

NEEDHAM PLANNING BOARD

Tuesday September 8, 2020

7:15 p.m.

Virtual Meeting using Zoom

Meeting ID: **826-5899-3198**

(Instructions for accessing below)

To view and participate in this virtual meeting on your phone, download the “Zoom Cloud Meetings” app in any app store or at www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the following Meeting ID: **826-5899-3198**

To view and participate in this virtual meeting on your computer, at the above date and time, go to www.zoom.us click “Join a Meeting” and enter the following ID: **826-5899-3198**

1. Public Hearing:

7:30 p.m. 390 Grove Street Definitive Subdivision: Elisabeth Schmidt-Scheuber, 390 Grove Street, Needham, MA, Petitioner, (Property located at 390 Grove Street, Needham, MA). *Please note this is a re-noticed hearing that began on February 4, 2020 and is continued from the July 21, 2020 and August 11, 2020 Planning Board meetings and will be further continued.*

2. Board of Appeals – September 17, 2020.

3. Special Town Meeting Zoning Articles: Assignment of Board presenter and review of process and timelines.

4. Minutes.

5. Correspondence.

6. Report from Planning Director and Board members.

(Items for which a specific time has not been assigned may be taken out of order.)

George Giunta, Jr.
ATTORNEY AT LAW*
281 Chestnut Street
Needham, MASSACHUSETTS 02492
*Also admitted in Maryland

TELEPHONE (781) 449-4520

FAX (781) 449-8475

September 3, 2020

Lee Newman
Planning Director
Town of Needham
1471 Highland Avenue
Needham, MA 02492

VIA EMAIL: LNewman@needhamma.gov

Re: Definitive Subdivision Application
Elisabeth Schmidt-Scheuber
390 Grove Street

Dear Lee,

Pursuant to our recent email correspondence, please accept this letter as a request to further continue the hearing on the Definitive Subdivision Application for 390 Grove Street until the first meeting of the Board in November, currently scheduled for November 4, 2020.

And, in connection therewith, please also extend the applicable action deadline until December 31, 2020.

Sincerely,



George Giunta, Jr

This draft Agenda is for the PB Use Only

**NEEDHAM
ZONING BOARD OF APPEALS
AGENDA**

MONDAY, September 20, 2020 - 7:30PM

Zoom Meeting ID Number: 869-6475-7241

Under Governor Baker's emergency "Order Suspending Certain Provisions of the Open Meeting Law G.L. c. 30A, S20," issued March 12, 2020 and in effect until termination of the emergency, meeting of public bodies may be conducted virtually provided that adequate access is provided to the public.

To view and participate in this virtual meeting on your computer, at the above date and time, go to www.zoom.us, click "Join a Meeting" and enter the Meeting ID: 307290361
Or join the meeting at link: <https://us02web.zoom.us/j/86964757241>

AGENDA

- | | |
|-------------------|---|
| Minutes | Review and approve Minutes from August 2020 meeting. |
| Case #1 – 7:30PM | 107 Lexington Avenue –Lexington 107 LLC, applicant, has made application to the Board of Appeals for a Special Permit under Sections 6.1.2, 7.5.3 and any other applicable Sections of the By-Law to allow a third car garage associated with the new construction of a new single-family residence. The property is located at 107 Lexington Avenue , Needham, MA in the Single Residential B District. |
| Case #2 – 7:30 PM | 150 Gould Street – Baker's Best, Inc, applicant, has made application to the Board of Appeals for a Special Permit Amendment under Sections 1.4.6, 3.2.1, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable Sections of the By-Law to allow a take-out restaurant or other eating establishment in connection with the existing commercial catering and commissary; to waive strict adherence with the off-street parking requirements, parking plan and design requirements associated with the additional use. The property is located at 150 Gould Street , Needham, MA in the Industrial-1 District |
| Case #3 – 7:45PM | 100-124 Second Avenue –Second Street DE, LLC, applicant, has made application to the Board of Appeals for a Special Permit Amendment under Sections 1.4.6, 3.2.4, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable Sections of the By-Law to waive strict adherence with the off-street parking requirements, parking plan and design requirements associated with the proposed use of a portion of the premises for dental offices. The property is located at 100-124 Second Street , Needham, MA in the New England Center Business District. |

Next Zoom Meeting: Thursday, October 15, 7:30pm



TOWN OF NEEDHAM RECEIVED TOWN CLERK
MASSACHUSETTS NEEDHAM, MA 02492
BOARD OF APPEALS 2020 AUG 24 AM 5:07

APPLICATION FOR HEARING

IT IS STRONGLY RECOMMENDED THAT APPLICANTS CONSULT WITH THE BUILDING INSPECTOR PRIOR TO FILING THIS APPLICATION.

Note: Application must be complete, with certified plot plan attached, and application fee included, or application will not be accepted.

Date: 8/19/20

Name of Applicant or Appellant: Lexington 107 LLC

Address: 301 Elliot Street
Newton MA 02464

E-mail address: v.vilkomir@gmail.com

Daytime telephone: 617 777 7050

Cell phone: _____

Additional contact information, (ie: contractor ☐, architect ☐, builder ☐, attorney ☐):

Address/Location of Property 107 Lexington Ave, Needham MA 02494

Assessor map/parcel number 199/060.0-0034-0000.0

Zone of property: SRB

Is property within 100 feet of wetlands, 200 ft. of stream or in flood plain? ☐ Yes ☒ No

Applicant is: ☐ owner ☐ tenant ☐ prospective tenant ☐ licensee ☒ prospective purchaser
Closing 8/26/20

Type of Permit requested: ☒ residential or ☐ commercial

If residential renovation, will renovation constitute "new construction"? ☒ yes ☐ no

If commercial, please consult with building inspector regarding parking issues

Select one: ☒ Special Permit ☐ Variance ☐ Comprehensive Permit, M.G. L Ch. 40B
☐ Amendment ☐ Appeal Building Inspector Decision*

*(For an appeal from decision of Building Inspector, attach copy of the decision or other written notice received from the Building Inspector.)

Existing Conditions: Single family dwelling with 1 car garage

Statement of relief sought: Looking to build a single family dwelling with a 3 car garage.
It will improve the neighborhood as well as accommodate family living
allowing for extra storage space

Applicable Section(s) of Zoning By-Law: 6.1.2 and any other applicable sections of the By-Law

If application under Zoning Section 1.4, listed immediately above:

List nonconformities related to lot/structure(s) in application: _____

Date structure(s) on lot constructed (including any additions): _____

Date lot created: _____

A certified plot plan, prepared by a registered surveyor, must be attached to this application at time of filing. An application will be returned if a copy of the plot plan is not attached to the application.

•Applications for Comprehensive permits under M.G.L. Ch. 40B require a copy of plot plan.

Please feel free to attach any additional information/photos relative to the application.

Additional information may be requested by the Board at any time during the application or hearing process.

A hearing before the Board of Appeals, with reference to the above noted application or appeal, is requested by

Signed 

Title applicant

An application must be submitted to the Town Clerk's Office at townclerk@needhamma.gov and to the ZBA Office at dcollins@needhamma.gov

TOWN OF NEEDHAM, MASSACHUSETTS

Building Inspection Department

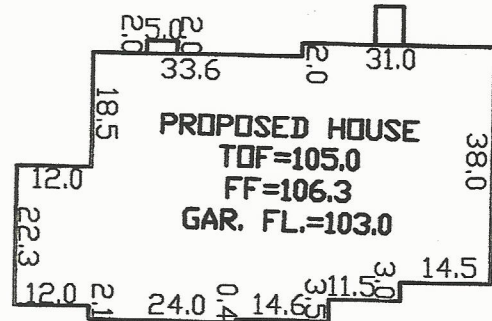
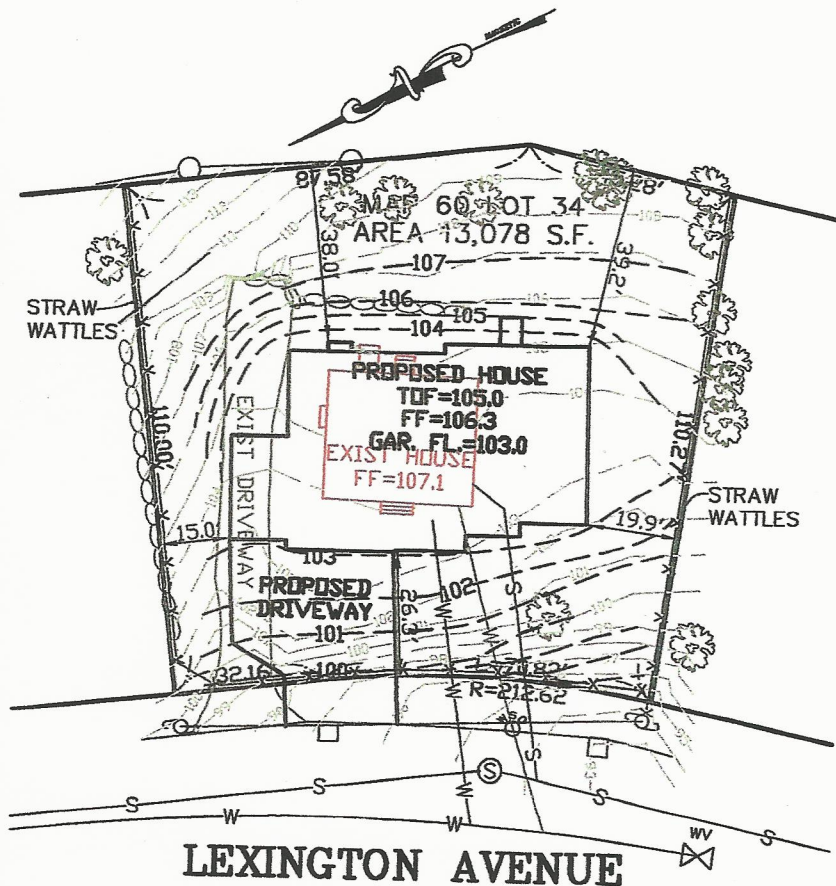
Assessor's Map & Parcel No. 60 LOT 34

Building Permit No. _____ At No. 107 LEXINGTON AVENUE

Lot Area 13,078 S.F. Zoning District SRB

Owner _____ Builder _____

PROPOSED PLOT PLAN 40' Scale



PROPOSED HOUSE
SCALE: 1"=30'

LOT COVERAGE=22.6%
OPEN SPACE=70.2%
HEIGHT OF EXISTING
DWELLING 33.8'
FROM AVERAGE GRADE
TO THE RIDGE OF ROOF



8/7/20

Note: Plot Plans shall be drawn in accordance with Sections 7.2.1 and 7.2.2 of the Zoning By-Laws for the town of Needham. All plot plans shall show existing structures and public utilities, including water mains, sewers, drains, gaslines, etc.; driveways, Flood Plain and Wetland Areas, lot dimensions, dimensions of proposed structures, sideline offsets and setback distances, (allowing for overhangs) and elevation of top of foundations and garage floor. For new construction, elevation of lot corners at streetline and existing and approved street grades shall be shown for grading along lot line bordering streetline. For pool permits, plot plans shall also show fence surrounding pool with a gate, proposed pool and any accessory structures*, offsets from all structures and property lines, existing elevations at nearest house corners and pool corners, nearest storm drain catch basin (if any) and, sewage disposal system location in unsewered area.
(*Accessory structures may require a separate building permit— See Building Code)

I hereby certify that the information provided on this plan is accurately shown and correct as indicated.

The above is subscribed to and executed by me this 07 day of AUGUST 2020.

Name A. MATTHEW BELSKI, JR.

Registered Land Surveyor No. 37557

Address 35 MAPLE ST.

