

NEEDHAM PLANNING BOARD MINUTES

July 8, 2014

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building was called to order by Martin Jacobs, Chairman, on Tuesday, July 8, 2014 at 7:30 p.m. with Mr. Warner and Eisenhut and Mss. McKnight and Grimes as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

7:30 p.m. Amendment to Major Project Site Plan Special Permit No. 1991-3: North Hill Needham, Inc. (formerly known as Living Care Villages of Massachusetts, Inc.), 865 Central Avenue, Needham MA 02492, Petitioner (Property located at 865 Central Avenue, Needham, MA).

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

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

Roy Cramer, representative for the applicant, reviewed the changes. He stated they were the typical type of changes that arise during construction. There is a 45-unit wing that was proposed to be constructed and has been redesigned. It is the same size. There are different materials but the same number of units. They have increased the parking spaces and need less of a waiver. He noted all the new spaces comply. Six of the old spaces are not long enough and they were granted a waiver. There is no changing those spaces so they still need the waiver.

Christopher Nowak, of VHB, submitted a memo, dated 5/28/14, that reviews the changes. The new 45 Independent Living residences have changed with a new geometry; some parking spaces have been relocated further away from the building; they have added a piece of connection in a different phase; the walkway behind Farley Connector is being reconstructed; the walkway behind the enhanced independent living facility is being added; there is an asphalt path being added from the rear of the enhanced living to the skilled facility; an architectural element has been removed; a patio behind the skilled facility is being revised and there are other minor revisions and grading changes. There is a patio near the skilled nursing loading area, and utility changes in the layout for a trash compactor. There are also minor revisions to the memory garden area; a walkway to the maintenance building has been shifted a little at the towns request; they have revised a sidewalk location; the crosswalk at Central Avenue has been shifted slightly; and there is an alternate to the storm water area.

Joe Carroll, of DiMella Shaffer Architects, noted they have segmented the building and connected it back in. They have moved it slightly off the original footprint. They have split the garage in two and the entrance to the upper level garage is through Building A. This saved excavation trouble. He noted it is the same 45 unit design. They have created a new entry rather than try to wrap this building around. They need to get this building occupied and get people using this front door before they close down the old entry, which is why there are 2 phases. He stated they will go with a brick scheme that matches the existing building. They have created a second entrance with a nice lobby for ease of access.

Mr. Jacobs noted the following correspondence for the record: an email, dated 6/25/14, from Fire Chief Paul Buckley with no objections; an email, dated 6/19/14, from Donna Carmichael of the Board of Health, with no comments; a letter, dated 7/3/14, from Town Engineer Anthony DelGaizo with no comments or objections; an email, dated 7/7/14, from Police Lt. John Kraemer; a copy of the 2013 decision and a draft decision.

Mr. Warner asked what makes the garden a memory garden. Mr. Carroll stated it is for the lower units specifically, which is designed for memory loss people. There is a secure circle. Ms. McKnight asked if the marketing for this new building with balconies is pretty much the same as the rest of the development or it is geared more to be a premium location? Kevin Burke, of North Hill, stated the old building has balconies also on the back. He noted the normal square footage is larger. He stated they do not have enough of the larger units to satisfy the demand.

Ms. McKnight asked how big the units were. She was informed they ranged from 850 square feet to 1,900 square feet. She noted the concept is that this building is part of the rest and she likes that concept. She asked who the parking underneath was for and was informed it was for everyone. There is parking under the existing garage. Mr. Burke noted the current under building parking is all sold.

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

VOTED: to close the hearing.

Mr. Jacobs noted the draft decision and asked if the applicant was ok with it. Mr. Cramer noted mostly but there were a couple of issues. On page 10, Section 1.11, they want the right to change the floor plan without further approval as long as the number of units or square footage does not change. They did not specifically include the 45 enhanced units. They would like to add that as a separate sub paragraph in Section 1.11. On page 12, a paragraph was dropped from all prior decisions. They want recognized the ongoing work done is not part of the project and would like the paragraph put back in. Ms. Newman noted that was no problem.

