

## NEEDHAM PLANNING BOARD MINUTES

December 8, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Wednesday, December 8, 2021, at 7:15 p.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 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.

### **Report from Planning Director and Board members.**

Mr. Alpert began the meeting noting the passing of Town Engineer Anthony DelGaizo last night. He stated he was always an incredible help and represented the town well. Ms. Newman stated she could not start the meeting without acknowledging the unexpected passing of Mr. DelGaizo. He was a colleague and dear friend. He worked within the Engineering Department for 30 years and as Town Engineer for most of that time. He will be greatly missed. Mr. Alpert asked for a moment of silence in memory of Mr. DelGaizo.

### **ANR Plan – 2021 Grove Street Partners, LLC, Petitioner (Property located at 390 Grove Street, Needham, MA).**

Domenic Colasacco, owner, stated he co-owns the property. There have been a number of discussions and hearings regarding this property. The prior owner had petitioned to subdivide this property. The front has 1.5 acres and there is a rear piece. He and his neighbor bought the property. They want to subdivide the front part, which is 50,000 square feet, and sell to a developer for one single family home. The rear will be left undeveloped. This property borders the owners' 2 properties. Mr. Alpert stated the back lot will be unbuildable with no frontage. Mr. Colasacco understands that. The co-owners want it to be left natural. Ms. Newman stated she reviewed the plan, as has Engineering, and there are no issues. Ms. McKnight stated there is a building on Lot 1 and she asked if that was existing or a proposal sketch. Mr. Colasacco stated it is an existing house that was not well maintained and is not inhabited. He feels it will be demolished and a new house built.

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

VOTED: to endorse plan Approval Not Required.

### **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 and November 16, 2021 meetings of the Planning Board.**

Moe Handel stated he knew Mr. DelGaizo well. He was very saddened by his loss. He noted Mr. DelGaizo was a member of the working group that developed the plan for the Town Common. Mr. Handel stated he was a member of the working group, a former member of this Board and of the Select Board. This was a very long process. This has been vetted in an open committee process, Select Board meetings and Conservation Commission meetings. There has been a lot of public scrutiny through this very public process. There has been broad representation. He urges a timely approval of this request so the project can get underway.

Town Counsel Christopher Heep noted at the conclusion of the last meeting the hearing was left open with questions. He submitted a letter last week addressing the larger issues and new renderings of the common. He reviewed the larger issues.

Pertaining to the lights, there was a proposal from Oscar Mertz with an alternate proposal that resembled one that was considered earlier but was rejected. The cables were attached to free standing poles. The poles were rejected as they would require substantial foundations, would be challenging to remove and the poles would create obstacles for walking around and ground crews. The 6 free standing poles took away from the goal of open space. They have opted to string lights from the shade structures which they feel is the best approach.

Mr. Jacobs stated his issue was why lights at all. Why create a 12-foot ceiling over the open field? He is thinking it should be open to the stars and sky. He has been reading about catenary lights. They are decorative and functional and can light an area without poles. Why do we need the green lighted? He asked if they were trying to encourage night activities there. He was told these lights are full year, but one plan says it is seasonal lighting. Mr. Heep stated the lights have been designed to remain in place all year long. The word “seasonal” will need to be taken off the plan. The lights are intended to be both decorative and functional. The lights will be attractive and festive and brighten that area of the common. Mr. Heep stated the town wants to encourage people to make use of the common into the early evening hours. This will allow the area to be used after the sun goes down. It is intended to be functional space. Mr. Jacobs thanked him for his response although he does not agree.

Mr. Heep noted the lights will be 12 feet off the ground and will not be an obstacle or impediment. This project will allow enough space for large crowds to gather. He submitted a rendering of a large crowd on the Town Hall steps and Garriety Way. This area could accommodate up to 2,400 people. Ms. McKnight stated she appreciates the additional views, noting, however, that Mr. Heep referred to the crowd on the steps. She noted people gather below the steps and not on the steps. She counted 110 people, but she had requested a sketch with 200 people. She asked if the crowd was on the ground and was informed the people were all on the ground and not on the steps. She asked if the tent was designed to be taken down either seasonally or at other times. Scott Ritter, of the Beta Group, stated the tents are intended to go up and down and should not be too difficult. Ms. McKnight asked if Mr. Olson agreed. Ed Olson, Superintendent of Parks and Forestry, agreed. It is intended to be taken down seasonally.

