

NEEDHAM PLANNING BOARD MINUTES

January 18, 2022

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Tuesday, January 18, 2022, at 7:15 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 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.

Public Hearings:

7:20 p.m. – Amendment to Major Project Site Plan Special Permit No. 98-6: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at Existing Municipal Parking Lot on Chestnut and Lincoln Street, Needham, MA).

Town Counsel Christopher Heep noted the Chestnut and Lincoln Street parking lot was approved in 1998 and there have been several revisions since then. There is seasonal outdoor seating for the restaurants that abut the lot. The Town site plan special permit covers the entire lot and does not account for outdoor seating. He thought it was necessary to amend the special permit to allow the restaurants to conduct seasonal outdoor seating in some portions of the lot. He believes there will be no loss of parking spaces. He added no restaurant is applying for any seating plan approval as part of this application. This is just allowing others to come in to seek permission on an individual basis.

Mr. Alpert noted the following correspondence for the record: an email from Fire Chief Dennis Condon with comments; an email from Tara Gurge of the Health Department noting no comments at this time and a letter from Acting Town Engineer Thomas Ryder with no comments or objections. Mr. Alpert noted his understating is that Hearth Pizzeria is using space outside for seating that, pre-Covid, were parking spaces but on private property. Masala Art is also using pre-Covid parking spaces. The Planning Board has jurisdiction for Masala Art and Hearth Pizzeria but if another restaurateur moving into a building abutting the parking lot, it would be the Select Board, since this application is to allow the Select Board to have discretion to allow outdoor seating on any part of the parking lot. Mr. Jacobs asked if Mr. Heep, on behalf of the Town, would have any objection if the Board put a condition on there would be no loss of parking spaces. Mr. Heep stated he would have no objection. Ms. Newman noted, however, that the seating would be on areas that are shown on the previously-approved site plan as parking spaces. Mr. Heep noted the spaces in question have not been used as parking spaces since before Covid. He would like a little flexibility where a restaurant may want to use individual spaces. He noted each restaurant would have to apply for relief from conditions of its own special permit from the Planning Board.

Ms. Newman stated the goal is to amend the parking lot Special Permit so the Planning Board or Select Board could entertain an application to put outdoor seating on parking spaces through a process. A discussion ensued. Ms. McKnight noted that the Select Board, for any spaces for restaurants abutting the parking lot, can allow outdoor seating anywhere, but any restaurant with a special permit would need to come to the Planning Board. Mr. Heep stated the existing parking lot special permit covers the entire lot. He is only asking for spaces near the restaurants they are currently occupying. Ms. Newman noted, if the Board issues a permit for another restaurant and they decide 2 years later to get outdoor seating, it would go back to the Select Board. Mr. Jacobs commented the Board needs to be careful writing the draft decision. It would be hard to describe.

Mr. Alpert noted correspondence from Bernie Segaloff, of Segaloff's Jewelers, to Amy Haelsen, of the Town, forwarded to the Planning Board, with comments regarding concerns with losing parking spaces. He noted this amendment would allow for future applications that would have to be approved by the Planning Board or Select Board.

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

VOTED: to close the hearing.

Mr. Jacobs stated it needs to be clear in the decision the Town does not intend to give up any more parking spaces.

7:30 p.m. – Amendment to Major Project Site Plan Special Permit No. 2006-04: Sol Soul Family Foods LLC, c/o Ivan Millan-Pulecio, Chef/Owner, d/b/a Hearth Pizzeria, 59 Mount Vernon Avenue, Needham, MA 02492, Petitioner (Property located at 974 Great Plain Avenue, Needham, MA).