City W. NEWBURY State MA Zip _____

Tel. No. (978) 363-8130

Approved _____

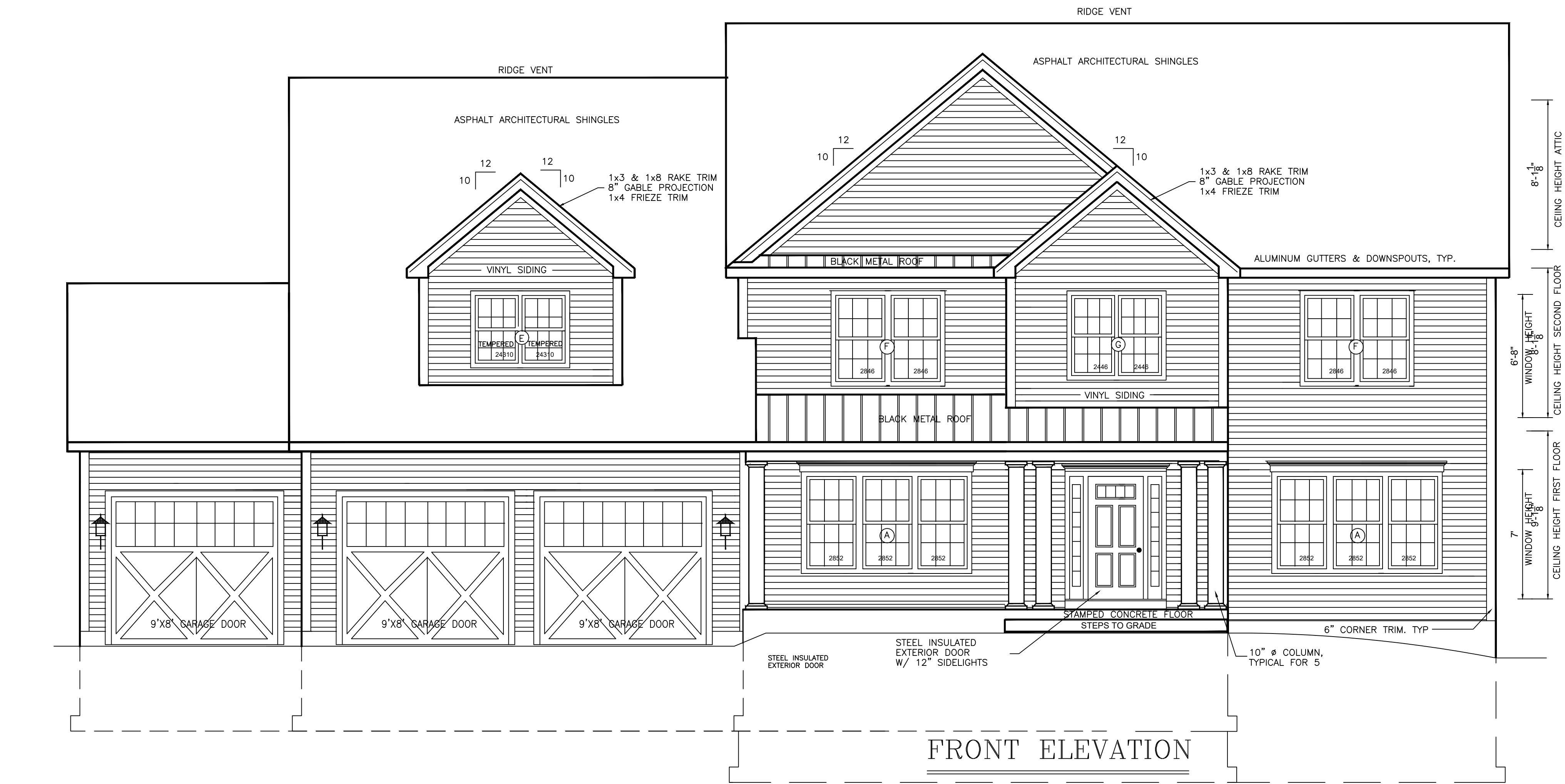
Director of Public Works

Date _____

Approved _____

Building Inspector

Date _____



JOHN SPINK, P.E.
HOME DESIGNS
59 CLAY STREET, MIDDLEBORO, MA 02346
PHONE 774-766-0544

DWG. GS-LA-20
SCALE: 1/4"=1'-0"
DR.BY: C.K.M.

IT IS THE INTENT OF THESE DOCUMENTS TO PROVIDE SUFFICIENT INFORMATION TO THE EXPERIENCED BUILDER TO CONSTRUCT THE PROJECT SHOWN. IT IS THEREFORE HIS RESPONSIBILITY TO OBTAIN ALL NECESSARY PERMITS PRIOR TO CONSTRUCTION. THEIR REQUIREMENTS MUST TAKE PRECEDENCE OVER THOSE SHOWN HEREIN. FIELD ADJUSTMENTS MADE ACCORDINGLY.

CHERYL WHITAKER MOORE
ARCHITECTURAL DESIGN SERVICES
5380 80th AVENUE CIRCLE EAST, PARRISH, FLORIDA 34219
PHONE & FAX (941) 729-9243
COPYRIGHT © 2020 CHERYL WHITAKER MOORE ARCHITECTURAL DESIGN SERVICES

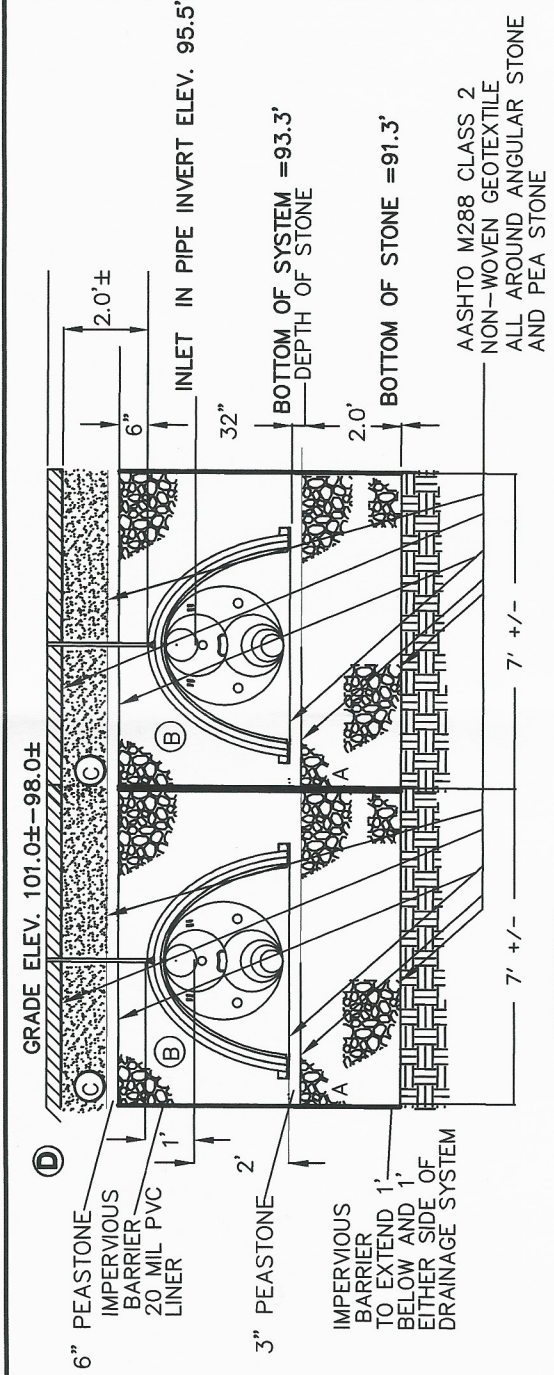
GS DEVELOPMENT GROUP
LEXINGTON AVENUE
NEEDHAM, MASSACHUSETTS

DATE: 8/6/20

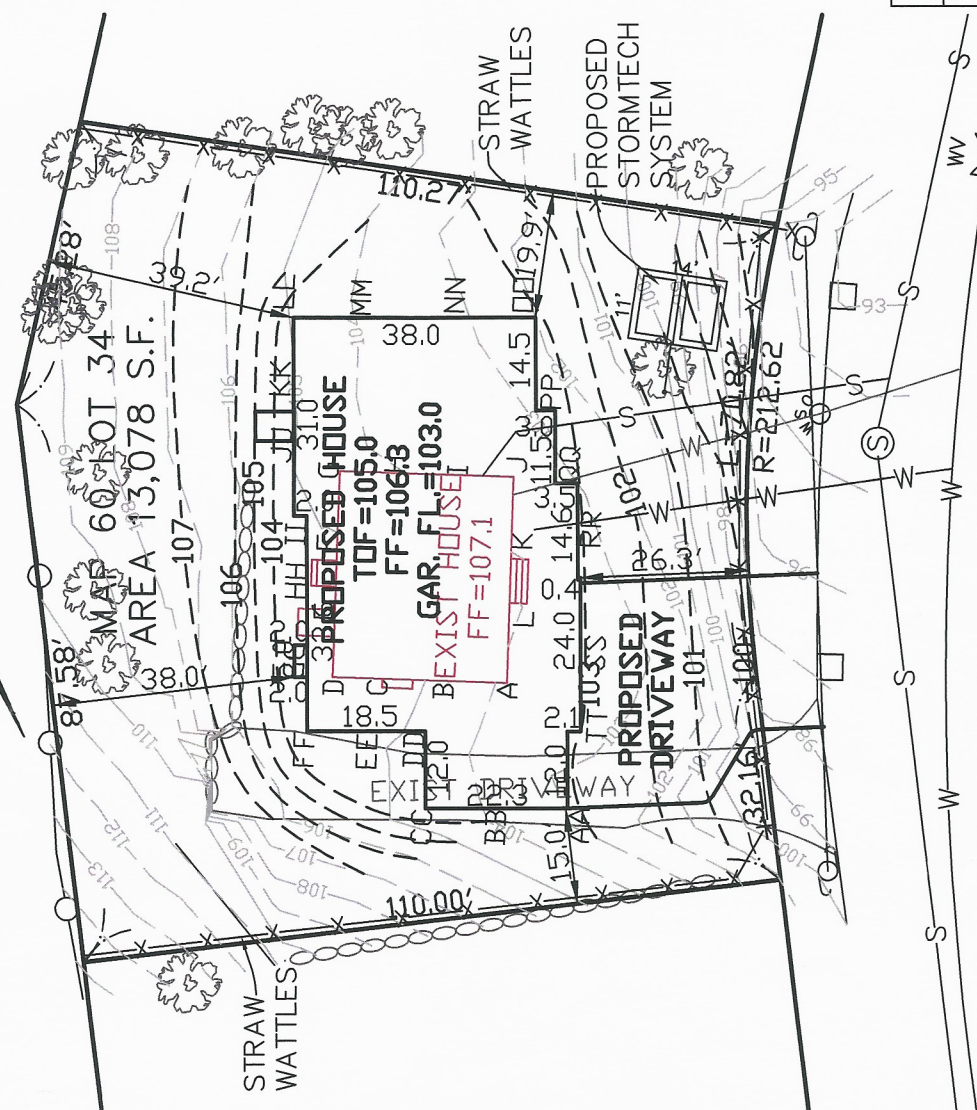
FRONT & REAR
ELEVATIONS

DWG. NO.

A1



PROPOSED:
FOOTPRINT OF PROPOSED HOUSE 2,960 S.F.
PROPOSED DRIVEWAY 940 S.F.
TOTAL IMPERVIOUS AREA 3,900 S.F.
1" OF STORM EVENT (1"/12"=0.083')
VOLUME TO BE STORAGE BY INFILTRATION
SYSTEM=3,900x0.083=323.7 C.F.T.
CAPACITY STORMTECH SYSTEM
CAPACITY OF SINGLE STORMTECH UNIT-49 CF
CAPACITY OF 2 UNITS=98 C.F.T.
THE STORAGE VOLUME PROVIDED BY THE CRUSHED STONE
SURROUNDING THE STORMTECH CHAMBERS IS CALCULATED BY
TAKING THE TOTAL VOLUME OF THE INFILTRATION SYSTEM AND
REMOVING THE STORMTECH STORAGE VOLUME TO GET THE TOTAL
VOLUME OF CRUSHED STONE. MULTIPLYING THE VOLUM OF
CRUSHED STONE BY THE CRUSHED STONE'S VOID OF 0.4 WILL
PROVIDE THE INFILTRATION STORAGE VOLUME WITHIN THE
CRUSHED STONE.
CRUSHED STONE BELOW SYSTEM VOLUME (11'x14'x2')=308 C.F.T.
CRUSHED STONE AROUND SYSTEM
VOLUME(11'x14'x2.7')-147=415.8-98=317.8.F.T.
TOTAL STORAGE VOLUME IN CRUSHED STONE
308+317.8=625.8 C.F.T.x0.4=250.3 C.F.T.
TOTAL STORAGE VOLUME PROVIDED BY INFILTRATION SYSTEM
98+250.3=348.3 C.F.T.
RAINFALL-1"
348.3 C.F.T.>323.7 C.F.T.
IT'S OK



LEXINGTON AVENUE

SCALE: 1" = 30'

POINT #	EXISTING ELEVATION	POINT #	PROPOSED ELEVATION
A	103.9	AA	103.0
B	104.6	BB	104.0
C	105.5	CC	104.3
D	105.6	DD	104.3
E	105.4	EE	104.3
F	105.2	FF	104.3
G	104.4	GG	104.3
H	104.0	HH	104.3
I	103.8	II	104.3
J	103.5	JJ	104.3
K	103.9	KK	104.3
L	104.0	LL	104.3
		MM	104.3
		NN	104.3
		OO	103.2
		PP	103.2
		QQ	103.2
		RR	103.0
		SS	103.0
		TT	103.0

HEIGHT CALCULATION
PLAN OF LAND
107 LEXINGTON AVENUE
NEEDHAM, MA.
AUGUST 07, 2020
DESIGN BY:
MIKHAIL DEYCHMAN
(857) 498-0951
EMAIL: MDEYCH@YAHOO.COM

EXISTING:
GRADE PLANE = 1,253.8/12=104.48
TOC TO GRADE =105.7-104.48=1.22
ALLOWABLE BUILDING = 35.0-1.22=33.78

PROPOSED:
GRADE PLANE = 2,077.2/20=103.86
TOC TO GRADE = 105.0-103.86=1.14
ALLOWABLE BUILDING = 35.0-1.14=33.86'

BASED UPON COMPARATIVE ANALYSIS THE
EXISTING GRADE PLANE PROVIDES MORE
RESTRICTIVE ENVIRONMENT FOR THE
BUILDING HEIGHT THE MAXIMUM ALLOWABLE
STRUCTURE ABOVE THE TOP OF CONCRETE
IS 33.78'

THE PROPOSED STRUCTURE FROM TOP OF
CONCRETE TO RIDGE IS 33.78'
MAKING THE PROPOSED HEIGHT 35.0' FROM
THE EXISTING GRADE PLANE.