Mr. Heep stated he submitted new drawings on materials used, benches, seats and such. There was a comment made regarding the metal footings of the shade structures. The Town uses salt with magnesium chloride. It is less corrosive than others and less toxic to the environment. The town continued to look at the removal of the diagonal paths and if that would increase the distance people would need to walk. The walk is approximately 60 feet longer from one side to the other, but it is vastly improved over the current conditions. The paths will be smoother and more handicap accessible. Mr. Alpert commented he would hate to see the common with “stay off the grass” signs. People should feel free to walk across the grass. He likes the look of the oval pathway and the innovative design. People should use the entire common. Mr. Heep stated he appreciated the comments.

Mr. Heep noted a resident expressed concern the shade structure would obstruct the open space. There is no obstruction. There will be 4 posts and a slatted roof. It would not be intrusive. There was a comment about temperature variations in the benches. That was looked into, and it should not be too hot or cold in the seasons. The benches will be metal coated with a thick coat so you are not sitting directly on metal and they will be a silver color so they will not be as hot in summer. Scheduling events on the common will be handled through the Town Manager’s office and not through this permit. He has tried to respond to all concerns up to this point. Ms. McKnight stated she does not like unnecessary lights but will defer to the applicant and what they want to use the area for. She would not be opposed to the project. The applicant wants a more festive look, and she would go along with it. Mr. Alpert stated it was unfortunate Ms. Espada is not at the meeting. She is the architect on the Board. This deserves discussion during deliberations, and he would like to give Ms. Espada the opportunity to view the tape and participate in the deliberations. Ms. McKnight agreed.

Mr. Alpert noted the following correspondence for the record: an email from Police Chief John Schlittler, dated 10/7/21, with questions; Mr. Heep’s response, dated 11/16/21; an email from Fire Chief Dennis Condon, dated 10/8/21, with no issues; a memo from Tara Gurge of the Health Department, dated 10/26/21 with no comments; a letter from Assistant Town Engineer Thomas Ryder, dated 11/9/21, with no comments or objections; an email from Michael Ruddy that was discussed at the last meeting; an email from Nancy Louca, dated 11/20/21, with comments; an email from Lisa Cherbuliez, dated 11/28/21, with comments regarding the Farmers Market; an email from Heather Hampf, dated 12/4/21, with concerns; an email from Oscar Mertz that was addressed by Mr. Heep and an email from Lindsey King, dated today, in opposition.

Oscar Mertz noted his sketch to suggest the lifting of lights was not intended to create poles as a replacement as structural support. He is asking it remain an open question. He feels 12 feet is low. He is not a fan of lighting, but he gets it. He would like a switch for the lights to turn them on and off. He noted the installation of cables on a 12-foot pole idea could be installed at a future date and could be tested to see if they could be lifted to a specific height. Mr. Heep stated Mr. Mertz raises an interesting idea. If people think 12 feet is not sufficient in a year or so they could look at raising them higher. That might merit further study. Marianne Cooley of the Select Board stated the Select Board is responding to the fact people in town enjoyed the lights. There are many warm evenings in summer, and it is particularly a gathering spot for youths. It is not a bad place for youths to gather.

Jeff Friedman, of the Farmer's Market, stated he is a Town Meeting member and he voted for this appropriation. He thinks it is a great idea and likes the idea of more people coming. He is concerned as to whether the plans have electrical outlets provided for vendors. He noted that there would be space available for vendors to occupy part of the Town Common. Mr. Heep stated there is new electrical capacity built into the seat wall. That should allow vendors to plug in, but where the vendors go would be subject to the Town's license with the Farmer's Market.

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 close the hearing.

This will be deliberated at the next meeting.

