NEEDHAM PLANNING BOARD MINUTES

November 16, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Tuesday, November 16, 2021, at 7:00 p.m. with Messrs. Jacobs and Block and Mmes. McKnight and Espada, 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 includes 2 public hearings and there will be public comment 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.

Appointment:

7:00 p.m. – David Feldman: discussion of proposed repurpose of Wingate skilled nursing to assisted/independent living.

David Feldman, Sr. Vice President for Real Estate and Development of Wingate Healthcare, noted that Ms. Newman suggested an informal discussion would be good. There is currently a skilled nursing home at 589 Highland Avenue. The skilled nursing is not doing well in Massachusetts, and they are looking at a "what if" scenario to expand the independent living footprint. They are a ways away from any formal presentation but want some feedback. He wants to work collaboratively. He noted Wingate has been looking at expanding the independent living. 55+ living is maintenance free with one large bedroom, full kitchen and laundry. There are a lot of the same support services but not as heavy. The average age in the skilled nursing home is 80+ who need a lot of support services. They are getting 3 meals a day and home care. There is a heavy schedule of activities and transportation. He thinks they will see a push for more private rooms and more space, so they are looking at a possible re-use.

Mr. Feldman noted the staff is amazing and have been remarkable during the pandemic. Wingate wants to continue providing great care and wants to be proactive. He noted they are not ready to make a decision or push forward with anything right now. They want feedback from the Board. He noted the project complies with all existing zoning. There is plenty of parking and he does not anticipate any site work. Only interior work will be done. Mr. Alpert stated this is at such a preliminary stage it is difficult for the Board to find questions. Mr. Feldman stated there are 52 units of independent living and 91 apartments for assisted living at the existing Wingate Residences building at 1 Wingate Way on the same site. Mr. Alpert asked what the proponent envisions having on Highland Avenue. Mr. Feldman stated another form of independent living for active adults. Not as many services as at Wingate Residences, but some they can buy into with ala carte. He noted ala carte helps keep the cost of the rent down.

Mr. Alpert asked how many units and was informed about 50 apartments depending upon the size of the units. Mr. Jacobs commented Mr. Feldman is being prudent. He has not heard anything that is a big problem for him. Mr. Feldman stated Wingate plans on staying in the community and providing good services. Ms. Espada agrees with Mr. Jacobs. She appreciates the repurposing of the building. She noted some things to think about, and keep in mind, include adding kitchens and laundries may cause them to have to change systems and they may need to have additional systems on the roof. There may need to be more parking and trash areas and the stairways may need accessibility. She noted the applicant should think about things that could impact the site.

Mr. Block concurred with his colleagues. He asked if there is any specific relief that could be anticipated at this time. Mr. Feldman noted he does not think so as no zoning relief should be required. Mr. Block asked Ms. Newman if any amendment to the special permit was needed, if there were no other changes than what has been discussed. Ms. Newman stated there would need to be an amendment to the underlying special permit and a special permit for the individual units themselves. Ms. McKnight stated Wingate has a good reputation as a skilled nursing facility. She is concerned a lot of people in skilled nursing facilities pay through Mass Health. Skilled nursing is great and provides a service for the poorest among us. Will that no longer be provided at Wingate? She asked if he would comment on the loss of the service as it feels like it is a loss to the community. Mr. Feldman stated he feels it would be a loss also. Wingate is not actively seeking this. He noted Covid has devastated the industry as a whole. He stated 5 or 6 facilities have closed since July. The reimbursement is not there. It would be their desire to run at 90% occupancy, but the economics do not always work. It is a difficult decision for them but is a "what if" scenario. They would like to continue operating as is. He noted the staffing shortage is killing all in this profession.

Ms. McKnight stated that it sounds like units would be at a lower price point than 1 Wingate Way. She expects the Board would look for a percentage of units to be affordable. The Board has used 10% previously but required 12½% at the Carters Building. She feels he should keep that in mind. Mr. Alpert feels 55+ independent living units will generate more traffic than the skilled nursing. The major concern in the neighborhood is traffic. Wingate should make sure they have a really good traffic study done before coming to the Board. He noted his recollection is 1 Wingate Way had good community relation programs. He wants them to remember that and learn from that. There should be outreach to the abutters prior to coming back to the Board. Mr. Feldman stated there will be at least a couple of neighborhood meetings to show the abutters and answer questions. He stated this has been good feedback.

