



# CITY OF BROCKTON

## Department of Planning and Economic Development

Planning Board

Conservation Commission

MOISES M. RODRIGUES  
Mayor

### PLANNING BOARD

Tuesday, September 3, 2019 – 6:00 P.M.

GAR Room - City Hall

### MEETING MINUTES

Members present: Acting Chair Robert Pelaggi, Clarence Hassan, Craig Pina, and Reginald Thomas.

Also present: Rob May, Shane O'Brien and Pamela Gurley, Planning Department and Deputy Chief Edward Williams.

A motion was property made (Pina), seconded (Thomas) and unanimously passed to accept the *minutes 8-6-19 as presented.*

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#### 1. ZONING – Ch27, Article XIX

##### Repeal of Thatcher Street Smart Growth Overlay District

Applicant's statement: Ward 5 Councillor Anne Beauregard said she filed this. She said the property is the Convent property on Thatcher St. She said when a property is designated as a 40R there is an assumption that it is near public transportation; this property is near Massasoit and BAT bus stops only. She said the proposal is for 175 affordable housing units. She said affordable housing brings school age children. She said 175 units is too much; there will be an increase demand on public safety; she said we have more affordable housing than anywhere in Mass.; she said we need middle class and luxury apartments. She said at the time this was proposed there were many citizens opposed; she said that the planning board moved this unfavorably to the City Council and the Council approved the Ordinance. She said this is a different Council now and would like to see it reconsidered.

Comments: C. Pina said 40R is not 40B and said at this time there is no project; just a zoning overlay district.

R. May said that the City had to reach out to the Dept. of Housing and Community Development who found that it was an acceptable proposal. He said it is adjacent to bus line and a major employer. He said this is now the third time the planning board is hearing this; the first vote was 5-0 in favor and because the Council did not act fast enough the board had to hear it the second time with a 3-2 to recommend unfavorably. It was approved by the Council by an 8-2 vote with one abstention.

He said there was then a voter's petition that was started and failed; after that there was Court case filed by one plaintiff and that was dismissed. He said this is another attempt to dislocate the smart growth district on Thatcher; he said this project would pay property taxes; he said the addition of new residential units does not impact schools; he said that the CFO of the

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school department is happy to get more students as it means additional funding. He said we do not have more affordable housing than any other community.

Speaking in favor of repeal:

J. Holmes-Kireilis, 65 Belcher Ave., said that a vote to repeal would allow the property to return to its R1C zoning. She said that during the 10 days they attempted to get the 15,000 signatures there were two blizzards; she said she was the plaintiff in the law suit and it was dismissed because the court determined that there was no standing because she did not live near the property. She said the original vote made by the Council was illegal and that was not disputed by the city. She said it never went to three readings and offered to give the board a copy of the briefs. She said that Councilor Beauregard sent a letter to (DHCD) explaining that we have more than met the threshold of our 40R units.

S. O'Brien said that this is an overlay zone not a change to the zoning; the under lying zoning still exists; R. May pointed out that there are no 40R thresholds.

Arnet Przybylsh, 30 Geroge St., asked if Massasoit ever stated that they were willing to hire anyone from these new homes; she said there is so little agricultural area left and does not see an eminent need for this project.

L. Smith, said that these multifamily dwellings should be around transit development; she said that are other factors to keep in mind: educational costs, non dollar costs, traffic impacts, open space loss; she said tax revenue & incentives do not pay the city costs; she mentioned that other communities ask the developer to "sweetened the pot".

Opposed to the repeal:

Attorney J.Burke said he represents the Sisters and was also involved in the litigation with Attorney Holmes. He said that the case was dismissed for a number of factors and the overlay district was approved by super majority of the legislation. The overlay allows for the opportunity for a 40R development; he said that the planning board needs to approve any project. Attorney Burke said that the impact on the school district was in the low teens...a non starter; he said that 40S allows the COB to get extra revenue for a child through 40R.

He said that there needs to be 120 day notification to the state before an ordinance is submitted and said that this ordinance is not before Ordinance Committee properly. He said the city received \$200,000 from the state and wondered where would that money comes from if it needs to be returned. He said there is no project...nothing has been filed with the city and if it ever happens it has to come before the planning board for approval.