**8:00 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, November 2, 2021 and November 16, 2021 meetings of the Planning Board.**

Adam Block became Acting Chair of this hearing. He noted the following correspondence for the record: an email between Planning Director Lee Newman and Tara Gurge of the Health Department, regarding environmental engineering elements; a letter from Assistant Town Engineer Thomas Ryder, dated 12/6/21, regarding the ADA compliant sidewalk, a summary memo from Evans Huber, dated 12/2/21, with a number of items, and another email from Evans Huber, dated 12/2/21; an email from Elizabeth Bourguignon, of 287 Warren Street; an email from Carolyn Day Reulbach, dated 12/2/21; an email from Maggie Abruzese, dated 12/6/21; another email from Maggie Abruzese, dated 12/6/21, regarding number of parking spaces; an email from Rick Hardy; an email from Lori Spitz; an email from Pat Moore Jr. on behalf of Gregg Darrish; an email from Building Inspector David Roche, dated 12/7/21; and correspondence from Pat Falcao of 19 Pine Street.

Ms. McKnight asked whether the revised plans are all set now as far as the driveway and sidewalk. She asked if there were any remaining issues with regard to the plans. Ms. Newman stated she received comments from Engineering that the applicant has agreed to install an ADA compliant sidewalk. It is not on the plans in front of you but can be handled with a plan modification.

Mr. Alpert noted, with regards to the barn, there is a letter from the Building Inspector with his opinion regarding the barn. It is up to this Board to make a determination. His reading is that the Board can enforce provisions in the By-Law. The question for the Board to determine is if the Board has the authority to have the barn removed. They are not dealing with legal arguments. The Board will need to deliberate and make a determination. If the Board decides they have the authority to have the barn removed, he has not heard a factual basis why removing the barn would be an unreasonable requirement.

Mr. Huber stated he will make a presentation at the end after all the public comments. His goal is to get the hearing closed tonight. Pat Day, owner of Needham Children's Center (NCC), stated she has sat in these meetings for months. She thanked the Planning Board members for their careful consideration of this project. She is encouraged, being the main tenant and not a faceless corporation. She has been a long-time community partner and none of that will change. She will work with the Town and the neighbors. She read a statement she prepared. She is respectful of the needs of the neighborhood and as

to traffic. She feels the concerns by a few neighbors are not well founded. Needham should be a community supportive of all.

Stanley Keller, of 325 Country Way, stated he had served as legal counsel to Temple Beth Shalom in the past and feels Mr. Alpert's decision to recuse himself was a conservative one. He feels no one should question Mr. Alpert's ability to exercise independent judgement. He stated the Planning Board can impose legally enforceable, legitimate conditions. There are some basic issues and key questions the Planning Board needs to get behind. What is going on here? It has been a changing and shifting story through the meetings. You cannot rely on the developer to do the right thing. There need to be legally enforceable restrictions. What is the sudden importance of the old barn? It strains credibility that the building was designed without adequate storage. Could it be for future development in the back? The next question is what are the lease arrangements and how does the barn fit into those lease arrangements? The Planning Board should get behind that kind of information.

Patricia Falcao, of 19 Pine Street, noted letters have not been posted online. Mr. Block stated all correspondence received has been posted. Ms. Falcao does not understand how a large for-profit corporation could be placed in the middle of a one-acre residential area. Mr. Block stated, under state law, daycares are a protected use. Mr. Jacobs suggested Ms. Falcao get in touch with Ms. Newman or Ms. Clee to get an understanding of the special permit process. Ms. McKnight explained a commercial use could never go in here. Possibly a church or educational use, but never commercial.

Eric Sockol, of 324 Country Way, noted he is a 54-year resident, and both his children went to NCC. He received the letter from Kristy Thompson. She had a lot of well thought out reasons why potential contamination issues should be looked at. Hopefully all agree the highest issue should be the health and safety of infants/children in our society. This is a real issue. Ms. Day should be the first person in line to have the property tested. He stated this has the potential for contamination and shame on all of them. They have the ability to not worry people about these issues. He feels greed is the incentive. No one should say it is not a problem. He would not want any parent concerned with this issue. He believes this is the biggest issue. They cannot do this with a good conscience. There is a solution to put it to bed and he urged all to do the right thing. Mr. Block stated the Department of Health is holding a meeting on 12/14/21 to take up the environmental impacts of this project. They will have public comment and acknowledge the seriousness of the issue. The Department of Health will give recommendations to the Planning Board.

