaller. There is a good mix with 6 3-bed units, 11 2-bed units and 9 1-bed units. There will be 4 affordable units with one fully accessible. He showed the revised renderings. The level-4 half story has been pulled back from the front and made smaller so it will not be seen from the street.

Mr. Block asked what the setback would be from the front façade of the fourth story. Mr. Giunta Jr. stated it was 23 feet to 36 feet. Ms. McKnight asked what the front yard setback is. Mr. Giunta Jr. stated 20 feet in front. The building has been pulled back due to a concern with the garage exit. Now it can queue one car before the ramp to the garage and landscape has been added. Ms. McKnight asked the setback area for the landscaping. Mr. Giunta Jr. noted 20 feet in front and 25 feet on the sides would be landscaped. The applicant would need relief for building setbacks, as this zone has a 50-foot buffer setback. Mr. Alpert noted what is proposed is a 20-foot front setback to the sidewalk. He asked how wide the sidewalk is. Mr. Giunta Jr. feels it is probably the standard 4 feet.

Mr. Crocker wanted to make it clear the applicant is reducing the project down closer to what it was in the beginning. He thinks it was 24 units originally. He commented on green space and noted the side yard has a sidewalk going down. Mr. Giunta Jr. stated that walkway is on the First Church of Christ Scientist property. Mr. Crocker asked if the entrance to the living quarters would be in front with the 3 retail spaces. Jay Derenzo, owner, noted the entrance to the living quarters is on the side. Mr. Crocker noted there will be at least one or 2 walkways going to the building to get to the retail spaces. Mr. Derenzo agreed. Mr. Crocker stated there could potentially be green space around the paved walks in front and on the side. The rendering shows all green space, but it is not accurate.

Mr. Block asked what the open space percent is. Mr. Giunta Jr. talked about the top floor being pulled back and being barely visible from the front. There are 45 spaces in underground parking. The height is the same as previously proposed at around 45 feet. The applicant has had 3 community meetings. One was quite well attended, and the applicant received good feedback. He heard the concern regarding traffic and safety. The building has been pulled back. A traffic engineer has been engaged. There will be an impact, but it will be minor. The traffic engineer will be engaged again to look at on-site and off-site safety. The applicant will proceed with that evaluation and will come back to the Board to discuss. He would like feedback from the Board and if there are any new issues that have come up.

Mr. Block stated there will be 3 discussions – the concept of Mixed Use at this site and the percent of affordable housing, then dimensional elements and then the zoning elements. Ms. McKnight asked how deliveries will be handled for the commercial uses and the residents. Mr. Block stated he wants to talk about Mixed Use on the site and the concept. Ms. McKnight does not see a loading dock on the plans and an area for rubbish removal. Mr. Giunta Jr. stated there is no designated location. The applicant needs to look at that. He envisions the retail operations without large scale deliveries. Deliveries in general will need to be evaluated.

Ms. McKnight explained she was very involved in housing. Recently the state agency came up with guideline changes for the MBTA Communities law. In the Town's 2022 Housing Plan it was decided to leave Needham Center alone. There was

not a focus on more housing in the Center. Now, with the guideline changes, Mixed-Use housing can comply with the guidelines. She envisions this moving forward and would personally support that the Center Business District be rezoned include this property without any change in use or dimensional provisions. She would look at the 50-foot setbacks in general to see if it is a barrier to development in the Center Business District but would not make a special exception for this lot. The CBD overlay could be extended to include this site, then they could do a mixed-use development something like Dedham Avenue. She sees this as a 2-step process. She wants to institute at least a 12½% rule for affordable housing everywhere in Needham. The Housing Needham (HONE) Advisory Committee will be looking at the Center Business District this coming year.

Ms. Espada stated, for the mixed use and affordable housing, she thinks this site is a bridge between the residential area and the Center. She asked if there is access to the back of the site where deliveries could be made. She wants to understand the circulation of the site better. For the street-side setback, she appreciates the space for cars to get into the site, but all the other buildings are fronting on the street edge. She has no solutions, but if continuing the Center Business District, they need to figure out how to transition the site. Mr. Giunta Jr. noted it makes sense to create underground parking but how do you access it? They need to make safe sight lines. The other option would be a driveway down the side and access from the back, but green space is lost. Both approaches have negatives, but this gives the best safety and sight lines. He appreciates the comments. The building started on the sidewalk, but it was pulled back for access to the garage and for safety. He is open to ideas. Ms. Espada requested the site plan be developed more. The design in front would be most important and transition is important to bring the 2 districts together.