Mr. Cramer noted on page 24, Section 4.7, he suggests 7/8/16 rather than 3/19/15 with the first decision. They will not be done by 3/19/15. On page 7, Section III (d), it is really now 3 phases. There are 2 for the connector and one for the building itself. Page 14, Section 1.23, second paragraph, the end of Phase IV has 479 spaces but it is really 506 spaces. On page 15, Section 1.26, second paragraph, the number of spaces is 479 but should be 506.

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

VOTED: to grant a Major Project Site Plan Special Permit amendment for North Hill Needham, Inc. as set forth in the draft decision that we discussed with a proviso that all edits discussed will be incorporated.

8:00 p.m. – Major Project Site Plan Special Permit No. 2014-06: New Garden, Inc., 250 Chestnut Street, Needham, MA, Petitioner (Property located at 40 Chestnut Place, Needham, MA 02492). Please note: This hearing has been continued from the June 24, 2014 meeting of the Planning Board.

Ms. Newman noted this needs to be continued. She has revised drawings but they did not make all the changes.

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

VOTED: to continue the hearing to 8/6/14 at 8:00 p.m.

Discussion Regarding Permit Compliance and Request for Temporary Occupancy Permit: Amendment to Major Project Site Plan Review No. 2007-10: Beth Israel Deaconess Hospital Needham, 148 Chestnut Street, Needham, MA and Beth Israel Deaconess Medical Center, Inc., 330 Brookline Avenue, Boston, MA, Petitioners (Property located at 148 Chestnut Street, 86 School Street and 92 School Street, Needham, MA).

Roy Cramer, representative for the applicant, gave an update. They have finished with the construction of the building. Beth Israel is ready for the Certificate of Occupancy as soon as the Planning Board process is done. The landscaping is done in accordance to the decision and they have filed the As Built plans. He noted he talked to Tom Ryder yesterday. Ms. Newman stated she was unable to get this done.

Mr. Cramer stated there was one issue that came up. They proposed a package for Lincoln Street last time, they discussed it and approved. The hospital heard from the neighbors that there was one component they were not happy about -- the vegetation in front of the oxygen tanks. There is high vegetation and low shrubs along Lincoln Street. The neighbors do not like how it looks driving down Lincoln Street. They had a meeting last Wednesday with Planning Director Lee Newman, Town Engineer Anthony DelGaizo, Dennis Monty and the abutters. The hospital has proposed additional plantings.

Dennis Monty, of Beth Israel Deaconess Medical Center, stated they have proposed adding trees along Lincoln Street and create an L shaped barrier with 7 additional trees. He stated there is not much they can do with the driveway opening. They have agreed to plant a bush in front of each air conditioning unit. All plantings have been ordered and should be completed by the end of next week if they can get the materials. They will meet in 3 weeks with the neighbors.

Mr. Cramer stated they need a temporary Certificate of Occupancy. They are under pressure to get open. They appreciate the abutters concerns. They have offered to do certain things but need to move ahead. Mr. Jacobs asked if the things they are offering are what the neighbors have asked for. Mr. Monty stated the neighbors wanted a 10 foot brick wall. Another wanted them to put trees the entire way down but none of that will stop the view as you approach the driveway. They have come to some agreement. They made the streetscape much better than it was and have spent \$100,000 so far. He stated this is a great asset to the community. They cannot get started with approval from the state until the Certificate of Occupancy is issued.

Mr. Cramer stated he would like the Board to delegate authority to the Planning Director to review and approve things between meetings. He sees no compelling reason, as long as the Town Engineer says everything is done, why they would not get a permanent Certificate of Occupancy and they can continue working on the landscaping.

Ms. Newman stated they can authorize the Planning Director to authorize a temporary certificate once she is satisfied and, if an off-street bond is necessary, she gets the surety. Mr. Cramer stated they do not want to be in a holding pattern because the neighbors are not happy. Mr. Eisenhut asked if they are looking for 60 days or 90 days. Mr. Cramer stated they would like more time rather than less. Mr. Eisenhut clarified it would be a temporary for 90 days.