Evan Roach, of 224 Country Way, noted concern with the location and the great deal of variability with traffic. There are only so many ways to get to Dover and Medfield. The Baptist Church has many different ways to get there. They are missing the point of having a lot of traffic going by houses at a great rate of speed.

Maggie Abruzese, of 30 Bridle Trail Road, stated she has significant concerns with the project setback. This is a large commercial building. It will become most prominent in the neighborhood and change the character of the neighborhood. There will be a massive amount of pavement. Central Avenue is 20 feet wide, and this driveway will be 30 feet wide. The drop off lane is not a driveway and should not be in the setback. The building should be set back at least as far as the Temple and shielded by landscaping. There are more than 3 acres of land so there is no reason to crowd Central Avenue or skimp on parking. There is no on-street parking here. She noted this plan relies heavily on the drop off lane and is not a tenable model. Emissions will be bad for the neighborhood and the children at the daycare center. This building will be opened long after Covid is no longer an issue. Children will not always be dropped off with live drop off. Daycares are communities and communities need communication. Parents cannot always stick to a live-drop-off model. Parents must be allowed to park and go into the building to drop off their children.

Ms. Abruzese commented on the convenience and safety of pedestrian movement on site. The interior roadway has many points for safety issues. There is no second exit as this is a dead end. The spots closest to the door are not accessible unless the car gets in the drop-off lane. It is dangerous at the drop-off area. Cars will stop if the 6 parking spots by the barn are full and will wait for a spot or will have to turn around which would be dangerous. This plan does not account for fire trucks. How would a fire truck turn around? It is also a poor plan for the dumpsters to be emptied. Trucks will have to back all the way out. This is more than 3 acres. This plan does not account for the parking of the 3 school vans NCC owns. There is no unimpeded access to the loading zone without waiting in the drop off lane and the trucks will have to back out. She noted there is no plan for snow removal and no place for snow storage. For lighting, the Design Review Board (DRB) wanted to see a lighting plan at the August meeting. The developer did not have a lighting plan. Lighting is not an

insignificant issue. The new plan does not address the DRB comments and issues. The lighting is not uniform. Lights trespass onto the Temple property and the Darrish property. The lighting also has high levels. She would ask the developer to submit a plan to the DRB for comment. The architect not being here is a problem. She asked how Mr. Gluesing could design a building without enough storage. The building needs a basement. Mr. Block asked the developer to have all consultants at all the meetings, but the architect has not been there. Ms. McKnight stated that if Ms. Abruzese submitted her comments on lighting in writing, it would be very helpful.

Lori Spitz, of 188 Charles River Street, is a 17-year resident. She stated Mr. Huber, Mr. Borelli and Ms. Day do not live here and do not understand this area. The only people who understand are recused from this hearing. Mr. Sockol and Ms. Abruzese made phenomenal comments. This is not a commercial area. She wants to make sure the people who live here are heard and listened to. The Walker School is also here and is 4/10 of a mile from this property. That is a special education extended day school with complex issues. Has there been any consideration to this? This would impact them in a major way. She noted many accidents caused the traffic lights to be put in. This is a major cut through. She asked if the crossroads have been taken into consideration. It is important to understand this corner of town is very difficult.

Peter Lyons, of 1689 Central Avenue, stated he lives directly across the street. He will be impacted and is opposed to this project. The Board needs to truly address the traffic he deals with every day. The driveway will be directly across the street from his property driveway. It is already difficult to get out of his driveway. He has a 16-year-old daughter who is just starting to drive. He is concerned with the safety conditions being created. He is also concerned with light pollution. He appreciates Ms. Abruzese's comments. There are already lights from the Temple. He is concerned with headlights shining into his house every time a car leaves the property. The Board has to address the setback from Central Avenue. This building is too large to be that close to Central Avenue. It will alter the neighborhood.