Ivan Millan-Pulecio, chef and owner, thanked the Board for allowing him to operate the patio last year. He would like to keep the patio. He noted it is not on any parking spots on the left side. There may be one on the right side. He has 33 seats outside, a service station, handwashing station and bathrooms just inside the back door. He would like to legalize the seating. Mr. Alpert noted the following correspondence for the record: an email from Fire Chief Dennis Condon with comment he is ok with allowing this year round; an email from Police Chief John Schlittler noting the police are ok with approved safety measures previously approved and keeping the jersey barriers in place; an email from Tara Gurge of the Health Department with no comments and a letter from Acting Town Engineer Thomas Ryder with comment that the applicant would need Select Board approval as well.

Mr. Block stated he is glad it was working before, and he is glad to continue it. He asked if it would be a certain percentage of the number of seats inside that would be allowed outside. Ms. Newman noted it would be 30% but they are amending the special permit for 3 conditions; (1) outdoor dining, (2) on an outdoor lot and (3) year-round. Mr. Block stated he is pleased to support the application. Mr. Jacobs noted a reference to the Town's existing easement. Ms. McKnight asked who owns the fee. Ms. Newman noted the fee is owned by the Simons. When the municipal lot was created it was done with private owners. The property lines run through the lot. The Town has rights to access the property. She will get a copy of the easement documents for the Board members.

Ms. McKnight understood the Town was the holder of the easement and someone else held the fee. Ms. Newman confirmed that is correct. Mr. Alpert asked if the dumpster will be moved. Mr. Millan-Pulecio stated there are 5 parking spaces and one is used for the dumpster. The dumpster has been moved but the enclosure is still there. He noted there are 2 CVS dumpsters behind the area where the patio is proposed. Mr. Jacobs asked if the Town has surrendered the right to allow Hearth to continue the patio. He wants to understand. Ms. Newman will pull out the easement documents for the Board members to review. Mr. Alpert stated initial approval was from the Select Board for outdoor seating. They will need to get copies of the easement agreement.

Ms. McKnight stated the application was not clear. It was said that the property owner is Simon but the owner's name is Copley Investments. Ms. Newman noted it is owned by the Simon Family. A motion was made to close the hearing and allow for easement information to be submitted post-hearing. Mr. Alpert commented the Board may want further discussion. The motion was withdrawn. A motion was made to continue the hearing. Mr. Millan-Pulecio stated the space he fixed to have the outdoor seating is behind the CVS dumpsters. It is not on any parking spaces. He noted the Farmhouse (restaurant) is taking the parking spaces.

Ms. Newman noted the next meeting will have to start at 7:00 p.m. She will have this on the agenda for 7:00 p.m. Ms. McKnight would like a copy of the parking lot plan and architectural drawings to be provided. Mr. Jacobs stated they may need to reopen the previous hearing re: the Town parking lot after this discussion. Artie Crocker stated nothing has been better for the community than the opening of outdoor seating. What would this mean in the future? This is a huge benefit for the community. Mr. Jacobs thanked Mr. Crocker for his comments. Ms. Espada stated she is also in support. She wants to make sure it is written correctly so the applicant does not have to come back in the future. Carolyn Day raised the point to remember the rat situation of a few years ago with the outside dining. She wants the Board of Health to stay on top of it.

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

VOTED: to continue the hearing to 2/1/22 at 7:00 p.m.

Appointment:

7:45 p.m. – George Guinta Jr.: Discussion of possible redevelopment at 888 Great Plain Avenue.

Mr. Alpert recused himself from this discussion. Mr. Block chaired the discussion. Mr. Block noted the Board received 27 emails and letters regarding this proposal. Other communications received last November are already in the record. Some are concerned they were not provided notice for tonight's agenda item. He explained sometimes the developer would ask for an appointment to get feedback on aspects of their proposal. This is not a public hearing and does not require notice. He noted when the developer comes with a plan there is a public hearing with notice. Comments are helpful and are part of the decision-making process.

