

## NEEDHAM PLANNING BOARD MINUTES

February 4, 2014

The regular meeting of the Planning Board held in the Great Plain Room, Needham Town Hall was called to order by Bruce Eisenhut, Chairman, on Tuesday, February 4, 2014 at 7:00 p.m. with Messrs. Warner and Jacobs and Mss. McKnight and Grimes as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

### Correspondence

Ms. Newman noted she received a letter from Needham Bank regarding a temporary certificate of occupancy and a public hearing notice from Wellesley. Needham Bank is requesting she act quickly. They would like her to act outside of a meeting and give a temporary occupancy permit. The plaza will need to be bonded. There is additional stone wall work to be done and the landscaping is not done.

Upon a motion made by Mr. Jacobs, and seconded by Ms. Grimes, it was by the five members present unanimously:

VOTED: to authorize the Planning Director to issue a temporary Certificate of Occupancy outside of a meeting.

### Request to review, approve and endorse revised plans: Major Project Site Plan Review No. 2013-03: Town of Needham Permanent Public Buildings Committee, Petitioner (Property located at 20 Saint Mary Street, Needham, MA).

Stephen Rafferty, of CDM Smith, stated the 11/26/13 decision had a number of conditions. They have done things to comply, changed the drawings and recorded them at the registry of deeds. They reached out to the interested parties. They sent a mailing out and had a meeting in December. He noted some abutters showed up. They made some revisions to the landscaping and did the handicap sign. Abutters requested a 6 foot high cedar fence around the generator. The generator is too high so they put a 12 foot high fence. He noted they have accommodated the abutters with a realignment of the back driveway and they redid the corner to follow the lines up.

Mr. Rafferty stated they shifted the retention basin a little. It is the same volume. The road alignment is a little different. He noted the landscape plant list with the types and numbers has changed. Arborvitae grows quickly and will be planted as soon as possible. They did not change the rain garden. He noted they have split the lighting circuit up into 2 different circuits and they will set a timer. They have shifted the roadway and lighting a little. There will be window treatments and mullions. They will meet with the neighbors for door colors and window colors. Mr. Eisenhut asked if there is a change in the garage doors. Mr. Rafferty noted there is no change. No one can see the doors so they do not think there will be an issue. They have added information about the emergency generator and acoustics.

Mr. Jacobs noted the minutes of the December 3 neighborhood meeting. He stated the minutes show a letter will get mailed to all abutters regarding the status and they will get regular updates. He requested they send a copy of the letter to Ms. Newman. Phaldie Taliep, Project Manager, stated he will be on site and will give regular updates.

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

VOTED: to allow the Planning Director to approve and endorse the plans and send them to the Building Inspector for the issuance of a building permit upon receipt by Engineering of the final sign off of the revised drawings.

Mr. Warner stated he is opposed. He does not feel the town is behaving well. The meter operation is still there and the building is too large.

### **Report from the Planning Director.**

Ms. Newman stated she got an update from the Town Manager on the due date of the articles. They are due 2/21/14. She would like to suggest meeting early in the morning to discuss this item. After discussion it was decided to have a meeting 2/11/14 at 7:00 p.m.

Upon a motion made by Mr. Jacobs, and seconded by Ms. Grimes, it was by the five members present unanimously:

VOTED: to adjourn at 7:17 p.m. to reconvene at 7:30 p.m. at Powers Hall.

The regular meeting of the Planning Board reconvened in Powers Hall, Needham Town Hall and was called to order by Bruce Eisenhut, Chairman, on Tuesday, February 4, 2014 at 7:30 p.m. with Messrs. Warner and Jacobs and Mss. McKnight and Grimes as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

### **Public Hearing**

#### **7:30 p.m. – Article 1:PB Amend Zoning By-Law – Medical Marijuana Overlay District**

#### **Article 2:PB Amend Zoning By-Law – Map Change to Medical Marijuana Overlay District**

#### **Article 3:PB Amend Zoning By-Law – Interim Regulations for Medical Marijuana Uses**

Mr. Eisenhut noted for the record all 5 members are present.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the five members present unanimously:

VOTED: to waive the reading of the public hearing notice.