Mr. Jacobs noted the following correspondence for the record: an email dated 6/11/14 from Joy Smith with comments; an email dated 6/12/14 from Carol McCarthy with comments; an email dated 6/18/14 from Jegoo Lee with comments and an email dated 6/28/14 from James Murphy. Mr. Jacobs commented he has been up and down Lincoln Street and he understands the issue.

James Heroux, of Brown Sardina, showed the landscape drawing and explained. He noted all trees are 12 to 14 feet tall with a 5 inch girth. Holly hedge will be planted for the air conditioning vents. Mr. Jacobs asked where the access to the oxygen tanks by the delivery trucks would be. Mr. Heroux stated the trucks have to back in onto the concrete pad next to the fenced area. There will be a chain link fence for alternate emergency access with an 8 foot fence with wire on the top of it.

Mr. Jacobs suggested they could leave open the alternate access fence but screen above by 7 or 8 feet. It is the height of the tanks that is the issue. Mr. Heroux stated the tanks need to have sun going to them to keep the ice off. They need to be cautious about creating walls around this. Mr. Jacobs suggested if the fence went to 11 or 12 feet and they put some kind of green tarp or something to block the view that may work. He asked if the structure of the fence was ok for more height. Mr. Heroux stated they could plant some plants in wine barrels between the bollards. He noted they had talked about that. He has a concern with adding more to the fence.

Carol McCarthy, of 78 Lincoln Street, noted they asked for the wall to go around not a 10 foot wall all the way around. She gave pictures of what Beth Israel in Boston did on Brookline Avenue. Mr. Jacobs asked if a wall with ivy would be acceptable to Ms. McCarthy. Ms. McCarthy stated that is what they believed was going to happen. They have made a mess of Lincoln Street and turned it into an industrial center. They have ruined the neighborhood. She stated they were never led to believe there would be parking spaces in that area.

Jegoo Lee, of 86 Lincoln Street, stated he is a new resident and has no bias. He is disappointed by the hospitals approach to the abutters and not only about the oxygen tanks. He has a safety concern. They need to think about risk management. He noted there are 2 bright lights at night. He stated if you compare the School Street side and the Lincoln Street side, School Street has more landscaping and no bright lights. Lincoln Street has no wall, bright lights and fewer plants. The oxygen tank is ugly and the open space is a possible danger. He suggests a 12 foot wall from the side to ambulance entrance. It would be advantageous and a noise barrier for the air

conditioning system. It would not be an inviting space and it would be secure. He feels that would be the best solution.

Joy Smith, of 146 Lincoln Street, noted she is not sure weaving green material would be a solution. The pipes in Boston are not as high. She asked if they need to have them 15 feet high. She feels they were a little mislead. Traffic trucks are lined up all up and down the street. She stated they need the loading dock to be opened to alleviate this issue. This needs to be addressed. This is a neighborhood. There is a lot of turnover on the street and the property is being devalued. She stated she is disappointed.

Mr. Eisenhut stated there is a condition in the original permit about trucks on Lincoln Street. Ms. Newman agreed there were not supposed to be any trucks on the streets. Mr. Jacobs asked why there are trucks there. Mr. Cramer commented this was the first he was hearing this issue. Mr. Monty stated the loading dock has been moved to 73 Chestnut Street, which is where the large trucks pull in and out. The smaller box trucks are bringing stuff back and forth between that location and the main hospital location. He has heard complaints about ambulances staging themselves there; these are not ambulances that are owned or operated by Beth Israel Deaconess Needham. Other companies seem to park near there for whatever reason, maybe awaiting a call. When the dock is completed there will be a security guard there to monitor their deliveries and to talk with their vendors to try to control this. This is a no-parking area. They could put more signs and have cars tagged and towed.

Mr. Jacobs asked if the loading dock was almost done. Mr. Monty stated it should be open on Monday. Mr. Eisenhut asked Mr. Monty to spell out the monitoring. Mr. Monty stated there would be guards monitoring the front from 6:00 a.m. Mr. Jacobs asked if the lighting was directed toward the street. He noted it was not supposed to be. Ms. Newman stated the lighting is from the roof of the garage. Mr. Jacobs stated there is not supposed to be any spillage. This will need to be looked at. Mr. Monty stated they would look at the ground level but the pole lights were fine.