George Giunta Jr., representative for the applicant, provided a set of plans to give the Board an idea of what the applicant is proposing. He noted this is an example of what might happen and is a starting point for discussion and not a final point. The property is zoned for single family residential in the middle of multiple zones with commercial on 2 sides and parking areas and a church. It does not make sense to be a single-family house. The applicant is requesting to extend the Center Business District. Some other zoning relief may be a better idea which is the reason for the discussion. He discussed the relief sought on the side yard setback. He prepared supplemental information that he shared with the Board. Currently there is a 50-foot setback requirement adjacent to the residential boundary. The Center Business District Overlay allows for underground parking up to 10 feet from the lot boundary. He is proposing to extend the Center Business District with relief from the 50-foot setback through a special permit process. To limit it to the Overlay District zoning as currently in place would make it difficult to develop the lot without some relief.

Mr. Giunta Jr. noted, even now if Center Business Zoning were to be extended, the first floor cannot be residential so they would need a 50-foot setback. They are asking for relief to get some flexibility. He would like feedback to help move it forward so there could be some reasonable development here. Mr. Block noted there is some misconception that may be affecting some people's understanding of the proposal. He asked if it is in a residential zone and the structure was a house but has been used as a garden center as a lawful pre-existing non-conforming use? He noted there is a desire to promote mixed-use. There are challenges and there is no curb cut between Dedham Avenue and Warren Street. Mr. Giunta Jr. stated the driveway may be the only curb cut on the block. Mr. Block stated that may be an issue. A ton of children go to Greene's Field and this is a walking path for many. This will be 24 residential units and 3 commercial units. There could be an intensive use coming out of the one curb cut. It could be problematic with people coming in and out of the pizza place and Abbott's Custard.

Mr. Block stated everyone needs to be cognizant of safety. He is not closed off to it as proposed, but he is not a fan of it. He would recommend that the building have access through the municipal lot and that be only vehicular access with pedestrian access in the front. He has strong concerns. He does not mind the concept of retail on the first floor with residential above. He is not sure he is comfortable with the density, though. The setback requirement is 50 feet. To go from 50 feet to 10 feet is a high bar to achieve. He is not comfortable with that change. He has a question with regard to height. He is using 35 feet and 3 stories as the appropriate standard. A number of homes in the area are at least that height. If the building were designed to look at least like a house, it may have an easier time. Smaller, shorter and access from Dedham Avenue or Warren Street may be better. He is not convinced this rezoning could go through Town Meeting. He is not sure, but it may be spot zoning. The applicant should think about extending the mixed-use District from Dedham Avenue to Warren Street.

Ms. McKnight noted Mr. Giunta Jr. is here to get responses. She noted that Mr. Block suggested the prior use was a lawful, pre-existing, non-conforming under the By-Law but she is not convinced. It was an agricultural use which is allowed in residential districts. Mr. Giunta Jr. noted the only relief sought would be on the side but she noted that the rear also abuts residential – wouldn't the project need relief on the back? Mr. Giunta Jr. stated the rear setback abuts the Center Business District and it borders residential only on the left side not the rear. He noted, with regards to spot zoning, this borders the Center Business District on 2 sides and this squares off the district.

Ms. Espada asked for clarification as to whether 3 sides would require a 50-foot setback now but the plan shows 15 feet, 20 feet and 20 feet. Mr. Giunta Jr. stated his understanding is this property was a single-family house and used for Hillcrest Gardens agricultural activity. After they began using the property, the town changed the zoning to require 2½ acres for agricultural use, making it non-conforming. Ms. McKnight noted a serious issue is the back alley having an entrance to underground parking. It would be tense whenever someone came out of the garage. There is no driver visibility until you are at the sidewalk. She would like to see a driveway back to a side or rear entrance to the underground parking, and suggested the developer look at 15-17 Oak Street that was recently built. She commented she would not like to see the entrance to the garage coming right out to the sidewalk. She noted the dimensional table mentions a 35-foot height and

with the overlay it can go to 37 feet. She asked if the developer would consider going up as an alternative if they do not get the 50-foot setback relief. Mr. Giunta Jr. stated they very well might but do not want to go too high.