Joe Abruzese, of 30 Bridle Trail Road, thanked the Board for all the work. The applicant has had over 7 hours of testimony and the public is now being allowed to speak. He would like to address the misrepresentation made by Mr. Huber at the last meeting regarding hearing delays that were not attributable to the applicant. He noted there have been 3 delays with 2 by the applicant. This project is extremely important and all needs to be taken into consideration. There is a disharmony with the existing area. Look at setbacks in relation to the size of the building. He showed a simple chart. Most buildings in the area are residential homes. The Temple is set back farther than the houses. He showed the range of setbacks in the neighborhood and the range for 1688 Central Avenue. The proposed setback is 64 feet on 3 1/3-acre property that goes 1,000 feet back. This should be set back in the 200-foot range to be consistent with the other buildings. He stated the traffic projections are unfounded. There is a constant shifting of the applicant's information, which is concerning. He showed a chart with Central Avenue statistics with peak times and pre-pandemic Town counts. The applicant counted on one day. His figures are 40% less than the Town numbers. Why is there such a difference in numbers? This needs to be a concern. He asked the Board to not take the projections as fact. He spoke of the actual legal capacity of the building. He looked at the proposal and they are actually allowed, in a building of this size, 199 children or 219 if there is a half day program.

Mr. Block stated conditions of the Planning Board would prohibit anything over the number approved. Mr. Abruzese stated that conditions change. We have seen that with the Cogswell Building recently. He showed multiple unremediated issues. He asks that the applicant show an appropriately reasonable design that addresses the issues. He also asks that the applicant be required to submit a comprehensive plan and design and not work out the issues later. He stated he will submit his slides to the Planning Board for their information.

Holly Clarke, of 1652 Central Avenue, noted the proponent needs to share what he wants with the barn. The Section 3 protection does not erase Section 4. Every project must meet each and every By-Law. This has 2 buildings on one site. The proponent can pick to make the barn part of the building but cannot have 2 buildings on a residential lot. The proposal until September was the daycare center was in one building. Mr. Jacobs commented Ms. Clarke is making a legal argument. He would like to get all the evidentiary evidence possible and make the legal arguments at the end. Mr. Alpert stated all these arguments have been made in writing. He does not want to take the time now.

Ms. Clarke stated that the proposal, as put forth, has not passed the standards of By-Law Section 7. Every building is 109 plus feet back except for the Heideman's house. This building is closer. The drop-off plan brings the operation right to the property edge. Needham has a number of By-Laws for protections for residents when institutional comes in. This would require the daycare to be in harmony with the neighborhood. There is room to push it back. Why have the constant requests

to push it back not been acknowledged? She hopes this board will protect the neighborhood. All submissions are based on a 3.3-acre lot but all is pushed forward. The issue of lighting is very important. The Temple has tall lights. The lights will have an immediate impact on the neighborhood. Having appropriately sized and appropriate lighting is important. The DRB talked about the color of the fence. A white fence will stick out and the DRB said 3 times it should be changed. The plan still has a white vinyl fence on it. She noted the landscape plan is not in compliance with the By-Laws.

Ms. Clarke stated the By-Law states trees should be 3-inch caliper, but the plan still has 1 to 2-inch caliper trees. This neighborhood lives with the Temple. It is set back, and all the cars are set back so they are not seen. Pushing the building back is a critical issue to the neighborhood. It is completely uniform across the street at 109 feet and set back. Pushing the building back would allow the use of topography and would not have a 6-foot grade up. If pushed back the beautiful tree in front would be able to be kept. The trees that have been cut down were 36 inches in diameter. The side of the Temple can now be seen. She can see the lights at Central and Charles River since they have taken all the trees down. All the screening is gone. The proponent should be screening them from the neighborhood. There is so much that is doable, and they just need to do it. She stated November 3, the day Mr. Diaz said he went down the street and could easily get down, was an early release day. There were no buses or regular traffic. She noted this project really calls for a turning lane. The Town elected not to put the DPW building on Central Avenue due to the traffic and put the Jack Cogswell Building with no employees instead.