ZONING INFORMATION: SINGLE RESIDENCE B (SRB)

	REQUIRED:	PROPOSED:
MINIMUM LOT AREA	10,000 S.F.	13,078 S.F.
MINIMUM LOT FRONTAGE	80.0'	102.98'
MINIMUM FRONT SETBACK	20'	26.3'
(25' FOR GARAGE)		26.3'
MINIMUM SIDE YARD	14'	15.0'/19.9'
MINIMUM REAR YARD	20'	38.0'
MAXIMUM BUILDING COVERAGE	25%	22.6%
MAXIMUM BUILDING HEIGHT	35'	33.8'
MAXIMUM BUILDING HEIGHT	2 1/2 STORIES	2 1/2





**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

RECEIVED TOWN CLERK
NEEDHAM, MA 02492
2020 AUG 24 AM 5:06

APPLICATION FOR HEARING

IT IS STRONGLY RECOMMENDED THAT APPLICANTS CONSULT WITH THE BUILDING INSPECTOR PRIOR TO FILING THIS APPLICATION.

Note: Application must be complete, with certified plot plan attached, and application fee included, or application will not be accepted.

Date: August 21, 2020

Name of Applicant or Appellant Bakers' Best, Inc.

Address: 150 Gould Street

Needham, MA 02494

(Optional) E-mail address: _____

Daytime telephone: 857-255-2554 (Timothy Ferraro, General Manager)

(Optional) Cell phone: _____

(Optional) additional contact information, (ie: ☐ contractor ☐ architect, ☐ builder or ☒ attorney):

George Giunta, Jr., Esq. – 281 Chestnut Street, Needham, MA 02492

781-449-4520; george.giuntajr@needhamlaw.net

Address/Location of Property 150 Gould Street, Needham, MA 02494

Assessor map/parcel number Map 79, Parcel 10

Zone for property: Industrial-1 (Ind-1)

Is property within 100 feet of wetlands, 200 ft. of stream or in flood plain? ☐ Yes ☒ no

Applicant is ☐ owner, ☒ tenant, ☐ prospective tenant, ☐ licensee ☐ prospective purchaser

Type of Permit requested: ☐ residential or ☒ commercial

If residential renovation, will renovation constitute "new construction"? ☐ yes ☐ no

If commercial, please consult with building inspector regarding parking issues

Select one: ☒ Special Permit ☐ Variance ☐ Comprehensive Permit, M.G. L Ch. 40B

☒ Amendment ☐ Appeal Building Inspector Decision*

*(For an appeal from decision of Building Inspector, attach copy of the decision or other written notice received from the Building Inspector.)

Existing Conditions:

Lawful, pre-existing, commercial building, which is non-conforming as to side-yard setbacks, used for commercial catering and commissary purposes pursuant to special permits previously issued by the Board of Appeals.

Statement of relief sought:

1. Amendment and modification of Special Permits and / or new Special Permit pursuant to Section 3.2.1, to permit a take-out restaurant or other eating establishment in connection with the existing commercial catering and commissary at the Premises;
2. Amendment and modification of Special Permit issued pursuant to Section 5.1.1.5 of the Zoning By-Law, and / or new Special Permit pursuant to Section 5.1.1.5, waiving strict adherence with the off-street parking requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements) in connection with the proposed additional use at the Premises.
3. To the extent necessary and appropriate, amendment of and/or further relief pursuant to any and all other prior decisions of the Board concerning the said premises; and any and all other relief as may be necessary for the use of the entire Premises for purposes of commercial catering and commissary.

Applicable Section (s) of Zoning By-Law 1.4.6, 3.2.1, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable Section or By-Law

If application under Zoning Section 1.4, listed immediately above:

List nonconformities related to lot/structure(s) in application: _____

Less than required side-yard setback on both sides.
Greater than allowed maximum Floor Area Ratio.

Date structure(s) on lot constructed (including any additions): _____

1969

Date lot created:

1955

A certified plot plan, prepared by a registered surveyor, must be attached to each of the thirteen (13) copies of this application at time of filing. Application will be returned if a copy of the plot plan is not attached to each application.

•Applications for Comprehensive permits under M.G.L. Ch. 40B require thirteen (13) copies of plot plan (two reduced to 8 ½ by 11), plus additional submissions.

Please feel free to attach any additional information/photos relative to the application.
Additional information may be requested by the Board at any time during the application or hearing process.
A hearing before the Board of Appeals, with reference to the above noted application or appeal, is requested by

Bakers' Best, Inc.



Signed _____

By its attorney
George Giunta, Jr., Esq.

Title _____

GEORGE GIUNTA, JR.
ATTORNEY AT LAW*
281 CHESTNUT STREET
NEEDHAM, MASSACHUSETTS 02492
*Also admitted in Maryland

TELEPHONE (781) 449-4520

FAX (781) 465-6059

August 21, 2020

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

ATTN: Daphne M. Collins, Administrative Specialist

Re: Bakers' Best, Inc.
150 Gould Street, Needham, MA
Special Permit Request

Dear Ms. Collins,

As you may recall, this office represents Bakers' Best, Inc. (hereinafter "Bakers") with respect to the property known and numbered 150 Gould Street, Needham, MA (hereinafter the "Premises"). In connection therewith, submitted herewith pursuant to the Covid-19 virtual application procedure, please find the following:

1. Completed Application for Hearing;
2. One Copy of plan entitled "No. 150 Gould Street Interior Layout Plan, Land in Needham, Mass.", prepared by The Jillson Company, Inc., dated July 8, 2019, scale 1" = 20';
3. Check no. 40071 in the amount of \$500 for the applicable filing fee.

From 2006 through 2019, Bakers used and occupied approximately one-half of the existing building and a portion of the exterior area at the Premises for commercial catering and commissary purposes. Then, by Decision dated July 11, 2019, filed with the Town Clerk on August 19, 2019, the Board of Appeals authorized the expansion of such use into the entire building. As a result, Bakers now uses and occupies the entire building.

Unfortunately, Bakers operation has been directly affected by the Covid-19 pandemic and the current state of emergency in the Commonwealth. In particular, they have seen demand suffer a steep and drastic reduction. In order to remain viable and in operation, Bakers sought and was granted temporary permission from the Selectmen to provide take-out meals at the Premises. However, such relief is set to expire this fall. While there is the possibility it may be renewed,

given the reasonable likelihood that the current situation may extend for a long while, and the likely length of time it will take for demand to rebound, Bakers would prefer to seek more stable, permanent relief. Therefore, Bakers is now seeking a special permit to permit on site sales and pick-up.

Note that this is not a proposed change to the fundamental use. Rather, it is a change in distribution and delivery. However, while no intensification of the existing use is proposed or anticipated in connection with the on site sales and pick-up (and therefore, no material change in off-street parking demand), technically, the inclusion of such use requires a recalculation of the parking demand, adding 10 parking spaces for a "take-out station" pursuant to Section 5.1.3 of the By-Law. Nevertheless, Bakers is certain there is adequate parking on site to handle such use, as the demand for employee parking demand has been substantially and drastically reduced as a direct result in the considerable reduction in demand.

Kindly schedule this matter for the next hearing of the Board of Appeals. If you have any comments, questions or concerns, or if you require any further information in the meantime, please contact me so that I may be of assistance.

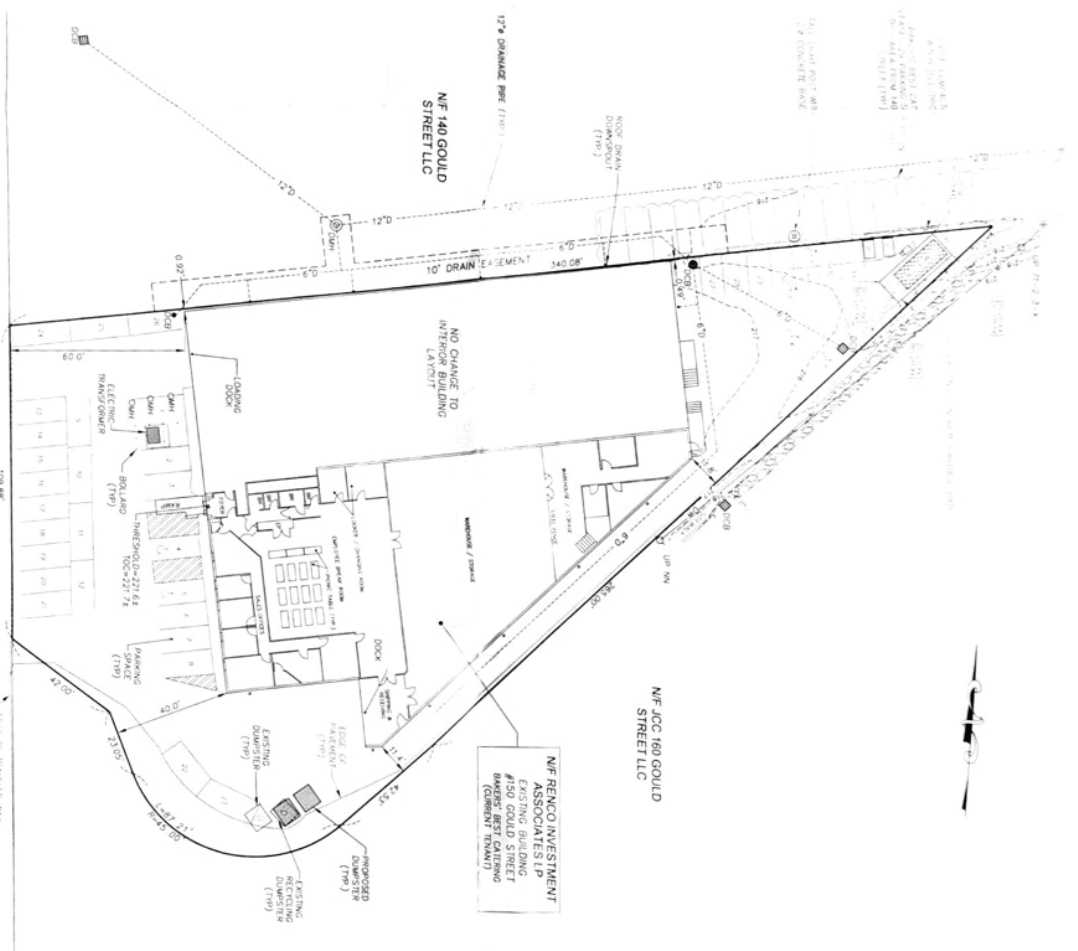
Sincerely,

A handwritten signature in black ink, appearing to read "George Giunta, Jr.", with a stylized, cursive script.

George Giunta, Jr.



GOULD STREET



- ### NOTES
1. SEE PLAN SHEET 101-102 FOR EXISTING CONDITIONS.
 2. ALL DIMENSIONS ARE IN FEET AND INCHES.
 3. THE EXISTING BUILDING IS TO BE DEMOLISHED AND A NEW BUILDING IS TO BE CONSTRUCTED ON THE SAME SITE.
 4. THE EXISTING BUILDING IS TO BE DEMOLISHED AND A NEW BUILDING IS TO BE CONSTRUCTED ON THE SAME SITE.
 5. THE EXISTING BUILDING IS TO BE DEMOLISHED AND A NEW BUILDING IS TO BE CONSTRUCTED ON THE SAME SITE.
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 9. THE EXISTING BUILDING IS TO BE DEMOLISHED AND A NEW BUILDING IS TO BE CONSTRUCTED ON THE SAME SITE.
 10. THE EXISTING BUILDING IS TO BE DEMOLISHED AND A NEW BUILDING IS TO BE CONSTRUCTED ON THE SAME SITE.

LOT AREA
4,100 SQ. FT.

LOT COVERAGE
EXISTING = 31.7%

- ### LEGEND
- EXISTING 1" CONTOUR
 - EXISTING 10' CONTOUR
 - EXISTING 20' CONTOUR
 - EXISTING 30' CONTOUR
 - EXISTING 40' CONTOUR
 - EXISTING 50' CONTOUR
 - EXISTING 60' CONTOUR
 - EXISTING 70' CONTOUR
 - EXISTING 80' CONTOUR
 - EXISTING 90' CONTOUR
 - EXISTING 100' CONTOUR
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 - EXISTING 980' CONTOUR
 - EXISTING 990' CONTOUR
 - EXISTING 1000' CONTOUR

**"No. 150 GOULD STREET
INTERIOR LAYOUT PLAN"**

LAND IN
NEEDHAM, MASS.