Nicholas Landry, architect, stated they are trying to keep the building at a lower height to keep it in line with the commercial building next door but he can look at it. For the parking, there was talk about having the entrance coming off the parking lot but this was not looked at. A couple of parking spaces may be lost. Ms. McKnight asked if the number of spaces are what are required or are more being provided. Mr. Giunta Jr. stated 1½ spaces per unit would be 36 spaces. They wanted to get as much parking as possible but may need a waiver. They will know once they begin the plans.

Ms. McKnight noted the Housing Plan Working Group is looking at this area. Retail is having a hard time. She asked if stand-alone multi-family housing should be talked about. Is it economically feasible? Does mixed-use add economic value? Jay Derenzo, applicant, stated there definitely needs to be a commercial component to make it economically feasible. The Board discussed if it made sense to require 1½ parking spaces for multi-family housing that is transit oriented, how many units will be affordable, and curb cuts. Mr. Giunta Jr. noted the existing curb cut is at the driveway. The proposed curb cut has been shifted slightly to the other side to shift it away from Pickering Street.

Ms. Espada noted the Church adjacent to the property seems to be over the property line. She asked if that was an easement. Mr. Giunta Jr. noted the Assessor's map shows it really close but he is not sure it is accurate. Mr. Landry got the plan off the internet. It is not a survey. It could be an error and should be set farther over. Ms. Espada stated she had similar concerns to Ms. McKnight. She has a concern with traffic going directly out of the property and this should be taken into consideration. Mr. Block noted more green space would be able to be created. Mr. Giunta Jr. noted they looked at doing something in the back early on. The tail piece abutting the property is owned by the same owner as 60 Dedham Avenue. Something would have to be worked out with them, but the rest of the parking lot is owned by the Town. They would need to work something out with the Town, get Town Meeting approval and would need to reconfigure the parking lot. Mr. Block noted the project would need to go to Town Meeting anyway.

Mr. Jacobs informed the applicant he would not be on the Board in April. He thinks the driveway from Great Plain Avenue across the sidewalk to the underground parking is problematic. They should try to access the underground parking from the rear or a new drive from Great Plain Avenue going down the side. He views this site as an anomaly to be zoned single residence but is a transitional lot. It should be viewed differently. This needs to be setback from the street line more than zero and needs a lot more greenery. He likes the idea of maybe reducing the parking requirement from 1½ to 1 space per unit. He asked if 3 commercial spaces on the ground floor were really needed to make it work economically. He is not sure he is willing to accept more stand-alone multi-family.

Ms. McKnight agreed with Mr. Jacobs on not using a zero setback. The visibility from the driveway will be better with a front setback, and it would not be disharmonious with the area. Mr. Derenzo stated he would like to have another working meeting with the Planning Board. He will go back to the original plans.

Mr. Alpert rejoined the meeting as Chairman.

Minutes

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

VOTED: to accept the minutes of 9/21/21 Planning Board meeting as redlined.

Report from Planning Director and Board members.

Ms. Newman reviewed upcoming meetings. The Housing Plan Working Group is having a meeting on 1/27/22. There will be a community wide meeting to discuss the status of affordable housing in Needham and the housing patterns. It will let the residents give ideas on what they see as problems. She would encourage all Planning Board members to participate. Ms. Espada encouraged community members to attend. It is a listening session. They want to get input at the beginning of the process. Ms. McKnight commented the Housing Plan Working Group thought to send out a survey but decided against it at this time, as it was too complicated and too early. They thought it would be a benefit to first get thoughts and ideas from community members. Mr. Block stated he has access to MLS and can get any information or data needed for the last

5 to 8 years. Ms. McKnight suggested he communicate directly with Community Housing Specialist Karen Sunnarborg. Ms. Sunnarborg has put together a lot of data and he may be able to assist her with additional information.