Comments: B. Pelaggi said that the board has seen a lot of 40R projects and said there is always some reduction of parking density and they are usually seeking relief of the standards; he said he is not sure that is an appropriate place. C. Pina said he voted in favor last time and does not see any reason to change his mind. L. Hassan said he would like to know if there was a proper Council vote. B. Pelaggi reminded that board this vote is non-binding on the Council and the vote is to extinguish. R. Thomas said they are voting on keeping or repealing an overlay district....not any project.

Action/Decision: Motion to recommend the proposed repeal unfavorably (retain the ordinance as is).

Motion: Pina

Second: Thomas

In favor: Pina & Thomas  
Opposed: Pelaggi & Hassan

Motion failed; as there were no other motions no recommendation was made.

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## 2. Site Plan Approval

Property: 839 Main Street

Proposal: Commercial Building

Applicant/Representative: Jacobs Driscoll Engineering/Attorney John Creedon

Applicant's statement: Attorney Jake Creedon said the hold up on this project is the easement agreement between the parties....he said he agrees that any agreement must be permanent. He said he has personally delivered three sets to city solicitor's office for review. He said he spoke with the city solicitor today and he believed that he had assigned it to an attorney; he said that the owner is willing to sign any document.

Comments: B. Pelaggi asked if there was any possibility of voting on this contingently pending approval of the agreement by the law department. S. O'Brien said that this is not a parking easement....work being proposed on another party's property. He said that site plan is fine, but the board should have the easement document before approving a project that has work on another property by the applicant. R. May said that he had marked up the original draft and sent it to Attorney Creedon and the law office some time ago.

Deputy Chief E. Williams asked how that agreement is enforceable; Attorney Creedon said that they could tie enforcement to his liquor license. C. Pina said he would like to make sure it is enforceable.

Continued to October 1, 2019 by agreement of the parties.

## 3. Site Plan Approval

Property: 260 Manley Street

Proposal: Auto Dealership (McGovern Automotive Group)

Applicant/Representative: Garret Horsfall, Kelly Engineering

Applicant's statement: Garret Horsfall said that the board previously signed an ANR plan and that McGovern then subsequently sold Honda dealership. This dealership is being proposed on the remaining McGovern land; he said the proposal is for a 26,900 sf Buick GMC dealership; they are adding landscaping to define customer parking; storage parking of vehicles is in the back; they are re-routing some of the utilities; there is an existing stormwater management system and they are providing an access easement between properties.

Comments: S. O'Brien said that revised plans were submitted to engineering addressing the engineering comments.

Councillor Dennis Eaniri said he was in and said it was another plus for the area.

Action/Decision: Motion to grant site plan approval of the plan as submitted with the standard conditions.

Motion: Pina

Second: Thomas

In favor: 4  
Opposed: 0

4. Permission to Return to ZBA  
Property: 598 North Main St.  
ZBA Denial: 3-12-19

Attorney McCluskey said that he just received the architectural this afternoon and is asking for a continuance to the October meeting in order to review them and send them to the board.

Continued to the October  
5. Permission to Return to ZBA  
Property: 533 & 553 N. Cary St.  
ZBA Denial: 5-14-19

Applicant's statement: Attorney John McCluskey said that this subdivision was approval several months ago by the planning board for 14 lots. He said they then applied to the ZBA as the lots lacked frontage. He said that the directive from the ZBA was that they wanted nothing less than lots with 125' of frontage. He said the new plan has 12 lots each with a minimum of 125' of frontage. He said the configuration of the roadway remains the same. He said the only issue before the board is whether or not there has been a substantial change to the plan.

Comments: C. Pina said he spoke in favor of the original layout at the ZBA and feels that the reduction of two lots and the increase of frontage are substantial.

B. Pelaggi asked if the plan was put on record. Attorney McCluskey said it was not.

Public comment:  
Jane Baker, 541 N. Cary St., said she is 100% in support.

Margaret Shea, 542 N. Cary St., also said she was in favor; she said she is happy the lot sizes have been increased and would like to see everyone work together to make this successful.

Eric Eaton, 78 Amark Rd., said he believes the notification process was flawed. He said he received this notification after the one for the ZBA meeting.

B. Pelaggi looked asked the secretary when notification was mail and said that the applicant had met the standard of notice.