Mr. Eisenhut explained the public hearing procedure. He noted the Planning Director will explain the history and describe the Department of Public Health regulations. Ms. McKnight will then describe what the Planning Board is proposing as it applies to Needham. He noted they heard the Selectmen's hearing and received volumes of materials from the Planning Director and other sources that they have reviewed. They have looked at what other towns have done and had several meetings where the issue has been discussed.

Ms. Newman noted in November 2012, Massachusetts passed the law to allow medical marijuana. In January 2013 Needham proposed a moratorium which was adopted in May 2013. In December 2013 they put together a zoning proposal. Ms. Newman explained the purpose of the regulations and what a medical marijuana dispensary is. She noted they are not for profit and must be registered with the Department of Public Health (DPH). She explained who could get medical marijuana and how they operate. She noted Massachusetts has provided for hardship cultivation.

Ms. Newman noted sales are limited to a 60-day supply and up to 10 ounces. Medical Marijuana dispensaries are regional facilities and will serve multiple communities. She explained what a Registered Marijuana Dispensary would look like with security and signage. She also reviewed the approval process. Ms. Newman noted last Friday 20 dispensaries were approved. None were approved at this time in Needham. She added the town's authorities cannot ban this. She noted many towns have moratoriums.

Ms. McKnight stated there is no use for this listed in the Zoning By-Laws now. The Planning Board needed to adopt a definition first to put in the Table of Use regulations. She noted the definition is consistent with the Department of Public Health definition. Then they needed to define what parts of the town dispensaries will be

allowed in. They need to define the district. She stated they can add a medical marijuana overlay. This enables them to allow it in only a portion of a district rather than the whole district.

Ms. McKnight stated they created a Medical Marijuana Overlay District which will be Section 3.14 in the By-Law. She noted they need access to regional roadways and public transportation and it needs to be readily monitored. It will be allowed only by a Special Permit application and must be in a permanent building. All sales will be within the building. The Special Permit will not be transferable. She noted the Planning Board will determine the appropriate parking. The applicant is required to submit a traffic study and one loading bay should be provided.

Ms. McKnight noted state regulations are very strict on loading and security. Signage must be approved. There will be a 500 foot radius of special concern around schools, day care centers and where children commonly congregate. She discussed the districts and noted they are looking at areas already buffered from residential and with good access to roads.

Ms. McKnight stated they are looking at the area by Muzi Ford. Also, there are 2 small industrial zones toward Newton, the Mixed Use 128 area that does not include frontage along Highland Avenue, a portion of the Highland Commercial-128 area, and the Chestnut Street area. She noted part of the Highland Commercial-128 District at the Newton end has some residences and was left out. The Chestnut Street area, where the hospital and medical offices are located is accessible by public transit, both train and bus. They are staying away from residential areas except where already buffered on the westerly side of the railroad tracks. The tracks are a good buffer. She added dispensaries must be properly registered by the state.

Ms. McKnight reviewed the application requirements. The Planning Board will have Special Permit criteria. She noted the current interim zoning regulations expire 3/1/14.

Mr. Eisenhut noted the following correspondence for the record: an email from Susan Smolin, dated 2/4/14; 2 emails from Jennifer Cohen, dated 2/4/14 and 12/3/13; a letter from Chief of Police Philip Droney, dated 1/30/14; 2 emails from Stefanie Lipton, dated 1/31/14 and 12/3/13; a letter from Devra Bailin, Director of Economic Development, dated 1/13/14; an email from Carol Oberle, dated 1/20/14; and an email from Jane Lischewski, dated 12/3/13. Mr. Eisenhut then explained the Special Permit process.

Dan Matthews, of the Board of Selectmen, summarized the Selectmen's position. He stated they would like to see a By-Law focus on the Wexford Street area (Mixed Use 128 District) including the northwest side of Highland Avenue where Hess and Staples are but not the other side. He stated there are no applicants approved by DPH in Needham currently so that allows them to take a step back and look at the issue. The state sees them as regional facilities with no more than 2 in each county.

Mr. Matthews stated the Mixed Use 128 District is the best location. The police feel it is a good location. He stated the Board of Selectmen are opposed to Chestnut Street being included. They also feel Central Avenue/Reservoir Street is an inappropriate area with limited access to transportation and public safety. He noted this will evolve over a longer period of time. He feels they need a cautious approach at this time and they could revisit it at a future time.

Mr. Jacobs commented the Board of Selectmen originally included in its prior recommendation the Gould Street area and the northwest area of Mixed Use 128.