Ms. Clarke stated the ITE standard is to have 37 or 38 parking spaces. That should be required. The Planning Board is the town elected Planning Board. It is important that everything be transparent. She urges them to have all the reports up front. It is clear that one way to resolve most issues is to reduce the size of the building. This Board has the authority to do that or to deny it and they should. Mr. Block thanked Ms. Clarke for all her diligence.

Gregg Darrish deferred his time to Patrick Moore who represents his interests. Patrick Moore, attorney for Hemingway and Barnes, represents Mr. Darrish of 34 Country Way. He understands he is coming in after this hearing has been going on a long time. He is a land use litigator with particular Dover Amendment issues. His legal arguments will be brief, and he will submit documents after. A daycare use is a protected use under the Dover Amendment but is not a magic wand. The Board retains the power of reasonable regulations. It begins with the Town's existing By-Laws. The burden is on the proponent to say why the By-Law should not apply to this. He quoted from the Superior Judicial Court 1993 case of Tufts College. Other issues mentioned were the 2 structures and that there would be a special permit due to the size and parking requirements. It is up to the proponent to show why these requirements would unreasonably impede the daycare.

Mr. Moore noted there is no agreement with the program operator. There is no guarantee the daycare owner would actually come onto this property. The barn was not going to be used by the daycare and now it will be used for storage for the daycare. The By-Law prohibits new construction and the barn on the same property. Can the Board say why the barn is needed for storage and storage is not included in the new building? The proponent needs to establish this is necessary. The Board should retain authority to review any updates in a public hearing. He will provide the citations he cited to the Board.

Robin Bevilaqua, an office manager for the First Baptist Church, supports and manages 3 churches. She commented that NCC is the best tenant. Safety and children are their first priority. Ms. Day is always thinking of the children. All concerns would be of the utmost importance of NCC.

Rob Dimase, of 1681 Central Avenue, lives directly across the street and agrees with all his neighbors. He noted the developer is amendable to the sidewalk. He would like to see him address the traffic situation particularly at the lights. He noted the 6-foot lifting of the property and 65 feet from the road would create a storm water issue. He has not heard any mitigation issues regarding that.

Matthew Goldwasser, of 34 Carlton Drive, lives close to the project site. He is deeply concerned with traffic with regards to quality of life and safety. He has little choice but to take Central Avenue multiple times a day. The road cannot handle any added stress. They do not need to compound the existing traffic concerns. He stated Mr. Jacobs opined that Ms. Day may be a great proprietor when there is no defined business agreement between her and the developer. What assurances are there she will be the only tenant? No one has heard from the developer. He feels the lack of direct and personal involvement is confounding. The optics of the proponent not being here is not good. He should chime in and introduce

himself and address some of the issues. This is a lack of civility on his part, and he is disappointed. The proponent needs to personally acknowledge the issues to the abutters. He is very skeptical of the true intent of this project.

Jeffrey Turk, of 312 Country Way, is a 30-year resident, a former day care user and a former daycare owner. He thanked the Board for their hard work. He has an issue with the process being followed. All the transparency has been removed and others cannot see who is at the meeting. How many people are here? He does not see it as an open meeting. Not all in Needham have access to computers and technology. He feels the Board should consider having a live meeting at this point. He stated looking at Central Avenue is missing the point. Look at Waze and see what really happens. Cars are sent down Country Way to avoid Central Avenue, which is a neighborhood with no sidewalks. Turning southbound to get into the daycare will back up traffic. He asked why use Ms. Day's data when she is not the tenant here. He noted a 60 second drop off will not happen. He suggested the Board look at data from other daycares. Ms. Day is looking for families from the Dover and Natick areas. It will not be the same use. He asked what happens if NCC fails? What would happen to the space? There is no community support here. He questioned where the sidewalk was going to as you cannot walk off this property. There should be a restriction that no children go off this site. The Board needs to look at setback, limit this to 75 children and do not allow children to walk off the site.