PREPARED FOR: RENCO INVESTMENT ASSOCIATES LP
c/o RENCO MANAGEMENT INC.
5 TURNER STREET
MILWAUKEE, WI 53233-1000
DATE: 08 JULY 2019

SCALE: 1" = 20'

PREPARED BY: **THE JILSON COMPANY, INC.**
P.O. BOX 2133
NEEDHAM, MA 01933
WWW.JILSONCOMPANY.COM

GEORGE GIUNTA, JR.
ATTORNEY AT LAW*
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August 21, 2020

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Administrative Specialist

Re: Second Needham DE, LLC
100-124 Second Avenue, Needham, MA
Special Permit Request

Dear Mrs. Collins,

Please be advised that this office represents Second Needham DE, LLC (hereinafter, the "Applicant") relative to the property at 100-124 Second Avenue, Needham, MA (the "Premises"). In connection therewith, submitted herewith pursuant to Covid-19 virtual application procedure, please find the following:

1. A Completed Application for Hearing
2. One copy of site plan titled "ALTA /NSPS Land Title Survey, 100-124 Second Avenue, Needham, Massachusetts", dated May 27, 1999, updated June 4, 1999, May 25, 2007, April 30, 2014 and October 17, 2019, prepared by R.E. Cameron & Associates, Inc.;
3. One copy of "Floor Plan, 100-124 Second Avenue", undated, showing the subject portion of the Premises, labeled as "Vacant"; and
5. Check no. 61202796 in the amount of \$500 for the applicable filing fee.

The Premises is identified as Parcel 39 on Town of Needham Assessor's Map No. 300 and is located in the New England Business Center Zoning District. It is occupied by an existing commercial building, used for different commercial purposes by multiple tenants, although, at present, one of the existing spaces is vacant. A dentist office desires to occupy and use such vacant space, and, while the use itself is allowed as of right pursuant to the Zoning By-Law, the parking demand associated with such use will require a waiver of the off-street parking requirements, and is therefore requested.

Please schedule this matter for the next available hearing of the Board, whether in person or via Zoom or other electronic format. In the meantime, if you have any questions, comments or concerns relative to the foregoing, please do not hesitate to contact me so that I may be of assistance.

Your courtesy and attention are appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Giunta, Jr.", with a stylized, cursive script.

George Giunta, Jr.



TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS

RECEIVED TOWN CLERK
NEEDHAM, MA 02492

2020 AUG 24 AM 5:07

APPLICATION FOR HEARING

IT IS STRONGLY RECOMMENDED THAT APPLICANTS CONSULT WITH THE BUILDING INSPECTOR PRIOR TO FILING THIS APPLICATION.

Note: Application must be complete, with certified plot plan attached, and application fee included, or application will not be accepted.

Date: August 21, 2020

Name of Applicant or Appellant Second Needham DE, LLC

Address: 116 Huntington Avenue, Suite 600

Boston, MA 02116

(Optional) E-mail address: MBW@Bulfinch.com

Daytime telephone: 781-707-4182 (Michael B. Wilcox, Senior Vice President)

(Optional) Cell phone: _____

(Optional) additional contact information, (ie: ☐ contractor ☐ architect, ☐ builder or ☒ attorney):

George Giunta, Jr., Esq. – 281 Chestnut Street, Needham, MA 02492

781-449-4520; george.giuntajr@needhamlaw.net

Address/Location of Property 100-124 Second Avenue, Needham, MA 02494

Assessor map/parcel number Map 300, Parcel 39

Zone for property: New England Center Business District (NEBC)

Is property within 100 feet of wetlands, 200 ft. of stream or in flood plain? ☐ Yes ☒ no

Applicant is ☒ owner, ☐ tenant, ☐ prospective tenant, ☐ licensee ☐ prospective purchaser

Type of Permit requested: ☐ residential or ☒ commercial

If residential renovation, will renovation constitute "new construction"? ☐ yes ☐ no

If commercial, please consult with building inspector regarding parking issues

Select one: ☒ Special Permit ☐ Variance ☐ Comprehensive Permit, M.G. L Ch. 40B

☒ Amendment ☐ Appeal Building Inspector Decision*

*(For an appeal from decision of Building Inspector, attach copy of the decision or other written notice received from the Building Inspector.)

Existing Conditions:

Lawful, pre-existing, commercial building, which is non-conforming as to rear-yard setback, used for mixed commercial purposes by multiple tenants.

Statement of relief sought:

1. Amendment and modification of Special Permit issued pursuant to Section 5.1.1.5 of the Zoning By-Law, and / or new Special Permit pursuant to Section 5.1.1.5, waiving strict adherence with the off-street parking requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements) in connection with the proposed use of a portion of the Premises for dental office purposes.

2. To the extent necessary and appropriate, amendment of and/or further relief pursuant to any and all other prior decisions of the Board concerning the said premises; and any and all other relief as may be necessary for the use of the entire Premises for purposes of commercial catering and commissary.

Applicable Section (s) of Zoning By-Law 1.4.6, 3.2.4, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable Section or By-Law

If application under Zoning Section 1.4, listed immediately above:

List nonconformities related to lot/structure(s) in application: _____

Less than required rear-yard setback.

Date structure(s) on lot constructed (including any additions): _____

1958

Date lot created:

1956

A certified plot plan, prepared by a registered surveyor, must be attached to each of the thirteen (13) copies of this application at time of filing. Application will be returned if a copy of the plot plan is not attached to each application.

•Applications for Comprehensive permits under M.G.L. Ch. 40B require thirteen (13) copies of plot plan (two reduced to 8 ½ by 11), plus additional submissions.

Please feel free to attach any additional information/photos relative to the application.

Additional information may be requested by the Board at any time during the application or hearing process.

A hearing before the Board of Appeals, with reference to the above noted application or appeal, is requested by

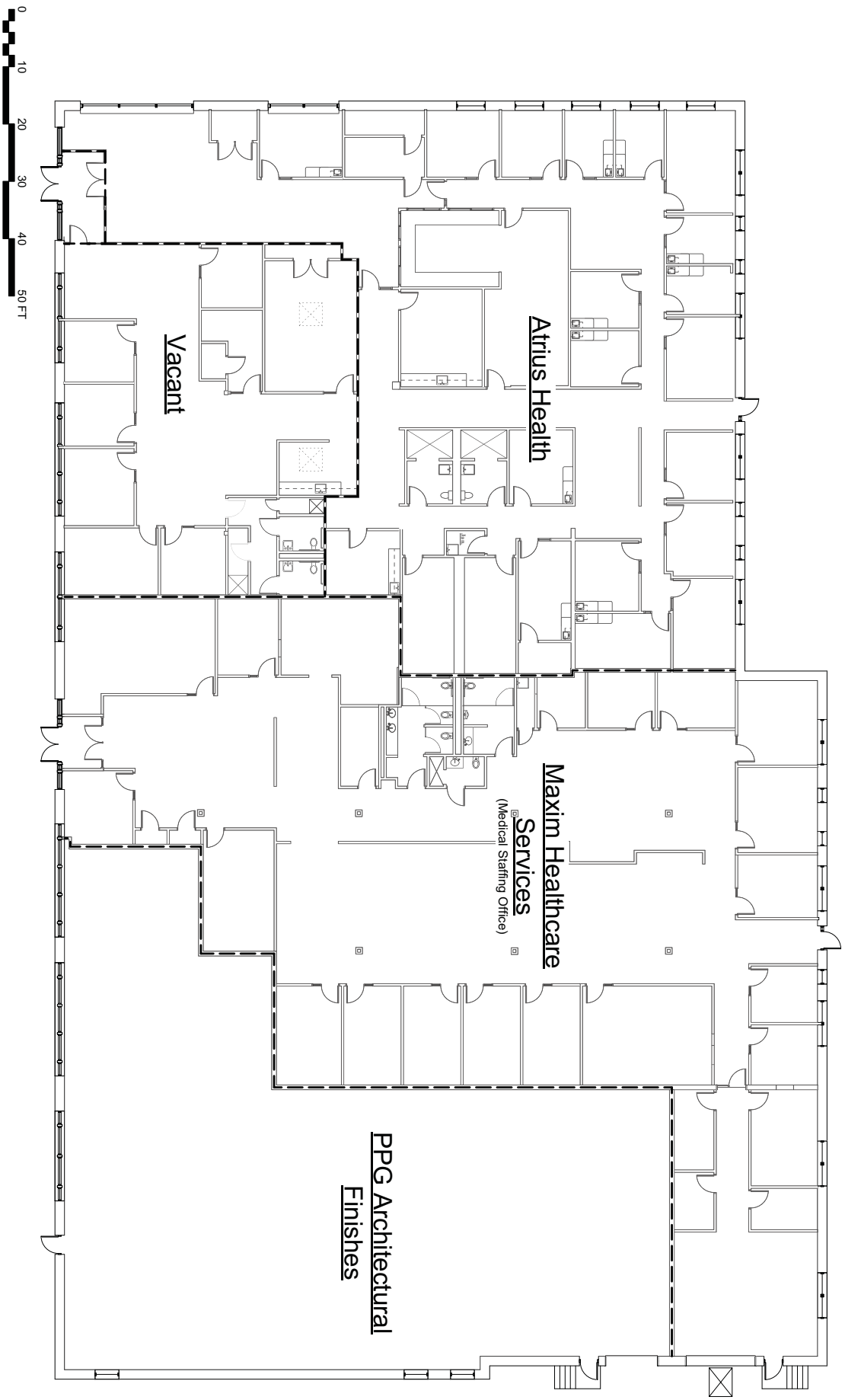
Second Needham DE, LLC



Signed _____

By its attorney
George Giunta, Jr., Esq.

Title _____



Floor Plan

100-124 Second Avenue, Needham MA

ARTICLE 1: AMEND ZONING BY-LAW – AVERY SQUARE OVERLAY DISTRICT

To see if the Town will vote to amend the Needham Zoning By-Law, as follows:

- (a) Amend the definition of “Independent Living Apartments” in Section 1.3, Definitions, by (i) adding the words “or Avery Square Overlay District” after the words “Elder Services Zoning District”; (ii) deleting the word “only” before the words “residential uses”; and (iii) adding to the end of the definition the sentence “; provided, however, that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities but need not be part of a Continuing Care Retirement Community.”, so that it reads as follows:

“A building in the Elder Services Zoning District or Avery Square Overlay District containing three or more dwelling units, which building houses residential uses and support services accessory thereto, intended primarily as independent living units for individuals aged 55 years or older, and/or families with at least one family member aged 55 years or older, within a Continuing Care Retirement Community; provided, however that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities, but need not be part of a Continuing Care Retirement Community.”

- (b) Amend Section 2.1 Classes of Districts by adding the following term and abbreviation under the subsection Overlay:

“ASOD-- Avery Square Overlay District”

- (c) Amend Section 3, Use Regulations, by adding a new Subsection 3.15, Avery Square Overlay District, to read as follows:

“3.15 Avery Square Overlay District

3.15.1 Purposes of District

The purposes of the Avery Square Overlay District (“ASOD”) are to promote the health, safety, and general welfare of the community by creating opportunities for housing primarily serving individuals 55 years old or older, who wish to live in independent apartments and/or who may need to live in Assisted Living and/or Alzheimer’s/Memory Loss facilities, within walking distance of goods and services, public transportation, and the civic life of the town; to promote a vibrant, walkable area within the ASOD, and to encourage and allow redevelopment of the existing property within the ASOD in a manner that will further these purposes. Toward these ends, development in the Avery Square Overlay District shall, as set forth in this Section 3.15, be permitted to exceed the density and dimensional requirements that normally apply in the underlying zoning district provided that such development complies with all other requirements of this Section 3.15.

3.15.2 Scope of Authority

In the Avery Square Overlay District, all requirements of the underlying district shall remain in effect except where this Section 3.15 provides an alternative to such requirements, in which case the requirements of this Section 3.15 shall prevail. If the provisions of the Avery Square Overlay District are silent on a requirement that applies in the underlying district, the requirements of the underlying district shall apply.

By filing an application for a Special Permit, site plan review or building permit under this Section 3.15, an applicant shall be deemed to accept and agree to the provisions and requirements of this Section 3.15. If an applicant elects to proceed pursuant to zoning provisions of the underlying district, the provisions and requirements of this bylaw applicable in the underlying district shall control and the provision of the Avery Square Overlay District shall not apply.

3.15.3 Use Regulations

3.15.3.1 Permitted Uses

The following uses are permitted in the Avery Square Overlay District as a matter of right:

- (a) Uses exempt from local zoning control under M.G.L. c.40A, s. 3.
- (b) Public, semi-public and institutional uses permitted as of right in the underlying district.
- (c) Business uses permitted as of right in the underlying district.
- (d) Accessory uses permitted as of right in the underlying district.

3.15.3.2 Special Permit Uses

The following uses are allowed in the Avery Square Overlay District by Special Permit issued by the Planning Board:

- (a) All uses allowed by special permit in the Avery Square Business District as set forth in Section 3.2.2 of this Bylaw, except those uses permitted as a matter of right as set forth in Section 3.15.3.1, above.
- (b) Assisted Living and/or Alzheimer's/Memory Loss Facilities
- (c) Independent Living Apartments.
- (d) Buildings with multiple uses containing, as a primary use, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses.