Police Lt. Chris Baker stated the Mixed Use 128 is the best option for residents and people with chronic health issues. It has easier access with 2 roads of access. It offers a level of privacy and youth will have limited access. He noted home delivery is offered. They feel the Mixed Use 128 District has the most access options.

Lt. Baker stated he is not in favor of Chestnut Street being included. It is heavily congested and the youth congregate and work in some of the area. There is very limited parking on Chestnut Street. He stated he is not trying to prevent people from getting medical marijuana but they want it in an appropriate location. They do not

know the consequences of putting it in Chestnut Street yet. Mr. Jacobs asked if he had any comments on Gould Street. Lt. Baker stated there are several play fields in that area with a lot of use by children. He added Reservoir Street only has one way of access.

Mimi Stamer, Director of School Health Services at the Needham Public Schools, noted the Superintendent had a School Committee meeting and could not be there. She stated she agrees with the police. Chestnut Street is close to 2 schools and is frequented by school age children. It is important that the Needham community considers the safety of the children. She feels it would be a tragic mistake to allow a dispensary on Chestnut Street by McDonald's.

Mr. Jacobs stated it must be a secure site not identified by signage. No one under 21 can get in and this is required by regulations. He asked what her concerns are. Ms. Stamer stated studies are ongoing. Some reports suggest High School age students are accessing a supply from someone else's prescription. There is a market for resale. They are trying to reduce youth access. She stated there is also the risk of a cash only business and the criminal activity potential due to medical marijuana. This is being studied in other states.

Lt. Baker stated it will be highly publicized if opened on Chestnut Street. High School students are very savvy. Mr. Jacobs asked if there were concerns with enforcement by the state. Lt. Baker stated yes. He noted despite the best efforts of the state to have comprehensive laws, unfortunately, there is a lot of room for abuse. Ms. Grimes asked if the police are concerned these are mostly cash businesses. Lt. Baker stated they cannot do anything about the fact they are a cash business. He stated the fact that they may potentially have armed guards does concern them. They do not know what kind of training they will have.

Penny Kirk, stated she is a Needham resident and works for the Housing Authority but is not here as a representative of the Housing Authority; she is here as a citizen. She is also on the Coalition for the Prevention of Drug Abuse. She stated customers will get 10 ounces at \$350 per ounce. That is 600 to 1,000 joints. With 50 customers per day that will be \$175,000 cash per day.

Mr. Eisenhut noted a letter submitted from the Rockets Against Destructive Decisions, dated 12/10/13. Annie Barringer, a junior at Needham High School, stated she is part of the Rockets Against Destructive Decisions. They are interested in discussing wellness with the younger students. They do not feel a dispensary should be on Chestnut Street. It is close to the High Rock School and day care centers. She noted the middle school students congregate there. It is an only-cash business. They would not like kids to feel unsafe in the center of town. They want it down at 128 away from the town center. Mr. Warner stated there is no dispensary in town yet there is a fair amount of marijuana use in town. Ms. Barringer stated there are a lot of fake IDs and kids have dealers. She stated it is a big problem

Edward Cosgrove, a Town Meeting Member, stated he has concerns with Chestnut Street already that he has expressed. He stated only 5% of permit holders have cancer. He asked if they had any input from the hospital regarding having it near them. Mr. Jacobs requested Mr. Cosgrove give them a copy of the study he was referring to. Ms. McKnight stated Mr. Cosgrove asked if there is any input from the hospital. Her memory is they have no information from the hospital. Ms. Newman clarified there are no comments. Mr. Cosgrove asked if they would be soliciting input. Mr. Eisenhut stated he will have the Planning Director ask.

Robert Timmerman, a resident, stated he supports the Police Chief and the Board of Selectmen. The reasonable place is the Mixed Use 128 District. There are multiple access points. He noted there is a very active recreational facility at Mills Field. He suggested they modify the proposed zoning to the Mixed Use 128 District. Mr. Eisenhut noted a letter from the Needham Coalition for Youth Substance Abuse Prevention Leadership Team.

Eliot Jakowski, a physician and resident, asked if there was any methodology for estimating use or demand and could the demand be met by the facility in Newton. He has a concern with the presence of a dispensary in town. He stated health providers have no experience writing prescriptions for this form of marijuana. There are no guidelines. This creates a risk for providers with medical licenses to serve perceived needs.