Public Hearing:

7:20 p.m. – Amendment to Major Project Site Plan Special Permit No. 2009-06: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 1471 Highland Avenue, Needham, MA). *Regarding proposed Town Common renovation. Please note: this hearing was continued from the November 2, 2021 meeting of the Planning Board.*

Mr. Alpert noted this is a continued public hearing. Ed Olsen, Superintendent of Parks and Forestry, gave a brief history. He stated he has been here 11 years and worked on over a dozen large open space projects. Most rewarding is this project. He noted this is the Town's front yard and they have come up with a collaborative decision. He was working with Beta and they did a great job. He noted Covid has changed everything. This allowed us to step back and take a real good look. There has been a great collaborative vision and good designs that include all people. After Covid, open space has to be looked at differently.

Christopher Heep, Town Counsel, stated that, technically, this is an amendment to the Major Project Site Plan Special Permit. It sits on the same parcel of land as Town Hall. This is redesign and reconstruction of the Town Common. He showed renderings of the existing Town Common with pedestrian pathways in a diagonal direction from each corner. He showed the redesign with a new orientation of the pathways in an oval shape. The pathway gives more usable open space. There will be a central terrace to the left of the Common. The circular terrace will be paved with pavers and the Common will have infrastructure to set up tents. He noted tents are a popular amenity since Covid. There will be 2 shade structures – one on Highland Avenue and one on the Chapel Street side – picnic tables, benches, bench swings and fixtures for hanging lighting to be put up and removed seasonally. There will be benches all around the oval pathway and the 4 corners of the Common and 2 picnic tables. The existing street light poles will remain. The fixtures will be replaced and upgraded to LED. The poles will be refurbished and repainted. There will be recessed lighting throughout. The Circle of Peace sculpture will be preserved and relocated.

Mr. Heep noted there will be technological improvements with a speaker system installed with the ability to plug into a PA system. Accessibility has been increased on all corners and all benches and tables are handicap accessible. There will be recessed up-lighting in all paths. He showed renderings of the shade structures, and the seat wall will be a feature. He showed views from all angles and noted an equipment cabinet in one pier of the seat wall. Mr. Olsen noted there will be shade trees and flowering trees. He took a deep dive in tree choices. There was a collaborative vision for tree plantings. At one time Great Plain Avenue was lined with elm trees. They have kitty-cornered elms to provide a nice canopy on the Great Plain Avenue edge of the common. He noted they wanted to have open space, so have a lawn with the blue tree centered. The blue tree is being saved but they cannot save all the trees and work around them. There will be tree lilacs, Prairie fire crab apples, red maples, Hinoki False cypress and sweet gum. This gives a presence on both sides and frames the space. It gives variety and all agreed on this vision.

Mr. Heep stated he submitted a full set of engineering plans. He felt the colored renderings would be easier for them. Garrity's Way will be used for construction of the project. After completion, it will be completely repaved, the curb reset, and all spaces restriped. The project will begin next spring. Town Meeting has appropriated the funds already. It will take 2 to 3 seasons to complete, so maybe late fall or early winter. There is an engineering-plan-set lighting plan for the front of Town Hall and concepts for the future, but that is not this project. Mr. Alpert noted the following correspondence for the record: an October email from Police Chief John Schlittler regarding parking on Garrity's Way with a response today from Town Counsel Heep; an email from Fire Chief Dennis Condon noting no issues; an email from Tara Gurge of the Health Department with no comments; a letter from Assistant Town Engineer Thomas Ryder with no comments or objections; and an email from Michael Ruddy, of 69 Melrose Avenue with 4 concerns. His concerns include the retention of the 50-year-old diagonal paths; more porch swings; removal of the ring on the "Circle of Peace" statue and the removal of existing mature trees.

Mr. Olsen noted the lawn space will be graded and handicap accessible. The grass was discussed in meetings and will be Kentucky Blue Grass, which is a sturdy variety. There will be soil testing and irrigation. He is confident they can take care of this. The removal of trees is a sore subject in town. He is always cognizant. This is a full depth reconstruction and only the blue tree is being kept. The trees there currently are not desirable species. It is tough to work around the root systems. He noted this is an opportunity to establish trees for the next 100 years. Mr. Heep noted, regarding Mr. Ruddy's comment about more swings, they need to strike a balance. They do not want it overly congested with fixtures. A choice was made that is the right amount for this space. Mr. Heep noted Mr. Ruddy's request that the ring on one of the children on the Circle of Peace statue be removed as it is a Mormon symbol. The statue exemplifies friendship and inclusion. There are important values shown by the statue and it will continue to stand on the Common. He stated he was pleased to present this to the Planning Board.