3.15.4 Dimensional Regulations

3.15.4.1 Building Height and Related Requirements

The maximum building height (including mechanical structures such as HVAC equipment) in the Avery Square Overlay District shall be 44 feet. This height limitation shall not apply to elevator shaft overruns, which shall not exceed a maximum height of 49 feet.

A building or structure which is located on property in the Avery Square Overlay District may include, but not exceed, four (4) stories, all of which may be occupied, except in the following circumstances:

- (a) With respect to the existing building, if a different use is proposed for the building that does not include Independent Living Apartments and/or Assisted Living and/or Alzheimer's/Memory Loss Facilities as the primary use(s), then the proposed use shall be governed by the use regulations of Section 3.15.3, above, but the fourth story cannot be occupied without a special permit.
- (b) If the Special Permit described in subparagraph (a), above is not granted, the fourth story shall remain unoccupied for any use without a Special Permit, but the fourth story, and any associated mechanical equipment, does not need to be demolished.
- (c) In the event the existing building is demolished, if the primary use(s) of the successor building is not one or both of the uses described in Sections 3.15.3.2 (b) or 3.15.3.2 (c), then the successor building shall not be permitted to have a fourth story.

The ability to use and occupy the fourth story, when permitted by a Special Permit granted pursuant to Sections 3.15.3.2 (b) and/or 3.15.3.2 (c), shall continue notwithstanding (i) a shift in the number of units from the use described in Section 3.15.3.2 (b) to the use described in Section 3.15.3.2 (c), or vice-versa; or (ii) the elimination of one of the uses described in Sections 3.15.3.2 (b) or 3.15.3.2 (c), provided such shift or elimination is allowed by such Special Permit or amendment thereto.

For the fourth story, minimum setback requirements, measured from the façade(s) of the building on which such fourth story is located, shall be as follows: from the eastern façade of the building (facing Highland Ave), fifteen (15) feet; from the northern façade of the building (closest to and facing West Street), one hundred and ten (110) feet; from the western façade of the building, zero (0) feet; from the southern façade of the building, thirty-five (35) feet. No fourth story setback from the north-facing building façade is required with respect to any portion of any building that is set back from West Street at least two hundred (200) feet.

The total floor area of any fourth floor addition to the building may not exceed thirty-five percent (35%) of the total roof area of the building. Mechanical equipment, including but not limited to HVAC equipment, whether or not enclosed, shall not be included in the calculation of maximum allowable floor area hereunder.

Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other height limitations nor any other limitations contained in Section 4.4.3.

3.15.4.2 Building Bulk and Other Requirements

The maximum floor area ratio in the Avery Square Overlay District shall be 1.1. Property contiguous with and in common ownership with property in the Avery Square Overlay District shall be included in the lot for purposes of calculating floor area ratio. The enclosed area of a building devoted to off-street parking shall not be counted as floor area for purposes of determining the maximum floor area ratio. Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other limitations on floor area ratio, lot coverage, or building bulk contained in Sections 4.4.2, 4.4.7 and 4.4.9.

3.15.5 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 and the regulations for enclosed parking in Section 4.4.6 shall apply in the Avery Square Overlay District.

(a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:

(1) For Independent Living Apartments, there shall be one space per Apartment.

(2) For Assisted Living units and Alzheimer's/Memory Loss units, the parking requirement shall be one space for every two beds, plus one space for each two employees on the largest shift.

(b) Notwithstanding anything to the contrary elsewhere in this Bylaw, including but not limited to Section 4.4.8.4, in the event that land located in the Single Residence B Zoning District

(1) is adjacent to the Avery Square Overlay District;

(2) is in common ownership with adjacent land located in the Avery Square Overlay District; and

(3) prior to approval of this Section 3.15, was improved as a parking area associated with a building located in the Avery Square Overlay District;

then, provided that said land extends into the Single Residence B Zoning District not more than one hundred (100') feet from the boundary line between the Single Residence B Zoning District and the Avery Square Business District, said land may, as a matter of right, be used as a parking area accessory to uses permitted in the Avery Square Overlay District by right or by special permit.

3.15.6 Affordable Housing

Any building with ten or more Independent Living Apartments shall include affordable housing units as defined in Section 1.3 of this By-Law, as may be modified in this Section 3.15.6. The following requirements shall apply to a development that includes ten or more Independent Living Apartments:

(a) For a development with ten or more Independent Living Apartments, twelve and one-half percent (12.5%) of the Independent Living Apartments shall be affordable units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number. There shall be no affordable housing requirement for nursing homes, convalescent homes, Assisted Living and Alzheimer's/Memory Loss Facilities, or residential care institutions or facilities.

(b) If the Applicant provides at least one-half of the affordable Independent Living Apartments required herein for households with incomes at or below 50% of area median income, the remaining affordable Independent Living Apartments may be rented to households with incomes up to 100% of area median income even if the latter units are therefore not eligible for the Subsidized Housing Inventory, regardless of any requirements to the contrary set forth in Section 1.3.

- (c) Affordable units shall be dispersed within the building and not concentrated in one area or on one floor. They shall generally be comparable in size, energy efficiency, quality, convenience, and unit-specific real estate-related amenities to the development's market-rate units. Services and other amenities that may be purchased by residents on a voluntary basis are not to be considered unit-specific real estate-related amenities and are excluded from such comparability requirements.
- (d) The selection of eligible homebuyers or renters for the affordable units shall be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the development.
- (e) The affordable units shall be subject to an affordable housing restriction as defined in Section 1.3 of this By-Law with limitations on use, occupancy, resale prices or rents, as applicable, and which provides for periodic monitoring for compliance with the requirements of said restriction."
- (d) Amend Section 4.4.4 Front Setback, by adding the following paragraph after the fourth paragraph of that section:

"In the Avery Square Overlay District, the front setback, if any, shall be kept open and landscaped with grass, plants, and other non-paving materials such as mulch, and shall be unpaved except for patios, walks, and driveways as defined in section 4.4.5. Walls (including walls serving in part as retaining walls) no higher than 36 inches above the grade of the patios, as well as fencing and privacy screening, along the front and side edges of the patios, shall be allowed in the Avery Square Overlay District."
- (e) Amend Section 4.4.6 Enclosed Parking, by adding the phrase "for each square foot" before the words "of parking space (excluding driveways and aisles)" on the fourth line of the first paragraph of that section so that it reads as follows:

"Whenever off-street parking is provided underground and/or within a building itself, the maximum area coverage of the building may be increased up to the limits of the required setback as provided herein. The lot coverage of the building may be increased up to 2 ½ % points above the maximum allowed percentage, by one square foot for each square foot of parking space (excluding driveways and aisles) that is underground and/or within the building itself."

Parking which is under a building or partially underground shall, except for driveways, be separated from the street line by building space occupied by the principal use, not by parking.

In the Center Business District, enclosed parking shall be entirely below the grade of adjoining streets measured at their respective center lines. Access to enclosed parking shall be from the rear of the building. If provided, enclosed parking shall not be visible from the street. The placement of parking underground shall not raise the first non-parking floor of a structure above grade. Municipal parking facilities in the Center Business District shall be exempt from this provision."
- (f) Amend Section 7.6.1 Special Permit Granting Authority, by adding the number "3.15" after the number "3.14" on the second line of that Section so that it reads as follows:

"The Planning Board shall act as a Special Permit Granting Authority only where so designated in Sections 3.4, 3.8, 3.9, 3.10, 3.14, 3.15, 4.2.10, 4.2.11, 4.2.12, 4.4.5, 4.4.9, 4.4.10, 5.1.1.6, 6.6, 6.8, and 7.4 of this Bylaw. In all other cases the Board of Appeals shall act as the Special Permit

Granting Authority. Procedures and decision criteria for the Planning Board shall be the same as specified in Section 7.5.2 and Section 7.5.3 (second and fourth paragraphs) for special permits acted on by the Board of Appeals, except where alternative or supplemental criteria are specified, such as at Sections 3.4 and 6.6.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Explanation: Articles 1 and 2 are proposed Zoning Bylaw amendments that are intended to facilitate the redevelopment of the currently vacant Carter Mill Building at the corner of Highland Avenue and West Street. The Carter factory and mill was established at that site beginning around 1865, and, for the next 125 years until approximately 1990, the factory and mill operated at that location. The building has become a well-known landmark in Needham.

In 1993, the building was approved for the Avery Crossing Assisted Living Facility and Avery Manor Nursing Home. In 1995, a small portion of the building was also approved for medical office use. In 2017, Avery Crossing and Avery Manor were closed, as well as the medical offices, and the building has remained vacant since that time. The proposed Bylaw amendments will allow the empty Carter Mill building to be renovated to create a senior housing community (155 units are proposed), including age restricted Independent Living apartments (72 units proposed), Assisted Living apartments (55 units proposed), and Memory Care units (28 units proposed).

Article 1 and 2 Description

Article 1 proposes to create the Avery Square Overlay District (“ASOD”), and lays out the regulatory framework for the new overlay district, while Article 2 describes its geographic boundaries. The boundaries of the ASOD match the boundaries of property on which the former Carter Mill building sits, except at the southern end of the property, where the overlay district boundary matches the boundary of the Avery Square Business District. The overlay district’s key provisions are summarized below.

Geographic Designation of the District

The ASOD is bounded on the north by West Street; on the east by Highland Avenue; on the south by the existing zoning boundary line between the Avery Square Business District and the adjacent SRB district, which runs through the existing parking area south of the existing building; and on the west by the MBTA commuter railroad right-of-way.

Purpose of the District

The purposes of the ASOD are to promote the health, safety, and general welfare of the community by creating opportunities for housing primarily serving individuals 55 years old or older, who wish to live in independent apartments and/or who may need to live in Assisted Living and/or Alzheimer’s/Memory Loss facilities, within walking distance of goods and services, public transportation, and the civic life of the town; to promote a vibrant, walkable area within the ASOD, and to encourage and allow redevelopment of the existing property within the ASOD in a manner that will further these purposes. Toward these ends, development in the proposed Avery Square Overlay District would be permitted to exceed certain density and dimensional requirements that normally apply in the underlying Avery Square Business District, provided that such development complies with all other requirements of the proposed Warrant Article.

Definitions

The proposed Warrant Article would amend the definition of “Independent Living Apartments” in Section 1.3 of the Bylaw so that within the ASOD, Independent Living Apartments may be located in the same building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities, but need not be part of a Continuing Care Retirement Community.

Permitted Uses

The proposed ASOD Warrant Article lists the uses that are allowed as-of-right or by special permit. The use schedule largely mirrors that of the underlying Avery Square Business District with the following additional uses allowed by special permit: Assisted Living and/or Alzheimer’s/Memory Loss Facilities; Independent Living Apartments; and Mixed-use buildings containing, as primary uses, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses.

The proposed ASOD warrant Article specifies that the Planning Board will be the Special Permit Granting Authority for all such special permits.

Allowable Building Height, Number of Stories, and Occupancy

The proposed maximum allowable building height (including mechanical structures such as HVAC equipment) in the ASOD is 44 feet. This height limitation does not apply to elevator shaft overruns, which cannot exceed a maximum height of 49 feet. The building may include, but not exceed, four (4) stories, all of which may be occupied. At present, the building includes three stories, all of which were occupied while the Avery Crossing Assisted Living Facility and Avery Manor Nursing Home were in operation.

Restrictions on the 4th Story

Under the proposed ASOD Warrant Article, the total floor area of any fourth-floor addition to the existing building may not exceed thirty-five percent (35%) of the total roof area of the existing building. Mechanical equipment, including but not limited to HVAC equipment, whether or not enclosed, is not included in the calculation of maximum allowable floor area.

For the fourth story, minimum setback requirements, measured from the façade(s) of the building, are proposed as follows: from the eastern facade of the building (facing Highland Ave), fifteen (15) feet; from the northern façade of the building (closest to and facing West Street), one hundred and ten (110) feet; from the western facade of the building, zero (0) feet; from the southern facade of the building, thirty-five (35) feet. No fourth story setback from the north-facing building façade would be required with respect to any portion of any building that is set back from West Street at least two hundred (200) feet.

The minimum setbacks and limit on the percentage of the existing footprint of the building that can be used for a fourth story will reduce the visual impact of the fourth story.

If the primary use of the existing building ceases to be Independent Living Apartments and/or Assisted Living and or Alzheimer’s/Memory Care Facilities, then the 4th story cannot continue to be occupied unless a special permit is granted allowing such continued occupancy, but the 4th story need not be demolished, and if the existing building is demolished and the primary use(s) are not Independent Living

Apartments and/or Assisting Living and or Alzheimer's/Memory Care Facilities then the new building cannot have a 4th story.

Building Bulk and Other Requirements

The proposed maximum floor area ratio ("FAR") in the ASOD is 1.1. The property at the southern end of the parcel, in the adjacent SRB district, that is contiguous with and in common ownership with property in the Avery Square Overlay District, will be included in the lot for purposes of calculating FAR. In the proposed overlay district, the FAR calculation excludes garage parking within the building.