Ms. Falcao noted she sees 54 participants in this Zoom hearing. She would like an open in-person meeting. It is important for the process of this meeting. Mr. Jacobs stated he could not attend an open meeting. That would be a major problem. Mr. Huber stated it is being inferred the public hearing is closing tonight. Mr. Block stated the Board will discuss that after his remarks. The meeting may be held open for further information. Mr. Huber stated if the Board agrees it is their burden of proof, he would like time to go over all. He would like to submit, in writing, his responses to the various issues and not keep the hearing open. Mr. Jacobs stated it is within his rights to submit any legal memorandum. It is different if he wants to submit additional evidence. Mr. Huber stated they have proposed a testing plan and submitted it to the Board of Health. Mr. Jacobs noted he wants to close the hearing but leave open for Mr. Huber to submit a memorandum with evidence. Mr. Alpert stated he is leaning toward continuing the hearing. If it is closed, and Mr. Huber wants to submit evidence, it opens the Board to issues from abutters. Mr. Huber would have the ability to submit responses to all issues raised tonight. The neighbors would need time to respond to his responses and submittals. Mr. Huber commented the Board needs to find a mechanism to close this hearing.

Ms. McKnight stated she made notes on things that needed further input. Her thought is to close the hearing but keep it open for input on specific points and not further testimony. Mr. Jacobs stated if Mr. Huber wants to respond to factual issues already in the record, he is fine with that and feels the hearing should be closed. Dave Lazarus, of 115 Oxbow Road, stated there is a fundamental flaw in the process. The applicant has not submitted a complete plan and what the other issues are. There is no information on lead testing. If that is scheduled, the public deserves to know and participate in that. There is nothing gained by leaving it open and potential harm to abutters if it is closed. Mr. Alpert stated environmental testing is a Board of Health issue. He is willing to accept what the Board of Health recommends should be done. The Board of Health will be having a meeting on 12/14/22. Mr. Lazarus does not know if the Board of Health would send a directive to the Planning Board. Lighting is another issue. The DRB had feedback and it has not been responded to. The turning pattern, snow removal, color of fence and calipers of trees are all factual questions that have been raised that he assumed Mr. Huber would respond to. He commented it does not feel right to close the hearing. He implored the Board to leave it open.

Mr. Alpert stated he was confused and asked where they were with the DRB. He thought they received information from the DRB and gave the results from their 3 hearings. Mr. Huber stated that was correct. The Board can make a determination from that information. Ms. McKnight noted the DRB did say there was inadequacy with the plan as to lighting. Then the DRB got revised plans that did show the lighting. The hearing could be left open to make sure the lighting has been resolved. Ms. McKnight noted there are 5 issues: lighting, the Board of Health issue, snow storage, Mr. Abruzese's slides with traffic data to review and be reviewed by John Diaz and the issue of the fence not adequately addressed. Mr. Block added Ms. Abruzese's information submission. Ms. Abruzese stated on 8/9/21 the DRB had plans and asked about lighting as there was no lighting on the plans then. The lighting plan in the packet is dated 11/8/21 and has not been back to the DRB.

Cynthia Landau, of 57 Pine Street, stated she has lived here for over 25 years. She encourages the Board to keep the meetings open. There is a question of process. She has no sense from the Planning Board as there has not been feedback on anything. She asked when the public will know what the process is to get feedback from the Board. Mr. Block stated if the hearing is closed tonight the Board will move into the deliberation process. They will discuss each item before them

and determine if conditions should be put in place. The Board will resolve each item. Mr. Jacobs added the deliberation process is open but there is no opportunity for public input.

Mr. Huber stated an argument was made the setback should be comparable with the temple. The temple has a 213-foot setback, which is more than twice the size of this project. The height of the temple is considerably higher and the bulk of the temple is 4 times the size. The elevation is also higher than this. The temple has a large parking area in front. This project has been designed to have the parking in the back. Mr. Jacobs stated that is an argument. It may be true but there is no evidence of that in the record. Mr. Huber stated the setback and footprint of the temple are already in the record. Ms. McKnight noted the square footage of the temple and the setback were submitted tonight. Mr. Huber's point is the temple is a much bulkier building.