Ms. Smith stated she disagrees with Mr. Monty regarding the traffic on Lincoln Street. She noted all the trucks are for the hospital and the hospital needs to own it. Ms. McKnight suggested there be a communication from the Planning Board to the Board of Selectmen identifying the problems. It may be the rules need to be changed on this street. The trucks may not be parking but standing. They may be able to change it to no standing on this street.

Christine Balmer, of 68 Kimball Street, stated cars of workers and staff are parking on Kimball street. There is a no-parking restriction on Kimball Street. They have called the hospital to complain. People are dumping trash and it is annoying. Mr. Eisenhut stated they should call the police. Mr. Jacobs stated the decisions have conditions but they have no enforcement personnel. The public needs to be the Board's eyes and ears. He asked that they call the Board if there is a violation of a permit. If it is a parking issue they should call the police.

Ms. Smith stated it used to be a nice neighborhood and now there is a huge building on Dedham Avenue being built. Mr. Lee stated he likes to play sports in his front yard. He noted the construction workers lie on the neighbor's yards during their breaks. The hospital is responsible to keep the workers under control. He noted people are smoking in a smoke free zone.

A motion was made to grant a 90 day temporary Certificate of Occupancy for Beth Israel Deaconess subject to the following: that the hospital make a good faith effort to investigate the issue of light spillage; once the loading dock is completed the hospital will assign an employee to enforce to the extent possible the requirements for parking and to bring people off the streets and to the designated parking areas; continue in good faith the discussions with the neighbors over solutions to the oxygen tanks. Ms. Newman added it should be contingent upon a satisfactory engineering approval and the posting of any bond that is required for any work that is not completed to date. Mr. Jacobs suggested the hospital commit to ensure compliance with the existing conditions to prohibit hospital related truck traffic on Lincoln Street.

Mr. Monty noted they have some lab delivery trucks that pull in the old ambulance area. Mr. Jacobs commented he thought that was closed off. He wants the hospital to be in compliance with all conditions. Ms. Newman

stated all deliveries are to be made from the parking areas. Mr. Jacobs reiterated if the conditions are in the permit they need to be complied with. If there is a problem they should come talk to the Board. He stated it is a wonderful hospital and they are a great asset to the town.

Ms. McKnight noted condition 3 and stated she does not see the hospital obliged to do this. Mr. Eisenhut stated they did not require it in the original permit. He feels the only thing they can do is request good faith discussions. Ms. McKnight noted there should be a clause if a condition is not satisfactorily dealt with they can require additional conditions. Mr. Cramer stated they have an enforcement condition. Mr. Eisenhut noted the issue is the screening of oxygen tanks and air conditioners. Mr. Jacobs stated they need more than a discussion. He wants the hospital to solve the issues. Mr. Monty stated a 12 foot wall seems to be almost a prison element. He thinks it could be done with plantings. Ms. McKnight stated they should say they should continue good faith discussions and implementation measures to address screening without stating what the measures are. All agreed.

Ms. McKnight stated the other issue she does want to discuss is the length of time for a temporary permit. She feels 90 days is too long. They will not hear it again until mid October. They want to know what is going on. She thinks 60 days is better because people will be back here in September and they will see how things are going. Mr. Cramer stated it is in their best interest to get things done. They feel the shorter time frame is fine with them. Mr. Monty stated if they do not have a full occupancy permit in the next 60 days they will not be granted a license by the state to run the hospital. Ms. Newman is in the loop on the discussions. Mr. Monty reiterated they need to get this resolved if they want to occupy the building. They need to be treating patients in the building by September 23. Mr. Eisenhut suggested 60 days as a friendly amendment to the motion.