Off-Street Parking

The minimum number of off-street parking spaces specified in Section 5.1.2 of the Bylaw will apply except that for Independent Living Apartments, there will be one parking space per Apartment; and for Assisted Living units and Alzheimer's/Memory Loss units, the requirement will be one parking space for every two beds, plus one parking space for every two employees on the largest shift.

At present, there is a portion of the southern parking area that extends into the SRB district adjacent to the boundary of the ASOD (and underlying ASB District). Parking in this area will be continued and will be allowed as-of-right, provided that the parking area does not extend any further into the SRB district than is presently the case.

Affordable Housing

In the proposed ASOD Warrant Article, twelve and one-half percent (12.5%) of the Independent Living Apartments must be affordable units. Fractions are rounded up to the nearest whole number. There is no affordable housing requirement for Assisted Living and Alzheimer's/Memory Loss Facilities.

Affordable units will be dispersed within the building and not concentrated in one area or on one floor. They will generally be comparable in size, energy efficiency, quality, convenience, and unit-specific real estate-related amenities to the building's market-rate units. The selection of eligible homebuyers or renters for the affordable units will be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the building. The affordable units will also be subject to an affordable housing restriction as defined in Section 1.3 of the Town By-Laws.

Other Proposed Changes to the Bylaw

In order to facilitate the proposed renovation of the building, the proposed Warrant Article would amend the definition of "Front Setback" elsewhere in the Bylaw to allow ground-level patios (of less than 100 square feet each), and walls no higher than 36 inches around those patios, serving some of the ground-floor units that will face Highland Avenue.

The proposed Warrant Article also would make a small change to the Bylaw Section 4.4.6, Enclosed Parking, to correct a wording error, but not change its meaning and effect.

**ARTICLE 2: AMEND ZONING BY-LAW – MAP CHANGE TO AVERY SQUARE
OVERLAY DISTRICT**

To see if the Town will vote to amend the Needham Zoning By-Law by amending the Zoning Map as follows:

- (a) Place in the Avery Square Overlay District all that land described as follows, and superimposing that District over the existing Avery Square Business District:

Beginning at the point of intersection of the westerly sideline of Highland Avenue and the northerly sideline of what was formerly known as Hildreth Place (said former Hildreth Place as shown on Needham Town Assessors Map 63); thence running northerly by the westerly sideline of Highland Avenue to the point of curvature of a curve having a radius of 20 feet and an arc length of 29.27 feet; said curve being a property rounding of the intersection of the westerly sideline of Highland Avenue and the southerly sideline of West Street; thence running northerly, northwesterly, and westerly by said curve to the point of tangency of said curve located on the southerly sideline of West Street; thence running westerly by the southerly sideline of West Street to the point of intersection of the southerly sideline of West Street and the easterly right of way line of MBTA property; thence running southerly by said easterly right of way line of MBTA property to the intersection of the easterly right of way line of MBTA property and the northerly sideline of what was formerly known as Hildreth Place; thence running easterly by the northern boundary of what was formerly known as Hildreth Place, to the point of beginning.

The land is also shown on Needham Town Assessors Map 63, Parcel 37, but excluding any land to the south of the northerly sideline of what was formerly known as Hildreth Place.

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Explanation: This article describes the geographical boundaries of the new Avery Square Overlay District, which is bounded on the north by West Street; on the east by Highland Avenue; on the south by the northern and western boundaries of the property located at 1049 Highland Avenue and the northern boundary of the property located at 95 Dana Place; and on the west by the MBTA commuter railroad right-of-way.

NEEDHAM PLANNING BOARD MINUTES

July 7, 2020

The Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Vice-Chairman, on Tuesday, July 7, 2020, at 7:15 p.m. with Messrs. Jacobs, Owens 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 people expected to be on the agenda. 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. This meeting will allow public comment. He noted if any votes are taken at the meeting the vote will be conducted by roll call.

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 automatically continue the meeting to 7/21/20 at 7:15 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting tonight.

Vote to refer and Schedule Public Hearing: 100 West Street, Redevelop and zoning change of the property to enable an 83 unit Assisted Living and Alzheimer's/Memory Care facility and 71 Independent Living Apartments.

Mr. Alpert noted there are 2 Zoning By-Laws. Article 1 is the creation of the Avery Square Overlay District and Article 2 is a map change. A motion was made to refer the 2 Articles to the Selectboard for referral back to the Planning Board for public hearings. Mr. Jacobs noted a typo in the first paragraph, 4th line from the bottom, the word "southerly." Ms. McKnight stated she listened to the Selectboard hearing and one issue that was raised, particularly by Dan Matthews, was train noise and his insistence the developer and then the lessor make sure all prospective tenants are aware of the train noise. Mr. Bloom mentioned his company owns many developments and one is at a railroad crossing in Melrose and it was found the noise was not all that hard to live with. He noted Melrose established a quiet zone so the trains do not blow their horns. She wanted the team to be aware of this.

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

VOTED: to refer the 2 Articles to the Selectboard for referral back to the Planning Board for public hearings.

Public Hearing:

7:15 p.m. – Amendment to Major Project Site Plan Review No. 2008-08: V.S.A., LLC, 180 Country Way, Needham, Massachusetts, Petitioner (Property located at 225 Highland Avenue, Needham, MA).

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

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

George Giunta Jr., representative for the applicant, noted this is an existing building at the corner of Highland Avenue and Wexford Street. He gave the background of the building. It is a 2 story building with the top floor occupied by Gymboree. The first floor has Snippets and U Break I Fix. The 3rd space was Huntington Learning Center and is currently vacant. The Learning Tree Preschool is similar to Huntington but not the same. It was established in 1997, is fully licensed and open in West Roxbury. The space is on the left side of the first floor and is 11,009 square feet. There are 2 programs – one for toddlers 15 months to 2.8 years of age and the preschool is for 2.9 years of age to 6 years. There will be 9 toddlers and 10 preschoolers. The original request referenced 13 toddlers not 9.

Mr. Giunta Jr. noted the staff has been reduced from 4 plus 1 and is now 3 plus 1. The hours are 7:30 a.m. to 5:30 p.m. with drop off being 7:30 a.m. to 9:00 a.m. and pick up between 3:00 p.m. and 5:30 p.m. There is a proposed outdoor play area. A new fence will be connected from the building to the fence at both ends to create an outdoor play area. The indoors is predominantly open space with restrooms and office space for meetings. There is a common hallway in back with common bathrooms. There will be 2 sections with 4 foot partitions for the toddler and preschool areas. He noted the use falls under the 40A Dover Amendment, Section 3. It is exempted under Section 3.2.5.1A of the Needham Zoning By-Laws. There are no material changes to the building, parking or exterior. The only change is the addition of the fence and play area. There is no set parking designation for this use.

Mr. Giunta Jr. stated he would like the Planning Board to designate a childcare standard. If the enrollment is known and is under 40 students there would need to be a total of 8 spaces. That is the same as the Huntington Learning Center. There is already an existing waiver for Huntington so no new waiver is needed. He noted drop offs are done before Gymboree opens and pick-ups are done after Gymboree closes so there are no conflicts. He stated Huntington was there for several years and there were no issues. There are 22 spaces on site and 5 spaces available down the street. He feels there will be no negative onus or impact. Mr. Alpert noted he is the General Counsel for Temple Beth Shalom, who has a children's center. He does not see a conflict and has spoken with the Temple who do not see this as a competitor. Mr. Giunta Jr. stated he has no objection to Mr. Alpert participating.

Mr. Alpert noted the following correspondence for the record: an email from Fire Chief Dennis Condon, noting he was ok with the changes; an email from Town Engineer Anthony DelGaizo, with no comments or objections; an email from Building Inspector David Roche with no issues; an email from Tara Gurge, of the Public Health Department, with comments regarding food and COVID 19 protocols; and an email from Police Chief John Schlittler with comments regarding parking, walkers and the congested area. Chief Schlittler noted if the lot is full there is only one way in and out, which may cause an issue. He is concerned with traffic at the intersection of Wexford and Highland, which at one time was the most dangerous intersection in town. He is concerned with safety getting in and out of the area and he hopes there will be designated parking in the lot adjacent to the building for parents.

Mr. Block echoed the police comments regarding safety. He would like Mr. Giunta Jr. to talk to the timing of the others stores with Snippets and U Break I Fix. He noted he takes his son to Snippets after school between 4:00 p.m. and 6:00 p.m. He asked whose property the white fence is on that is between the buildings. Mr. Giunta Jr. noted the fence is on this property and the new fence will be connected to it. Mr. Block asked if the tree will be removed to put the fence up. Mr. Giunta Jr. feels it will be fit in around the fence. Maura Dinnegan, tenant, stated there are no plans for play structures but toys and maybe a play house. There will be no climbing equipment. Mr. Jacobs asked how the play area will be accessed. Mr. Giunta Jr. stated the door on the end of the building near the play area. He noted Snippets hours are 10:00 a.m. to 6:00 p.m. and U Break I Fix's hours are 10:00 a.m. to 5:00 p.m. He feels there will be no conflict for the morning drop off. Pick up is spread so he does not feel there is a conflict there either. He noted Huntington had no conflicts. The existing conditions are not really changing except drop off is earlier. He does not feel there are any substantial problems.

Mr. Jacobs asked if there would be any problem with a condition that the off-site available spaces would be used for staff. Mr. Giunta Jr. stated that is how the off-site spaces are used now. John Giannacopoulos, owner of the building, noted all tenants are required to park off site or the lease can be broken. He has invested a lot of money in traffic Improvements. It is a busy area but much improved. He noted he has not had a problem in all his years in Needham. Mr. Jacobs asked if the 5 off-site spots are deeded. Mr. Giannacopoulos stated he owns the whole parking lot with dedicated spaces for tenants.

Ms. McKnight stated she is concerned with off-site spaces. She would like a condition that all employees should park off-site and feels the owner has agreed to that. She sees the traffic as being different from the Huntington Learning Center. There are more at peak hour drop off. She is concerned with safety at that intersection. Improvements to Highland Avenue are state work. She asked if there will there be a light at the corner of Highland and Wexford and was informed no. She asked if there would be any improvements. Ms. Newman noted there will

be a left turn lane into the gas station, a left turn lane onto Wexford Street and raised bike lanes. Construction was supposed to start in September but has been delayed. Mr. Owens had no comments or questions. Mr. Jacobs noted the 11,009 square feet should be 1,109 square feet. Mr. Giunta Jr. agreed.

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

VOTED: to close the hearing.

Mr. Giunta Jr. stated he made some edits to the draft decision with Ms. Newman. He did not change the use section. This was written as a Special Permit. He feels it is an exempt use. Mr. Alpert agrees. He feels the decision should be changed to reflect that. He noted the discussion will be after the next hearing.

7:30 p.m. – Major Project Site Plan Review No. 2020-02: Corben Properties, LLC, 22 Comeau Street, Wellesley, MA 02481, Petitioner (Property located at 330 Reservoir Street, Needham, MA).

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

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

Shuang Meng, owner of Star Fencing Academy, introduced the art of fencing. She noted it is an Olympic sport with 2 fencers at a time. She and her husband come from China and moved here 10 years ago. They have been training fencers since then. She gave a background on herself and her students. She noted there is a 44 foot long stage and the fencers move back and forth. She explained the different levels of classes. The hours will be 3:00 p.m. to 9:00 p.m. There will be private lessons, beginner classes, competitive classes and high rank classes. She noted there are 8 parking spaces and a lot of street parking. Scott Ravelson, owner of the building, stated he is excited about the fencing school. It is the perfect use and complements the neighborhood. He is replacing a retail auto parts store with higher parking demand. He noted the lease does not allow parking until after 2:30 and restricts the number of students allowed between 3:00 p.m. and 4:30 p.m. There is very minor construction being done.

Ms. McKnight asked for the parking to be clarified. This use would need 15 spaces and only 8 are provided on site. Mr. Ravelson stated he has 102 parking spaces, mostly in the rear of the building. He has given 8 spaces in front of the building and along the site that have been attached to the lease. He felt parking on the street was better than the safety issue of parents walking down the alley from the back of the lot. He noted this is a private street. Ms. McKnight asked if this was a for profit and was informed it was. Mr. Jacobs asked if all students are under 20 years old. Ms. Meng noted the ages are between 6 and 18, but they also have some college students. She also has adult classes with the oldest being 70 years old.

Mr. Alpert noted the following correspondence for the record: an email from Fire Chief Dennis Condon with no issues; an email from Police Chief John Schlittler with no issues; an email from Town Engineer Anthony DelGaizo with no comments or objections; an email from Building Inspector David Roche with no issues and an email from Tara Gurge, of the Public Health Department, with comments regarding retail food and state COVID19 protocols.

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.

Discussion regarding 225 Highland Avenue.

Mr. Alpert noted on the draft on page 1, the chart needs to be changed to his name as the Acting Chair of the meeting and in Section 1.10, language needs to be added regarding off-site parking for staff. He agreed with Mr. Giunta Jr. that this is an as of right use and not a special permit use. All other members agreed. Mr. Alpert noted in Section 3.4, the Board retains jurisdiction regarding the number of kids; in Section 3.7, "Allston" is misspelled and in Section 3.12, add "Department of Early Education and Care." He noted this is not legally a transfer. He noted if

the ownership interests of the LLC, Inc. are transferred such that the current owner does not own more than 50% of the voting of the stock, it is considered a transfer and is in violation of the permit.