Lauren Hinchell, owner of the Chestnut Street Children's Center at 165-167 Chestnut Street, stated she has a concern as a mother and business owner. She has 200 children per day. She could lose clients with a dispensary next door. She feels this will adversely affect her business. She stated they have done a good job revitalizing downtown but with a loading dock and armed guards and 24 hour security this is not good downtown business. She added congestion on Chestnut Street is a problem. She is directly across from the hospital. She stated there are at least 3 other day care centers near her plus the YMCA.

Stephen Epstein, a member of the Board of Health and a Town Meeting member, stated, as a Board of Health member, they have had some discussions but no formal vote. He noted a study in the New York Times 2 days ago. He stated kids do get access to marijuana, make no mistake about it. He stated, as a resident, his concern that his wife is an orthodontist in the Chestnut Street area as well as three other orthodontists. He stated a lot of patients walk to this orthodontic business and he has a concern regarding effects on these businesses.

Mr. Warner stated a lot of teens are using illegal marijuana in Needham. He cannot connect the dots between what is going on in the High School and peoples' fears about a dispensary. He commented if he were a teen and he were doing something illegal, he would rather be down at Wexford Street than up town. Mr. Epstein stated he does not think anyone has done a study in Massachusetts but, as a doctor in an emergency room, he has seen kids intoxicated by marijuana. He feels it is only a matter of time before there is an accident.

Ms. McKnight noted she spoke about hardship licenses. She clarified the state allows qualified patients to grow marijuana in their own homes. She stated people want to restrict access but her concern is if they restrict access people will be able to get hardship cultivation permits. They need to be careful on saying that our goal is to restrict access in Needham.

Mr. Epstein stated he feels, given the physical size of the county, it is quite unlikely that having 1 or 2 miles difference is going to allow the Department of Public Health to certify that someone has a hardship due to a location. There will be severe regulations for anyone who is home growing. He noted disposal is a big concern and these need to be in locked facilities. There are environmental concerns with anyone who is home growing. He stated they should consider an inspection process for anyone who does get a hardship.

Mike Galatis, a resident, stated he wants to speak to the accessibility and turn-around. He stated in his experience he used a lot of pain killers and marijuana. He got most of his pills from someone who got medical pain killers by prescription. He stated turn-around and accessibility happen. This has a high potential on Chestnut Street. He commented that when he was younger he was one of the kids looking for trouble and he was always on Chestnut Street and not down in the Industrial area.

Sam Graves, of Warren Street, stated it is 2.3 miles from Beth Israel Deaconess to Wexford Street – a 6 minute drive. He stated even a person who really needs this can get to Wexford Street.

Greg Igo, of Stone Road, stated he echoes all the points made. There are a lot of people on Chestnut Street and he feels that is the wrong place to do it. It is best suited in the Industrial area. They should keep it where the kids are not. He commented they should listen to the constituency here.

Robert Smart, Precinct G, stated this is a highly regulated facility. There is no signage and no indication on the outside. He is having some difficulty understanding the concerns with safety and the stigma. He stated he does not care one way or the other but feels they need to keep all options on the table and let Town Meeting decide.

Jane Fogg, a Town Meeting Member and a physician, stated they have spent a fair amount of time studying this. Training will be provided to physicians. She stated it is a very narrow window of use. She does not feel many doctors will be prescribing medical marijuana. She does not see a necessity for the dispensary to be near a medical use. She added the doctors must take a course to get certified.

Olof Ingave, of Weston, stated New England Wellspring applied for a license. The Selectmen did not write an approval or a non-approval letter. They have patients who would be able to get a hardship license if there is not

accessible dispensary. He would like them to expand the locations and noted there is a lot of misinformation here. He would like the Board to look at the map he submitted with the buffer zones. Mr. Eisenhut asked that he explain his comment about misinformation. Dr. Stefanie Lipton of New England Wellspring said she could explain.

Dr. Stefanie Lipton, President and CEO of New England Wellspring, stated they applied for but did not get a provisional license for Needham. She noted there is a lot of inaccurate information here tonight. She stated it is not primarily a cash business. She stated she is primarily a credit card business. They were going to be a 100% delivery service to all of Massachusetts. She noted Massachusetts regulations state they can offer delivery. A dispensary in Newton could decide to only deliver in Newton. She noted it would most likely be up to the patient to have delivery or not. She does not think they should restrict dispensaries to the industrial area. A lot of the patients are disabled women that would have to go to the industrial area. It is incredibly remote. She stated if in fact people are going to be paying cash why have them going to a remote area. It does not make sense.