Maryanne Doderro, 641 N. Cary St., said she does not think there was a substantial change made.

Lisa Cereele, 15 Dagmar Dr., said she does not think there was a substantial enough change.

Andrew (unknown), 50 Amark Rd., said that he is worried about drainage. B. Pelaggi said that the issue of drainage was addressed by the planning board previously.

C. Pina said the major sticking point with the ZBA was the frontage.

Action/Decision: Motion to grant permission to return to the ZBA.  
Motion: Pina

Second: Thomas  
In favor: 4  
Opposed: 0

6. Permission to Return to ZBA  
Property: 747 Centre Street  
ZBA Denial: 7-23-19

**CONTINUED TO OCTOBER 1, 2019**

7. Definitive Subdivision  
Property: Plot 9 Tiffany Dr. and Plot 8-24 Stonehill St.  
Lots: 2

Owner/Representative: Bertarelli Brothers Inc./Stephanie Hoban, Strong Point Engineering

Applicant's statement: Stephanie Hoban said that since the last meeting they have made some revisions to the plan; they added the easement for general use and added another drainage swale.

Comments: S. O'Brien said that the planning department as well as engineering need a roadway layout, cross section and profile of the portion of the road to be constructed.

Comments: C. Pina said that this is a pre existing subdivision and the lots were laid out at that time; B. Pelaggi said that the lots were created in the plan that is on record; the subdivision was not completed.

Action/Decision: Motion to approve as submitted with the addition of the road layout plan as requested.

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

Action/Decision: Motion to grant waivers to the following section of the planning board rules and regulations:

Section III (t) – No estimated seasonal high groundwater table elevation

IV (B)3 – Reduce the paved width of the road from 34' to 24'

V (A)3 – Reduce width of gravel under road from 34' to 24'

V(B)2 – No closed drainage system

V(B)4 – No new street lighting

V(C) – No new curbs and sidewalks

V(D) – No street trees

V(I) – No fire alarm boxes

General – Cross section deviates from standards

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

Surety will be by covenant.

8. Definitive Subdivision

Property: 84 Foster Street

Lots: Two

Owner/Representative: ET Engineering/Manuel Ramos

Board received notification that the applicant is withdrawing this application.

Action/Decision: Accept withdrawal

Motion: Pina

Second: Thomas

In favor: 4

Opposed: 0

9. Definitive Subdivision

Property: 973 Crescent Street

Lots: Two

Owner/Representative: ET Engineering/Central Realty Trust

Applicant's statement: Attorney Chris Vale said that the applicant purchased the existing home; he said although it is a legal two family it was used as a three family. He would like to demolish the existing home and subdivide the lot and build two single family lots each with 84' of frontage.

Comments: C. Pina said the proposed lots have less than 125' of frontage and he feels that there is zero chance of this passing ZBA. He asked what the hardship was and was told it is with the existing property (home is in disrepair).

B. Pelaggi asked if the board approves the subdivision are they approving frontage; S. O'Brien said that the planning board has the right to waive frontage.

Attorney McCluskey said the planning board's waiver of frontage means nothing. B. Pelaggi said that he would like to see some wording on the plans showing that the lots shown are not buildable without relief from the ZBA and that no waiver has been granted to frontage. He also said that every applicant has the option of filing a preliminary plan.

Jenny Brandt, 957 Crescent St., said she is worried about rats when the building is knocked down; she was told that the board of health will require the bait for rodents.

Cindy Kostka, 50 Centre St., said she is in favor.

Action/Decision: Approve the subdivision as submitted with standard conditions.

Motion: Pina

Second: Thomas

In favor: 4

Opposed: 0

Action/Decision: Motion to grant waivers to the following section of the planning board rules and regulations:

Section IV: Design Standards

B. Streets: (Existing Street)

3.) Width

F. Utilities (Underground)

Section V: Required Improvements for an Approved Subdivision

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

Motion: Pina

Second: Hassan

In favor: 4

Opposed: 0

Method of surety will be by covenant.

10. Definitive Subdivision

Property: Plot 2 Belgravia Ave.

Lots: 4

Owner/Representative: Curley & Hansen

**CONTINUED TO OCTOBER 1, 2019**

Other Business

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.**