A motion was made to close the hearing subject to receipt of information regarding the following data items: 1) a Board of Health report on what conditions should be put in the permit regarding inspections and remediation; 2) provisions for snow storage; 3) have the DRB concerns regarding lighting been addressed and, if not, is there a concern about lighting; 4) to get Ms. Abruzese's slides; 5) to get Mr. Abruzese's slides; 6) to get a response from Mr. Diaz on Mr. Abruzese's traffic information; 7) the fence could be a condition; and 8) the claim made by Mr. Dimase that the sewer connection is inadequate and seek advice on that from the Town Engineer. Mr. Block asked if there were other outstanding items from the DRB. Mr. Alpert noted they have all the information from the DRB, and he is ready to take their information. He is satisfied. He had proposed at the beginning to give the proponent a chance to present information if the Board decides the barn must go, the applicant may submit information to argue as to why it should stay. The Board should leave that open for why it would be unreasonable to force them to remove the barn if that is what is decided.

Ms. Newman noted Mr. Moore wanted to provide a legal memo also. The motion was amended to include Mr. Huber's information on the barn and the setback issue and Mr. Moore's information. Mr. Jacobs stated it is a long list to keep the hearing open for. He is not against it but reminds the members it would be subject to reopening the hearing to receive further evidence. It is a little precarious.

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

VOTED: to close the hearing subject to receipt of information regarding data items 1) a Board of Health report on what conditions should be put in the permit regarding inspections and remediation; 2) provisions for snow storage; 3) have the DRB concerns regarding lighting been addressed and, if not, is there a concern about lighting; 4) to get Ms. Abruzese's slides; 5) to get Mr. Abruzese's slides; 6) to get a response from Mr. Diaz on Mr. Abruzese's traffic information; 7) the fence could be a condition; 8) the claim made by Mr. Dimase the sewer connection is inadequate and seek advice on that from the Town Engineer; 9) Mr. Huber's information on the barn and setback and 10) Mr. Moore's information.

Mr. Jacobs stated the Board was going to give Mr. Huber 15 minutes for closing arguments. He is not sure that was done. Mr. Huber thanked Mr. Jacobs for offering that. He will be submitting a legal memo and will use that as a substitute.

### **Board of Appeals – December 16, 2021.**

#### **883 Greendale Avenue – Nicholas Tan, applicant.**

Ms. McKnight noted this 3-car garage is more than 1/3 the width of the frontage of the building. She would hate to see something this big being built. Two thirds of the front is garage doors. It is hard to evaluate. If garages were really at basement level that is one thing, but the garages seem to be elevated and the 3 doors would be seen.

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

VOTED: to comment the perspectives shown do not give enough information for the Planning Board to comment.

Ms. Newman stated Nelson Hammer, the landscape architect on the DRB, has resigned. She stated he will be a big loss. She will post the Planning Board appointment for the DRB and will advertise for the position. Mr. Alpert noted there was



a joint meeting with the Select Board and a zoning change for a brewery with a pub was discussed. Mr. Jacobs does not think a zoning change is needed but the Board needs to look at this. He took a look at the By-Laws and does not feel zoning changes are needed. Ms. Newman stated Building Inspector David Roche disagrees with that. Mr. Block feels the Board should take it up for discussion and analysis. Mr. Alpert is not convinced this needs a zoning change. He stated he received an email from Dan Matthews who is not running for re-election.

Mr. Block noted the following correspondence for the record for 888 Great Plain Avenue: an email from Amy Snelling, dated 11/17/21, opposing the project; a letter from Richard and Katharine Heidlage, of 92 Dedham Avenue, in opposition; an email from Kimberly Bartlett-McCollum, dated 11/17/21, in opposition and a letter from Marlene and Jerome Schultz, of 94 Dedham Avenue, in opposition.

### **Minutes**

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 approve the minutes of 9/15/21.

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 12:00 a.m.

Respectfully submitted,  
Donna J. Kalinowski, Notetaker

---

Adam Block, Vice-Chairman and Clerk