Dr. Lipton stated the focus should be on the patients. This is a medication for people who this is a last resort for them. Massachusetts voted for this. She feels it is disgraceful to treat it as a duty and disgusting. These are the most vulnerable citizens. It is not fair to put it in a remote area.

Ms. McKnight noted that the Police Chief stated these places typically have armed guards. Dr. Lipton stated she has no idea where they got that idea. It is another myth. There are no armed guards. She has security guards but they are not armed. People need 2 forms of ID, a state registration card for marijuana and a photo ID to get in the door. There is more security than CVS.

Dr. Lipton stated she is concerned with divergence to adolescence. She stated if there are no dispensaries in Needham, there will be more people applying for hardship registrations for home growing. This would be a lot of odor for the neighbors and there would be no security. It would be far easier for kids to get it in the homes. She feels a dispensary would secure it and regulate it. She stated kids are getting it from people who grow it in their homes and not from patients. Ms. Grimes asked Dr. Lipton if she lived in Needham. Dr. Lipton stated she lives in Weston.

Mr. Eisenhut stated they have been told marijuana is readily available on the street. He noted it is more expensive at the dispensary than on the streets. Dr. Lipton stated they will not know the costs until the dispensaries are up and running. She noted the less dispensaries the higher the costs and the more dispensaries the lower the costs. She stated she would rather have it controlled in a dispensary. She stated Highland Commercial 128 is the ideal location and she does not know why the Board of Selectmen would not allow it there.

Ms. Grimes stated the reason she asked where Dr. Lipton lived was, as a newly elected member of the Planning Board, she wanted to know what the constituents of her community who elected her to this position thought. She feels it is important to know who is speaking and if they are a constituent who put her in this office. Mr. Jacobs asked if Dr. Lipton has any sense of what will happen in 2014 with regard to additional facilities. Dr. Lipton stated no one knows. They were surprised the State Department of Public Health (DPH) only issued 20 licenses.

Selectman Matthews stated the Selectmen want qualified patients to have access under the law. The issue of hardship cultivation is important to the Selectmen. They want to minimize problems associated with hardship cultivation as much as they can. The proposed Newton and Brookline facilities are regional; Newton will be doing deliveries, they are not sure about Brookline yet. Massachusetts has done more than many other states to make sure that there are reasonable controls and regulations; but it is a new field and problems are possible, and if the Town doesn't need to use a sensitive area, then it would be better not to. He stated it is important to reach a decision and get zoning in place, which he noted would take a 2/3 vote at Town Meeting. He disagrees with the characterization of the Mixed Use 128 area as an industrial wasteland. He stated it seems that the process (which is subject to change) is that the Town knows that an applicant is applying in Town, but the Town does not find out where the exact location is until very late in the process. It takes a tremendous amount of work and capital to submit an application to the State DPH. It would make sense to have at the beginning a location that the Town has

identified as a reasonable area of Town to locate a facility. Then potential applicants would know that that's in place before they start down the long application process

Ann Keegan, of Nehoiden Street, stated she is the head of Health Education at the Norwood Schools. She feels it is a dirty, disgusting, seedy business. She stated drug and alcohol abuse numbers are heading in a good direction in this town. She noted they open the door for access if they put it at Chestnut Street. She feels the more remote the better. She wants to close the door to access and does not want this in downtown.

Mr. Jacobs stated 128 is not accessible by public transportation. It is accessible by auto. Mr. Eisenhut thanked the public and noted this meeting was very helpful. He stated if anyone wanted to submit anything to the Planning Board they would accept written comments for the next 2 weeks.

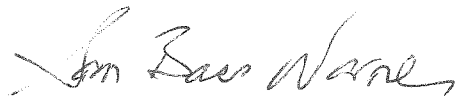
Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the five members present unanimously:

VOTED: to close the hearing but keep it open for the purpose of getting written comments in the next two weeks.

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

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

Respectfully submitted,  
Donna J. Kalinowski, Notetaker



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Sam Bass Warner, Vice-Chairman and Clerk