Mr. Jacobs noted the decision needs to be changed to reflect the number of students represented tonight. Ms. Newman stated she needs to have plan modifications that call out how the play area is on site. Mr. Alpert stated the Board needs a revised draft to review. The vote will be deferred until the 7/21 meeting. Ms. McKnight noted in Section 1.7, 2nd paragraph, top of page 4, she would like it to say where the 5 off-site spaces are; in Section 1.9, the traffic pattern is changing – this is a change of use and not a change of the building. This should be clarified. In Section 1.10, it seems the waiver of parking has been resolved by lowering the number of students and staff and off-site parking should be in the conditions and limitations. Mr. Giunta Jr. stated the off-site parking is at 43 Wexford Street. Ms. Newman will revise the draft to reflect the discussion tonight.

Discussion regarding 330 Reservoir Street.

Mr. Alpert noted the decision needs to be changed to reflect he was Acting Chair of the meeting. Ms. McKnight commented on the parking analysis. There are 63 spaces for the whole building with 102 available. This tenant is limited to 8 spaces and 5 on the private way. She wants to make sure they can use any parking. Mr. Ravelson stated there is always an issue on Reservoir Street in the day time. He has specifics in the lease. Mr. Alpert commented they need to know there are 15 spaces available for this tenant. The Board does not need to know where. Ms. Newman noted there is a change in class times from 3:00 p.m. to 4:30 p.m. not 3:00 p.m. to 5:00 p.m. She will make the change in the decision.

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

VOTED: to grant (1) the requested Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law; (2) the requested Special Permit under Section 3.2.1 for a private school, nursery or kindergarten not otherwise classified under Section 3.2.5.1 in the Industrial Zoning District; and (3) the requested Special Permit under Section 3.2.1 for more than one non-residential use on a lot, subject to and with the benefit of the following Plan modification, conditions and limitations to be set forth in the draft decision.

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

VOTED: to adopt the draft decision with the changes discussed tonight.

Board of Appeals – July 18, 2020

J. Derenzo Properties, LLC – 123 Pickering Street.

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

VOTED: “No comment.”

Catalyst Development, LLC – 249 Garden Street.

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

VOTED: “No comment.”

Needham Pool and Racquet Club, Inc – 1545 Central Avenue.

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

VOTED: "No comment."

Minutes

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

VOTED: to accept the minutes of 4/15/20 and 5/5/20 as written.

Correspondence

There was no correspondence.

Report from Planning Director and Board members.

Ms. Newman noted there was a meeting this morning of the Highway Commercial 1 working group. The primary issue is traffic and what next steps should look like. There was some new state data collected prior to COVID after Add a Lane went on line. The town took some counts at Gould and Central prior to COVID. The group felt it made sense to go back to the traffic consultant to see how it might look with this new data, how they are doing traffic studies now in this environment and come up with a new scope of services that would be reviewed by the group at the next meeting. Mr. Block noted there was a brief conversation regarding residential at this site but it was decided to keep this with some retail. The retail component was not discussed but the consensus is office and retail. Ms. Newman noted both will be modeled. Mr. Jacobs noted there was no consensus in the meeting whether to include residential or not. Ms. Newman stated this is just to create the framework for what will be modeled.

Ms. McKnight noted she is a proponent of residential. The problem with this site is it is not transit oriented. She is not enthusiastic about residential for this parcel. Mr. Owens agreed. There would be a benefit from a residential development and he knows the supply and demand issue. The tax rate on commercial is greater and this land is much more valuable as commercial. He feels the town does not need any more residential along the highway. The idea of studying for residential use is just a delaying tactic in his mind. Mr. Jacobs noted it was expressed there was not a clear vision for this site. People thought it made sense to model for residential as well. He feels there may be some opposition to just retail and office at Town Meeting. The Board should be able to say it was modeled all ways and have decided to stick with office and retail. He feels the consensus of the group would agree with that.

Mr. Block has spoken with a number of Real Estate agents. The 128 Commercial Real Estate remains high and strong. He does not feel this location would be good for residential. He feels the Board should be in unison with their position. Mr. Alpert noted the Board did discuss residential but came to the conclusion it should not be in and only commercial should be considered. However, Town Meeting wants to know why residential was not considered. The Board needs to be able to answer people why there should not be residential. The Board needs to have the facts to present the counterargument. Mr. Owens stated he is willing to model residential and consider it so it can be said it was looked at. A discussion ensued.

Mr. Jacobs asked if there was a sense of how long it would take for a study to be performed. Ms. Newman felt not too long. Existing traffic data is being used. The question is if there is sufficient data to go forward. Mr. Owens stated he is willing to consider all options but in the end the Board needs to bring forward what the Board thinks is best for the town.

Mr. Alpert asked what happened to the proposal to put 200-250 apartments behind Staples. Ms. Newman stated the first deal fell apart and she hasn't heard anything lately. Ms. Newman noted the CEA is moving ahead with hiring the Economic Development Director within the month. She noted Town Meeting is set for 10/5. The zoning change hearing is in August because of the Town Meeting date. Mr. Block noted LCB Senior Living has reached out to him as the Chair of the CEA and President of the Needham Heights Neighborhood Associations. They want to do a presentation for the Heights Association in September.

Mr. Alpert noted the Chair and Vice-Chair meeting on Friday. Ms. Newman mentioned the possibility that Mr. Piersiak may give a consideration of an easement on a portion of the land that abuts the Charles River. He would not want the public to have access to the easement. Mr. Alpert noted he and Ms. McKnight think there should be some push back to see if they could get access. He reached out to the Chair of the Conservation Commission, Janet Bernardo, to see if they would agree with the Planning Board. She was ambivalent due to people walking on the vegetation along the river and destroying it. He feels a couple of members of the Planning Board and the Conservation Commission should approach Mr. Piersiak to allow for a site visit to see what is there. Then the Conservation Commission can make a decision if they want to approve or not.

Mr. Block asked if the town would have the responsibility to maintain the easement. Mr. Alpert noted the owner and whoever holds the easement would be responsible for maintenance. Mr. Owens is in favor of speaking with Mr. Piersiak. Mr. Block agreed. Mr. Alpert asked Ms. Newman to coordinate with Debbie Anderson to see how to get a site visit with Mr. Piersiak.

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

VOTED: to adjourn the meeting at 10:01 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul S. Alpert, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

July 21, 2020

The Planning Board Virtual Meeting using Zoom was remotely called to order by Jeanne McKnight, Chairman, on Tuesday, July 21, 2020, at 7:15 p.m. with Messrs. Jacobs, Alpert, and Block, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Ms. McKnight took a roll call attendance of people expected to be on the agenda. She 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. She reviewed the rules of conduct for zoom meetings. This meeting will include 2 public hearings that will allow public comment. She noted if any votes are taken at the meeting the vote will be conducted by roll call.

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

VOTED: to automatically continue the meeting to 8/11/20 at 7:15 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting tonight.

Request to Authorize Planning Director to authorize Phase 1 Occupancy Permit: Major Project Site Plan Special Permit No. 2018-03: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 88 and 66 Chestnut Street, 89 School Street, 43 Lincoln Street, Needham, Massachusetts), regarding Police & Fire Headquarters.

Ms. McKnight noted a memo to the Planning Director from Steven Popper, Director of BD&C, requesting a temporary occupancy permit at 88 Chestnut Street. This is the newly constructed Phase 1 of the Public Safety Building. This will allow the Fire Department to move into the new building. Mr. Jacobs asked if there was an anticipation of any issues with this. Ms. Newman stated she anticipates getting an interim As-Built Site Plan, an interim As-Built landscape plan and certification on the architectural side. There will be inspections on Engineering's side.

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

VOTED: to authorize the Planning Director to authorize the issuance of a temporary Certificate of Occupancy for 88 Chestnut Street.

ANR Plan – Christ Church of Needham, Petitioner (Property located at 1132 Highland Avenue, Needham, MA).

Ms. McKnight noted this is an endorsement of an ANR for 61 and 65 Rosemary Street and 1132 Highland Avenue. Evans Huber, Attorney, noted this is 3 adjacent properties. He stated 61 Rosemary Street is vacant but undersized. 65 Rosemary Street has a structure and is next to the church lot. The applicant wants to create a buildable lot at 61 Rosemary Street by demolishing the house on 65 Rosemary Street, taking that land and adding some to 61 Rosemary Street to create a conforming lot. The remaining land will be added to the 1132 Highland Avenue lot. This will eliminate or reduce nonconformities. Ms. McKnight clarified that no new nonconformities will be created by this plan. Mr. Huber stated that is correct.

Mr. Block noted on the plan of land, in the signature bloc for the Clerk, it says Newton Planning Board. It should be adjusted for Needham. Mr. Huber stated there were several versions of this plan. He had hoped the final version was delivered but this may not be the last version. Mr. Block asked who owns 61 Rosemary Street and was informed the church. Mr. Block asked if the church intends to sell it. Phil Trussell, representative of Christ Church of Needham, stated the intent is to sell the lot. Mr. Jacobs reviewed the changes made to the prior versions. Middlesex County has been changed to Norfolk County, Rosemary spelling was corrected, Newton was

changed to Needham and the zoning changes have been updated also. Mr. Huber reviewed the zoning changes that were made.

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

VOTED: to endorse the plan subdivision approval not required.

Decision: Amendment to Major Project Site Plan Review No, 2008-0: V.S.A., LLC. 180 Country Way, Needham, Massachusetts, Petitioner (Property located at 225 Highland Avenue, Needham, MA).

Ms. McKnight noted the request is to allow occupancy of a portion of the building by a preschool. The latest revised version was sent this afternoon. Mr. Alpert noted the decision needs to be revised to reflect only 4 members.

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

VOTED: to approve the requested Major Project Site Plan Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law and Section 4.2 of Major Project Special Permit No. 2008-08, dated November 12, 2008, amended August 11, 2009, January 3, 2011, August 9, 2011 and June 12, 2012; the requested Special Permit under Section 5.1.1.5 of the By-Law to further waive strict adherence with the requirements of Section 5.1.2 (Required Parking), subject to and with the benefit of the following Plan modifications, conditions and limitations.

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

VOTED: to accept the decision as presented in the packet that was posted with the modifications made and presented this afternoon.

Public Hearing:

7:30 p.m. – 390 Grove Street Definitive Subdivision Amendment: Elisabeth Schmidt-Schueber, 390 Grove Street, Needham, MA, Petitioner (Property located at 390 Grove Street, Needham, MA). Please note this is a re-noticed hearing that began on February 4, 2020.

Ms. McKnight noted this is a definitive subdivision and not an amendment.

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

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

George Giunta Jr., representative for the applicant, noted February 18 was the last time he was in front of the Board due to COVID. He gave a quick refresh of the basics. This is a 5 acre parcel. There will be one new house. The applicant wants to do a subdivision and put in a new road. He feels this is as of right. There is a reduced road width of 18 feet and the circle at the end has been modified. At the last hearing, assorted issues were discussed and the plans were revised and submitted in early March. The filtermitt along the north and south property line was moved to within one foot of the property line; the roadway pavement within the width of the right of way was shifted 2 feet to the south so the abutter to the north has a 13 foot buffer between the property line; trees to be protected and to be removed have been identified on the plan and landscaping has been added. He noted the circle could not be pivoted without losing trees.

Ms. McKnight noted the following correspondence for the record: an email, dated 7/16/20, from Fire Chief Dennis Condon noting no issues; an email, dated 7/16/20, from Town Engineer Anthony DelGaizo with comments regarding the culvert pipe. She asked Mr. Giunta Jr. if he has seen the email from engineering. Mr. Giunta Jr. noted he has seen that email and had forwarded it to their engineer. The engineer has revised the plans

already. The revised plans have not yet been submitted. Ms. McKnight noted the following additional correspondence for the record: letters in petition form and in opposition from: Jean McGlynn of 359 Grove Street; Roberta Swenson of 447 Grove Street; James Frates of 471 and 465 Grove Street; Fred and Tamara Ledley of 433 Grove Street; Sandy and HP Geddes of 461 Grove Street; James Curley of 380 Grove Street; Mark Warren and Victoria Vannederman of 390 Grove Street; Wendy Lane of 348 Grove Street; Robert and Kalliope Badavas of 402 Grove Street and Jane O'Brien of 430 Grove Street; an email from Robert Stetson, dated 7/21/20; a letter from Attorney Gary Lilienthal, dated 7/16/20, requesting to speak at the meeting; and a letter, dated 7/14/20, from Civil Engineers Karlis Skulte and Amy Knight.

