

Tuesday, November 1, 2016 – 6:00 P.M.

GAR Room- City Hall

Planning Board Meeting Minutes

Members present: David Wheeler, Gary Keith, Robert Pelaggi & Craig Pina; also present were City Planner Rob May, Staff Planner Shane O'Brien and Secretary Pamela Gurley.

Acceptance of Minutes/Endorsement of ANR Plans, Subdivision Plans and/or Lot Releases

Accept minutes dated 10-4-16

Motion: Pina

Second: Keith

In favor: 4

Opposed: 0

The secretary said that the office received an ANR application for 311 N. Montello St. Although the paper plans were submitted the application is incomplete because no mylar was submitted. She said she needs to notify the applicant and the City Clerk that the application is incomplete in order to stop the statutory time clock for approval.

Decision: Notify the applicant and City Clerk that application is incomplete.

Motion: Keith

Second: Pina

In favor: 4

Opposed: 0

Lot Release

615 Plain St. & 77 Fairbanks Road

The secretary said that the developer has requested release from covenant of the existing home at 615 Plain St. and the vacant lot at 77 Fairbanks Rd. She said we received the necessary letters from DPW. No work was done to the Plain St. property and the utilities are off the street for Fairbanks and the DPW has since repaved the road.

Decision: Release 615 Plain St. and 77 Fairbanks from covenant

Motion: Pelaggi

Second: Pina

In favor: 4

Opposed: 0

Lots 4 & 6 Nadia's Way

The developer of Linwood Estates has requested release of lots 4 & 6. The secretary said that all the lots (6) have been released except lots 4, 5 & 6. She said that all the work has been done to the road (sidewalks, curbing & base coat) has been completed and has been inspected by DPW; the Assessor's Office values the lots at about

\$100,000 each. The estimate provided by TL Edwards is for \$35,000. Mr. Pelaggi said that he has been to the site and has no problem with their request.

Decision: Release lots 4 & 6 from covenant.

Motion: Pelaggi

Second: Pina

In favor: 4

Opposed: 0

The Chair noted for the record that board member Reggie Thomas was now present.

1. Zoning Amendment – Ch 27

Ch 27-35.1-14 Salvage Yard Overlay District

Attorney James Burke

Scott Faria, JK Holmgren

Applicant's statement:

Attorney James Burke said he represents Roy Andrade (Everetts Auto). He said that the proposed change was submitted by Councillor Studenski. He said that the property within the proposed overlay is currently used as salvage yards (Clayton property, Andrade property, and Lovell property) and their use pre-dates zoning making them pre-existing non conforming uses. Attorney Burke said that this makes it almost impossible to get financing.

He said the property owners are hoping to have a zoning overlay district created to regulate the existing salvage yards. He said there is no expansion proposed (it covers only the three existing salvage yards). He said this ordinance would create a series of regulations that will allow the City to have a say to any future salvage operators.

Discussion: Bob Pelaggi asked if the overlay also give the property owners access to the underlying residential zoning and if so why hang on to RIC zoning. Attorney Burke said that the Everett's property has existing single family, but he did not think that his client would have a problem if the zoning was changed.

Rob May said that the Planning Department would like to suggest a change to Section 7 Signs; A (free standing) (i) the suggested change from 85' high to 35' and (ii) should be adjusted accordingly to match change in height.

Public Comment: In favor: Councillor Paul Studenski asked to be recorded in favor. He said these are already established businesses in that area.

Opposed: Jeanne Holmes said she is confused and has serious concerns. She said she had been told the ordinance was on the web site and couldn't find it. She said she does not understand the rationale...why this was filed. She said she has concerns about the timing... as Roy Andrade just gave a gift to the City of Brockton. Mr. Pelaggi said Attorney Burke said this was filed on behalf of the three property owners, not just Mr. Andrade.

Attorney Burke said he is troubled by Attorney Holmes statement; he said Mr. Andrade is known for his generosity. He makes substantial contributions to the Boys and Girls Club, YMCA etc.

Jeanne Holmes asked why there is a need to make a change now.

David Wheeler asked the City Planner what the benefit to the COB was. Rob May said that because the use is non-conforming any changes these property owners may make would require ZBA approval. This ordinance would regulate the use and set up guidelines. He said there is also the issue of the property owners having difficulty getting financing.

Gary Keith said he would like to hear another reason why; what is difference.

Scott Faria said that salvage yards are allowed in I3 by special permit (Oak Hill Way); with this ordinance in place the City will be able to say we have a designated area with existing salvage business and may feel they do not want to expand the use.

Attorney Burke said it will allow for uniformity; retail sale of parts, use of scraps, things already being done in the yards currently.

Jeanne Holmes said it works now so why does it need to be changed. It will take away control from the Zoning Board of Appeals....it would eradicate the ZBA.

Mr. May said that in response to Ms. Holmes saying the ordinance was not on the web site he said that at the time of her inquiry it was not, but that Shane O'Brien put it up on October 27th. He said the City has too many properties are nonconforming and this is a problem.

Gary Keith said that the city zoning is very disorganized and he is feels that the ZBA provides the checks and balances.