Mr. Alpert had no comments or questions. Ms. Espada stated this is an exciting project and will be terrific. She asked if the Needham Center Design Guidelines were taken into account at all. Ms. Newman noted the design guidelines were done a long time ago and provided a framework. It was used as a guide and informed the result. The actual detail was not articulated in that plan. Ms. Espada asked if there were any environmental or sustainable goals for the project. The hardscape is being increased and she asked if there were any permeable pavers. She noted a community member was concerned with the longer walk on site and she asked if the tent was occupiable all the time. Is there a way of maintaining circulation around it? She recommended, with snow and salt, they might want to have a concrete or granite base on them. The town should think about the width of the walkways with Town bobcats and MBTA bus shelter standards.

Mr. Olson noted the MBTA bus shelter is free reign to make improvements. The Superintendent of Highway stated all equipment will go in all these spaces. The benches are wood today. The new benches will be metal and aesthetically pleasing. They will be anchored and set off the circular pathway. Ms. Espada was concerned about the canopies. Scott Ritter, of the Beta Group, does not think the walks will be salted. He will look at how the steel pieces hit the ground. The tent will not have any impact in the circulation of the pathways. Mr. Ritter stated stormwater is always a concern. Ms. Espada noted her concern with chairs being put in the pathways. Mr. Olson stated a lot of time was spent on stormwater. Sand will be blended into the existing soils and the whole area will be regraded. Environmentally, they are adding much biodiversity.

Ms. McKnight stated she had made comments at a prior meeting. One comment was circulation with people walking diagonally across. She is satisfied with Mr. Olson's response that the grass will be sturdy. An important role of this Town green is as event space and celebration space. People gather on the Common and the center is the stairs of Town Hall. She has looked at the plans and is not seeing, especially with the tent, that concept. She does not want to lose that. She asked if the applicant could show a sketch with 200 people on the Common looking forward. She asked if the wall will be a barrier or a place for seniors to sit down. She wants to preserve that event-space use and asked if that would be lost. Mr. Heep stated it will not be lost. There will be technological improvements of the loudspeaker system. There are considerable improvements that never existed before. Without the tent there is room for people to set up staging. Ms. McKnight asked how easily the tent can be put up and taken down. Mr. Olson hopes it is easy to take down. The intent is to have the tent spring, summer and fall. There were 4 meetings and gatherings were talked about. All agreed this sets up well for events and even better with the lawn and open space.

Mr. Olson stated this will give the ability to have large scale events. The low seat wall would be detrimental, but he sees it as an amenity for people to sit on and still have the ability to see people on the Town Hall steps and he thinks there will be such vision all the way back to Great Plain Avenue. He feels this project has accomplished the goals and this sets up better for events. Ms. McKnight asked if it is true 200 people could be there. Mr. Ritter stated the steps and Garrity Way are not changing. Access to Garrity Way is wider and the seat wall will have paving on both sides. The oval walkways are 8 feet wide and the trees will be thinner without the overhanging limbs that are there now. He agrees with Mr. Olson it will be a more easily used space.

Mr. Jacobs commented he does not agree with Ms. McKnight's assumption the Town Hall steps need to be the stage. That could be anywhere. Mr. Ritter stated they took all into account and made it flexible space. Mr. Block noted there does seem to be more open space. It is considered livable area now. He has been to meetings there and has had his own meetings there. It is a wonderful amenity for the town. He commends the team for the use of Town Hall in ways it has not been used before. He asked what the seating count is compared to the existing conditions. He noted there are 5 tables now and it looks like there will only be 2 tables. Mr. Ritter stated there will be 4 tables and 6 or 8 benches. There will be swings and the seat wall. There is also a seat wall at the Great Plain Avenue end and removable chairs. There is a net plus in terms of seating.