Ms. Newman reminded the Board there will be a Chair/Vice-Chair meeting with the Finance Committee on 2/2/22. She had a meeting with the Finance Committee and thinks it went well. She noted she is working with Latina Restaurant. The restaurant wants to retain the outdoor seating installed during Covid. She is having an issue as the seating is located on the right of way that services the building they are in and the multi-family dwelling next door. The applicant is having trouble getting a formal license agreement to allow them to keep the seating out there permanently. The owner was able to get a letter from the property owner next door acknowledging the use and stating he has no issue with the use and its continuation. She was hoping the Board would accept that rather than a formalized license agreement to allow the use to continue on a more permanent basis.

Ms. Newman thinks it is a good use and would like the Board to allow the use to remain in place after 4/1/22 when the Covid protections expire. She noted a lot of restaurants want to make the arrangement permanent. Mr. Alpert was confused who owns the land. Ms. Newman noted it is a private right of way. Both Brookline Development Corporation and Mr. Fuhrman, who owns 50 Dedham Avenue, have an easement over it to allow access to the rest of the property. She has a letter from the owner of 50 Dedham Avenue stating he is ok with it. The dumpster in back can be accessed coming through the other area. She asked if Mr. Fuhrman's letter is sufficient to formalize the seating? Mr. Jacobs commented the Board needs to recognize the two owners could end this accommodation at any time. Mr. Alpert stated the letter had conditions that he wants to exist. He asked if there were special permits on these 2 parcels that need to be defined to allow this use.

Ms. Newman stated Latina would come in front of the Board and ask they be allowed to keep this. The Board would need to allow Latina to accept deliveries off Great Plain Avenue so that Latina can comply with the conditions set forth in the letter from Mr. Fuhrman. The issue of where it is located has been the impediment, but the abutter has now said he would allow it to go forward. Ms. McKnight is all in favor of going ahead using the letter as authorization. Usually, the Board would want to see a formal license agreement, but they are not going to require it in this case. She noted the Select Board is very supportive of outdoor dining. Ms. Espada feels the Board should have Town Counsel look at these to make sure they are ok. Ms. McKnight feels seeking the opinion of Town Counsel would be perceived as being difficult. Ms. Newman agreed. Restaurants are relying on outdoor dining to maintain their business. The Town needs to be supportive of these restaurants. Mr. Alpert noted the Board needs to recognize the fact permission needs to be granted by 50 Dedham Avenue. Granting permission does not negate the applicant needing permission from 50 Dedham Avenue.

Mr. Block feels the issue was more about deliveries coming through the driveway instead of from Great Plain Avenue. This would solve that issue and make it better. Mr. Alpert feels the language should be clear that no rights are being taken away from 50 Dedham Avenue. A discussion ensued. Mr. Jacobs noted the Board talked about a policy of non-enforcement when this started 2 years ago. The Board is trying to make it happen quickly to allow people to do the outdoor seating. Ms. Newman noted outdoor seating has only been effective during the time of the Governor's order and will expire once the Governor's order expires. There would be a minor modification for 50 Dedham Avenue. Ms. Newman understands the next steps.

Correspondence

Mr. Alpert noted a notice of a zoning public hearing from Wellesley's Planning Board. Ms. McKnight stated some interesting zoning changes to Wellesley and Westwood. She would like to know more. Ms. Newman will get copies and reach out to the Planners of those towns. Mr. Alpert noted an email from Elizabeth Kaponya, Precinct J, expressing concerns as to a medical clinic proposed where Panera Bread is.

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

VOTED: that the Planning Board enter into executive session under M.G.L. c 30A, S 21(a)(7), for the purposes of complying with M.G.L. c.30A, S 22, to review and approve the minutes of the executive session held on November 8, 2021 and that the Board not return to open session at the conclusion of the executive session.

Executive session purpose 7: Approve minutes of executive session held November 8, 2021.

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

VOTED: to approve the minutes of the 11/8/21 executive session.

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

VOTED: to adjourn the meeting at 10:15 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Adam Block, Vice-Chairman and Clerk