Mr. Crocker stated he struggles with this. The design is nice, but it is opposite Green's Field. He is not sure how this fits in. He is in favor of retail on the first floor and housing above. This is not downtown but across from Green's Field. This is losing green space for a commercial building. The Board is struggling to extend the Business District that is not there now and looking to bring in mixed-use that would count under the MBTA Communities law. The town needs more housing, but this is asking an awful lot from the community. This should not be treated special. Ms. Espada noted the town common is a park and none of the buildings surrounding it are that tall. Everything on Great Plain Avenue is on the edge of the sidewalk. Mr. Crocker asked where the Center Business District stops.

Mr. Alpert stated he is confused about parking and asked if the nearby public lot would be available to residents and customers. He is concerned with parking on Great Plain Avenue. Usually, you do not see retail space where customer parking is underground, and the customers take an elevator up. If the public lot is available, it makes sense to have a sidewalk from the public lot to the retail. That is more conducive as it takes cars off Great Plain Avenue and puts them on Dedham Avenue. He does not think there is a lot of available parking on Great Plain Avenue. He feels people park there to go to Green's Field. People are concerned about the double parking, especially for deliveries. If trucks can park in the public lots and go in the back it takes the stress off Great Plain Avenue. He asked what minimum density the MBTA Communities law requires. Ms. McKnight noted it is a minimum of 15 units per acre. This site would allow 9 units if current CBD zoning were extended. The State allowing Mixed Use to count is new. The Planning Board needs to look at the downtown zoning again as to mixed-use.

Ms. McKnight noted the setback from the front to make the exit from the basement safe would be addressed if the current Needham Center Overlay District A were extended. Despite the maximum front setback requirement, the Planning Board may waive when the applicant proposes to have a pedestrian plaza. Across from Green's Field it seems an appropriate setback and the transition would work for this site. The Town's recent parking study showed that the 43 spaces provided under the 50 Dedham Avenue mixed-use development as required parking was much more than the number of cars parked there. She noted that the retail concept with underground parking on Chestnut Street did not work. Mr. Alpert thinks retail customers will be looking for spaces on the street. The automobile sight line on Great Plain Avenue needs to be relieved. He wants a safe sight line for existing vehicles.

Mr. Block sees this as a natural extension of the Center Business District. It is a transition site and mixed use makes sense. The goal is to create housing near transit, and this is close. Great Plain Avenue did have multi-story buildings in the past. He sees this as an opportunity to modify the mix of retail use. Density needs to be created. This would promote a natural turn to more dynamic uses. This is asking for almost 50 housing units per acre. This is well above what 50 Dedham Avenue has. He is not excited about the Board making an exception for the one site. He likes the mixed-use concept and the density figure proposed but he would like that for a broader area. Green's Field has a lot of mixed use around it. He would like to

have some green space around so there would be some continuity of the green space. He noted the front setback of 50 Dedham Avenue is to the street, but the Board specifically asked the developer to push this building back, so the entrance was not right on the street. When entering and exiting the Dedham Avenue site the sight line issue is not present like at 888 Great Plain Avenue.

Mr. Block noted there are a couple of options for the zoning approach. The applicant could prepare the zoning as a Citizen's Petition, the Planning Board would hold a hearing, make comments to the Petitioner and make a recommendation to Town Meeting or the Planning Board could take this up as the sponsor. He has not decided which he prefers. The best scenario is working through the HONE Committee. The site needs to be looked at in relation to the area and be consistent with zoning especially along Great Plain Avenue. Mr. Crocker suggested also looking at Chapel Street and Chestnut Street down to Roche Bros. Mr. Block feels it may make sense for a downtown area to have greater density than a non-downtown area. Mr. Crocker does not like spot zoning. He feels it makes sense for the Board to look at the whole area and what the density would be. The focus has always been on 18 units per acre. He is in favor of more housing on top. Ms. Espada stated there needs to be community input and to do this holistically.