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

VOTED: to grant a 60 day temporary Certificate of Occupancy for Beth Israel Deaconess subject to the following: a good faith effort as to light spillage; once the loading dock is complete the hospital will assign an employee to enforce, to the extent possible, the requirements for parking and directing people off the abutting streets and into the designated parking areas of the hospital; continue the good faith solutions and continued discussions with regards to the screening of the oxygen tank and landscaping; all being contingent upon a satisfactory Engineering approval and the posting of any bond that covers the cost of any work that is not completed to date; and that the hospital commit to ensure compliance with the existing conditions to prohibit hospital related truck traffic on Lincoln Street (outside of what is required to get to the loading dock) beginning immediately.

Mr. Cramer requested they authorize the Planning Director to act between meetings. Ms. Newman stated they just voted to do it under certain conditions, so she has the authority. Ms. McCarthy stated she would like only smaller trucks, not 18 wheelers. Mr. Jacobs said if that isn't being followed, to let Ms. Newman know. She noted kids skateboard by the oxygen tanks on weekends. Ms. Grimes suggested Ms. McCarthy call the police when she sees them. The Hospital also does not want kids there. Mr. Jacobs commented they have a real responsibility to keep kids out of there. He noted the hospital has been warned by people who have seen them that there are kids by the oxygen tanks. Mr. Monty stated the hospital can put up no trespassing signs. Mr. Cramer noted he would call the police and let them know so they can swing by. Mr. Lee stated they need private property signs to protect the hospital and neighborhood. They need to prevent accidents.

Scrivener's Error: Amendment to Major Project Site Plan Special Permit No. 2013-02: Needham Solar, I, LLC, 40 Walnut Street, Suite 301, Wellesley, MA 02481, Petitioner (Property located at 1407 Central Avenue, Needham, MA).

Mr. Jacobs noted there was a draft correction dated 7/8/14. This moves one paragraph from Section 3.27 to Section 3.28. Ms. Newman noted they intended to get a management plan at the occupancy stage.

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

VOTED: to approve the corrected draft.

Request to Release Surety and Authorize Permanent Certificate of Occupancy: Major Project Site Plan Special Permit No. 2012-04: Needham Bank, 1063 Great Plain Avenue, Needham, MA, Petitioner (Property located at 1055 & 1063 Great Plain Avenue, 10 Eaton Square, 232 & 244 Garden Street, 0 Garden Street, 0 Eaton Square, Needham, MA).

Ms. Newman stated they are not ready for this. She is waiting for the As-Built. They have a temporary Certificate of Occupancy and she is holding a bond. They are requesting an extension through 9/15/14 on the temporary. She hopes to deal with it at the 8/6/14 meeting.

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

VOTED: to extend the temporary Certificate of Occupancy for Needham Bank through 9/15/14.

Ms. McKnight noted plantings were to occur behind the wall on Garden Street. They have planted some bushes but they are not high. She asked if that is all they were required to do. Ms. Newman will check.

Report from Planning Director.

Mr. Jacobs noted Dave LaLiberte's email. Ms. Newman stated he is purchasing Swizzles next door and is working on a deal to take over the business. He will be filing the request and will be on the 8/6/14 agenda. This is an fyi.

Ms. Newman noted the Large House Study Committee is proceeding. Marc Gluesing has prepared a number of examples for them. They will invite Wellesley and Newton to see what is working and what is not. They will study the issues and make some recommendations. Ms. Newman noted the goal is to have recommendations by the fall.

Minutes

The board members gave their revisions to Assistant Town Planner Alexandra Clee.

Discussion of Medical Marijuana Zoning for Fall Town Meeting.

Mr. Jacobs asked how to proceed. Ms. Clee typed up the chart Mr. Jacobs made. His point was to pick out what could conceivably be agreed to be a category of use an RMD could say it was similar to. Mr. Eisenhut stated it would work if the Board said it would work. Ms. Newman stated she had questions about retail trade or shops. The only places without restrictions are Industrial and Industrial 1. RMD's are excluded elsewhere because "retail" has to be open to the general public.