Mr. Block asked if there is any specific relief needed. Mr. Heep stated there needs to be an amendment to reference the Major Project Site Plan Special Permit to include a reference to this new plan set. Mr. Jacobs stated he appreciated Mr. Ruddy's comments which were thoughtful. It would be nice to keep the diagonals, but he hopes they will keep the grass in such a way they do not turn into dirt paths. His thought is the swings may end up being very popular. He would like them to think of a contingency plan to add more if that happens. He noted Mr. Ruddy's comment about the ring on the hand of one of the kids. He is not sure Mr. Heep's explanation was that thorough. If there is a way to remove the ring, he would advise they do that. He noted he does not see any trash containers anywhere. The plans showed cables and lights running across the common. Are they intended to be permanent or only for special occasions? He does not like them and feels they get in the way of the whole design. If it is only on special occasions, he could see it, but he does not favor them for all the time. Mr. Heep intended to highlight the trash receptacles. He noted there is one located at each of the 4 corners of the common. Each one is located near tables and seating. The trash receptacles will be attended to regularly. Mr. Olson stated they are moving toward big bellies trash receptacles that have brains in them now and tell when they need emptying. The RTS weighed in and was fine with the 4 locations.

Mr. Heep does not believe the cables and lights tend to be up permanently but rather seasonally. Originally, they were going to install poles on the sidewalks, but the poles were not feasible. Ms. McKnight requested to see the electrical plan. Mr. Heep showed the plan with the lines running shade structure to shade structure. Mr. Jacobs asked what is seasonal? Mr. Olson stated that originally they were intended to be seasonal but after further guidance the wires and system need quite a bit of infrastructure and will be permanent. Mr. Jacobs appreciates that. He just wanted to register he does not like it. Mr. Alpert asked how high the lights and strings are and was informed they are 12 feet up. Ms. McKnight asked if the lights going around the oval were low lights. Mr. Ritter stated they are almost flush with the pavement and cast light over the walkway. They are not solar powered. The high lights will be turned on and off. Mr. Jacobs emphasized if the cables are permanent, they should show up on the bird's-eye view slide.

Grace Chan, of 14 Bird Street, loved what she is seeing and commends the efforts to beautify the Town. She questions the ability to have meetings. She asked if it was possible to add some kind of amphitheater for better performances and to meet up with friends. Something that could be raised and lowered for large gathering. That is a natural way to be more pedestrian friendly and have people stay in town longer. Lisa Chevalier stated she likes this. This is a nice job thinking about flexible space. She loves Mr. Olson's enthusiasm for nature and plants and likes that the grass will be sports field quality. She noted the Farmer's Market has been using Garrity Way and would be using the Common after the renovation. She is glad it will be sturdy grass. She noted big bellies are on cement blocks with foot pedals that risk hitting kids on their heads. They only work if maintained. She noted there are some around that have not been maintained.

Ms. Chevalier stated she is astonished anyone is considering altering an artist's sculpture that the Town acquired. The thought is of togetherness. The Town should be fostering the artists intentions of togetherness. She asked if electricity could be accessed for vendors at the Farmer's Market that need cooling. That would be an amenity for vendors and for people charging their phones. She asked how groups with various functions would use this space. How will this be accessible for groups to use this space? Mr. Ritter noted outlets will be installed around. He will look at wattage for refrigerators. He noted the space would be open. There are no planned activities there. Mr. Olson stated there is a special permit process for special events. He expects the town will see a whole plethora of new things.

Ms. Espada left the meeting at 9:00 p.m. Oscar Mertz, of the Bird's Hill area, commended the team that worked passionately to create this. He agrees with Mr. Jacobs regarding the lights. They are completely flat and seemed a little low. He suggested they create guide poles on the outer edge of the oval to act as a prop to allow cables to go a little higher. He showed a sketch he drew. He looks forward to seeing the common evolve. Ms. Chan stated that she likes the lights. She added the town should consider a small splash pad in the corner like Brookline has. She noted there is an amphitheater at Newman now.

Mr. Heep stated he heard a lot of good comments from the public. He noted a considerable amount of work has gone into this for over a year. He would like to move forward with the plan set before the Board. They could consider comments and ideas at a later date. Ms. McKnight stated the Board could introduce sufficient flexibility to add things later. Mr. Heep would like if there was sufficient flexibility to make changes later. Mr. Jacobs stated Mr. Mertz's comments require some more thought. He would like to see this and have it flushed out. He is not ready to vote to close the hearing. He would like Mr. Mertz to consult with the applicant to work on ideas. Ms. McKnight would like to see a sketch of how a large crowd of people could be accommodated.

