

Tuesday, October 3, 2017 – 6:00 P.M.

GAR Room- City Hall

Meeting Minutes

Members present: David Wheeler, Robert Pelaggi, Reggie Thomas and Craig Pina.

A motion was made to accept the minutes of 9-5-17 as presented (Pina), seconded (Thomas) and unanimously passed.

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

Chestnut Woods (final surety release) - The secretary said the developer has requested release of the remaining surety. She said we received the final as built as required. However, when the city engineer made his final inspection he asked that the developer repair some of the sidewalk panels that had cracked. The city engineer will notify us when the work has been completed; once completed he is agreeable to the release of the surety.

Franklin School Site – The secretary said that the office received a request from JK Holmgren for release of the final two lots. She said that the road work was just completed and she received a verbal acceptance of the work from the DPW this morning and was waiting for verification. She said they are still waiting for the as built plan. She said that JKH asked if the board would consider releasing the lots as the built would be forth coming.

The secretary said that it was within the board's purview to release both lots, one lot or no lots at this time.

Reggie Thomas and Craig Pina both asked if the request with the required information was received by the deadline as nothing was in their packets and were told it was not. Reggie Thomas said that the deadline was set up for a reason, and if we make expectations we might as well have no deadline.

Decision: Motion to deny request for release of remaining two lots as the application and information were not submitted by the deadline.

Motion: Thomas

Second: Pina

In favor: 4

Opposed: 0

[Since this time the office has been notified that the side walk work along Bellevue is not acceptable]

1. Zoning Changes

Ordinance: An Ordinance Amending Chapter XXVII of the Revised Ordinance of the City of Brockton. Be it ordained by the City Council of Brockton as follows: Chapter 27.

Section 27-24.3 (c)(6)(d) is hereby amended by deleting the section in its entirety and inserting in place thereof the following: Five hundred (500) feet from any boys' and girls' club, or registered child care center defined as any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, day

care center or preschool. Child Care center shall not include programs for behavioral or mental health services.

Comments: Rob May said he expected someone from City Council to make a presentation. He said that Councilor Eaniri submitted this ordinance change eliminating centers that are behavioral or mental health facilities. He said that we have a licensed facility (In Good Health) that was found to be within the same 500' setback and they were able to modify their property to make themselves compliant. This new applicant is closer (150') and was granted a special permit with the assumption that facility did not come under the definition. He said In Good Health is suing the ZBA for giving the other applicant what they were denied. It looks like they are trying to change the law to accommodate a particular business. He said that the city should proceed cautiously on this.

Opposed: Frank Gurley said he is against the change; that the 500' is there for the protection of all children.

Decision: Motion to recommend unfavorably.

Motion: Pina

Second: Pelaggi (who suggested that the letter should include a reason)

The board feels that this amendment is an attempt to spot zone a medical marijuana facility contrary to Massachusetts General Law and is an attempt to eliminate grounds for a civil suit filed against the Zoning Board by an aggrieved party.

In favor: 4

Opposed: 0

2. Zoning Changes

Ordinance: An Ordinance to provide noise control and establish, and to enforce, civil infraction for violation. Be it ordained by the City Council of the City of Brockton Chapter 27 zoning is hereby amended by adding the following new article: Noise Control.

Comments: Rob May said this was submitted by Councilor Monahan and he had hoped that he would be here. He said this is a comprehensive noise ordinance and he said he would love to see it enacted. He said this is not a zoning ordinance as the enforcing power is the Police Department; under zoning the enforcement power is the building department and therefore it should be recommended unfavorably.

Bob Pelaggi said that reason should be included in their letter.

Decision: Motion to recommend unfavorably.

Motion: Pine

Second: Pelaggi

This is not a zoning ordinance as the enforcing power is the Police Department; under zoning the enforcement power is the building department

In favor: 5

Opposed: 0

3. Request to Amend Decision of Planning Board

Property: Plots 30 & 30-1 Leach Avenue and 110 Market St.

Lots: Three

Owner/Representative: Manuel Buginga/Land Surveys Inc./Attorney John McCluckey

Applicant's statement: Attorney John McCluskey said that they have been here a number of times; he said that the only issue in the way is the question of the right of the developer to maintain sewer easement on the Market St. property. He said they considered going to court after receiving the opinion from the board's outside council. However, the applicant met with the property owner on Market St. and they have settled upon an agreement which allows Mr. Buginga to maintain the sewer and memorializing his rights in the easement. Attorney McCluskey said they will record the agreement simultaneously with the plan.

Comments: Bob Pelaggi said it looked like they answered the planning board's concerns. Craig Pina also agreed that this agreement satisfied their concerns.

Decision: Motion to amend the approval striking the condition that the pass and re-pass be "extinguished". All other terms and conditions are to remain.

Motion: Pina

Second: Thomas

In favor: 4

Opposed: 0

Motion to accept the language in the easement agreement and the agreement is to be recorded at the same time as the subdivision plan. Proof of recording is to be forwarded to the planning office.