Mr. Jacobs stated if it is a subcategory of retail serving the general public you need to bring the "serving the general public" language in; if it is not a subcategory, you do not have to bring the language in. Ms. Newman stated she created a heading under which these categories sat, so retail of different size and scale would be treated differently. Mr. Jacobs noted retail to him means open to general public. He feels an RMD cannot be considered as retail if not open to the general public. If agreed, they could cross out the retail category. Ms. McKnight noted regulations that liquor stores can only serve those over 21, so some retail is limited. Ms. Grimes stated you cannot walk into an RMD without a license. You can walk into a liquor store without a license. She agrees with Mr. Jacobs on his interpretation of retail use. All agree with this.

Mr. Jacobs noted manufacturing is gone also for the same reason. Ms. Grimes noted for the record that Mr. Jacobs prepared this chart for the Board members to get a grasp of, if a general applicant comes in, this is what they might argue is what they fall under. Mr. Jacobs noted under existing law. He feels where he failed at Town

Meeting was in his explanation of where things fall under current law. He wants to make sure they, as a Board, have a handle on this.

Mr. Jacobs stated they know it has to be inside a building. Ms. Newman stated a greenhouse is inside a building. Mr. Eisenhut stated an RMD cannot be visible to the general public. Ms. McKnight noted a marijuana dispensary could be incidental and subordinate to the growing. She thinks someone could come in and do farm, greenhouse and such. Mr. Jacobs noted it would be similar enough. Mr. Jacobs asked what they thought about a medical clinic. Mr. Eisenhut agreed that was the closest.

Mr. Jacobs noted a clinic, so defined, provides a service and an RMD provides goods. Mr. Warner noted it is like a pharmacy on page 10. Mr. Jacobs noted there was no category for pharmacies in the Zoning By-Laws. Ms. Newman stated there is something in the Medical Overlay District which is why that definition was put in there. She stated a pharmacy is just a retail use. Ms. Grimes asked if there is such a thing as a license for a medical clinic. Ms. Newman will check with the state to find out this information.

Mr. Jacobs noted manufacturing. Mr. Eisenhut stated he does not see growing as manufacturing. Mr. Jacobs commented he thinks they should delete it. Ms. McKnight stated marijuana processing could be manufacturing. Mr. Eisenhut noted they would not process unless they were going to sell. Mr. Jacobs reiterated they should delete it. He suggested the next use -- any lawful purpose or special use not enumerated elsewhere in this By-Law -- there really is no argument. This should not be considered as similar. This simply applies. In Industrial, Industrial I and Business "any lawful purpose" is allowed by Special Permit right now. Ms. Newman noted initially that category applied in every Business District. As the Town revised the zoning, that special category was not allowed anywhere else. She would continue on that one.

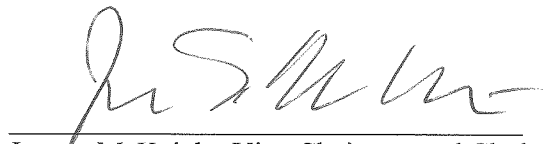
Mr. Jacobs noted the more than one non-residential use on a lot. Mr. Eisenhut stated it is not really a use restriction. Mr. Jacobs stated he is thinking growing and selling are different uses. He would strike this one. He noted "accessory" would not apply because there would be other customers and people served at the RMD. Ms. McKnight stated if you have something else to attach it to it is possible. Ms. Newman noted they could attach it to agricultural use. Ms. McKnight asked about growing as an accessory. Ms. Grimes stated they should not look at this. They cannot come in with growing as accessory. Mr. Jacobs noted they have reduced it down to 3 categories. Ms. McKnight stated her firm has done some work with this. She would like to come back with information for the Board

Mr. Jacobs noted, to sum up, they will delete 2, 3, 5, 7, 8 and 9 on the list. That leaves farm, greenhouse, nursery, truck garden, provided the subject property contains a minimum of two and one half (2 ½) acres; medical clinic; and any lawful purpose, provided it is allowed in Industrial, Industrial I and Business by Special Permit. Ms. Newman stated she has a staff meeting on this next week and will report back. She added this was helpful.

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

VOTED: to adjourn the meeting at 10:35 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

A handwritten signature in dark ink, appearing to read "Jeanne McKnight", written over a horizontal line.

Jeanne McKnight, Vice-Chairman and Clerk