Florence Graves, of 94 Warren Street, noted a lot of people did not know this was in the works. It seems like a fait accompli. She is not sure why the public is attending if comments are not welcome. This is the first time most of us are seeing this. Mr. Alpert noted the Planning Board followed all the rules and procedures. The meeting was posted 2 weeks ago and the plans have been on the website. He noted the hearing will be continued. Ms. Graves asked if others can make comments. She noted she cannot really see the seating and such. She cannot get a good sense of the details and what the seating is made of. Mr. Alpert suggested she contact the Planning Department with comments. She can see what she needs to see and can raise questions on 12/8/21. Mr. Block noted any comments and questions can be submitted. Mr. Heep stated he did not intend his earlier comments to be an unwillingness to listen to comments and concerns from the townspeople. He welcomes all comments from the public. Ms. McKnight hopes the visuals presented at the next hearing are updates. She would like to see the tent as it is erected. It is important to know how that would look. Mr. Heep stated there is at least one rendering that shows that, but he will show it again next time and will add all the renderings.

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 continue the hearing, one time, to Wednesday 12/8/21 at 7:20 p.m. to show Mr. Mertz's information.

8:00 p.m. – George Giunta Jr.: Discussion of possible redevelopment at 888 Great Plain Avenue.

Mr. Alpert recused himself. His law firm represents the First Baptist Church, which is an abutter to an abutter. He left the meeting for this discussion and Mr. Block chaired. George Giunta Jr., representative for the applicant, stated this is the first of multiple discussions. This was Hillcrest Gardens, a commercial landscape nursery. It is a unique location between commercial and church uses. It is zoned Single Residence B (SRB) as are the 2 church properties. Single family residence is not the best use of the land. He feels it makes sense to extend the Center Business District and the Center Business Overlay District to include this property. This would allow some retail with residential above. He noted this is very preliminary and has a better flow and is more attractive than the previous preliminary plan.

Mr. Giunta Jr. noted this plan has a 3-story building under 35 feet in height. It goes into the side yard setback. He is also asking for a mechanism to change the side yard setback down to 10 feet. He is proposing a special permit provision to allow the Planning Board to reduce it down to 10 feet. This is opening the discussion. The property is not really appropriate to be single family. It needs to be looked at and the simplest is to extend the existing zoning. Mr. Jacobs asked if there is a problem with spot zoning. Mr. Giunta Jr. stated that is something to be mindful of but it is bordered on 2 sides by the Center Business District, so it is defensible. It is a natural extension of the existing business district.

Ms. McKnight questioned whether, if zoning allowed stand-alone multi-family, that would be more feasible economically. Jay Derenzo, owner, stated he has not looked at that. He noted the commercial component would help the economics of the project. Ms. McKnight stated she is co-chair of the newly established Housing Plan Working Group, and the Overlay District is something they will be looking at closely. She agrees with Mr. Giunta Jr. that rezoning is defensible due to the location. The Housing Group will be making recommendations but probably not until the 2023 Town Meeting. Mr. Giunta

Jr. stated this is all for discussion purposes. He is suggesting an extension of zoning, but that is not the only way to deal with this.

Nicholas Landry, architect, described the building. It will be 3-stories with retail on the first floor and residential above. Parking will be below grade. They are considering 3 options: 1) brick façade on the first floor and the other floors will be stepped back; 2) the ground floor mimics the floors above with clapboard and 3) the building copies the buildings across the street with precast concrete on the first floor then residential aesthetics above. The first floor will have 3 retail units, then a ramp to below grade parking with a couple of residential units behind. There will be 33 parking spots underground. The 2 upper floors each have 11 units with a 2-bed and 1-bed unit mix. Ms. McKnight likes that parking is underground.

Mr. Jacobs asked for clarification as to whether there will be 24 residential units, 3 retail units and 39 parking spaces on site and was informed that is correct. Mr. Jacobs feels this is a perfectly reasonable presentation but noted some will not like the design. Ms. McKnight asked why change the 14-foot setback to 10 feet. With new construction why not 14 feet from the side lot lines? Mr. Giunta Jr. stated a quirky setback was put in commercial districts adjoining to residential districts, so a 50-foot setback applies. A mixed-use building would have to be 50 feet from the left side where the First Baptist Church is. The property is 135 feet wide, so this creates an open area that makes it hard to maximize the space and limits redevelopment on site.