Motion: Pelaggi

Second: Pina

In favor: 4

Opposed: 0

4. Site Plan Approval

Property: Plots 42 & 43 West Chestnut Street

Proposal: Roadway

Owner/Representative: Meadow Wood LLC/Gallagher Engineering

Continued to December 5, 2017

5. Definitive Subdivision

Property: Plots 19 & 21 Melrose Ave.

Lots: Four

Owner/Representative: Land Surveys

Continued to November 8, 2017

6. Definitive Subdivision

Property: Plot 2 Belgravia Ave.

Lots: 4

Owner/Representative: Curley & Hansen

Continued to November 8, 2017

7. Definitive Subdivision

Property: 20 Charlotte Street
Lots: 2
Owner/Representative: Attorney John F. Creedon
Bruce Pilling, Pilling Engineering

Applicant's statement: Bruce Pilling said that at the request of the engineering department he changed the datum on the plan to Brockton city base and added more contours on Pinehurst. He said six lots were originally proposed. He said there is no drainage in Pinehurst now; they added a turnaround for the Fire Department. Fire said they needed a minimum of 20' of pavement and the planning department has requested 24' of pavement. He said the original house has been rehabilitated and the owner has a buyer and wants to sell it.

Attorney Creedon said the applicant took what was a "shack" and made it a beautiful home.

Comments: Bob Pelaggi asked if the proposal tonight shows 24' of pavement with Cape Cod berm and he was told yes. He noted there was nothing from the city engineer. The secretary said she spoke with him this morning and he told her he was still waiting for the information he requested from the applicant.

Bruce Pilling asked if it was possible for the board to approve the plan conditionally and he would meet with the city engineer and make whatever changes he asked for. He also said that the applicant would like to sell the existing home. He said this has been a long process for the applicant and he would like to be able to at least sell the existing home. (Applicant said that home is rented to the future buyers.)

The board members stated that historically they do not approve plans without seeing the final changes. They also said they are not even sure what the final changes might be. Bruce Pilling then asked if they could approve the plan as presented and they would file at a later date to amend the plan. The board members agreed they were not comfortable approving a plan that they know will be changed. They suggested that he speak with the city engineer asap and provide him with the documentation he was looking for.

Regarding the issue of selling the existing home; the application was for a two lot subdivision, the existing home and the newly proposed lot. The existing house cannot be sold until the property is subdivided and the house lot is released.

Decision: Motion to approve plan as submitted with a 24' layout revision date of 9-14-17
Motion: Pina
No second. Motion was withdrawn.

Motion to continue to November 8, 2017 to allow for submission of remaining information.

Motion: Pina
Second: Thomas
In favor: 4
Opposed: 0

Shane O'Brien said that there were no waiver requests submitted with the application.

8. Definitive Subdivision

Property: 583 North Cary Street

Lots: 2

Owner/Representative: Curley & Hansen/Brad Cartwright, Trustee

Applicant's statement: Bill Self said the application is for a two lot subdivision and they have received ZBA approval. He said they are asking for a waiver on sidewalks and curbing; as there are no sidewalks except for the intersection; he said you would have to go about 1,000' down N. Cary to find sidewalks. The property is located right next to the fire station. He said that the ZBA decision stipulated that last 150' of property is to remain untouched which shows on the plan.

Comments: Bob Pelaggi said that there are two plans, one with curb and sidewalk and one without. Bill Self said there was some confusion as to which way plan should have been submitted; he said he understands now that the plan needs to be submitted with curb and sidewalks along with a request for waivers. He said he added contours to the plan at the request of the city engineer; added recharge areas in the back of both homes to handle runoff. Bob Pelaggi asked if he did test holes and Bill Self said the info was on the plan.

Decision: Motion to approve as submitted with the stipulation that the area of the street (N. Cary) is to be milled 1 1/2" and repaved with a 1 1/2" overlay from the centerline corner to corner to the limits of the subdivision if no gas service is installed. If if they are installing gas then the area of the street is to be milled 1 1/2" and repaved with a 1 1/2" overlay from corner to corner curb line to curb line to the limits of the subdivision;

Motion: Pelaggi

Second: Pina

In favor: 4

Opposed: 0

Motion to grant waivers to the following sections of the Planning Board Rules & regulations:

Section IV: Design Standards

B. Streets: Existing Street – North Cary St (Public Way)

3.) Pavement width

F. Utilities (Underground): Above ground electric & telephone.

Section V: Required Improvements for an Approved Subdivision

C. Curbs and Sidewalks: Request for no sidewalk or curbing improvements (match existing conditions)

Other: Frontage waiver requested:

175' frontage requires, 104.11' requested ("Lot 1")

175' frontage requires, 103.17' requested ("Lot 2")

Motion: Pelaggi

Second: Thomas

In favor: 4

Opposed: 0

Method of surety will be covenant.

Other Business

Correspondence

Updates from Board Members

Shane O'Brien told the board about the upcoming Campello Plan meeting at South Middle School; he reminded everyone that Tower Fest was 10/7/17 and said that the city was sponsoring a Halloween decorating yard contest.

Meeting adjourned.

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.