Craig Pina thanked Councillor Studenski for sponsoring the ordinance change.

Bob Pelaggi said this will not change what has been going on there for many years...it is just regulating it.

Mr. Wheeler reminded the Board that they are just a recommendation...it is up to Council to make the change.

Clancy Dowland, 12 Della Ave., said he is a common man with a common job.....and said people from out of town are only coming here to make money. He asked if they would be expanding the business.....he said we have enough junk yards...that all of Montello Street is a junk yard.

Craig Pina said he would like to state for the record that we should be doing what we can to help out businesses including streamlining zoning.

Decision: Recommend the favorably to the City Council with the suggestion that the height of the free standing sign be decreased to 35' and the square footage be adjusted accordingly to meet that height.

Motion: Pina

Second: Thomas

In favor: Wheeler, Pina, Thomas & Pelaggi
Opposed: Keith

2. Request for Return to the ZBA

Property: 225 Grove Street
Owner/Representative: John Fargo/Larry Fargo
ZBA Denial: 10-12-16

Applicant's statement: John Fargo said they purchased the property a little over a year ago; he said they were denied at zoning for a two family and after listening to the neighbors changed the plan to propose a single family home. He said some of the ZBA members seemed to have an issue with the location of the home and driveway and they were denied again. He said that issue was not brought up at the public meeting for them to address. He said that the lot is large enough for them to locate the home and driveway on the same street and they would be willing to move the home or the driveway.

Discussion: Gary aware of the situation and voted to approve the last time.

Public Comment: Clancy Dowland (12 Della Ave.) said he has been here twice; he said there is enough housing in the City; he said we already have too many abandoned houses; he feels that they bought property intending to build on it; he said we need residents that give back to the community not people from out of town that don't live here.

Maria Dowland said she feels her opinion does not matter; there will be no place for snow if they build there; she said she will lose her privacy and won't be able to sit in her back yard; she said it is not right that people come in just to build.

Ruth Galviani (of Easton owner of 213 Grove St.) said this is a non-conforming lot and we do not need any more housing.

John Fargo said he grew up in Brockton and employs Brockton residents. He said he took nine dumpsters of junk out of the existing house. He said that the residents are concerned that they are losing their free "park" space. He said this is not rental property...it is a single family home and will be owner occupied.

Larry Fargo said he is also a Brockton boy...born and raised and is raising his family here.

Bob Pelaggi asked what would be changed if the board approves their request and was told they will move the driveway or house.

Rob May said that except for 18" of frontage this will be a legal conforming lot. He said on the night that they were denied the ZBA granted several variances for lots needing much more relief.

Jeanne Holmes said she never attended a ZBA meeting that didn't have a full discussion. She said the driveway was discussed and said this is a game of beating the residents down.

Gary Keith said there is enough room to allow that home to fit either way and said that the driveway was not brought up until the deliberation by the board and was not part of the public discussion.

Craig Pina said that we should not hold them up because of the location of the driveway.

Decision: Grant permission to return to ZBA: ZBA acted arbitrarily and capriciously in denying the request in that it granted several other variances that might require more relief.

Motion: Pina
Second: Keith
In favor: 5
Opposed: 0

3. Request for Return to the ZBA

Property: 17 Waverly Street
Owner/Representative: Brockton Affordable Properties
ZBA Denial: 8-9-16

Applicant's statement: Jim Morrissey said he purchased the property at 17 Waverly St. and applied to the ZBA for a special permit in August to split the lot and was denied. He said the property lies in the R4 Overlay Zone (R-3 is the underlying zoning). He said the ZBA determined that the new plot is not within list of R4 lots and therefore the request for a special permit was incorrect. He said there were several other deficiencies in that the house plans submitted were not accurate in orientation and there was no information on the existing home at 17 Waverly. He said if they are granted permission to return they will be applying for a variance, they have furnished additional information on 17 Waverly and have fixed the orientation. He said that the ZBA has granted several variances to properties in the area for new homes.

Discussion: Bob Pelaggi asked why they applied for a special permit and was told they believed that the new lot met the R-4 standards but that now they will need relief from the R-3 standards.

Rob May said that this is a through lot that they want to subdivide and create a new parcel; the R-4 overlay is parcel based and once the parcel is split it is no longer under the R-4 designation. Mr. Pelaggi asked what relief they will need from R-3 and was told frontage, minimum lot width and lot size.

Public Comment: None.

Decision: Grant permission to return to the ZBA. New and substantially different information was presented which might conceivably affect a subsequent decision by the Zoning Board of Appeals.

Motion: Keith
Second: Pina
In favor: 5
Opposed: 0

Shane O'Brien reminded them that they also need to request relief from through lots.

Other Business

Rob May said the City will be partnering with the Conway School of Urban Design to draft an urban agriculture plan.

Next Blue Print for Brockton meeting 11/10 at 7pm at the Shaw's Center.

David Wheeler said he participated in the National Resource Network seminar last week. He said it was very interesting and thanked Rob May for arranging it.

Correspondence

Updates from Board Members

The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.