Mr. Block thought one idea was to extend the commercial zoning all the way to Warren Street. Ms. Espada's comments were that she was concerned with a 10-foot setback. It seemed it was encroaching. The other side seemed like it was 5 feet. They need to review the zoning chart. Mr. Block asked if there was parking in the rear, noting that this abuts the municipal parking lot in the back. Mr. Giunta Jr. stated the right side of the property has a 0-setback requirement, but the plan provides a 5-foot setback. They had some discussions regarding that. Gil Cox owns the small piece of property behind and then there is the municipal lot. This would require a 3-way conversation with the Town, Mr. Cox and the proponent. That parking lot provides back access to the church, but they are open to a discussion regarding using the parking lot.

Mr. Block noted Ms. Espada's other comment was if the By-Law requires outdoor space for residential buildings. Mr. Giunta Jr. does not believe it does. Mr. Block stated there is a need for more housing in town and the concept of mixed use is an interesting approach. It seems Mr. Derenzo is responding to the demand for housing. He lauds the attempt, but he needs more time to look into this. He noted the following correspondence for the record: an email from Andrew McCollum, dated 11/15/21, with comments regarding a 3-story building being too much commercial; an email from Samuel Graves, dated 11/15/21, opposing the concept and extension of the commercial district and an email from Barbara Ridge, dated 11/15/21, concerned with rezoning and public input.

Mr. Alpert returned to the meeting. Mr. Block continued to chair for the next 2 items.

Planning Board Response to Open Meeting Law Complaint filed by Joe Abruzese on November 2, 2021.

Mr. Block noted the Board needs to address a complaint made against the Planning Board. There was an open meeting law complaint regarding the 10/19/21 meeting. The complaint was received 11/2/21 alleging a violation in the minutes before the 10/19/21 meeting occurred. The Board takes this seriously. They met with Town Counsel last week. He noted since Covid the Board has been convening by Zoom. They usually had the meeting participants join moments before the Planning Board meeting started, to work through features of the Zoom platform. It assisted with meetings to test features. At no time during this pre-meeting status did any Planning Board member give an opinion on any matter before them or any substance on any item of agenda before them. There were no deliberations on any matter that had occurred while they had met in a pre-meeting status. It is not an open meeting law violation to discuss procedural matters or scheduling. They consulted with Town Counsel who has responded directly to the complainant, and it is part of the record for this week. He read the response into the record for the public.

Mr. Block stated the Planning Board has decided not to have pre-meetings going forward. They have also enabled a gallery view so all can see who is participating. No violations occurred of the Open Meeting Law. With regards to conflict of interest and ethics, the Planning Board received a number of complaints about alleged conflict of interest by the applicant or members of the applicant's team. They questioned if the Planning Board can act on this proposal with the conflict of interest outstanding. The Board spoke with Town Counsel and with an outside counsel. The Planning Board has no jurisdiction to discuss or deliberate on any conflict by the applicants. The Chair will not recognize any comments regarding the alleged conflict.

8:30 p.m. – Major Project Site Plan: Needham Enterprises, LLC, 105 Chestnut Street, Suite 28 Needham, MA, Petitioner (Property located at 1688 Central Avenue, Needham, MA). Regarding proposal to construct a new child care facility of 9,966 square feet and 30 parking spaces, that would house an existing Needham child-care business, Needham Children's Center (NCC). ***Please note: this hearing was continued from the June 14, 2021, July 20, 2021, August 17, 2021, September 8, 2021, October 5, 2021, October 19, 2021 and November 2, 2021 meetings of the Planning Board.***

Mr. Block noted the following correspondence for the record: a letter from Assistant Town Engineer Thomas Ryder with comments regarding ADA compliant sidewalks; an email from Maggie Abruzese with comments regarding the Canton Zoning Board of Appeals case; 3 emails from Holly Clarke with comments regarding 1) traffic and photos; 2) traffic and validation of traffic counts and 3) the barn; a letter from Evan and Sharon Gold of Charles River Street opposed to diverting traffic through Charles River Street, with the change to the timing of the light and the need for a sidewalk; an 11/16/21 letter from John Diaz which has been shared regarding unresolved items. Mr. Diaz commented ADA compliant sidewalks would be appropriate. He noted there are a couple of questions regarding grading there. If the applicant rebuilds the sidewalk, he would need to see the designs. He feels there should be follow up with the traffic study.