Ms. McKnight wants to extend the Center Business zone to include this parcel. She does not see it as spot zoning as it is adjacent to the Business District. She feels it is best for the town. She had wanted the 50 Dedham Avenue project to go around the corner, but the owner of the Great Plain Avenue property was difficult. She feels they have the opportunity here to see that happen. If this developer wants to bring the proposed rezoning to the Town Meeting, let them do it but the Planning Board could also work on it. 50 Dedham Avenue only has 10 housing units. The developer is spending a lot of money to put in underground parking and is able to get only this number of units under current zoning if the density is not changing. Ms. Newman clarified that the current number of units is 18 units per acre in downtown. Mr. Giunta Jr. stated the Center Business District has 18 units per acre. The CBD Overlay District omits a density limitation, so the question is if there is a density limit. The property on Dedham Avenue is developed at more than 18 units per acre. Mr. Block asked the Planning Director to speak with the Building Commissioner and get a ruling to see if there is a density limit in the Overlay District. Mr. Alpert stated the Board does not have the authority to waive the 50-foot setback. The zoning would need to be revised in order to reduce it. The By-Law would need to be amended in general for the Center Business District and the Overlay District. Mr. Giunta Jr. stated they would need to discuss the feedback from tonight and evaluate how best to proceed. In order to proceed with this version there would need to be relief of the 50-foot setback. Continuing the Center Business District and the Overlay District seems the natural approach. Single residence does not make sense here. The Mixed-Use development rules in the packet are exactly what the applicant needs. Mr. Block would like to know the total square footage of the building to get the FAR and if there would be additional relief needed. Mr. Alpert noted 59,248 is from adding up the square footage of the units. Mr. Block would like clarification from Mr. Giunta Jr.

The Board took a 5-minute recess.

Discussion of Zoning Strategies for Solar Energy Systems.

Mr. Block noted the Board will be discussing small-, medium- and large-scale ground mounted solar arrays, canopies and roof mounted solar arrays. Ms. Newman did an extensive memo to the Board and demonstrated what the changes would look like. Ms. McKnight stated she did not understand what a pitch less than a 15-degree angle was. Mr. Crocker noted solar on the roof is parallel to the roof. If the roof gets too low, it is common to pitch the solar up. What is the pitch of the roof and does the solar run parallel to that or do you have to pitch the solar? Ms. Espada suggested it say roof pitch. Ms. Newman stated this memo is a starting off point for conversation. She found 10 examples from other towns but only 3 were able to be used. For example, Lexington does not allow medium or large size solar at all. She will fill in the framework of what other towns are doing. Ms. McKnight feels this is a wonderful start and would fit beautifully in the framework of the By-Law.

Ms. Newman stated Natick has solar regulated in one area of its by-law rather than spread out throughout. It is easier to understand and easier to explain to people. Adding a solar By-Law section makes sense. Mr. Block asked if Ms. Newman wanted a standalone Zoning By-Law section that would deal with solar. Ms. Newman would keep this in a new section like the accessory uses dealing with solar as it is easier and cleaner. Mr. Block had questions on specific language and some words that are not necessary. In terms of the By-Law, there is already Section 3.13 in the By-Law that deals with ground mounted solar. He would look at this as a new solar By-Law section and have 4 or 5 separate sub sections. The last would

be large-scale ground mounted, just before that would be medium-scale ground mounted solar, then small ground mounted solar, solar canopies over parking structure and parking lots, and first would be roof mounted solar arrays. Ms. Newman stated that Section 3.13 is an overlay and this discussion is not about overlays. Mr. Block agreed but feels this can be used to fit in there.

Ms. McKnight thought the policy was good in general but thought the maximum height was very high. In response, it was noted 35 feet was already allowed for buildings in residential districts. Mr. Crocker knows there is some controversy about land clearing for arrays. He is fine having that conversation. The optics are bad for large scale arrays, but he understands it is good for the environment. With regard to rear and side yards, some property owners have large properties with fairly large front yards. He is not sure if the Board needs to regulate where solar arrays are located on a lot. Historic Districts are being set up around the state. The Board needs to think about the historic aspect. Ms. McKnight noted there is no historic district in Needham currently and there will only be one house in the currently proposed historic district. Mr. Alpert would like to see more historic districts in town. He hopes this will generate more discussions as there are a lot of historic buildings in town. Mr. Block commented there are a lot of sporadically placed historic homes in town.

Ms. Espada thought this was well done. For lot coverage, her understanding is that the area of the solar is counted toward maximum lot coverage as if a building. Ms. Newman agreed but noted it would not count if on top of the building. It would not count on impervious area, but if extending out over green space it would count. Mr. Crocker stated ground mounted solar canopies do not really take away impervious surface. He clarified that solar arrays and canopies are not impervious. Ms. Espada asked if there was anything regarding electrical charging stations. She feels something should be added about electric charging stations. She asked if a 1,500 sq. ft. small system would be as of right in every district and was informed, they would be. She noted medium scale would be by special permit but questioned large scale. Ms. Newman noted large scale ground mounted facilities are allowed by special permit in the overlay. Mr. Crocker stated the 1,500 square-foot limit for small scale should be changed to 2,000. He does not know if it hurts the town to have medium scale arrays allowed by right. Ms. Espada stated the scale has to be appropriate. A discussion ensued regarding the scale of arrays.