Gary Lilienthal, Attorney representing James Curley and 2 others, stated his clients are opposed to this application. The plans were sent out to the Board this evening. He noted Mr. Skulte will go through the engineering review. Karlis Skulte, Engineer, showed a mark up of the approved as of right plan. He noted there were no meets and bounds on the plan so he recreated them. The plan does not meet the lot width requirements at Grove Street. There are a number of significant trees along the property line shared with Mr. Curley. He needs to look at if they will survive with construction. The test pits were dug and a number of assumptions were made in order to design the system. He is not confident they are being consistent and uniform along the site with soil conditions. The turning radius is only 8 feet rather than 20 feet. There should be a larger radius included in the turning movement exhibit. The parkway on the plan is 13 feet but 11 feet elsewhere so it is inconsistent. He is not clear what is being proposed. He is also not sure what the trash label is for. The infiltration system appears not to meet the minimum requirements and he would like it looked at. The level area of 50 feet should not be more than a 1% grade for safety. A waiver is being requested. That is a fairly steep grade at 3%. The drainage appears to drain along, and not into, the catch basins. Based on the swail proposed a substantial portion will be going into the roadway. He also noted the project is in a protected area.

Mr. Lilienthal stated the plans should fail as an as of right subdivision as well as being entitled to waivers. Waivers would not benefit the community in any form and would only benefit the applicant. There is an existing single family house in the neighborhood. He noted this is an historic neighborhood. There are 11 people who own over 30 acres in the area that is close to this property. The Board should look to benefit the public when granting waivers. He does not feel this is a benefit to the public. The lot on an as of right basis will be deficient in footage by over 1,000 feet. The plans are deficient in terms of measurements and the land is in the Needham Aquifer Overlay District as well as Massachusetts Storm Water Control areas. Mr. Lilienthal feels the drainage was improperly and inadequately calculated and there are sidewalk and parkway issues. He noted there are many mature trees. Parcel A seems to be used for an infiltration system and chambers but the applicant would like the Board to think Parcel A is not part of the subdivision. Parcel A is only there to meet the width requirement. He requests the Board close the hearing and reject the plan.

Mr. Alpert asked if the applicant has presented this as an as of right subdivision. There are 2 elements to that. Lot 1 is less than one acre. He noted there is plenty of land on Lot 1 that could be added to Lot 2. He is concerned with the 120 foot frontage requirement, which is not required for the entire lot. What is the reason for having Lot A? It is clear from the plans because of the radius of the roadway on the south side if the lot has frontage on Grove Street it is less than 120 feet. He would like to go back to the Fire and Police Chiefs and see if they are still approving this from a safety perspective. He would also like to go back to the Town Engineer on the infiltration and storm water systems to look at the objections being raised and see what he thinks. He wants more information.

Mr. Jacobs noted there were a lot of comments this was a historic neighborhood. He asked how this is a historic neighborhood and how would the Board deal with it if it is. He asked if it makes a difference. Mr. Lilienthal stated it is not designated as an historic district. It is the character and maturity of the neighborhood and the feeling of Needham values. There has been an historic feeling over the years and the neighbors want to keep that. This proposal will affect the character of the neighborhood. Ms. McKnight stated the police comments were to the original plans. Changes have been made to the plans in response to discussions. The email from Police Chief Schlittler says the police have no issues.

Mr. Block asked when is it appropriate to issue waivers and at what point are we waiving away our subdivision regulations. The Board has to look at the adverse impact that subdivisions or waivers would have on abutters. He asked if the engineering issues raised are cured, is there an adverse economic impact to the abutters and, if so, how to quantify that. He noted the second house is far from Grove Street and really only a part of the driveway would be seen. He wants to be mindful of the actual characteristics of this street, the impact on the neighborhood, any precedent the Board may be setting and if any harm is actually being raised. He asked if there is any actual economic or environmental harm to the abutters.

Mr. Giunta Jr. noted Grove Street is rural with substantial lots. Large lots define the area. There is no impact on zoning. The Board needs to look at what zoning provides and that is one acre lots in this area. A lot of the properties are larger but the zoning is one acre. Parcel A was created to create a separation from Grove Street so Lot A would not be a corner lot. He noted this would be owned by a trust of the homeowners and would be a separate lot. Lot 1 is not a corner lot and the 120 feet does not apply. It meets 120 feet on the roadway. He noted the plan does not have an area, which is their oversight. He will come back with revised as of right plans. All waivers are predicated on an as of right plan. He feels they have an as of right plan.

Ms. McKnight stated an as of right plan would require 2 sidewalks. Trees would be disturbed so this is not an as of right. She asked if the as of right plan made changes to the turning radius at the corner and apron grade to comply. David Kelley, Project Engineer, noted on the as of right plan the pavement radius on the south and north are different. Ms. McKnight noted the north, as shown on the waiver plan, shows different and complying turning radius. Mr. Giunta Jr. will look at this. Mr. Lilienthal noted waivers are given to enhance the projects and basically benefit all. This is a benefit to the developer only. Mr. Block asked what harm may come to abutters if the engineering issues were cured and this was approved. Mr. Lilienthal stated harm is subjective and he cannot really answer that. If an as of right plan was compliant with all rules and regulations that is one thing. This is a detour of the rules and regulations.

Ms. McKnight stated this hearing will be continued. She wants more information on the drainage issues and for the Town Engineer to look at the storm water. Mr. Alpert also wants the police and fire to examine the entrance of the roadway onto Grove Street. He wants them to take a second look. Mr. Giunta Jr. noted this would require an extension to the end of September.

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 continue the hearing to 8/11/20 at 8:00 p.m.

8:00 p.m. – Heather Lane Definitive Subdivision: William John Piersiak, William John Piersiak, Trustee of the 768B Chestnut Street Realty Trust, Evelyn Soule Maloomian, and Koby Kemple, Manager of the 766 Chestnut LLC, Petitioners (Property located at 764, 766, 768-768A, and 768B Chestnut Street, Needham, Norfolk County, Massachusetts). Please note: this hearing is continued from the June 16, 2020 Planning Board meeting.

Heather Lane Extension Definitive Subdivision and Residential Compound: William John Piersiak, Petitioner (Property located at 768A-768B Chestnut Street, Needham, Norfolk County, Massachusetts). Please note: this hearing is continued from the June 16, 2020 Planning Board meeting.

Robert Smart, representative for the applicant, noted this is 3 applications with a total of 10 lots with 5 existing residences. He noted there are 3 letters of support. There was a site meeting on 6/22/20 with the abutters to discuss the road layout and walk the property with the Conservation Commission. Mr. Piersiak has purchased Ms. Maloomian's property so he cleaned up the documents. He has filed revised Homeowner documents and plans. They are requesting the same conservation restrictions as Petrini's Riverbend Lane subdivision project. That does not give the right to enter the premises except for the grantee, which is the town. The Conservation Commission asked they track the same language as in the Petrini document. He described the property and abutting properties and noted the sewer easement. There is no trail across 770 Chestnut Street and there is no

place for the public to park. He noted a walking trail would dead end and be of no use to the public. He has had additional communication with abutters over the last few days and they were in support of the application.

David Kelly, of Kelly Engineering Group LLC, showed the changes made on the plan. The drainage easement has been defined on the plan; he has provided an updated waiver list, which he reviewed; the right of way width is going from 50 feet to 40 feet and is currently 15 feet, the pavement width is going from 24 feet to 20 feet and is 12 feet now; the street slopes at the intersection, the radii at the intersection; there is no curbing now and they propose bituminous and there are no sidewalks proposed as there are no sidewalks on Chestnut Street. There are minor changes to the residential compound; the 25 foot right of way has been changed from 20 feet, utilities in the road have been put in the right of way and some revisions to the hammerhead to allow for a fire hydrant in the right of way.

Mr. Alpert noted he had no questions or comments. Mr. Jacobs stated he went over the Homeowners Trust documents and will have some edits later. The Conservation Commission has requested a restriction and no public access. He is ok with their request and would not push for public access. Mr. Block agreed with Mr. Jacobs and had no other comments. Ms. McKnight noted she participated in the site visit. The strip along the river has no access and there is a steep slope along the river. She concurs with the Conservation Commissions restriction with no public access. Simeone Brunner, representative of 770 Chestnut Street LLC, stated they may be doing a project on their property and generally he is in support of this project. There are some concerns with the easement on Heather Lane. He would like the Board to note Heather Lane would be sufficient to support 2 additional accesses if they go forward with their project.

Mr. Alpert stated he has noticed an issue with the plan on sheet 4A of the Lotting Plan. By widening Heather Lane they are reducing the line along Chestnut Street on Lot 1 so it no longer has 150 feet of frontage on Chestnut Street. It looks like 60 feet are being taken away. There needs to be 150 feet in the By-Law. Mr. Smart stated Lot 1 is part of the subdivision and will have frontage on the new road. Ms. McKnight noted the following correspondence for the record; an email from Tara Gurge, of the Health Department, with comments on the Heather Lane Extension and noting the surety required. Mr. Smart stated he is not clear the surety is necessary when moving from one location to another. Ms. McKnight noted drainage may be changed on the lot and this surety will ensure it. William Piersiak, applicant, stated he has no issue with the requirement for surety.

Mr. Smart stated he will look at the lot width provision. A parcel could be created so there is no frontage on Chestnut Street. Ms. Newman noted the issue needs to be resolved. She still needs close out letters from Engineering, a final review of the drawings, a final letter from the Conservation Commission and the exact location of the easement. This can be continued for those 3 reasons and she can have the decision ready for the 8/11/20 meeting.

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

VOTED: to continue the hearing to 8/11/20 at 8:30 p.m. for the sole purpose of obtaining further information on the lot width issue for Lot 1, a letter from the Conservation Commission and final engineering review.

Minutes

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

VOTED: to accept the minutes of 5/20/20 and 6/2/20.

Correspondence

It was noted there is correspondence regarding an amendment to the Cogswell Building. Ms. Newman noted the Town may do a solar installation on the building. If they decide to go forward it will need to be an amendment.

Report from Planning Director and Board members.

Ms. Newman stated she is moving forward with the Highway Commercial 1 zoning. The proposal has been received from GPI on the traffic study and has been sent to the Town Manager. It will be going to the working group to see if it would be approved for a plan study. The Avery Square District rezoning hearing is scheduled for 8/11/20 at 7:30 p.m.

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

VOTED: to adjourn the meeting at 9:57 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul Alpert, Vice-Chairman and Clerk

DRAFT



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

500 Dedham Ave
Needham, MA 02492
781-455-7500

PLANNING

Theodora K. Eaton
Town Clerk
1471 Highland Avenue
Needham, MA 02492

September 3, 2020

RE: ANR Plan – 770 Chestnut Street, Needham, MA

Dear Ms. Eaton:

Reference is made to an ANR plan submitted to the Needham Planning Board on August 19, 2020 by 770 Chestnut Street LLC for property located at 770 Chestnut Street, Needham, MA.

At its August 26, 2020 meeting, the Needham Planning Board voted to deny the applicant's request for ANR endorsement, (application filed with your office on August 19, 2020) having found that the way does not have sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed uses of the land. The Board found that such plan required approval under the Subdivision Control Law.

A copy of the applicant's original application filed with your office is attached.

Should you have any questions regarding this matter, please feel free to contact me directly.

Very truly yours,

NEEDHAM PLANNING BOARD

Lee Newman
Director of Planning and Community Development

cc: Brian Brown, Manager, 770 Chestnut Street, LLC.
Needham Planning Board

2020 SEP -3 PM 1:03
RECEIVED TOWN CLERK
NEEDHAM, MA 02492

TOWN OF NEEDHAM

RECEIVED TOWN OF
NEEDHAM, MA 02455

SEP 19 PM 2:52



PLANNING BOARD

500 Dedham Avenue
Needham, MA 02492
781-455-7550

APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED NOT TO REQUIRE APPROVAL

Submit three (3) copies. One copy to be filed with the Planning Board and one with the Town Clerk as required by Section 81-P, Chapter 41 of the General Laws. This application must be accompanied by the **Original Tracing** and **three (3) copies of the plan**.

To the Planning Board:

The undersigned, believing that the accompanying plan of land in the Town of Needham does not constitute a subdivision within the meaning of the Subdivision Control Law, for the reasons outlined below, herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

1. Name of Applicant 770 CHESNUT STREET LLC
Address 130 Prospect Street Cambridge MA.
2. Name of Engineer or Surveyor WHITMAN & BINGHAM.
Address 510 MECHANIC STREET, LEWISTON MA. 01453
3. Deed of property recorded in NORFOLK County Registry,
Book 28760, Page 175
4. Location and description of property 770 CHESNUT STREET
NEEDHAM MA.
5. Reasons approval is not required (check as applicable):
 - a) ☒ Every lot shown has the area and frontage required by the Zoning By-Law on a way, as defined by Section 81-L, Chapter 41 of the General Laws.
 - b) Land designated _____ shall not be used as separate building lot(s) but only together with adjacent lots having the required area and frontage.
 - c) Lot(s) having less than required frontage or area resulted from a taking for public purpose or have been recorded prior to 3/26/1925, no land is available to make up the deficiency and the frontage and land area of such lots are not being reduced by the plan.
 - d) _____

(If the applicant is not the owner, written authorization to act as agent must be attached)

Signature of Applicant [Signature]
Address 130 Prospect St - Cambridge MA 02139
By 770 Chestnut Street LLC. (agent)

Application accepted this _____ day of _____ 20____
as duly submitted under the rules and regulations of the Planning Board.

By _____