Evans Huber, attorney for the applicant, stated the applicant is willing to put in ADA compliant sidewalks along the frontage. They will not go through another design review. He stated Engineering is perfectly capable of reviewing the design. They are willing to follow up with a traffic study and police details until the Police Chief is satisfied. Mr. Diaz noted the traffic signal optimization and stated traffic is not being diverted and impacting other roadways. They are just optimizing the roadways after a reevaluation. The intersection does not operate as well as it should. It is a standard practice with signals to make sure they are operating as they should. This should be done regardless of this project.

Mr. Alpert stated he personally has a problem with Mr. Diaz' vision suggesting a police detail until the Chief of Police has determined it is not necessary. The Planning Board should not be delegating that responsibility to the Chief of Police. The Board should have a condition that this Board has to be satisfied. It should be handled as a minor modification once the applicant feels the detail is no longer needed. Ms. McKnight noted there was also a memo from Denise Linden, a Dover resident, and a memo from Christy Thomson regarding lead testing. Mr. Block noted the Department of Health had a meeting today to discuss the environmental impacts and recommendations. Mr. Huber commented he would like to know why he is not allowed to speak on procedural matters. Mr. Block noted he wants to get to members of the public and not debate on how or when something should be done, which would delay that goal.

Mr. Huber stated he will submit comments in writing to the Board regarding how these meetings are being conducted. Recent last-minute submissions this Board continues to receive are at best misleading if not intentionally so. The Board was submitted a document which appears to be a decision from the Canton Board of Appeals ostensibly showing support for the idea that this Board has the authority to deny this application outright. What is missing is that the ZBA did in fact deny the application for a special permit for a day care center. That decision was appealed to the Superior Court who remanded it back to the ZBA with instructions that the Zoning Board had 2 alternatives -- one was the Board approve the permit with the conditions previously agreed to by the applicant or the Court would approve it without any input from anyone. That clearly demonstrates this Board does not have the authority to deny the permit and they should not be spending one minute discussing it. This Board should not be entertaining any issues pertaining to law. Mr. Jacobs noted, since those comments were received, there has been no discussion by this Board. The only one discussing them is Mr. Huber. Mr. Huber stated this is a pattern of behavior by this Board. This Board has allowed the opponents to submit material as late as one day but not the applicant. Mr. Block stopped Mr. Huber and stated he is out of order. The public has an equal opportunity to comment as well as comment on revised plans.

Mr. Alpert stated he was glad Mr. Huber brought up the Canton submission. He looked it up himself and took exception to what Mr. Huber said. The Court said they would send it to the Canton ZBA for further appeal in accordance with the rules and regulations. They did not say if the Board would not grant the special permit the judge would just allow it. That is a misrepresentation, and he is correcting the record. Mr. Huber stated the comments came from the minutes of the Canton ZBA 3/25/21 meeting. The minutes state the Board was told they had 2 options. He will provide the minutes to the Board if wanted. Mr. Alpert stated he can make any submissions he wants as long as the hearing is open. Mr. Block noted he will not recognize Pat Day at this time. He will recognize her at the next meeting on 12/8/21 at 8:00 p.m. Mr. Alpert wanted to let Mr. Huber know that within the past few weeks the Canton case has been reported to the courts as being settled.

Mr. Alpert returned to the meeting as Chair.

Correspondence

There is no correspondence.

Minutes

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 9/8/21.

Report from Planning Director and Board members

Mr. Block noted the Council of Economic Advisors (CEA) met last week and one item discussed was regarding different types of brewing. They can range by size and type. The CEA voted to support the concept of a brewery in town and wants to send a letter to the Select Board regarding that. Ms. Newman noted the Planning Board is meeting with the Select Board next Tuesday evening regarding the issue of breweries and tree preservation strategies. She will be away next week but will participate by Zoom. She noted the budget was presented this afternoon.

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 11:00 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

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Adam Block, Vice-Chairman and Clerk