Mr. Block asked if the members want to allow solar arrays in a neighbor's back yard, where there can already be an accessory structure. Mr. Alpert noted there is already a lot coverage requirement in Single Residence A and B and General Residence. Ms. McKnight noted it could be allowed as an accessory use. Mr. Crocker stated there could be standalone solar arrays by special permit. Ms. Espada noted it should be as of right on roofs, but they need to think about freestanding. Mr. Alpert is leaning toward Lexington's by-law and only allowing small arrays in residential districts. As now proposed, the Board does not specifically prohibit anywhere in town. Mr. Block noted he is hearing from the members they do not want medium anyway and large should be contained to a certain geographical area. He will have Town Counsel look into this.

Ms. McKnight stated the approach the Planning Director outlined regulating solar as an accessory use is a good idea and a good approach toward that. This should be regulated. She feels large scale should be allowed with the overlay concept. Mr. Alpert has no issue with ground mounted solar arrays in the Business, Industrial or Mixed-Use areas. Mr. Crocker explained how solar worked with businesses and where it feeds to. Ms. Espada stated the goal is to make solar accessible to all, but they need to make sure people are respectful of their neighbors. Mr. Block feels medium ground mounts would require a site plan and small would be allowed by right with no site plan review. He would recommend this approach. Ms. Newman stated large scale could be by special permit. The Board talked about the need to define medium and discussed the Werlin statistics in the packet. Ms. Espada asked the Planning Director to do some more research on this. The big thing for her is the ground mounted. Ms. Newman will do more research and put a table together.

Mr. Block stated Mr. Crocker provided for a solar canopy to be allowed over and above mechanicals. This adds another component. There needs to be circulation and ventilation around the equipment. Ms. McKnight noted residential arrays do not really add to the height of the building. Ms. Espada stated there are some arrays that would never be seen from below and others are structures on top of the building. There are different impacts. Mr. Block stated he is not sure, under the Dover Amendment, if it is permissible to regulate aesthetics with respect to exempt uses. He is not sure the Board has the legal authority to regulate this. Mr. Block stated Ms. Newman identified a height of 12½ feet for ground mounted. Compared to an 8-foot stockade fence, he does not want it towering over the fence. He feels the Board needs to revisit this. Mr. Crocker stated 12 feet would be a very unusual height as it is way too high. Usually the arrays are around 10 feet.

Minutes

Ms. McKnight noted on the minutes of 5/12/23, in the presentation, she noted reference to a Town Meeting approval date of 5/22/23. The date will be removed. Mr. Block noted the title at the time was Economic Development Manager and not Director. Ms. McKnight noted on page 2, the residential development in the Heights averages one space per unit. Is this the supply or demand? It is correct as it is. She noted the statement the Board asked for 3 times the available number. Mr. Block noted that is what was said. Ms. McKnight noted the comment that if a special permit is involved, she would like to see the lease. That should be for off site parking.

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

VOTED: to, with these corrections and the other red lined changes, accept the minutes of 5/12/23.

Ms. McKnight noted on the minutes of 6/6/23, in the report, it should say working with Katie King for funding for “compliance” and it should be “planning study money.” She noted on page 4, 2nd paragraph, the HONE Committee, “if this were coming from the Select Board...” Mr. Alpert noted he said that and feels it should be left alone. Ms. McKnight noted, in the vote, “Real Estate” should be capitalized.

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

VOTED: to accept the minutes of 6/6/23 with the changes discussed tonight and the red line changes.

Ms. McKnight noted on the minutes of 6/20/23, Needham Housing Authority, 3rd paragraph, with key zoning issues parking “appearance” should be “requirements.” In the 4th paragraph, it says the Housing Authority would retain ownerships and “it” would come back. Mr. Block stated he said that, and it should be left alone. He noted it should be HONE on page 3.

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

VOTED: to accept the minutes of 6/20/23 with the one change to HONE and red lined changes.

Report from Planning Director and Board members.

Ms. Newman noted the consultants did a very good job at the kickoff meeting of the HONE Committee. She anticipates she will have the build out numbers on 10/5/23 under the housing plan and on 10/18/23 they will prepare for the 11/19/23 first community meeting. She feels the first meeting was very good. Mr. Block thought all did an excellent job and looks forward to participating. Ms. Newman noted the contract with GPI as to Highland Avenue Medical Building. There is a hearing on 10/3/23 and she hopes to have a report for the Board. Mr. Block stated there is a preliminary study report on the Single Parcel Historical Committee. He participated in writing a portion of it.

Correspondence

Mr. Block noted the following correspondence for the record: an email dated 9/5/23 from Maggie Abruzese; an email dated 9/5/23 from Joe Abruzese and an email dated 9/10/23 from Holly Clarke, all encouraging the town to appeal the Land Court decision regarding 1688 Central Avenue, and an email dated 9/6/23 from Caren Carpenter, regarding a run off problem from a new home to the neighbors’ property and noting this was not an isolated incident. Mr. Alpert stated a client of his had a problem like this in Wellesley. The Building Commissioner said there was nothing he could do, and he was told his client would have to deal with the developer or hire a lawyer. In that case the Conservation Commission was involved with it. Ms. Espada stated there is a Storm Water By-Law and asked if the Building Commissioner was authorized to stop construction. Mr. Block would like the Planning Director to speak with Town Counsel regarding enforcement and report back to the Board. There needs to be clarity on the authority of the Building Commissioner on the Storm Water By-Law and enforcement during construction and post construction.

Mr. Alpert stated Ms. Carpenter’s complaint was made to the Planning Board, but it is out of our jurisdiction. Is it the Board’s place to go to the Building Commissioner or Town Counsel or go back to the homeowner and have them go through the appropriate channels? The Building Commissioner is not the Planning Board’s employee. The complaint is the Building

Commissioner is not doing his job. This Board does not have authority to get involved. He would vote not to get involved. Ms. Clee noted the Town Manager has been contacted and she was copied on this email. Mr. Block asked if there is anything that prohibits the Board from saying that every property owner has to prevent run off during construction. Mr. Alpert noted this has nothing to do with zoning. The Board does not monitor construction. Mr. Block noted an email, dated 5/9/23, from the new Building Commissioner to the Zoning Board of Appeals (ZBA) regarding 1458 Central Avenue, with comments and an email regarding the proposed Single Parcel Historic District.

Mr. Alpert stated, historically, the Building Commissioner always sent Dover Amendment requests to the ZBA and never ruled on it himself. He feels the new Building Commissioner should follow what has historically happened. The new Building Commissioner has determined he would issue permits. He should not interpret case law and statutes. Mr. Block feels there should be a Chair/Vice-Chair meeting with the Building Commissioner and Mr. Alpert sooner rather than later. Ms. McKnight agreed the Building Commissioner should not be interpreting statutes.

Mr. Block noted a legal notice from the City of Newton, dated 9/26/23, regarding the creation of the Village Center Overlay District. Mr. Alpert suggested sending a comment to the ZBA on its change of agenda. The ZBA would need to take up the request for withdrawal without prejudice. He feels the Board should send a comment to the ZBA that the Planning Board recommends the applicant not be allowed the withdrawal of the application to amend the special permit because the Board disagrees with the Building Commissioner's interpretation. The ZBA has authority to regulate parking. Pursuant to the statute, and pursuant to case law, they can regulate traffic pursuant to Tufts vs. Medford and that the catchall parking By-Law is a perfectly reasonable method to determine parking and otherwise the Board makes no comment. Mr. Block stated he disagrees. The Board's place is to comment on this. Different opinions are not reflective of the full Board and he would recommend specifically that the Board have the Chair/Vice-Chair meeting with the Building Commission as soon as possible to identify some areas of disagreement and how they can resolve disagreements so there is clear approval for the municipality.

Upon a motion made by Mr. Alpert, and seconded by Ms. McKnight, it was by a vote of four of the five members present (Mr Block voted in the negative):

VOTED: to send a comment to the ZBA that the Planning Board recommends the applicant not be allowed the withdrawal of the application to amend the special permit because the Board disagrees with the Building Commissioner's interpretation. The ZBA has authority to regulate parking. Pursuant to the statute and pursuant to case law they can regulate traffic pursuant to Tufts vs. Medford and that the catchall parking By-Law is a perfectly reasonable method to determine parking and otherwise the Board makes no comment.

Mr. Block noted a letter from Attorney General Andrea Campbell, dated 9/15/23, regarding Warrant Articles 18, 19 and 20 from the 5/1/23 Town Meeting and the approval of Articles 19, 20 and 39; and a letter from the Attorney General extending the deadline for Article 18 for an additional 60 days with a new decision date of 11/17/23.

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

VOTED: to adjourn the meeting at 10:52 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Natasha Espada, Vice-Chairman and Clerk